

ADOPTION: FROM REPRODUCTIVE EXPLOITATION TO REPRODUCTIVE JUSTICE

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A DISSERTATION SUBMITTED TO  
THE FACULTY OF GRADUATE STUDIES  
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY

GRADUATE PROGRAM IN GENDER, FEMINIST AND WOMEN'S STUDIES (GFWS)  
YORK UNIVERSITY  
TORONTO, ONTARIO

April, 2024

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## **ABSTRACT**

Although adoption culture grew exponentially throughout the twentieth century in western societies, feminist analyses of the institution of adoption did not keep pace. It is only recently that feminists have attempted to locate adoption within feminism. Emerging in the early 2000s, critical adoption studies constitutes a wide variety of discourses and is interdisciplinary in scope. Notwithstanding such scholarship, the broader project of locating adoption within feminism remains on the margins of the feminist academy, and further, remains noticeably silent within reproductive justice theory. This research identifies reproductive oppression, exploitation and violence within adoption systems in domestic, transnational and colonial contexts, addresses the exclusion of the institution of adoption within the project of feminism, reproductive justice scholarship and movements, and examines the institution of adoption through a reproductive justice framework. This work interrogates the institution of adoption in ways that have been mostly absent in reproductive justice scholarship, praxis and movement and attends to the ways in which such analyses can operate to improve reproductive outcomes for marginalized women and girls in domestic, transnational, and colonial contexts.

## ACKNOWLEDGEMENTS

First, I must acknowledge the brave women of Origins Australia who electrified me in 2007 when I learned that there were women talking and writing about ‘the secret’ of their unmarried motherhood. Their bravery inspired me to begin research on my own experience of losing my newborn son to the adoption mandate in 1970 simply because I was unmarried. This in turn, led to my activism for the illegal, unethical and human rights abuses perpetrated against unmarried mothers in postwar Canada to be acknowledged—and they were, in Canada’s Senate Report “The Shame is Ours” in 2018. At the time of this writing, I am hopeful that an apology to those impacted is forthcoming.

I would not have had the opportunity to enter graduate studies without the support of Meg Luxton, Rickie Solinger, and Raven Sinclair. There are no words to express how grateful I am to each one of you.

I am also deeply indebted to my supervisors, Frances Latchford, Andrea O’Reilly, and Amar Wahab. From thesis proposal to completion, their valuable and thought provoking feedback allowed me take this work further. Their kind and generous words of support and encouragement throughout this project were instrumental in keeping me grounded and on track.

Finally, I’d like to thank my family. Although my parents and son are no longer with us, I know they would be so proud of me in this moment. For those many weekends I was busy, my darling children Erin and Steven, Shannon and Michael, and my grandson William gave me unconditional support. My sisters, Una, Kathleen, and Elizabeth, and my brother David have all been extremely supportive, along with my brothers-in-law and all my wonderful nieces and nephews. Thank you.

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## INTRODUCTION

### The Changing Face of Adoption

Adoption as a form of child procurement and transfer was not widely practiced until the mid-twentieth century when adoption culture as we know it today emerged and “flourished as never before” (Strong-Boag 220). Adoption culture might be described as the “production, normalization, and invisibilization of the consumption and exchange of a set of shared meanings that surround the transfer of infants and children by adoption from one social location to another within western societies” (Andrews *Motherhood* 4). The culture of adoption has changed over time. During the twentieth century multiple trends in adoption took place, some of them including forced surrender for white unwed mothers,<sup>1</sup> Indigenous child removal, increased attention to transracial and transnational adoption, the practice of open adoption, more transparency in adoption records, and a change in adoption culture pertaining to the practice of finding children for prospective adopters, rather than finding families for needy children. Many of these trends overlap in time, especially from the 1940s forward.

Early in the twentieth century, adoption was rarely utilized as a way to form families. There are a number of reasons for this. To start with, the “popularity of eugenics had contributed to the idea that children to be adopted were tainted with the moral, mental, and physical impediments of their parents” (Andrews *White* 96). Wayne Carp asserts that “the combination of cultural, medical and social stigma surrounding adoption...kept the number of potential adoptive parents relatively low....” (25). When the Adoption Act was enacted in Ontario in 1921, adoptions were not widely prescribed for ‘illegitimate’ births.<sup>2</sup>

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<sup>1</sup> In Canada, America, UK, Australia, New Zealand, and some parts of Europe.

<sup>2</sup> See Chambers, *Misconceptions*. Until 1921 adoption had only been possible in Ontario through Private Members Bills in the provincial legislature.

Despite the new adoption law, many people were convinced of the ‘naturalness’ of keeping a mother and child together and supported an unwed mothers’ right to raise her child. Some social workers shared the conviction of managers of religious maternity homes that keeping illegitimate families together would prevent moral relapse (Murray 273).

As well, prior to WWII, a mother’s right to keep and mother her baby was mostly supported by the larger community. According to W. Peter Ward, unmarried mothers were not as ostracised as novels, legends and general consensus might suggest, and evidence supports the idea that unmarried mothers “commonly enjoyed the support of their families and, probably, the toleration of their neighbours as well” (46). In addition, during this period it was thought that the unmarried mother would be rehabilitated by her new-found devotion to motherhood—known as “redemptive maternity” she would turn away from her immoral ways (Kunzel 27, 33).

Furthermore, it was thought best for baby to stay with and be breastfed by mother as doing so reduced infant mortality as no other viable baby feeding was available at the time (Kunzel 128).

By the 1940s sustainable infant formulas had been developed which allowed for the safe separation of a mother and her newborn (Nathoo & Ostry 12). And, amid changing psychoanalytic and sociological theories adoption discourse shifted. The majority of babies of unmarried mothers were taken for adoption using the “clean break” theory—the practice of removing babies from unmarried mothers immediately at birth so as to prevent bonding and to promote attachment to a surrogate as early in life as possible (Andrews *White* 47). The theory of this practice as it relates to adoption is explained by Jill Goldson,

The assumption that a single mother would want to make a fresh start, without her baby and free of stigma, was fuelled by theorists such as John Bowlby whose

work on attachment theory and its implications for early bonding reinforced the ‘clean break’ theory (246).

From the 1940s to the 1970s, domestic infant adoption became the chief prescription to rehabilitate the unmarried mother through what is now referred to as the adoption mandate.<sup>3</sup> The mandate has been described by Andrews as:

a process of interrelated power systems which, together with socio-cultural norms, ideals of gender heteronormativity, and emerging sociological and psychoanalytic theories, created historically unique conditions in the post WWII decades wherein the white unmarried mother was systematically separated from her baby by means of adoption (*White* 5).

Babies from unmarried mothers accounted for the majority of adoptions that took place in postwar Canada, United States, Australia, United Kingdom, and New Zealand, among others (Andrews *White* 166). As an example in Canada alone, over 350,000 adoptions took place from unmarried mothers between 1940 and 1970 (Andrews *White* 169). It was also during this period that the Indigenous Sixties Scoop took place in Canada, wherein thousands of Indigenous children were ‘scooped’ from their communities for adoption into white families as a form of cultural assimilation, and arguably, genocide (Sinclair).

Another shift in adoption discourse and practice surrounding transparency and openness became prominent during the 1980s. Secrecy of the parties involved in an adoption transaction had been the norm in adoption practice since the mid-twentieth century and adoption records were sealed. This meant that the “ties between the child and his or her natural parents were irrevocably severed and the relinquishing parent had no right to information about the child”

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<sup>3</sup> The term “adoption mandate” was coined by Rickie Solinger. See *Wake Up Little Susie* (1992) in which over thirty references are made to the term. Also referred to in the U.S. as “The Baby Scoop Era”.

(Chambers 64). This also prevented adoptees from having information about their original families. However, as the social stigma against unmarried motherhood declined and abortion became legal and more accessible in many jurisdictions in the west, fewer babies became available for adoption. As early as 1975, discussions were turning towards “open adoption” as a way to introduce a new path in adoption in response to a “baby population that was ‘dwindling’” (Baran qtd. in Corrigan D’Arcy 123). Studies about declining rates of domestic infants for adoption and surrendering mothers, which showed that mothers who had post-adoption contact with their children would be more likely to surrender, also began to appear during this time (Lake). In addition, the emergence of an increasingly vocal adoption rights movement posed challenges to the closed records regime (Strong-Boag 220). The trend towards openness in adoption which allowed for the parties to know the identity of one another and in some cases, to have ongoing contact, became standardized in adoption practice throughout Canada, the United States, and Britain by the 2000s (McLaughlin et al 6).

In the early 1990s, a further change in adoption discourse and practice took place wherein emphasis was placed on prospective adoptive parents seeking children to adopt, rather than on children that needed parents. This change was commented on by the Special Rapporteur of the United Nations Rights of the Child in 2003:

Regrettably, in many cases, the emphasis has changed from the desire to provide a needy child with a home, to that of providing a needy parent with a child. As a result, a whole industry has grown, generating millions of dollars of revenues each year, seeking babies for adoption and charging prospective parents enormous fees to process paperwork (United Nations).

Even with the new practice of open adoption, the domestic supply of babies continued to



dwindle. As a result, in the late 1990s prospective adoptive parents began to look to other nations. Transnational adoption numbers soared. As an example, transnational adoptions to the United States (U.S.) reached their height in 2004 at 22,988 before a severe decline of nearly 94% by 2022 at 1,517.<sup>4</sup> This decline was mostly due to illegal, unethical, and human rights abuses in transnational adoption practice, political, and anti-western policies (Roby). As of this writing, transnational adoption numbers continue to fall due to the emergence of surrogacy as “the new adoption” (Fixmer-Oraiz 132).

## **Research Goals**

The aim of this dissertation is to explore the institution of adoption as a site of critique within the project of feminism, mainstream reproductive justice scholarship, and other relevant movements in order to identify reproductive oppression and exploitation within adoption systems<sup>5</sup> in domestic, transnational, and colonial contexts. This work discusses and explores the multiple and complex issues, debates, and tensions within feminism that intersect with critical adoption studies and reproductive justice studies, an area of studies that at present remains underdeveloped. This research furthers feminist theory and debate about adoption as a form of oppression, exploitation, and reproductive violence; contributes to the feminist project of uncovering subjugated knowledges, values the lived experiences of women, supports social justice and, ultimately, contributes to the political reform of adoption practice. To accomplish this, it looks at the ways in which processes of adoption can be theorized within a reproductive

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<sup>4</sup> See U.S. Department of State, Bureau of Consular Affairs, Adoption Statistics. Accessed 18 April 2023. [https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt\\_ref/adoption-statistics-esri.html](https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/adoption-statistics-esri.html)

<sup>5</sup> Adoption systems are the various types of processes used to facilitate and complete an adoption transaction, the permanent transfer of a child from one family to another. Adoption systems function differently as each system operates within legislation that is specific to that system, including laws, regulations, and policies. Examples of adoption systems are transnational, domestic, social service agency, private, adoption agency, step adoption, custom adoption (Indigenous in Canada).

justice framework to improve reproductive outcomes for women and girls.

This research, which is original in scope, critically examines the reproductive exploitation and violence that is inherent in adoption systems and the neglect of this subject matter within the context of feminist thought and scholarship, and remains mostly unaddressed by the larger reproductive justice project. As a result, invisible and normalized oppressive and exploitative adoption policies and practices remain principally unchallenged by feminists who lack an analysis that intersects with reproductive justice scholarship. A critical analysis of systemic reproductive oppression and exploitation within adoption systems, along with an analysis of adoption within the framework of the multi-faceted concept of reproductive justice will contribute to an emerging body of work within feminism. In addition, this research will contribute to the broader theme of locating adoption within feminism.

This work addresses three main themes. Firstly, this project discusses relevant feminist issues, debates, and tensions that structure the intersection of critical adoption studies and reproductive justice theory as they relate to adoption systems. Next, this work uncovers the women who are impacted by reproductive oppression and violence and who, as a result, are more likely to lose their children to adoption systems. Then it turns to providing evidence of current illegal, unethical, and human rights abuses in transnational and domestic contexts that lead to reproductive oppression, exploitation, and violence, including a brief discussion of various state inquiries and studies available in Appendix A. Finally, the work shifts to provide an analysis of adoption through a reproductive justice framework that attends to the ways in which this framework might address the stated oppressions to provide more just reproductive outcomes for women and girls.

In this project, I will answer questions such as: What are the tensions within feminism that

keep the institution of adoption on the margins of the academy and the reproductive justice movement?<sup>6</sup> What role does whiteness play in the overarching power systems that are inherent in adoption transactions? How are mothers de-legitimized, de-humanized, and de-kinned through oppressive reproductive and exploitative adoption systems domestically and transnationally? How do adoption systems operate as a form of reproductive violence against women? How can examining adoption using an intersectional approach within a reproductive justice framework help to eliminate the oppression and exploitation of the fertility of women who are impacted by adoption systems due to gender, race, youth, poverty, marital status, and geography? How can we provide opportunities for more just reproductive outcomes for women and girls that do not include losing their child to adoption under certain circumstances?

### **Theoretical Framework**

Although this work will draw upon a number of feminist theoretical perspectives, the most relevant are critical adoption studies, maternal theory, and reproductive justice theory.

#### Critical Adoption Studies

Emerging in the late 1990s, the Alliance for the Study of Adoption, Identity and Kinship (now the Alliance for the Study of Adoption and Culture) was founded as a scholarly organization that focuses on the study of adoption and includes a wide variety of discourses. The Alliance has published the journal *Adoption & Culture* since 2005 as well as organizing biennial conferences that bring together scholars from a variety of disciplines and perspectives in the arts, humanities and social sciences (Homans). Using an intersectional lens that examines subjectivity,

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<sup>6</sup> See Peggy Phelan, *Critical Adoption Studies: Conversations in Progress*, “the academy as a whole has tended to view fields of this sort as somewhat marginal to their larger enterprise, a kind of “special interest” rather than a central source of respected expertise” (6).

experience, the institution, and cultural representations of adoption, critical adoption studies includes a diversity of subjects and intellectual positions (Homans 4). For example, as transnational adoptees came of age, “their voices brought the perspectives of young adult transracial and transnational adoptees into scholarly conversations about adoption...these voices had an affective resonance that shook adoption studies, as previously dominated by adoptive mothers, social workers, psychologists, and legal scholars...” (Park 301). Although still the minority among scholars within the field, natal mothers are slowly emerging with new perspectives, while natal fathers remain virtually silent.

Unlike earlier adoption studies which mostly concentrated on the practice of adoption through the disciplines of social work, psychology, sociology, and anthropology, and which mostly pathologized mothers and adoptees, critical adoption studies has a much broader lens (de Blank). According to critical adoption scholar Kit Myers, adding “critical” to the field of adoption studies was not “merely a re-branding” (17). Utilizing a postmodern feminist approach, critical adoption studies is defined by “its resistance to marginalization, its rejection of existing perspectives on adoption, such as superficial romanticized perspectives of sociobiological perspectives” (Phelan 6). The scholarship created within critical adoption studies is a multi-disciplinary, transnational, and intersectional field of studies that encompasses critical thought and research that considers a wide variety of perspectives within the multi-layered construction of domestic and transnational adoption and kinship culture.

Feminist theoretical debates surrounding critical adoption studies are emerging through English, philosophy, history, motherhood, queer, transnational, diaspora and cultural studies. A few examples include Karen Dubinsky (2010) who attempts to locate adoption within feminist theory, Kim Park Nelson (2016) who explores the concept of racial exceptionalism within

Korean American adoptees, Lori Chambers (2007, 2016) who examines the law, society, and the state surrounding adoption in Ontario. Frances Latchford (2012, 2019) explores the pathologization of adoptees, as well as bio-essentialism in adoption discourse, and the ways in which voices of mothers who identify as agents are silenced, while Shelly Park (2006) examines adoptive maternal bodies as a queer paradigm for rethinking mothering. Laura Briggs (2023) considers those who have lost children to adoption by examining social and cultural forces influencing those transactions, while Dorothy Roberts (2022) explores child welfare systems in relation to modern domestic adoption as it relates to race.

As Laura Briggs articulates, “we have begun to develop a more critical account of adoption...one that is deeply embedded in the politics of race and poverty, gender and sexuality, and international relations and economies” (*Somebody’s* 5). As Brigg’s suggests, critical adoption studies is the project of applying critical thought to the institution of adoption and its representations not only as an embodiment of a form of kinship, but as a complex political, institutional, and interconnected process within neo-globalised markets. Critical adoption studies offers a broad framework from which to draw research, concepts, and perspectives within adoption scholarship.

### Maternal Theory

Motherhood studies and theory on mothers, mothering and motherhood as a distinct body of knowledge within feminist theory developed in light of theorists such as Adrienne Rich (1986), who discusses motherhood as experience and institution, Nancy Chodorow (1999), who argues that psychic structures are social with respect to mothering, and Sara Ruddick (1989), who explores maternal thinking. Patricia Hill-Collins (1991, 1993, 2014) introduced the concept of othermothering while raising critical questions about social and cultural meanings of race

through a multifaceted analysis of the institution of motherhood. Kim Anderson's work (2007) concentrates on Indigenous ideologies of motherhood. Andrea O'Reilly dominates the field of motherhood studies and empowered feminist mothering practice and coined the terms "motherhood studies" (2006), and "Matricentric feminism" (2016). O'Reilly calls for academic feminism to centre motherhood within feminist analysis and supports scholars who explore motherhood as experience, identity, institution, and ideology.

In the ground-breaking work *Matricentric Feminism* (2016) Andrea O'Reilly asserts that "matricentric feminism remains peripheral to academic feminism" (185), and that, "given that 80% of women become mothers in their lifetime, there is an evident disconnect between the minimal representations of motherhood in academic feminism and the actual lives of most women" (197). This disconnection between representations of women's lived experience of motherhood within the project of feminism maps onto the disconnection between adoption and reproductive justice theory, a theory which ironically re-vitalizes the subject of motherhood within its tenets. Such disconnections are rooted in the second wave feminist rejection of essentialist and heteronormative notions of motherhood and family, a position in which the scholarship of motherhood and adoption has historically resided. From radical feminists "outright rejection of motherhood as a site of oppression, to more moderate ambivalent accounts by scholars such as bell hooks, feminist thought continues to traverse with difficulty linking motherhood and maternal activity to feminist concerns" (Takševa 177).

The theories and concepts of mothering as a site of empowerment integral to motherhood studies or maternal theory are useful to draw upon when exploring representations of mothers, non-mothers, de-legitimated mothers, the destruction of the maternal body, and adoption as a form of reproductive and maternal violence against women.

## Reproductive Justice Theory

The concept of reproductive justice emerged in the 1990s by Black feminists and eventually through the Black feminist organization SisterSong. As a theoretical framework, reproductive justice is different from the earlier pro-choice structure of reproductive rights in that it moves beyond the limited emphasis on abortion rights to include motherhood and parenting. This leads to new scholarship and activism that is not limited to pro-choice debates, but instead attends to the ways in which inequality is reproduced through intersecting systemic oppressions that harm, restrain, and stratify women's reproductive choices. The key tenets of reproductive justice are, "a) the human right to maintain personal bodily autonomy to have children, b) to not have children and, c) to parent the children we have in safe and sustainable communities" (Ross & Solinger 9). As in the broader feminist project, the institution of adoption remains on the margins of reproductive justice scholarship and practice.

Reproductive justice theory is entwined with intersectionality as children are transferred from one social location to another within adoption systems. Coined by Kimberlé Crenshaw, the theory of intersectionality recognizes the confluence of oppressions and power differentials that intersect with identities, as it relates to race, class, gender, sexuality, nationality, and ability, among others (Crenshaw 139). Reproductive justice theory is more effectively concerned with how an "interlocking matrix of oppression" is interconnected with reproductive exploitation, oppression, and violence and with reproductive outcomes for women and girls (Ross 291). Reproductive justice aims to improve reproductive outcomes for women and girls not only through the protection of reproductive rights, but also human rights.

Reproductive justice theory is integral to this project, as it is central to the premise of not only the exclusion of adoption within the theory, but the rights stated. This project uncovers the

primary reasons for such exclusions, and it interrogates reproductive justice theory using a critical analysis of adoption systems in various contexts including those that are domestic, transnational and colonial.

### Feminist Theory/Gender Based Violence

Gender based violence is a key element of critical analysis within feminist theory, inquiry, and activism. The concept of reproductive violence against women introduced by Joss Shawyer (1979), and further developed by Black feminists such as Angela Davis (1998) and Dorothy Roberts (1997) is central to the task of uncovering reproductive oppression, violence, and exploitation. Ciara Laverty and Dienneke de Vos discuss reproductive violence as a gendered structure that underpins various forms of violence, and suggest a move away from the category of sexual victimization towards a more comprehensive approach that includes and recognizes the reproductive realm as an interrelated category that exists within the wider category of gendered harm (635). Herein, their theory of reproductive violence is enlisted to identify the characteristics of such violence, and to explore its gendered structure specifically within adoption systems.

### **Methodological Framework**

The methodological framework of this research will utilize a feminist approach that is concerned with positioning gender at the centre of this inquiry to uncover interrelated power relations, ideologies, and dominant discourses as they relate to the oppression and exploitation of reproducing women in various adoption contexts. Primary and secondary sources reveal qualitative data that will be examined within a feminist methodological framework that seeks to uncover andocentric bias, acknowledge difference, and reflect on the position of the researcher.

In addition, a discourse analysis is employed to uncover societal attitudes, cultural mores and media representations pertaining to the institution of adoption and culture. Stuart Hall asserts that



discourse “is the rules, social practices, forms of conduct, institutional sites and power systems that come together to create meaning”, or the discursive formation of a topic, such as adoption (Hall 29). The interrelation of various forms of such ‘texts’ constitute discourse over time (Phillips & Hardy 2). Texts reside in a variety of discursive spaces and may include language, institutional policies and practices, law, print and visual media such as newspapers, books, magazines, documentary, television, movies, digital media, scholarly works, and other production of meanings. Discourse analysis in this context then, is a methodology within which various fields of knowledge that intersect in the context of adoption are examined and critiqued for their implications and normalizing or systemic outcomes. A discourse analysis is crucial to this project as it uncovers the meanings created through the discursive formation of motherhood, non-motherhood, adoption, colonialism, and reproductive justice.

### **Language and Jurisdiction**

Prior to turning to a chapter outline, I would briefly like to briefly address issues of language and jurisdiction as it relates to this work. The use of certain language within the adoption reform movement has long been a source of ongoing discussion and debate. In this work, the term ‘birthmother’ will not be used by the author unless it appears within a quote or reference as such. Instead, the term ‘mother’ will be used wherever possible. I have made this choice to respect those mothers who reject the term ‘birthmother’ because this term continues to be applied to them arbitrarily by adoption systems, and not by their own choice. As a result, the term is marginalizing, and relegates their lived experience as mothers to the finite event of birth.<sup>7</sup> I have also made this choice to dismiss the old argument that there is a need to differentiate such

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<sup>7</sup> See Language of Adoption, Origins Canada. Accessed 4 March 2023.  
<https://www.originscanada.org/adoption-practices/adoption-language/language-of-adoption/>

mothers from any other mother and to illustrate that the term ‘mother’ can easily be applied to women who are separated from their child through adoption. For the most part, the mother being discussed is clear given the context and topic at hand; in fact, it is found that differentiation from any other mother is rarely required. If differentiation is required, then the terms ‘natal mother’ and ‘adoptive mother’, will be utilized. Further, the term ‘mother’ more aptly addresses the humanity and lived experience of the mothers discussed.

In addition, inasmuch as I have used the terms ‘surrender’ and ‘surrender rates’ in this work to denote adoptions from unmarried mothers during the postwar adoption mandate, it is important to note that it is not assumed that all unmarried mothers ‘surrendered’ to the adoption mandate, rather than placed their babies for adoption. The use of these terms is not meant to totalize or regulate alternative mother narratives.

Within this work, I move back and forth between U.S. and Canadian contexts due to similarities in these two countries pertaining to the jurisdiction of adoption legislation and how it is enacted through state (U.S.) and provincial (Canada) governments. As an example, legislation in both countries entails similar regulations in the areas of consents to adoption (termination of parental rights), revocation periods, adoption finalization, regulation of adoption agencies and more. Both countries also have national (federal) legislation related to matters such as adoption tax credits, as well as similar laws and regulations that mostly pertain to the processes of intercountry or transnational adoption, which apply to the crossing of national borders and citizenship.

## **Chapter Outlines**

### Chapter One - Adoption & Feminism

This chapter briefly discusses relevant feminist issues, debates, and tensions that structure the

intersection of motherhood, critical adoption, and reproductive justice studies. Although still on the margins within the academy, the institution of adoption intersects with feminist theory on a number of fronts including social justice and equality, intersectionality, violence against women, reproductive rights; and the interrogation of embedded institutional and structural supports that continue to perpetuate racism, oppression, inequality, and injustice.

## Chapter Two - De-legitimized Motherhood and Adoption Systems

The marketplace of adoption relies on the lack of reproductive choices for certain women (Solinger, *Beggars* 22). This chapter examines the marketplace of adoption and concentrates on the ways in which the natal mother is de-legitimized in adoption culture in both domestic and transnational contexts. It also shows how the fertility of reproducing bodies is exploited within adoption systems. The perceived unsuitability by institutions and society of some women to be mothers due to race, culture, economics, age, marital status and location creates a culture conducive to taking away the children of these mothers. Women impacted are disproportionately resourceless women of colour while adoptive mothers are predominately economically advantaged, and white (Roberts *Feminism* 51). I also explore the de-legitimization of Indigenous mothers which continues in Canada through the euro-colonial settler context, a position that led to the Sixties Scoop in Canada where thousands of Indigenous children were ‘scooped’ from their communities for adoption into white families as a form of cultural genocide, a practice that continues through domestic child welfare systems (Sinclair).

## Chapter Three - Reproductive Exploitation/Violence in Adoption Systems

This chapter is concerned with identifying reproductive oppressions, exploitation and violence in adoption systems domestically and transnationally. A human rights perspective within reproductive justice as it applies to adoption is concerned with human rights abuses and

unethical practices in adoption systems that exploit the fertility mostly of women who are racially, economically, and socially vulnerable. Human rights violations in transnational adoption are revealed with respect to various United Nations Conventions and through various state studies. Violations uncovered include child theft, fraudulent adoptions, familial coercion, trafficking and the sale of children, deception by adoption networks, mothers living in poverty who are approached after giving birth in hospitals by adoption ‘merchants’ (Hermann & Kasper, Monico, Roby). Within domestic adoption systems, policies and practices that mirror those of the mid-twentieth century endure, while new processes continue to exploit and oppress reproducing bodies (Andrews). The concept of reproductive violence and its location within gendered violence is discussed in relation to reproductive violence within adoption systems.

Also discussed in this chapter are highlights from an original list of various state inquiries (Appendix A) from Australia, Canada, The United Kingdom, The Netherlands, and Asia into illegal, unethical and human rights abuses within adoption policies and practices, all of which reveal adoption as a form of reproductive exploitation and violence.

#### Chapter Four - Adoption: The Unfinished Business of Reproductive Justice

Although reproductive justice is rooted firmly in feminist theory that encompasses matters of human rights, social justice, intersectionality, and interlocking oppressions, a disconnection remains as it relates to adoption systems. Reproductive justice theory takes a broad view that provides scholars with a multi-faceted framework that includes the right to have a child and to mother that child in a safe and sustainable community (Ross & Solinger). However, the institution of adoption remains in the margins of reproductive justice theory. This chapter explores this disconnection and illustrates how a reproductive justice framework and analysis provides scholars with a tool, a framework, to theorize adoption within feminism. With the

application of a reproductive justice framework that interrupts, resists, and critiques modern adoption culture based on a human rights structure that places marginalized communities and women at the centre of analysis, improved reproductive outcomes can be achieved. Crucial to this purpose is the operationalization of the third tenet of reproductive justice wherein mothers would be provided with the resources and supports they need to mother their children in safe and secure environments. Such supports would directly address the primary reasons given by mothers for considering adoption. This may result in reduced adoptions and improve reproductive outcomes for women and girls.

## Conclusion

The conclusion returns to my analysis and findings to offer a brief overview of how the institution of adoption operates as a site of oppression, exploitation and violence for certain women, and is therefore a crucial site for feminist inquiry. The conclusion also summarizes my analysis of reproductive justice theory, and how it can be applied to positively impact outcomes for women and girls who are most vulnerable to systems of adoption due to economic, social, and colonial vulnerabilities. In addition, it provides some concrete suggestions for scholarship, movement, activism, and praxis as a path forward for critical adoption and reproductive justice scholars. Finally, it offers insight for further feminist inquiry in the field of critical adoption studies and for feminist theorizing of adoption through a reproductive justice framework.

## Chapter One

### A Feminist Analysis: From Which Body and Who Benefits?

While the institution of adoption grew exponentially in the latter half of the twentieth century in western societies, feminist analyses of adoption did not keep pace. Peripheral to reproductive rights, “adoption has received relatively little attention from feminists” (Dowd 914). White liberal feminism has historically supported the institution of adoption. As an example, feminist support for adopters have included those in the LGBTQ+ community, adoptive parents in contested adoptions, and policies proposed to speed up the adoption process (Latty 1).<sup>8</sup> This support has been mostly rights based—contending a right to form a family. Liz Latty suggests that, “what’s missing from mainstream feminism is any explicit support for families of origin: the parents who have to lose their children, the families that must be dismantled in order for adoptive families to be built” (1). Adoption as an institution has resided in the margins of feminist thought since the 1950s (The Feminists), and it is only recently that contemporary feminists have attempted to locate adoption within the feminist project.

Adoption is a cultural practice that we elevate in western society due to the simplistic and altruistic myth of adoption as a form of ‘rescue’ and ‘saving’. Critical adoption studies scholars Sung Hee Yook and Hosu Kim state that, the “humanitarian salvation narrative in which ‘white savior’ adoptive parents rescue the orphaned girl ‘over there’ is a condition necessary for the success of transnational adoption practice” (2). Concentrating on tropes of rescue and kidnap, Karen Dubinsky offers a feminist perspective on adoption that illuminates the political and economic factors that produce adoption and the imbalance of power between adopters and natal

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<sup>8</sup> See for example Laura Briggs article on the Baby Veronica Case. Accessed 12 March 2023. <https://somebodyschildren.com/2013/05/08/feminists-and-the-baby-veronica-case/>

mothers. As Dubinsky puts it, “it is remarkable how many people, no doubt well-meaning and good-hearted—want to believe in the fantasy of the cabbage patch” (*Fantasy* 339). Judith Beckett articulated similar concerns in the 1989 article “Birthmarks: A Birthmother’s View of Adoption”, remarking that “feminists need to ask who benefits when children are taken from single, poor, Hispanic and teenage women in this country... [U.S.] and placed in traditional (patriarchal) families” (8). Babies still come from the bodies of women (and transpeople). So then, it becomes incumbent on feminists to ask, “From which body?” and “Who benefits?”

The institution of adoption intersects with critical themes that reside within the sphere of feminist concern. This chapter examines key feminist issues, debates, and tensions related to the institution of adoption, including social justice/human rights, intersectionality, reproductive justice, reproductive violence, colonialism, reproductive rights, motherhood, and the concept of choice. It also interrogates embedded institutional and structural supports of inequality that continue to perpetuate racism, oppression, and injustice within adoption systems. Analyses that explore the multiple and complex issues, debates, and tensions within feminism that intersect with adoption systems remain underdeveloped. Feminists have been slow to weigh in on matters related to adoption. Indeed, critical adoption studies remain on the margins of the academy even as feminists are beginning to theorize adoption and to uncover the various matrices of the multi-layered oppressions and injustices that characterize adoption systems.

### **Dismantling Systems of Oppression**

The feminist project is interested in dismantling and disrupting systems and structures of oppression that impact women and the barriers to human rights and social justice that emanate from them. Structural supports that continue to perpetuate racism, colonialism, classism, oppression, inequality, and injustice are inherent within adoption systems. Interlocking power

systems including white supremacy and colonialism within adoption processes are rendered invisible by contemporary adoption culture. Race and class are integral to adoption systems as children move from one social location to another, or as Dubinsky has articulated, “from south to north, east to west, poor to rich, brown to white” (*Fantasy* 340).

### **Colonialism**

In certain contexts, the transfer of children for adoption is rooted in imperialism and colonialism. As in other areas of feminism, postcolonial studies have hardly engaged with the institution of adoption (McLeod 209). John McLeod observes that critical adoption studies and postcolonial inquiry:

find their first point of shared concern: the strategic reshaping of family relations, often requiring the confecting of a child’s adoptability or transportability, as one deliberate and central consequence of the advent of colonialism and its legacies around the globe (208).

McLeod also comments on a lack of sustained attention that is paid to the impact of colonialism within adoption systems and practices “given the centrality of family-breaking and –making to the business of colonialism” (209).

Child removal and adoption have functioned to advance settler colonialism and to assist in the perpetration of genocide upon Indigenous people and culture (Wexler et al 2). In Canada, the attempt to indoctrinate and assimilate Indigenous children<sup>9</sup> into Euro-settler society is deeply rooted in settler colonialism. Western knowledge production obscures the heterogeneity of natal mothers (Mohanty 19). The notion that Indigenous mothers are “backwards, unliberated, unenlightened, and economically dependent, and thus ineligible to perform motherhood” is a

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<sup>9</sup> Through residential schools, sterilization of Indigenous women, Sixties Scoop and Child Welfare processes.



colonial narrative that continues to impact women (Yook & Kim 2). The Euro-colonial settler lens that de-legitimizes Indigenous land, people, and culture is a position that led to the Sixties Scoop in Canada where thousands of Indigenous children were ‘scooped’ from their communities for adoption into white families as a form of cultural assimilation, and arguably, genocide (Sinclair).

Indigenous mothers in Canada have had their children violently taken from them, first through residential schools and then by social welfare systems (Sinclair, Malone). These systems indoctrinated and assimilated Indigenous children into white Christian, Euro-Canadian culture through the Sixties Scoop—the mass adoption of Indigenous children into non-Indigenous homes. Suzanne Fournier and Ernie Crey observe that:

this deliberate policy to separate and forcibly assimilate aboriginal children into the mainstream has pervaded every era of aboriginal history in Canada and profoundly injured of [sic] First Nations people both historically and today. Each era saw a new reason to take aboriginal children away from home, placing them in residential schools, foster care or non-aboriginal adoptive families (17).

Post-colonial studies recognize the ongoing impact of colonialism. In contemporary Canada, Indigenous mothering continues to be de-legitimized within the Euro-colonial settler lens, a lens that supports continuing violence against Indigenous mothers and families. In January 2019 a livestream video went viral on Facebook. This was a video of an Indigenous mother, still in hospital, having her newborn apprehended by police and child welfare in Winnipeg, Manitoba. The video documented a process that is rarely witnessed by the general public—what is known as a “birth alert” occurs when pregnant woman is flagged by child welfare *prior* to the birth of

a child for the purposes of child apprehension.<sup>10</sup> Grand Chief Garrison Settee of the Manitoba Keewatinowi Okimakanak forcefully remarked, “We should never allow this thing to happen again to any Indigenous woman!... [T]he system that we’re subject to is not a system for our people” (Global News). However, it is estimated that at least one apprehension of this type happens every day in Manitoba, a province with over 10,000 children in Child & Family Services (CFS) care, the majority of whom are Indigenous (Global News). Mirroring the U.S. with respect to the disproportionate number of Black children in state care, Canada’s Indigenous children often become available for adoption as a result of the state’s hyper-disciplinary surveillance of Indigenous mothers.

Transnational adoptee Daniel Drennan ElAwar explores colonialism in adoption as an aspect of the colonizing of the mind (of the adoptee), using the concept of the “native intellectual” as suggested by Frantz Fanon.<sup>11</sup> ElAwar explores the phases of colonization relative to the adoptee, who he asserts is: “coddled by the seeming safety of his new-found place, seduced by the imposed mythology of the dominant culture, and abetted by the wilfully distanced memory of his generational past” (1). ElAwar states that, “the goal of the current imperial juggernaut is to push as many as possible down into the ranks of the barely subsisting while extracting therefrom labour, wealth, resources, and unfortunately, children” (15). ElAwar seeks to dismantle adoption, structurally, economically, legally and politically as part of the de-colonization of the minds of adoptees and, as he hopes, as part of an end to the imperial era (15).

## **Race**

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<sup>10</sup> See IndigiNews. Many provinces have now repealed birth alerts although the practice often continues in an altered form. As of this writing, Newfoundland and Labrador, Nova Scotia, New Brunswick, Saskatchewan and Quebec practice birth alerts. <https://indiginews.com/vancouver-island/status-of-birth-alerts-across-canada> Accessed 24 March 2023

<sup>11</sup> The indigen who identifies with his colonizers

The adoption order continues to be filled by the reproductive labour of women of colour, Indigenous women and those in the Global South. The utilization of reproductive justice theory not only addresses intersectional identities with respect to race and class, but it also uncovers the inequalities and dangers that exist for fertile, oppressed, and racialized mothers who are at a higher risk of losing their children to adoption systems. Dorothy Roberts writes:

feminists should be alarmed and activated by the racial disparity in the child welfare system. Feminists should be concerned about the role of race in determining which families are subject to state intervention and consequently, which children become available for adoption” (*Feminism* 43).

Roberts elaborates on this as she writes about what she calls “well-meaning feminists” who advocate for early termination of parental rights for Black children in foster care, stating that “they do not see themselves as racists who are bent on destroying Black families” (*Feminism* 51). Present social welfare policies that rely on child removal and adoption rather than on family preservation unjustly impact Black families (52).

As the knowledge and recognition of structural and institutional racist policies and attitudes within adoption systems expands through critical adoption and reproductive justice studies, feminists need to address the racial inequity in these systems. Reproductive justice scholar, Ericka Derkas asserts that feminists have an obligation to unravel and reckon with whiteness. Derkas writes that “responsibility exists for white feminists using reproductive justice... [I]t means contesting unearned, stolen, socially constructed, and assumed privileges built off the lives of others” (275). This can be applied directly to adoption systems. However, it remains unclear as to whether feminists are ready to dismantle whiteness in the context of adoption.

### **Social Justice/Human Rights/Intersectionality**

Social justice and human rights are central to feminism within the overall project of identifying and challenging sites of oppression with respect to gender, race, class, and sexuality. The Beijing Declaration and Platform for Action was adopted during the Fourth World Conference on Women in 1995 and set out an agenda for women's empowerment. The Platform for Action adopted during this conference was considered at the time to be the "most comprehensive expression of States' commitments to the human rights of women" (United Nations *Women's 14*). Although this conference built on work done at previous conferences, it is mostly known for the significant achievement of explicitly articulating the idea that "women's rights are human rights" (United Nations *Women's 14*). Although it has its drawbacks and critics, according to Loretta Ross, the global human rights framework "offers – at this time, the most likely moral, political and legal regime through which reproductive justice goals may be accomplished" (*Radical 215*). A human rights perspective within critical adoption studies may be concerned with human rights abuses and illegal and unethical practices in adoption that exploit the fertility of mostly racialized women due to economic and social vulnerabilities.

The feminist movement of reproductive justice is innately entwined with the theory of intersectionality based on the "universality and indivisibility of its human rights foundation" (Ross, *Reproductive 287*). This relates to the institution of adoption as children move from one social location to another within adoption systems. Coined by Kimberlé Crenshaw in 1989, the theory of intersectionality recognizes the confluence of oppressions and power differentials that intersect with identities, such as race, class, gender, sexuality, ability, and nationality among others (Cooper). Reproductive justice theory is more effectively concerned with how "interlocking matrices of oppression" are interconnected with reproductive exploitation, oppression, violence, and reproductive outcomes for women and girls (Ross *Reproductive 291*).

Loretta Ross suggests that reproductive justice has “dynamically used the concept of intersectionality as a source of empowerment to propel one of the most important shifts in reproductive politics in recent history” (*Reproductive* 286). Amanda Dale explores the contemporary development of intersectionality within a human rights law perspective. Dale considers the possibility of expanding human rights frameworks within law and calls for international organizations to establish domestic and transnational protections for women (37). This is a concept that could impact transnational adoption systems.

Human rights violations in transnational adoption are revealed with respect to the United Nations Convention on the Rights of the Child (CRC 1990), The Hague Convention on Protection of Children in Respect of Intercountry Adoption (HC 1995), and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979). *The United Nations Human Rights Joint Statement on Illegal Inter-country Adoption*, released in 2022 states that, “In certain conditions as provided for in international law, illegal intercountry adoptions may constitute serious crimes such as genocide or crimes against humanity” (United Nations *Joint*). The UN committee found violations that incorporate a variety of illegal and/or illicit adoption practices. These include child theft, fraudulent adoptions, falsification of documents, familial coercion, lack of proper consent by biological parents, trafficking and sale of children, deception by adoption networks, among others. The committee found “discrimination against minorities and Indigenous peoples, and gender discrimination and violence based on moral and religious constructs regarding the social or marital status of the mother” (United Nations *Joint* 2). When such irregularities occur, human rights are violated.

In a study of the Marshall Islands Roby found that, “impoverished Marshallese women were deprived of their right to make informed decisions and fell prey to the market forces of

adoption...research showed that 83% did not understand the legal implications of adoption (667). For many mothers in non-western cultures the concept of de-kinning or the permanent severing of filial ties that characterizes western adoption is often not readily understood. For example, Cheney suggests that few African families understand the permanence of plenary adoption, and instead equate it with their own cultural traditions of multi-mothering and extended family care (10). In these instances, the practice is exploitative and as Roby found, constitutes a human rights violation (667). Such inequalities and injustices should be forefronted on the feminist agenda.

In the domestic context, illegal, unethical and human rights abuses in adoption practice also occur. The Senate Social Affairs Committee of Canada studied the adoption mandate in postwar Canada and published its recommendations in the report “The Shame is Ours” in 2018. The adoption mandate has been described by Andrews as:

a process of interrelated institutional power systems which, together with socio-cultural norms, ideals of gender heteronormativity, and emerging sociological and psychoanalytic theories, created historically unique conditions in the post WWII decades wherein white unmarried mothers were systematically and often violently separated from their babies by means of adoption in the hundreds of thousands in Canada and around the world (*White 1*).

The committee found that women in postwar Canada were subject to illegal, unethical and human rights abuses in adoption policy and practice in the postwar decades due to their unmarried status. Senate recommendations include mental health assistance for survivors and a national apology similar to the one made by then Prime Minister Julia Gillard of Australia in

2013.<sup>12</sup> Some churches involved in the mandate through the operation of “homes for unwed mothers” have apologized for their role in forced and coerced adoption, including The United Church of Canada<sup>13</sup> and the Catholic Archdiocese of Vancouver.<sup>14</sup> The Anglican Church of Canada is currently in the process of drafting a statement of apology to those impacted.<sup>15</sup> The Salvation Army asserts that they simply provided homes for women, and had no role in adoption processes.<sup>16</sup> This is in contrast to the accounts of women who resided in such facilities. These developments mark some progress for those women impacted and are a result of their own activism. For decades these women have been either ignored or essentialized by the feminist community.

In the context of modern domestic adoption, the human rights of natal mothers continue to be unprotected by practices designed to ensure that an adoption transaction is completed. Contemporary adoption agencies use proven sales and marketing practices and methods to entice and entrap (mostly young) pregnant women who may be experiencing an unplanned pregnancy (Andrews, *Sales*). Just as “Kodak moments” were positioned to warm our hearts and sell photography supplies, adoption agency sites use images of adorable babies, and “happy birthmothers” to create a positive image of adoption. Who could not be moved by the warm and fuzzy videos, as seen on the web pages of most adoption agencies. These videos portray happy ending stories of young, healthy mothers handing over their babies to wonderful adoptive

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<sup>12</sup> See Apology Australia. Accessed 12 March 2023. <https://www.youtube.com/watch?v=5hVbokTpYeg>

<sup>13</sup> See United Church Apology for Forced Adoptions. Accessed 12 March 2023. <https://united-church.ca/social-action/justice-initiatives/apology-forced-adoptions/adoption-apology>

<sup>14</sup> See Archdiocese of Vancouver Apology for coerced adoptions. Accessed 12 March 2023. <https://rcav.org/announcements/apology-for-the-church-s-role-in-coerced-adoption>

<sup>15</sup> Correspondence with the author from Linda Nicholls, Primate, Anglican Church of Canada April 20, 2022.

<sup>16</sup> See Salvation Army Brief Submitted to Canada Senate Committee 2018. Accessed 12 March 2023. <https://www.documentcloud.org/documents/5778510-Senate-Committee-Salvation-ArmySubmissions.html>

couples, who will ostensibly continue contact on an indefinite basis. These stories are often supported by positive “birthmother” testimonials that are meant to entice more pregnant women to choose adoption and to increase the supply of newborns available for adoption.<sup>17</sup>

Adoption coercion has been described as “any form of overt or covert pressure, manipulation, convincing, force, fraud, human rights violation, or withholding of resources that results in a woman surrendering a baby for adoption” (Origins Canada). In this context, adoption activists have identified the process of pre-birth matching—the process in which pregnant women considering adoption have contact with prospective adoptive parents prior to birth, as coercive. Although adoption laws vary from one province to another in Canada and from one state to another in the U.S., there are common elements of pre-birth matching that are of concern. The primary concern is that pre-birth matching may put the mother at a risk of emotional coercion. As the pregnant youth/woman bonds emotionally with prospective adopters (who often have sad and compelling histories of infertility or failed pregnancies/adoptions) prior to the birth of her child, she may develop a fear of hurting or disappointing them or other children in the family if she changes her mind. Also, through pre-birth matching, young mothers might be exposed to financial coercion as prospective adopters may provide clothing, living expenses, prenatal medical and hospital fees, scholarships, legal, counselling, or pay other types of expenses throughout the term of pregnancy and birth.<sup>18</sup> This makes it extremely difficult for a young

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<sup>17</sup> See “Birthmother Testimonials here. Accessed 12 March 2023. <https://www.angeladoptioninc.com/newborn-adoption-success-stories/birthmother-stories/>

<sup>18</sup> Financial assistance of this kind mostly takes place in the U.S. in a contemporary context. In general Canadian domestic adoption laws do not allow any form of compensation or assistance to the natal mother except for stated expenses that may vary from province to province. As an example, in British Columbia the law states that “(a) the cost of reasonable accommodation for the birth mother and child if the accommodation is directly related to the physical transfer of a child being placed for adoption; (b) the cost of medical services related to the birth of a child who is being placed for adoption if the coverage is not available to the birth mother from any other source; and, (c) reasonable transportation costs associated with medical services, appointments and the physical transfer of a child who is being placed for adoption” (British Columbia Adoption Regulation, Amended July 1, 2023, 10 (1)).



mother to change her mind once her infant is born as she may feel that she is under an obligation to proceed with the adoption due to the financial assistance she has received. Adoption activists assert that there should be no contact with pregnant women prior to birth from “any person or agency that will benefit financially or otherwise by her baby being placed for adoption” (Origins Canada). Further, having prospective adopters present and removing a newborn from its mother during delivery has been identified as a human rights violation in that the process mirrors that of the clean break used in the postwar adoption mandate—the violent separation of a mother and her newborn during delivery (Andrews *White* 97). The foregoing is only a sample of the coercion that young mothers may experience in the course of contemporary domestic adoption practice, and as I argue, should be a feminist issue.

### **Reproductive Violence**

Although much emphasis by feminists in the struggle for reproductive rights has been placed on access to safe and legal abortion, reproductive oppression, violence, and exploitation of reproducing bodies through the institution of adoption systems in domestic and transnational contexts has yet to be fully explored. Reproductive oppression is the regulation, control, and exploitation of reproductive bodies based on race, class, gender, sexuality, ability, age, marital status, and nation. Feminists should be concerned with human rights abuses and unethical practices in adoption that exploit the fertility of women who are predominantly racialized and resourceless.

Gender-based violence is a key tenet of feminist inquiry and activism. Integrating the concepts of reproductive violence against women within adoption introduced by Joss Shawyer

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(1979), and further developed by Black feminists such as Angela Davis (1998), Dorothy Roberts (1997), and others is central to the task of uncovering reproductive oppression, violence, and exploitation within adoption systems. Mai-Linh K. Hong describes reproductive violence as “the interwoven conditions of power, coercion and bodily and mental harm that disrupt women’s reproductive destinies at all stages of reproduction, including conception, gestation, birth, childrearing and family making” (487). According to Ciara Lavery and Dieneke de Vos, the concept of reproductive violence is broader than that of sexual violence. These eminent scholars in the field of transitional justice discuss reproductive violence as a gendered structure that underpins various forms of violence and suggest a move away from sexual victimization towards a more comprehensive approach that includes and recognizes the reproductive realm as an interrelated category that exists within the wider category of gendered harm (635). Lavery and de Vos seek to explore the theory of reproductive violence as a separate category asserting that viewing it in this way,

allows for certain forms of violence to be explicitly ‘seen’, and therefore to make visible what previously remained invisible, but also problematizes the social conditions in which reproductive rights and agency are exercised and the intersecting ways in which they impact women’s lives (634).

Using the process of identifying reproductive violence as suggested by Lavery and de Vos is helpful to explore its gendered structure within adoption.

Reproductive violence continues to be routinely practiced, normalized and invisibilized within adoption systems. Adoption scholars and activists continue to explore the ways in which adoption can operate or effectively function as a form of reproductive violence. Kimberley

McKee asserts that the violence in adoption is rooted in power differentials—differentials between natal and adoptive mothers, the conditions of receiving and sending countries, and the conditions that create reductive narratives of humanitarian child-saving, joy, and gratitude are inherent in adoption systems (*Adoption* 75). Many mothers in adoption systems have had their babies wrongfully removed, kidnapped, taken at delivery, stolen, sold and/or trafficked which clearly constitutes a form of violence. (Hermann & Kasper, Monico, Roby, UN *Joint*).

Reproductive violence and trauma experienced by natal mothers in adoption practice has been well documented through parliamentary inquiries in Canada, Australia, and the United Kingdom (UK), as well as through the United Nations.<sup>19</sup> Multiple studies on the mental health impacts of mothers separated from their children by adoption, whether in closed or open systems, or through fraud and unethical practices, illustrate that adoption does in fact, operate as a form of reproductive violence against women (Krahn & Sullivan, March).<sup>20</sup> According to Chadwick and Mavuso, there remains “much scope for the development of feminist activism and theorising that insists on, unpacks, and foregrounds reproductive violence as a distinctive and harmful mode of violence directed at reproductive subjects” (4). Adoption systems operate as a form of reproductive violence, and it is incumbent upon feminists to recognize and act upon this reality.

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<sup>19</sup> For Canada, see the Senate Report “The Shame is Ours”, July 2018. Accessed 12 March 2023. [https://sencanada.ca/content/sen/committee/421/SOCI/reports/SOCI\\_27th\\_e.pdf](https://sencanada.ca/content/sen/committee/421/SOCI/reports/SOCI_27th_e.pdf)

For Australia see the Senate Report “Commonwealth Contribution to Former Forced Adoption Policies and Practices, February 2012. Accessed 12 March 2023.

[https://www.aph.gov.au/parliamentary\\_business/committees/senate/community\\_affairs/completed\\_inquiries/2010-13/commcontribformerforcedadoption/report/index](https://www.aph.gov.au/parliamentary_business/committees/senate/community_affairs/completed_inquiries/2010-13/commcontribformerforcedadoption/report/index)

For the UK see the House of Commons House of Lords, Joint Committee on Human Rights Report “The Violation of Family Life: Adoption of Children of Unmarried Women 1949-1976, 15 July 2022. Accessed 12 March 2023.

<https://committees.parliament.uk/publications/23076/documents/169043/default/>

all of which outline the major mental health impacts of adoption separation on natal mothers

<sup>20</sup> See more studies at Origins Canada. Accessed 12 March 2023. <https://www.originscanada.org/adoption-trauma-2/adoption-trauma-studies/>

## Reproductive Choice

The Oxford dictionary defines ‘choice’ as “an act of choosing between two or more possibilities: something that you can choose”. However, within the feminist project, choice consists of various and interconnected meanings creating a more complex significance. During the second wave, activists originally used the term ‘rights’ to refer to their quest for legal abortion. The word ‘choice’ emerged in the early 1970s through the National Abortion Rights Action League demonstrations called “Children by Choice” (Solinger, *Beggars* 5). In the *Roe v Wade* (Roe) majority ruling that enshrined abortion as a right in the United States, Justice Blackman referred to abortion as a choice a number of times. Using the less confrontational term choice “became the way the liberal and mainstream feminists could talk about abortion without using the ‘A’ word” (5). The term choice then, ultimately became a euphemism for reproductive freedom including access to abortion. The early optimism of the women’s movement in winning this ground-breaking victory of reproductive choice through *Roe* obscured the reality that choice is, and has always been, limited by race and class. The notion of choice obscures the underlying class and race structure of motherhood as a class privilege. Rickie Solinger remarks that:

I am convinced that choice is remarkably unstable undependable foundation for guaranteeing women’s control over their own bodies, their reproductive lives, their motherhood, and ultimately their status as full citizens (*Beggars* 7).

The slogan “My Body, My Choice” emerged from the activism of abortion rights and is related to bodily integrity, autonomy, and the right of women to choose an abortion. This slogan has evolved to represent a number of feminist initiatives including consent, forced marriage, forced pregnancy, freedom to choose clothing, freedom of movement, opposition of gender-

based violence, the right to engage in sex work, among others. More recently, and controversially, some groups co-opted this slogan to oppose the Covid 19 vaccine (Rulli & Campbell). Choice then, as it relates to bodily autonomy, is weighed down with many meanings and interpretations within the feminist project and beyond.

Since the early twentieth century, adoption has been constructed as being a choice for women. In domestic adoption systems in both Canada and the U.S., the idea that mothers *choose* to place their infant or child for adoption is a common myth since the “trajectories of agency are intertwined with structures that enable and disable it” (Nandy 136). While some mothers report a lived experience of choosing adoption, the idea of choice becomes messy as the separation of a young, healthy mother and her newborn baby through adoption is normalized in western society as a so-called choice even though, “consent, and openness remain illusory in contemporary adoption culture” (Andrews, *Young* 47). As an example, surviving mothers of the adoption mandate in the postwar decades, express how they had little or no choice in the adoption process. One Canadian mother explained how she was worn down by social workers “I cried, I begged, I screamed, I threw furniture around. They tried to put a pen in my hand and tried to make me sign. I threw the pen away. I tried so hard. Then they threatened to call the police...and so I signed (Goldhar). One mother in the UK reports that:

I was threatened with being arrested, my son being put into a children’s home if I denied him a good home with the adoptive parents and having subsequent children taken away from me. I was told lies and coerced into allowing the adoption of my child (UK House of Lords).

Coercion thwarts agency. A majority of unmarried mothers during the postwar period (now in their senior years) report overt coercion by clergy, social workers, the medical community, and

their own parents to surrender their child for adoption due to the stigma and shame attached to an out-of-wedlock pregnancy at that time. Most families were not prepared to suffer the stigma attached to openly acknowledging an unmarried, pregnant daughter, and to “avoid the public shame an unmarried daughter would bring, many girls and young women were sent away to relatives or to homes for unmarried mothers” (Crawford 114). In Canada alone, over 350,000 mothers were impacted by the mandate (Andrews, *White*).

In contemporary domestic adoption systems in which (mostly young) mothers are characterized as *choosing* adoption, mothers enter into open adoption agreements with the understanding that they will have some level of contact with their child post-placement.

Adoption Options, an agency in Alberta, Canada states on its website:

Nearly everyone makes an agreement for the exchange of letters and pictures.... many birth and adoptive families have relationships similar to "in-laws" - extended family with phone calls, visits and close connections.<sup>21</sup>

Multiple studies have revealed that the incentive of post adoption contact with their child can be highly influential on a young mother considering adoption. When the domestic supply of infants began to dwindle in the late 1970s, adoption professionals began to look for ways to increase surrender rates. In an extensive literature review of ninety-one adoption articles published in peer reviewed journals between 1978 and 2008, Bryony Lake found some interesting results:

These can be viewed as two streams of research ... the first stream (forty-three articles) examines the consequence of surrender on the mother. The

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<sup>21</sup> See Adoption Options Website. Accessed 12 March 2023.  
[https://adoptionoptions.squarespace.com/birthparents\\_about-adoption/](https://adoptionoptions.squarespace.com/birthparents_about-adoption/)

second stream (thirty-two articles) examines factors that may predict and/or influence rates of surrender, often stating with concern that surrender rates have declined significantly and should be increased. The latter stream contains three main sub-themes: factors (socio-demographic, educational, attitudinal, familial, or economic) that distinguish mothers who surrender their babies from mothers who keep their babies, surveys to determine what would encourage expectant mothers to consider adoption, and comparison of different agency practices and their effects on surrender rates (25).

Although Lake's dissertation is yet to be published, the study reveals that many of the scholarly articles reviewed attempt to determine the ideal circumstances in which a mother might surrender her baby for adoption. Similar articles appeared at the time in professional journals for social workers. For example, in one study, Victoria Chippindale-Bakker and Linda Foster identify three factors that would increase the likelihood of an adoption taking place, "[1] the biological mother chooses and meets the adoptive parents; [2] she has minimal contact with the baby following delivery; and [3] she has relatively long and intense postnatal involvement with the adoption center" (353). More studies published between 1978 and 2008 illustrate that the shrinking supply of domestic newborns was a matter of concern for social workers and others and that new strategies were being sought to increase the supply of newborns (Lake). There are multiple implications for these types of studies relating to a young mother considering adoption. In the article "Open Adoption: They Knew it Would Work", Cedar Bradley writes,

This raises a huge ethical issue that is not being discussed in adoption literature. If a mother's decision about surrendering her baby is being

influenced by practices carefully researched and applied to increase the odds she will surrender, is it really a freely-made decision...? (2).

Lake's study is one that raises the question of choice for mothers in open adoption negotiations. As Lake has pointed out, it is not clear that these mothers are really choosing, given the studies that contributed to a major shift towards open adoption which became mainstream in domestic adoption practice during the late 1970s (Andrews *Young*).

In transnational contexts, the concept of reproductive liberty as defined by choice masks the economic, racial, and cultural oppressions that create conditions of limited or no choices for women within some developing countries. The marketplace of adoption relies on the lack of reproductive choices for certain women. Referring to transnational adoption Rickie Solinger writes that, "such transfers almost always depend on extremely poor and/or culturally oppressed mothers who utterly lack choices" (*Beggars* 22). The majority of these women are disproportionately resourceless women of colour while adoptive mothers are predominately economically advantaged—and white. Kimberly McKee reports that 92% of international adoptions are transracial placements (75).

In the latter part of the twentieth century, dominant discourse has often portrayed women as 'good' or 'bad' choice makers in the reproductive realm (Solinger *Beggars*). Privileged white women who chose to adopt were considered heroes, while Black women having 'too many children' were depicted as "welfare queens" (Collins *Black* 79). This misrepresentation of Black women portrays the African American stay-at-home mother as "content to sit around and collect welfare shunning work and passing on her bad values to her offspring" (79). However, as pointed out by Dorothy Roberts, jobs for economically challenged Black women tend to be service jobs with long hours that interfere with keeping their children "off the streets, off drugs,



out of gangs, not pregnant, and in school” (*Shattered* 197). The daily realities that economically challenged Black mothers face in raising their children contrast widely with those of white privileged mothers, which constrains access to choice. Choice then, particularly within the reproductive realm, is a moving target that is constrained by embedded institutional and structural forces that continue to perpetuate racism, oppression, inequality, and injustice.

### **Forefronting of the Voices of Marginalized Women**

Liberal feminist analyses are concerned with forefronting the voices of women who have been silenced and/or marginalized due to an overall structure of underlying race and class inequalities and injustices. Within adoption systems it is incumbent upon feminists to ask, “Who is left out?” and “Which voices are missing?” Contemporary adoption discourse is wrapped in misinformation, myths, and an unevenness in the voices that it represents. Dorothy Roberts observes that,

radical, engaged feminism takes the child welfare system’s political impact seriously. It also takes women’s voices seriously. Yet in the public debate about the ills of foster care and the cure, the voices that are noticeably absent are the mothers involved with child protective services (*Feminism* 47).

Various institutional agendas continue to operate to maintain the status quo of keeping the voices and perspectives of natal mothers in adoption silenced. The voices of mothers have also been silenced due to the secrecy and shame entwined in past adoption practice. As pointed out by Sally Haslanger and Charlotte Witt, “in fact they’ve been almost entirely missing!” (9). During the adoption mandate mothers were told to ‘get on with their lives’ and keep their out-of-wedlock children a secret. The majority of those mothers did so and many have died with their secret intact while others continue to live in the shadows (Alton).

Despite contemporary discourses of openness, keeping natal mothers in adoption silent is reinforced by adoption laws that perpetuate the shame and secrecy of the mid-twentieth century stigma of illegitimacy. This is exemplified by the fact that adoption records in all provinces in Canada are still only semi-open notwithstanding the movement for transparency in adoption records led by adoption reform activists including natal mothers and persons adopted (Origins Canada). In addition, those most likely to benefit from adoption transactions have mostly remained silent with respect to human rights in adoption practice including governments, adoption agencies, legal professionals, adopters, and, feminists.

Surrendering mothers in adoption continue to inhabit the pro-natalist realm of feminist thought and have been interpreted by some feminists as victims of essentialist and socially constructed notions of gender and motherhood. Even though governments have acknowledged the illegal, unethical, and human rights abuses perpetrated against unmarried mothers during the adoption mandate,<sup>22</sup> these mothers (now in their senior years) are often dismissed as they recall their life experience of trauma and grief. Feminist historian Veronica Strong-Boag writes of such mothers that “it would take considerable bravery to admit publicly that maternal sentiments were limited or non-existent” (229) in an attempt to emphasize the social construction of maternal feelings. Barbara Melosh critiques the use of the phrase “lost to adoption” used by some mothers as a reference to the institutional power system that took their children. Melosh writes,

Some birth mothers describe their relinquished children as “lost” to adoption as if they had unaccountably wandered off – a choice of words that obscures the actual scene of relinquishment...not surprisingly, most insisted that they were “pressured” and “brainwashed” (256).

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<sup>22</sup> See Appendix A.

These types of characterizations and dismissals silence, appropriate, and distort women's lived experiences, and are the antithesis of the feminist value of prioritizing the voices of marginalized women.

Young mothers in contemporary domestic open adoptions are often silenced due to their marginalized motherhood. A person who nurtures a child through pregnancy and birth becomes a mother. Although an adoption plan may ultimately be made, the person who gives birth remains a mother, and it becomes a right to embrace that identity. Reclamation can be risky however, since these (usually young) mothers continue to fear the power of the adoptive mother in open adoption relationships. Closed support groups on Facebook are filled with young mothers who often express fear of being cut off from open adoption with adoptive parents, or who must remain disappeared or 'in their place' to preserve the privilege of contact, photos, or visits. Mothers in these groups write about how they have been told by adoptive parents not to call themselves "mother" but to refer to themselves as "birthmother". Some adoptive parents refer to these mothers as "our birthmother" a paternalistic type of ownership. Mothers report that adoptive parents have sent messages to them making it very clear to them that they are not mothers, and even warning that they better "watch their step". Some mothers who have had subsequent children have been admonished by adoptive parents for calling their children siblings of the adopted child; one was told by the adoptive mother that the only siblings her children would ever have would be any future ones that they adopt—even though the children were full blood siblings. Others talk about photos and how they are unable to post photos of themselves with their children, or any photos of their children at all—even a hospital photo prior to adoption. One mother was told by the adoptive mother that she could not have a picture of her infant taken in hospital after birth displayed in her own home. Another mother reports being cut off from her

open adoption because she got a tattoo of her child's birth date on her arm. Other mothers, in support, warn these mothers not to "piss them off", "them" being the adoptive parents. The general feeling in these groups is fear of adoptive parents and the power they hold in open adoption relationships (Facebook).<sup>23</sup> These mothers are held as a kind of hostage within the 'birthmother' persona, unable to speak their truth. For some, the open adoption closes completely, often for unknown reasons, relegating them to a ghost realm.

Mothers within transnational adoption practice are also silenced. Viewed as invisible agents often from developing countries, such mothers' voices are rarely heard. Sung Hee Yook and Hosu Kim acknowledge the silencing of natal mothers within transnational adoption practice and how transnational adoption rests on tropes of illegible mothers and their inability to perform motherhood. With a view to moving towards transnational reproductive justice, Yook and Kim seek to counter imagery of natal mothers as silent victims within transnational adoption discourse to allow for a more complex vision of such mothers to emerge through their own voices (2). Claudia Fonseca writes about mothers from Brazil. In a conversation about various feminist projects in that country, she writes, "nowhere in these debates does one find the birth mothers' collective voice...there has been nothing comparable to the birth mother movements found in North America" (86). In searching for the reason for their exclusion in dominant discourse, Fonseca suggests that "feminists, as well as jurists and legislators are much more likely to be (or count among their friends) adoptive mothers than birth mothers" (86). She also writes that "women who lose their children to adoption are, with very few exceptions, miserably poor; many are afflicted with ill health; their lack of literacy skills hampers their ability to defend

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<sup>23</sup> These examples are for the purpose portraying discourse, not direct witness statements. The author is a member of several "birthmother" support groups, and has obtained permission to express these concerns from the members. At the same time, she wishes to keep the confidentiality and integrity of such groups intact.

themselves...” (86). Dianna Marre writes about mothers in Spain, suggesting that natal mothers in adoption continue to represent a silence in reproductive oppression debates due to the stigma and cultural taboo of “giving their children away”. Marre also finds that Spanish feminists have not focused on mothering or shown any critical interest in how these women are silenced (91).

Sarah Park Dahlen looks in another direction. Dahlen suggests that children’s books on adoption are “silent on the topic of birth parents and birth searching” and asserts that natal mothers are mostly written out of adoption stories (4). Some are depicted as deceased—a form of disappearing or silencing of such mothers. As an example, the popular children’s adoption book “I’ve Loved you Since Forever”, tells the story of the adoptive mother and child both existing in the universe and waiting for it to align so that they find one another, which they do, but there is no mention of the natal mother (Kotb).

Due to shame, secrecy, open adoption limitations, and the dominant discourse of adoption, both as an altruistic act and as a choice for mothers, the voices of natal mothers in adoption are rarely heard. Feminists should be concerned about giving voice to the lived experiences of natal mothers in adoption who have been silenced and marginalized due to structural and institutional oppression and inequalities, political agendas, and the ongoing silence of those who benefit from their exploitation within adoption systems.

### **Motherhood and The Second Wave**

In order to tease out some of the reasons for the general exclusion of an analysis of adoption within the feminist sphere and the reproductive justice movement, one must re-visit the second wave of feminism. This is concerned with the second wave rejection of essentialist and heteronormative motherhood and family, a realm in which the scholarship of adoption has historically resided. Critical adoption scholar Laura Briggs questions the feminist silence on

adoption, particularly in the context of reproductive rights issues such as abortion, sterilization, and stratified reproduction. Briggs finds feminist silence on adoption “puzzling” (*Feminism* 81), particularly in the context of other reproductive rights issues. Briggs suggests that this may be a symptom of the historical and general neglect of motherhood and childhood within feminist theory that is only now being addressed. Briggs asserts that feminist silence is in part due to the struggle to “theorise poverty, precarity, and the stratification of reproduction” (82) and highlights the need for an intersectional feminist approach to adoption that embraces reproductive rights and justice as feminist tenets.

From radical feminists “outright rejection of motherhood as a site of oppression, to more moderate ambivalent accounts by scholars such as bell hooks, feminist thought continues to traverse with difficulty linking motherhood and maternal activity to feminist concerns” (Takševa 177). The feminist project has been slow to recuperate the mother within feminist theory. Nonetheless, studies that interrogate motherhood as institution, experience, and identity/subjectivity is a growing field that endeavours to establish motherhood and maternal theory as a scholarly discipline in feminist scholarship (O’Reilly). As the framework of reproductive justice, which includes motherhood and parenting as part of its principles, takes root and flourishes, both motherhood and critical adoption studies may become more mainstream. However, at present these theoretical streams continue to be marginalized in the academy.

Within the overall rejection of motherhood in feminism, both the natal and adoptive mother remain a predominant site of tension within adoption. These mothers occupy a space that disturbs the dominant view of ideal motherhood since both mothers reside in the borderlands of

mother and non-mother.<sup>24</sup> Natal and adoptive mothers have historically been characterized as being opposed to one another through binary tropes such as, “good/bad”, “saint/sinner”, “Madonna/whore” or “saviour/abandoner” tropes that have circulated since the late nineteenth century (Andrews *White* 35). In the work “The Virgin/Whore Dichotomy in Adoption Discourse”, Jennifer Sita Muthanna interrogates such binaries, asserting that they are grounded in patriarchal and normative discourses about what constitutes a “good” woman (4). Muthanna states that one role “is seen as desirable (the adoptive mother) and one role is denigrated or to be pitied (the birth mother)” (11).<sup>25</sup> Feminist theorist Drucilla Cornell suggests that “the law in most states pits the two mothers against each other while the media dramatizes the purportedly hostile relationship between the two” (19), while Kate Greenway’s in-depth analysis of adoption as it is portrayed in film illustrates the dominant discourse of the “cultural anxiety of authenticity in motherhood” (126). Also examining mothers within an analysis of media representations Susan Bordo writes, “Have we ever seen a movie birth parent presented as *competent* to parent? ...adoptive mothers, on the other hand are typically paragons of maternal virtue” (*Will the Real* 10). Gretchen Sisson also explores media representations of natal mothers in adoption, in our popular culture, either birth mothers happily move on after their adoptions (as in *Juno*)<sup>26</sup>, or their longing for their child renders them threatening, disruptive, pathological—an inappropriate parent...birth mothers are perfect mothers—the embodiment of love and self-sacrifice—until they express any desire to raise or know their child (*Relinquished* 203).

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<sup>24</sup> Part of both worlds of mother and non-mother. See Anzaldúa, Gloria E. *Borderlands/La Frontera: The New Mestiza* for borderland theory.

<sup>25</sup> This does not preclude the narrative of the adoptive mother being denigrated due to her perceived “failure” as a woman due to infertility.

<sup>26</sup> At the end of the film *Juno*, the mother hands over her son to the adoptive mother, then rides her bicycle to her boyfriend’s house seemingly happy as if nothing has happened.

As suggested by these examples, representations of natal and adoptive mothers continue to rest on binaries which have yet to be dismantled.

In addition to dominant binaries of competence/incompetence within adoption discourse, a persistent pro-natalist discourse has configured the adoptive mother as “not real”, “second best”, “unnatural” or even as a “non-mother” although the adoptive mother performs most mothering tasks, and is recognized legally and socially as a mother. Adoptive mothers often navigate the “...deeply entrenched *idea* – as opposed to the reality – that adoptive ties are inferior to biological ones” (Latchford 300). The debate concerning the binary of real/not real also emerges within the LGBTQ+ community, where within a lesbian same sex union, the birthing mother is referred to as the “birthmother”, or “real” mother, while the second parent is required to legally adopt the child/children of her partner, even if it was her egg that produced the child (Patton-Imani).

In contrast to natal mothers, the field of critical adoption studies includes a number of scholars who are adoptive mothers. In an attempt to rehabilitate the adoptive mother within adoption discourse, a body of work has emerged that de-stabilizes pro-natalist discourses of adoptive motherhood. Scholars such as Shelly Park, Susan Bordo, and others reflect on the dominant mother ideology that has impacted adoptive mothers. Bordo calls for turning the tyranny of the biologic paradigm on its head, suggesting that parents, whether biological or adoptive “all have to adopt our children” (235). Shelly Park writes,

Adoptive mothers – like many other mothers – choose motherhood. However we do so in a way that simultaneously rejects the idea that a woman’s anatomy is her destiny....motherhood does not just happen to us; no accidents befell our bodies....motherhood here is a story of social agency. Adoptive maternal bodies



are thus active, not passive bodies (405).

Denise Cuthbert claims that in the project of recuperating the adoptive mother, Park inverts and reiterates opposition binaries of biological and adoptive motherhood, instead of dismantling them, since, in this narrative, the biological mother comes off as “body bound, accident prone, captive to anatomical destiny, passive, with limited capacity for agency or choice” (405).

Although there may be conflicting analyses, the scholarship created by adoptive mothers within critical adoption studies is crucial as it contributes to and advances the discussion of adoption within feminism, creates space for theorizing the mother and motherhood in non-essentialist ways, and challenges the dominant script of motherhood (Cuthbert).

As Judith Butler observed, “as a strategy for survival, gender is a performance with clearly punitive consequences...and those who fail to do their gender right are regularly punished” (522). Both natal and adoptive mothers are stigmatized for their perceived reproductive and gender failures (McKee 83). However, there is a general unevenness with which punishment and stigmatization have been applied to natal and adoptive mothers. Dubinsky notes that, “to dwell on adoption’s potential to subvert or undermine the certainties of biology...almost always elides the imbalances that produce adoptive families” (*Fantasy* 341). Through the application of reproductive justice analysis, mothers within adoption can be rehabilitated through a concentration on how the dismantling of classifications of difference and binary tropes can impact reproductive outcomes for women and girls. However, as long as adoption culture continues to thrive in western contexts, it is likely that these tensions within the feminist project will continue to exist.

### **Feminism, Adoption, and Conservative Politics?**

Policy on the political right that seeks to increase adoptions benefits those who adopt. This

further the feminist pro-adoption agenda that supports the rights of prospective adopters to form a family through adoption. Gretchen Sisson suggests that “adoption makes possible the maintenance of both the heteronormative family ideal beloved by the right and the non-traditional, chosen family ideals embraced by the left” (*Relinquished* 6). According to Denise Cuthbert et al, “alignments between feminism and conservative politics are not unprecedented ...but they do require reflection” (403). This unintended alignment, an outcome of right wing and evangelical discourse that increases adoptions, remains a tension within the feminist project.

Feminists distance themselves from the conservative Christian evangelical movement that actively promotes adoption. However, through its pro-life “Adoption Not Abortion” rhetoric, the broader Christian message of the Bible,<sup>27</sup> and the vision of lessening the ‘global orphan crisis’, (the unfounded notion that there are millions of orphaned children in the world waiting to be adopted) adoptions are increased (Joyce 13).<sup>28</sup> In a 2008 article published in *Foreign Policy*, Emil Graff calls the idea that infant orphans predominate as the subjects of transnational adoption “the lie we love” (59). Although feminists seek to distance themselves from such belief systems, this rhetoric still serves multiple pro-adoption agendas.

The feminist argument for reproductive rights and bodily autonomy was finally upheld in 1973 through *Roe v. Wade*, the U.S. Supreme Court decision that upheld a woman’s right to choose abortion. *Roe v. Wade* was repealed in 2022 to great disappointment and dread felt in most feminist quarters. What is left unsaid however, is that some feminists who are or would be

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<sup>27</sup> See Romans 8:23 letter of Apostle of Paul in which he refers to Christians as receiving “adoption as sons”, and becoming heirs to God; also see James 1:27 which calls for caring for widows and orphans.

<sup>28</sup> See Graff. “In 2006, UNICEF reported an estimated 132 million orphans in sub-Saharan Africa, Asia, Latin America, and the Caribbean. But the organization’s definition of “orphan” includes children who have lost just one parent, either to desertion or death. Just 10 percent of the total — 13 million children — have lost both parents, and most of these live with extended family. They are also older: By UNICEF’s own estimate, 95 percent of orphans are older than 5. In other words, UNICEF’s “millions of orphans” are not healthy babies doomed to institutional misery unless Westerners adopt and save them. Rather, they are mostly older children living with extended families who need financial support”.

adoptive mothers benefit from right-wing adoption discourse attached to this repealed legislation which may operate to increase adoptions. In oral arguments in the case for *Dobbs v. Jackson Women's Health Organization*, Supreme Court Justice Amy Coney Barrett implied that "people had no need for abortion because they could instead, waive their parental rights and relinquish their newborns for adoption" (Sisson and Harrison 1).

Adoption activists assert that adoption is a parenting choice, not a reproductive one, and seek to distance such decision making from the successful pro-life "adoption not abortion" campaign. Gretchen Sisson concurs. Sisson found that pregnancy decisions are less frequently between abortion and adoption and are more often between parenting and adoption (*Choosing* 352). Sisson also found that rarely was adoption the preferred course of action for women, but that it emerged as a solution when no other options were available to them (*Choosing* 353).

Coney Barrett has also suggested that safe havens can be utilized instead of abortion (Kindelan). Safe havens are designated locations in the community (such as a fire hall) where a mother can leave a newborn with no questions asked. Laura Oaks observes that "[Baby safe haven laws] were established with varying stipulations in every U.S. state between 1999 and 2009" (1). Although there are no specific safe haven laws in Canada, a few "baby hatches", or "angel cradles" have emerged since 2010, two at Edmonton hospitals, one outside of Calgary at a fire station, and one in St. Paul's Hospital in Vancouver (Zwicks).

Laura Oaks asserts that safe haven campaigns target teenagers, women of colour, and poor women suggesting to them that "relinquishment is an act of maternal love" when compared to abortion or unsafe abandonment (77). Oaks argues that labeling certain women as "bad mothers" who should consider anonymously giving up their newborns for adoption "should best be understood as an issue of reproductive justice" (77). Due to the anonymity of the surrender, safe

haven relinquishments deny the child their identity, culture, and medical information, as well as any future contact with the natal family. Safe haven relinquishments also circumvent informed consent and remove all legal rights of the mother prior to any assistance or counselling for her situation. Further, it removes the right of extended kin to have an opportunity to raise the child (Oaks).

The adoption lobby in the U.S. has been successful in dominating the institution of adoption both domestically and transnationally. According to Joyce, when adoption policy and law is developed, the voices of adoptive parents and their lobbyists such as the National Council for Adoption (NCFA) with their pro-adoption agenda, “drown out those of adoptees and certainly birth parents” (289). The NCFA continues the fight against the open adoption records movement using the argument that allowing those adopted to know their origins causes women to abort children that otherwise could be adopted (Friedman). The NCFA has advocated for the adoption tax credit to assist adopters and works to increase the numbers of babies that become available for adoption through a program designed to raise adoption awareness in those who work with women facing unplanned pregnancies (Friedman).

Adoption allows for the creation of families that deconstruct conventional ideals of family and relationships. But at what price? A young mother relinquishing her newborn at a fire hall? A woman having to endure a forced pregnancy and relinquishment due to lack of reproductive choice? A woman signing an adoption consent form only hours after the birth of her child? A woman going through with an adoption because she doesn't have the funds to repay prospective adopters? These kinds of reproductive outcomes for girls and women exemplify the antithesis of reproductive rights, choice, and justice, all tenets of feminism. As well, such outcomes contradict feminist values within the feminist reproductive political agenda overall. Sisson and Harrison

have suggested that:

an understanding of adoption that is rooted in reproductive justice is not about creating radical families, but about giving radical support for people to determine what is best for themselves, their children and their families – and we know that, given such support, few parents will choose relinquishment (2).

Access and support for reproductive choice are articulated within the stated aims of the feminist agenda and reproductive justice initiatives, but not in the context of adoption.

A feminist analysis uncovers the complexity of the feminist project in relation to adoption systems including inequalities, human rights violations, and serious irregularities in adoption practice and law in both transnational and domestic contexts. Such an analysis also reveals an omission of the institution of adoption as it relates to the tenets of feminist inquiry and scholarship. Nevertheless, feminists continue to assume a pro-adoption position, are mostly silent with respect to the issues of social injustice within adoption systems, relegate critical adoption studies to the margins of the academy and often adopt. Susan Bordo, a white, privileged, well-known feminist and critical adoption scholar writes, “I am one of the baby boomers who ‘forgot to have children’” (*Adoption* 230). At the age of fifty-two, Bordo adopts a newborn infant from “silent and sullen Amy”, a fifteen year-old Black girl residing in Abilene, Texas with her mother (231). And yet, the transfer of a newborn infant from a young, healthy, racialized mother in order for a white privileged woman to enact her “right to form a family” is an act antithetical to feminist values.

As illustrated in this chapter, the institution of adoption has mostly been relegated to the margins of feminist thought. As part of the feminist commitment to reflexivity, it is important to re-examine how adoption systems operate to oppress and exploit women, most of whom are

economically vulnerable, racialized, and marginalized—and how the roles of whiteness and privilege remain intrinsic to the adoption transaction. Further, as I have previously noted, it is incumbent upon feminists to ask “From which body?” and “Who benefits” when considering the adoption transaction. The human rights violations and reproductive violence inherent in domestic and international adoption systems continue to be invisibilized, normalized, and even celebrated as a result of the embeddedness of adoption culture in contemporary western society. In the next chapter, I will discuss how the de-legitimization of the motherhood of certain women makes them more likely to be impacted by adoption systems.

## Chapter Two

### IL-LEGITIMATE MOTHERHOOD AND ADOPTION SYSTEMS

*There is not and never has been a fixed number of children who are simply out there, “available” for adoption, and any time you make adoption easy, you also make it easy for birth families to lose their children*

(Briggs *Intimate* 31)

Maternal de-legitimacy is the singular most important factor that impacts the reproductive destinies of women in relation to adoption systems. The de-legitimatization of mothers who do not conform to patriarchal ideals of family life or western ideals of ‘good’ motherhood fuel the tropes within adoption as child saving and rescue. The socially constructed unsuitability of certain women to be mothers due to gender, race, marital status, age, socio-economic status, or geographic location creates a culture conducive to reaping the children of these mothers for adoption. In contrast, the perceived eminent suitability of (usually) white, privileged women in the west to become adoptive mothers of such children creates a significant disparity between natal and adopting mothers. In this chapter, I explore how certain mothers<sup>29</sup> are constructed in a way that de-legitimizes their motherhood, subsequently rendering them vulnerable to adoption systems.

#### **Il-legitimate Motherhood**

The de-legitimation of certain mothers begins with multiple and intersecting vectors of othering and marginalization and the nullification of belonging. Heller-Roazen explores the concept of marginalization through the concept of the non-person. Heller-Roazen explains that “[t]here are many ways not to be someone [or] to become a nonperson. Who or what is such a

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<sup>29</sup> An in-depth analysis of all mother categories who may be de-legitimized is not possible here. However, I will attempt to explore those categories that (as my research shows) tend to be most vulnerable to adoption systems.

being? How does a person become a nonperson, whether by disappearance, disenfranchisement, or civil, social, or biological death? (8). Thus, there are diverse and complex ways in which a human being can become and be a nonperson. Moreover, as Heller-Roazen notes, nonpersons:

remain physically present in the societies to which they belong, yet their rights and prerogatives are reduced to the point at which their social, legal, and civil personalities may be nullified. These are tainted and degraded..... nonpersons conceived not by vanishing, but by lessening (2).

Here, Heller-Roazen also draws from Erving Goffman's foundational work *Stigma*, in which Goffman defines stigma as an "attribute that is deeply discrediting" and as that which reduces the bearer "from a whole and usual person to a tainted, discounted one" (3). Stigma is a process that creates categories of individuals who are socially reduced or who embody "undesired differentness from what we had anticipated" (3).

Concepts of nonpersons, stigma, and the nullification of belonging can be applied to the natal mother in adoption or—those mothers who are an exception within the polis of motherhood. Nicole Pietsch suggests that the natal mother in adoption is "a socio-political position of invented immediate Otherness, created via the prescriptive tenets of hegemonic White femininity, White Motherhood, and racist constructs of Black motherhood", as well as racialized motherhood (*Good* 28). Who are these mothers and how have they and their motherhood come to be constructed as socially reduced, tainted, discounted and lessened? And, how do they lose their children to adoption as a result?

### **The Construction of the 'Good' Mother as White**

The normative discourse and ideology of what constitutes the 'good' mother in western contexts tends to view the 'good' mother as white (or at least as performing whiteness



successfully). It excludes a diversity of other mothers and other mothering practices. This notion has roots in a colonial past that has instituted dominant representations and women's negotiations of motherhood within whiteness to secure the privilege of a few (Martinez-Guillem & Barnes 286). The ideal or 'good' mother as portrayed in popular culture or the media generally, stays-at-home, and is white, heterosexual, married, middle to upper class, able-bodied, suburban, thirty-something, apolitical, with unquestioned citizenship, and in a nuclear family with one or two young children (O'Reilly 2). The ideal mother breastfeeds (not for too long or too short a time), has the latest in baby gear, organizes elaborate birthday parties, has her child enrolled in extracurricular activities, provides nutritional (preferably organic) meals and snacks, and may clothe her child in designer wear. Representations of the ideal mother are displayed in advertisements, television, film, print media and increasingly on social networking sites; and is an inescapable image for mothers in 2022 (Brackall). Kristy Brackall suggests that:

in her current incarnation, she is portrayed as a veritable superwoman who accomplishes many feats: she cooks healthy meals, organizes play dates and drives her children to a variety of extra-curricular activities; she has heightened expectations to meet societal norms (4).

Brackall asserts that the contemporary ideal mother is also likely to post her daily activities on social media to display how she has gone above and beyond to fulfill such expectations (4).

Although women from all backgrounds and all walks of life in the west may become mothers, the image of 'good' motherhood that predominates is rooted deeply in race and class-specific identities (Williams). Not only is 'good' motherhood constructed as white, but also as middle class as is intimated through the idea that 'good' mothers are providers of the latest fads in baby gear, organic foods, and more. Such notions erase the lived experiences of marginalized and

working-class mothers for whom the domestic sphere has always been a target of state surveillance (Williams 2). Mothers who operate outside the norms of ‘good’ mother ideology often become subject to state gaze and regulation.

Adoptive mothers are constructed as ‘good’ mothers too, by virtue of their whiteness and economic privilege, and regardless of their actual experiences, are frequently touted in popular culture as the “unsung heroes of our community”.<sup>30</sup> Kimberly McKee suggests that “the reproductive destinies of white American adoptive parents are privileged at the expense of birth parents since natal mothers are disproportionately women of colour, while adoptive mothers are predominantly white” (75). Susan Bordo writes about the visual contrasts in representations between natal and adoptive mothers as portrayed in popular culture, “in which we are taken from trailer park to picket fence, chaos to calm, danger to security....adoptive mothers ...are typically paragons of maternal virtue” and, white. (10).

The concept of whiteness as it pertains to ‘good’ motherhood in Canada has its roots in imperialism and colonialism. Maternal feminism was a movement in the late 1900s that was inspired by imperialism and came to be understood as an imperialist project (Burton). Maternal feminism was a political movement that employed the uplifting of motherhood as a platform for women’s moral superiority over men and its associated activisms. As the “empty spaces” of Canada and other dominions created anxiety for the future of the empire, a propaganda campaign was directed at the “mother of the race”, which glorified maternalism and repeatedly reminded (white) women that their reproduction was vital to the advancement of the empire (Valverde). The glorification of maternalism did not merely create mothers, but “mothers of the nation and the race”, thus mobilizing women as cogs in the wheel of imperialism and nation building

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<sup>30</sup> See <https://story.motherhood.com.my/blog/recognising-adoptive-mothers-the-unsung-saviour-of-unwanted-children/>

(Valverde 24). Early feminists had themselves been part of the imperialist project of colonization and asserted their rights from “within a white settler colony...with ongoing political, social and cultural ties to empire” (Forestell 10). The idea that white mothers were crucial to the development of the empire became a dominant discourse that continued through the twentieth century.

Early in the twentieth century, the Young Women’s Christian Association (YWCA) viewed its role as vital to safeguarding and nurturing the young white women of Canada for their future roles of marriage and motherhood. This was accomplished through religious and recreational activities and training. A glimpse of this maternal ideology is found in the publication *Outlook* in 1946, which details the history of how the YWCA attempted to gain public support by presenting the white woman as the future mother of the nation:

her tremendous energy and up-to-date training are quite indispensable to our welfare, and that just as her splendid physique is essential to the very production of the next generation, so there is abundant play for all her vision, and scope for her most magnificent ability in *consecrated* motherhood and *sanctified* womanhood (my emphasis, Pederson 23).

The YWCA vision of white Canadian women as *consecrated* and *sanctified* is indicative of the high value placed on certain women that intensified institutionalized ideals not only surrounding the special role of motherhood, but also the representations of ‘good’ women and mothers in Canadian society as white. The model of ‘our girls’ within the meaning of the YWCA was strictly reserved for young, white, respectable, middle-class Protestant women. Black, Indigenous, Asian, Catholic, older, disabled, unmarried mothers, or other marginalized groups were not included (Strange 58). This also exemplifies the pervading politics of maternalism post

WWI, which “became the central strategy of a politics of regeneration that would uplift both family and nation” (Comacchio 90). The essentialism inherent in such maternalistic ideology posited mothers, particularly white mothers, as morally superior with the ability to effect political change through their ‘natural’ attributes.

A similar strategy was employed after WWII. Elements of post WWII maternalism were expressed through the postwar “mother imperative” described by Nina Leibman as “the dominant social imperative of postwar America with its emphasis on the importance of nuclear family life, the proper role of the sexes [and] the superiority of suburbia” (173). After serving in the workforce during WWII, women were encouraged to return to the private sphere by governments, authorities and local “experts” (Strong-Boag 486). Mass media, including advertising, newspapers, magazines, radio, film, and increasingly, television, portrayed the ‘good’ woman as a white stay-at-home wife and mother.

H. Howell Williams suggests that the hierarchy of the ‘good’ (white) mother has remained a durable representation across various historical contexts and that “race has always played a pivotal role in delimiting the relationship between mothers and the state, which tends to valorize the practices of white middle-class mothers and scrutinize non-white mothering” (1). So then, it is crucial to explore whiteness and the associated racist ideologies of ‘good’ motherhood and class as a critically contributing factors that can operate to de-legitimize certain mothers, and as a pre-cursor to adoption.

### **Unfit, Unable, Not Ready**

Mothers who fail to conform to the dominant and moral discourse of what is considered to be ‘good’ motherhood may be alternately constructed as ‘unwilling’, ‘bad’, ‘unfit’, ‘unable’, or ‘not ready’ to be mothers and may be deemed therefore, to be in need of regulation. In western

contexts, the ‘unfit’ or ‘bad’ mother trope is a binary that stems from the successful “institutionalization and cultural inculcation of the ‘good’ mother ideal” (Hughes Miller et al 6). The ideal or good mother in western society “is defined in ways that support patriarchal systems of power with reference to her (white race), (married) marital status, (heterosexual) sexual orientation, and (middle-class) socioeconomic status” (Bromwich 28). However, it is not only patriarchal constructs that influence ‘good’ and ‘bad’ ideals of motherhood as such representations are also interrelated with global constructs such as capitalism, neoliberalism, and nationalism (Hughes Miller et al (9).

The designation ‘unfit’ as it pertains to the meaning of ‘mother’ sparks connotations of serious abuse and neglect of a child by its mother; she is a mother who puts a child at risk of serious harm. Nevertheless, as I will demonstrate, not all mothers are equal as it pertains to their socially constructed ‘unfitness’. Characterizations of ‘bad’ or ‘unfit’ may simply refer to mothers without support or resources, mothers deemed to be too young, or mothers considered to be outside the Euro-settler ideal—including Black, racialized, Indigenous, disabled, or transnational mothers. Notions of parental fitness—those ‘fit’ to be mothers versus those who are ‘unfit’ are also messy, because the contemporary concept of the ‘good’ mother is a product of surveillance and regulation that impacts all mothers (Hughes Miller et al). Prevalent ideas about what constitutes the ‘bad’ or ‘unfit’ mother may therefore vary widely in relation to context, culture, location, race, class, and so on.

In contemporary Canada, the determination of a mother’s ‘fitness’ continues to be a legal determinate in child welfare systems, and often impacts whether a mother will lose custody of her child (Bromwich 36). For example, in child protection discourse mothers are held responsible for violence in their homes, even when they too are victims of that violence

(Bromwich 38). Real material harm has been done and continues to be done to mothers through institutions such as social work, law, medicine, and the media, all of which may play differing roles in the unnecessary removal of children from their homes due to notions of ‘unfitness’ (Bromwich 27).

The concept of parental fitness fuels and impacts the movement, as well as trafficking, of children through public and/or private adoption systems. Kimberley McKee articulates how “notions of parental fitness—who are deemed qualified and deserving versus those who are not—intersect with the national and racial hierarchies that fuel transnational, domestic and transracial adoptions” (76). Through the construction of classifications of “fit’ and ‘unfit’ mothers, the state manufactures ideologies that represent the children of those mothers as children in need of rescue or saving (Veenstra & Keenan). Further, the stigma associated with unfitness remains a sign or stigma to which some mothers are subject insofar as social workers and others impose this identity on mothers within child welfare systems. Such systems do not rehabilitate the mother’s image and reputation—like the scarlet letter worn by Hester Prynne,<sup>31</sup> “stigma associated with unfitness remains a sign that mothers wear, and are disempowered by when child protection decisions are taken...” (Bromwich 43). So then, broad notions of what constitutes parental fitness impacts how certain mothers are de-legitimized, and ultimately placed in the path of adoption systems.

### **Young/Teen Mothers**

The emergence of ‘teens’ and the study of teen mothers as a separate category of motherhood is a contemporary concept. In a study of nineteen teen mothers, Christie Barcelos and Aline

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<sup>31</sup> Hester Prynne is the protagonist of Nathaniel Hawthorne's 1850 novel *The Scarlet Letter* as a woman condemned by her Puritan neighbours for her perceived immorality of being pregnant out-of-wedlock and was made to wear a scarlet letter to identify her stigma.

Gubrium state that teen mothers are “one of the most disparaged groups to capture the attention of policy makers, educators, health and human services providers” (466). It should be noted that it is the *unmarried* teen mother that continues to be an object of intense inquiry, while married teen mothers mostly escape as subjects or objects of research, hyper-surveillance, or notoriety; along with teen fathers who are rarely a site of investigation under any circumstances.

The concept of ‘teen years’ as a separate and quantifiable stage of life did not emerge until the early 1940s. The term “teen-ager” as a noun appeared at this time too, and was subsequently abbreviated to “teenager” (Oxford). In the article *The Invention of Teenagers: LIFE and the Triumph of Youth Culture*, Ben Cosgrove writes about a LIFE article which appeared in 1944:

In 1944 LIFE magazine introduced its readers to a strange and fascinating new breed of American citizen: the “teenager”. This is not to say that for millennia human beings had somehow passed from childhood to adulthood without enduring the squalls of adolescence. But the modern notion of the teen years as a recognized, quantifiable life stage, complete with its own fashions, behavior, vernacular and arcane rituals, simply did not exist until the post-Depression era (1).

At first the term was gendered, most often referring to white middle class adolescent girls and young women, but gradually the term ‘teenager’ came to represent everyone between the ages of 13-19 inclusive (Cosgrove).

Teen mothers existed long before the teenager emerged. Previously these young women had been called Magdalens, fallen women, unfortunate, wayward, incorrigible girls (or creatures), unmarried and unwed mothers, among other terms (Andrews *White*). While individual social work casework for unmarried mothers began in Canada during the 1910s (Andrews *White* 86)

teen mothers did not become a specific category of interest and research until the early 1940s as the new category of teens became a site of inquiry for scholars across disciplines (Andrews #Flip). During the twentieth century and from the 1940s onward, teen pregnancy and mothering has been situated as epidemic, a crisis, and a social problem (Byrd 488). These categories of negative constructions of teen motherhood create and reproduce policies, programs, and popular narratives that stigmatize, punish, and penalize teen mothers. The negative messaging surrounding teen motherhood in western culture is supported and financed by governments, social conservative groups, pro-life lobby groups, and the institution of adoption, each of which have specific goals and ideologies to promote, and which overlap in various ways to greater and lesser extents. Research and media tend to focus on negative outcomes of teen motherhood, both for the mother and the child (Byrd 491). Wendy Mitchell and Eileen Green observe that “...young mothers are frequently viewed as both an ‘at risk’ group within society and ‘a risk to society’” (6).

The construction of teen motherhood as a crisis first appeared in the nineteenth century as industrialization brought young single women to urban centres for work. These young women were thought to be in “moral danger” and their morality became a site of societal concern and regulation (Strange). This became known as the “girl problem” (Strange 11). The hysteria surrounding the girl problem contributed to changing and continuing characterizations of young unmarried mothers as an epidemic throughout the twentieth century. As an example, a Toronto Star headline that appeared on May 14 in 1963 declared, “Problem of Unwed Mothers Increasingly Grave, Is Warning”. This sensational headline characterizes teen motherhood as dangerous and threatening with the use of words *problem*, *grave*, and *warning*. Unmarried teen mothers were viewed as a threat to the traditional nuclear family, and became a target because of



their perceived resistance to patriarchal models of normative families, sexuality for women, ‘good’ motherhood, and the dependence on the state it inferred (Andrews, *White* 62).

Marital status has played an important role in the study of teen mothers. Many women married in their teens when marriage rates were much lower. During the twentieth century the age of brides declined steadily. For example, 60.9% of brides in 1921 married under the age of 24, whereas by 1960, 83.4% of brides were under the age of 24 (Canada, Statistics Canada, *Selected* 31). In 1940, the median age for a woman’s first marriage had been 23.2 years, but by 1965 it had decreased to 21.1 years (Canada, Statistics Canada, *Selected* 31). In the postwar social climate, as the age of brides in Canada decreased, birth rates increased dramatically. This period is often referred to as the “baby boom” (Canada, Statistics Canada *Chart A*). This meant that many married women were likely also teen mothers. However, due to their marital status, the age of these young women did not emerge as a societal concern since teen mothers who were married did not contravene any social norms (Andrews, *White*). The fixation surrounding age related only to *unmarried* mothers and became a major preoccupation for social workers and others. As pointed out by Sharon Wall, “even a brief glance at the general postwar discourse on unmarried pregnancy reveals a pronounced concern with age that was absent as it concerned married women” (51). Unmarried mothers were often cast as *children having children*, or *child mothers*—this, in an era where 76.7% of women in Canada married between the ages of 15 and 24 (Canada, Statistics Canada *Brides*). Indeed, “married women were often teen mothers, although their marital status exempted them from being an object of state gaze, research, and psychoanalytic theories. It was the *unmarried* mother which became, and continues to be, an object of intense inquiry” (Andrews *#Flip* 3). The emerging profession of social work became “increasingly preoccupied with the experience of ‘adolescent unmarried mothers’ and the

phenomenon of ‘child mothers’” (Wall 51). The characterization of unmarried mothers as girls, regardless of age, not only subjected them to institutional authority and systemic processes, but also contributed to the notion that unmarried mothers were ‘unable’, ‘not ready’, and therefore ‘unfit’ to be mothers.

Although early in the twentieth century the emerging profession of psychiatry had diagnosed the unmarried mother as feeble-minded, psychoanalytic theories developed in the interwar period fueled a renewed interest in the psychology of unwed motherhood. The young unmarried mother in the postwar decades was believed to be unfit simply because of her marital status; she was seen as unable to form a family due to her sole parent status. As unmarried motherhood became pathologized, the unmarried mother was socially constructed as being mentally ill. This categorization characterized the unmarried mother as having a treatable mental disorder (Andrews, *White* 73). Rickie Solinger explains:

The postwar, modern alternative claimed that illegitimacy reflected a mental not environmental or biological disorder, and was, in general a symptom of individual, treatable neuroses... since society reserved deeply punitive responses for unwed mothers, a single girl who flew in the face of certain and severe censure and became pregnant had to be sick. She had, in fact, to be pregnant on purpose. Only a truly sick person could deny reality so radically” (Solinger *Wake Up* 16, 88).

Through erroneous claims, the medical profession and other experts contributed to the notion of psychological and physical differences between unmarried and married mothers (Young). For example, Leontine Young claimed that that the unmarried mother was not as attached to her baby as a married mother, that unmarried mothers became pregnant more quickly, rarely experienced

nausea or miscarriage, that their births entailed fewer complications or difficulty, and that the ratio of fetal deaths was lower for them when compared to married women. Even unmarried mothers having their first child in their thirties or forties supposedly had no special difficulties and regained their strength faster than married women (40). These notions furthered the idea of difference between unmarried and married mothers even as on the surface, such differences might appear to be reasons in support of unmarried motherhood. In any case, the sudden appearance of a wedding ring would quickly dismiss any mental illness, or other negative characterizations and perceptions surrounding a given mother.

As a result of the characterization of young unmarried mothers as ill, deviant, and unable to form a family, a majority of white young unmarried mothers in the west lost their children to adoption systems. By the 1950s, social workers routinely prescribed adoption as the solution for unmarried mothers due to the prevailing view that being unmarried equated to being “unfit” (Kunzel 129). Relinquishment of the ‘illegitimate’ baby for adoption was considered to be the solution to the casework problem identified by social workers as that of “unmarried motherhood” (Andrews *White* 89). In Canada alone, from 1940-1970 over 350,000 mothers were traumatized as their babies were whisked away from them in delivery rooms for adoption; the majority of these mothers prevented from being able to see, hold, or feed their babies (Andrews *White* 179). This phenomenon of mass surrender of the mostly white babies of unmarried mothers to adoption has been coined the “adoption mandate” by feminist historian, Rickie Solinger (*Wake Up* 1). Many of these mothers, now in their senior years, have shared their accounts of the trauma and violence they endured as teen mothers because of their marital status at the time of pregnancy and birth.<sup>32</sup>

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<sup>32</sup> See various inquiries and senate committees listed in Appendix A wherein mothers from the adoption mandate testify.

However, it was not only marital status that fuelled the postwar adoption mandate. Race was a salient factor, and in fact, race became the most accurate predictor of family and societal responses to an out-of-wedlock pregnancy (Solinger *Wake Up* 18). The majority of white unmarried mothers became subject to the mandate due to the intrinsic value of their whiteness, and the desirability of white healthy newborns for adoption (Jarvie 77). Unlike their white counterparts, theories surrounding Black unmarried mothers portrayed them as undeserving of reform and rehabilitation due to their “alleged biological condition of Black womanhood” and thus their offspring were deemed unadoptable (Solinger *Wake up* 14). In fact, during the mandate, Black unmarried mothers were “actively discouraged from relinquishing their children for adoption, even during the period when white women were pressured in the opposite direction” (Balcom 33). The Indigenous mother in Canada, whether wed or unwed, was considered illegitimate due to her traditional mothering practices which differed from the Euro-settler ideal.

Although adolescent fertility rates for women aged 15-19 in Canada were down 23% in the first decade of this millennium, (CICH 2003-2013), the oppression of teen mothers and the construction of teen motherhood as an epidemic or crisis continues. As a result, young expectant mothers may still find themselves at Crisis Pregnancy Centres (CPC). These centres are often placed near walk-in medical clinics in Canada or nearby private ultrasound clinics in the United States, advertising to expectant teens with headlines such as ‘Crisis Pregnancy? We can Help’, ‘Pregnancy Counselling’, or ‘Are you Experiencing an Unplanned Pregnancy?’ An extensive study done in 2016 by the Pro-Choice Action Network in Canada found that many of these centres in fact are run by pro-life organizations and have anti-abortion and pro-adoption agendas. Here is an excerpt from the study:

The Back Porch in Edmonton, Alberta (#9) states on their Adoption Information page: “Sometimes the most loving thing a woman faced with an unplanned pregnancy can do is place her child with a caring, adoptive family. There are 150 couples waiting to adopt a child in just one of Alberta’s private adoption agencies—think of how many more couples are waiting to become parents! (22).<sup>33</sup>

Teen mothering continues to be perceived as a category of deviance, crisis, or high risk mothering that falls outside of prescribed ‘good mother’ ideologies.

Teen mothers are often characterized within racial stereotypes and stigmatized by negative narratives that rest on the foundation of outdated mid-twentieth century psychoanalytic and racialized environmental theories that continue to be reproduced on a macro level; even as contemporary intersectional studies dispute such theories (Mitchell & Green 7). A moral panic persists surrounding teen motherhood through dominant narratives that situate teen pregnancy as a crisis. This can lead to the loss of a child to adoption as vulnerable teen mothers are indoctrinated with negative messaging and characterizations of being unable, not ready, destined to fail, and by the importance of a two-parent family, all of which are coercive strategies that have been used to devalue and undermine the motherhood of teen mothers since the 1940s (Andrews Young 56).

With the advent of *Dobbs v. Jackson Women’s Health Organization*, a United States court decision in 2023 that returned state’s rights to legislate access to abortion; *Roe v. Wade* (the federal enshrining of U.S. abortion rights for women since 1973) is now overturned. During questioning, Supreme Court Judge, Amy Coney Barrett,

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<sup>33</sup> The Back Porch. Accessed 4 June 2023. <https://www.thebackporch.info/>

pursued a line of inquiry premised on the ability of women to relinquish their infants for adoption soon after childbirth. “It doesn’t seem to me to follow that pregnancy and then parenthood are all part of the same burden,” said Barrett. Didn’t the existence of adoption options, including “safe haven laws,” relieve women of the “obligation of motherhood that flow from pregnancy” and thus “take care of that problem” (Sisson *Barrett* 1).

Barrett’s argument intimates that adoption is an ‘easy fix’ for an unplanned pregnancy, and it is a view that has been embraced by many pro-life groups, conservative voters, and others (Joyce 56). H. Howell Williams writes about what he refers to as the “republican motherhood script”, in which Williams asserts that “motherhood derives its political significance from women’s proximity to future citizens, that is, American children...and that motherhood has played an important role in the development of contemporary conservatism” (3, 5). The essentialism inherent in the concept of republican motherhood as valuable to conservative politics is discarded in Barrett’s “throwaway motherhood” rhetoric as indicated in the questioning above wherein the pro-life agenda takes precedence over the mother-child bond.

Barrett’s comments elide the fact that thousands of women who have experienced adoption have stated that it is a lifelong trauma for them; many state that it is something from which they will never recover, and that it has caused major mental health issues including Post-Traumatic Stress Disorder (PTSD).<sup>34</sup> One mother, now 78, who testified at the Canadian Senate inquiry into the postwar adoptions of unmarried mothers stated that,

I have simply never recovered from the trauma of losing my baby. I unconsciously disassociated from these events in order to function. I continue to

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<sup>34</sup> See Adoption Trauma Studies. Accessed 20 March 2023. <https://www.originscanada.org/adoption-trauma-2/adoption-trauma-studies/>

have a difficult time trusting others. I also suffer from pathological grief having continually grieved the loss of my firstborn my whole life (Canada, Senate, Powell, Testimony).

According to Gretchen Sisson, women are not making the choice between adoption and abortion, and only 0.5% of all births in the United States currently lead to adoption (*Barrett 2*). Nonetheless, the ‘Adoption Not Abortion’ narrative is a powerful one that continues to be reproduced. The successful marketing program and dominant narrative of pro-life institutions that treat teen pregnancy as a ‘crisis’ and adoption as the ‘brave and loving option’<sup>35</sup> are now supported by state legislative powers with Dobbs, and will continue to place teen/young mothers in the path of adoption systems.

### **Indigenous Mothers**

As a tool of colonialism, successive Canadian governments have a long history of targeting Indigenous kinship and family systems to destroy, oppress, and assimilate Indigenous people (Brant 13). Assaults against Indigenous people in Canada include the Indian Act of 1876, residential schools, sterilization under eugenics, forced adoption during the Sixties Scoop, and the current overrepresentation of Indigenous children in child welfare systems, among others (Veenstra & Keenan 49). It is only within the context of colonialism that Indigenous mothering must be considered. However, traditional Indigenous mothering was, and continues to be, viewed as substandard by Euro-settler Canadian culture, one which elicits a negative discourse that has prevented too many Indigenous women from mothering their own children (Brant 14).

According to Indigenous scholar Jennifer Brant,

Collective experiences of Aboriginal mothering can only be understood within

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<sup>35</sup> See the website Bravelove. Accessed 20 March 2023. <https://www.bravelove.org/>

specific historical and socio-cultural contexts whereby assimilation efforts have controlled, and in many cases completely eradicated, the right of Aboriginal women to be mothers (11).

During the twentieth century Indigenous women's capacity to reproduce came under state scrutiny, and along with the eugenics movement, the involuntary sterilization of those "unfit" to procreate was legislated by Alberta and British Columbia (Cull 148). While the overall number of Indigenous sterilizations remains unknown, according to Karen Stote, there were 1,200 coercive sterilizations of Indigenous women between 1970 and 1976 from fifty-two northern settlements in Canada (111). Stote uncovers reproductive violence, oppression, and abuses in the form of 1) a failure of health officials to follow guidelines on when sterilizations can be performed, 2) a lack of informed consent and inadequate use of interpreters, and 3) a general climate of paternalism that led doctors to perform this procedure "for their own good" (111). In addition, Stote uncovers how the first high dose birth control pill was distributed to Indigenous women "in an attempt to reduce the birth rate in Indigenous communities" (111). In addition, Indigenous women were often pressured by health care providers to have an abortion according to the Task Force on Access to Contraception and Abortion Services carried out in 1994 in British Columbia. Such reproductive injustices, oppressions, and violences targeted against Indigenous women constitutes colonial and gendered violence that severely impacted their ability to mother.

The Sixties Scoop is a term coined by Patrick Johnston in 1983 to describe the widespread 'scooping' of Indigenous children from their homes by child welfare authorities in the 1960s-1980s (23). During this period Indigenous children were taken from their homes by child welfare systems and the majority adopted into non-Indigenous families (Johnston 23). The Sixties Scoop



has since been identified as part of the cultural genocide that was perpetrated against Indigenous people; and a Sixties Scoop Class Action suit was settled by the Canadian government in November 2017.<sup>36</sup>

During the era of the Sixties Scoop Indigenous communities were in disarray, states of poverty, and social chaos due to continuous oppressive and racist government policies and practices over time (Sinclair *All* 38).<sup>37</sup> Indigenous scholar Raven Sinclair states that “living conditions in most reserves in Canada were appalling after decades of government manipulation and mismanagement” (38). This is further exemplified by Fournier and Crey who write that:

in many cases, children were taken from parents whose only crime was poverty – and being aboriginal. Finding a grandmother caring for several small children in a home without a flush toilet, refrigerator or running water was enough to spur a social worker to seize the children and take them into the care of the state (85).

Brant suggests that Indigenous women did not have the resources to mother their children including access to soap, textiles and other daily needs (12). The resultant poverty and lack of sanitation provided social workers and others within the child welfare system the so-called proof they needed to view Indigenous mothers as ‘bad’ or ‘unfit’. Indigenous mothers were blamed for conditions that were not of their own making and were portrayed as being unable to properly care for their children. Indigenous mothers were held responsible for high rates of tuberculosis and high infant mortality rates on reserves (Veenstra & Keenan 60). As Indigenous communities struggled with the aftermath of residential schools and other successive oppressive government policies, governments neglected to invest in infrastructure and social programs akin to levels in

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<sup>36</sup> See Sixties Scoop Settlement. Accessed 20 March 2023. <https://sixtiesscoopsettlement.info/>

<sup>37</sup> See Veenstra and Keenan. “Despite the fact that this phenomenon was labelled the Sixties Scoop, the apprehension of Aboriginal children persisted long past this decade. By 1977, close to 20 percent of the total number of children in care across Canada were Aboriginal” (59).

non-Indigenous communities (Sinclair *All* 38). Instead, they traumatized Indigenous communities further by endorsing the removal of children for adoption into non-Indigenous families.

Throughout the Sixties Scoop many Indigenous mothers were characterized as il-legitimate mothers—not considered to be good or legitimate mothers within the lens of Euro-settler culture due to their traditional mothering practices, and the impact of embedded structural racism and the various government policies that emanate from them,

A non-Indigenous person coming to a reserve home may see an Indigenous home as less clean and kept, not recognizing the challenges of cleaning rural homes where people are constantly coming in from outside and hunting. Pantries may be stocked with food from the land - fish, game meat, and berries rather than packaged from the grocery store. Children may not be wearing typical urban-style clothing but rather traditional Indigenous outfits, custom to the community including various animal hides, beads and woven fabrics. Families would include not only mother and father, but also aunts, uncles, grandparents, even neighbours taking part in raising children (Valiquette 32).

As pointed out by Veenstra and Keenan, the assault on Indigenous family and kinship systems created ongoing circumstances that led to marginalization and inequality, which became established as part of the aftermath what is now recognized as state sanctioned genocide against Indigenous peoples (57). Indigenous mothers continue to be overly scrutinized and subjected to child apprehension (60). The 2021 census data suggests that Indigenous children make up 53.8% of all children in foster care in Canada (Hobson 1). In the province of Manitoba alone, 90% of the children in care of the state are Indigenous while they make up less than 8% of the child

population of the country (Goffin 3). Reproductive abuses and exploitation continue to impact Indigenous women. Old Crow Chief Norma Kassi states that “the doors are closed at the residential schools but the foster homes are still existing and our children are still being taken away” (Veenstra & Keenan 61). In fact, there are more children in state care today than there were in residential schools at the height of their existence (Goffin 4). Cindy Blackstock, an activist for the rights of Indigenous children explains that,

the reasons why Indigenous kids go into care are driven by poverty, poor housing, substance misuse and mental health and domestic violence, due to the multi-generational trauma of residential schools (Qtd in Goffin 4).

These are the same motivations that underpinned and justified the removal of children from their families for adoption during the Sixties Scoop. As learned from the Sixties Scoop, the process of adoption through child welfare systems operates as a blunt and permanent instrument, one which abruptly and violently separates and disrupts the deep ties children have with their families, communities, and culture, and exacerbates already existing trauma.

Colonial adoption practices in the latter part of the twentieth century continued to target Indigenous children through further concentrated involvement of child welfare systems in the lives of Indigenous families. According to Raven Sinclair, “by the 1970s one in three First Nation children was separated from their families by adoption or fostering” (Sinclair *Child Removal* 9). In 1985, a public inquiry took place in the province of Manitoba that resulted in the Kimelman report. This report condemned adoption practices in Manitoba stating that, “cultural genocide has been taking place in a systemic, routine manner” (10). Ultimately, the Kimelman report altered adoption practices for Indigenous children not only in Manitoba, but in other provinces as well, requiring band consent and other cultural considerations (10).

A systemic review by Hayley Hahn and Vandna Sinha published in 2018 related to existing provincial child welfare legislation outlines specific statutes and/or regulations that contain specific adoption provisions for Indigenous children in the five categories below:

1. Notification of Band of any child welfare court proceedings
2. Provisions for cultural identity of child when determining placement
3. Collection and sharing of information of a child's racial or ethnic heritage
4. Affirmation that adoption does not affect a child's Indigenous rights, and
5. Recognition of Custom Adoptions (2).<sup>38</sup>

The findings of the review illustrate that adoption protections for Indigenous children continue to “vary considerably between provinces and territories” (3). As an example, while British Columbia and the Yukon meet all the requirements, Prince Edward Island meets only one, and out of Canada's thirteen provinces and territories, only seven have provisions for #4 (3).

The belief that Indigenous mothers are “unfit” is a “deleterious stereotype that continues to justify inappropriate and unjustified state intervention in the lives of Aboriginal women” (Cull 153). Randi Cull suggests that state focus and hypervigilance surrounding Indigenous mothers needs to shift to providing for the most vulnerable mothers and children in Canada (153). Brant suggests that empowered mothering and Indigenous ideologies of mothering such as reclaiming birthing traditions and rites of passage ceremonies can operate as strategies of resistance, reclamation, recovery and decolonization (35). Empowered mothering of this type “is essential for Aboriginal mothers who are parenting against many odds and under conditions of heightened scrutiny” (Brant 24). However, the “heightened scrutiny” referred to by Brant is that which

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<sup>38</sup> Indigenous custom adoption differs from western adoption in that it is a more informal child caring system. For example, most cases of customary adoption do not terminate the parental rights of natal families and children adopted in this way usually know their natal families and heritage.

continues to target Indigenous mothers and renders these mothers and their children as exceptionally vulnerable to adoption systems—systems that in most cases do not meet the needs of Indigenous children and families (Hahn & Sinha 5).

### **Black Mothers**

Motherhood takes place in various historical locations framed by interconnecting structures of race, class, and gender, and is inextricably linked to sociocultural concerns of racial ethnic communities (Collins *Shifting* 47). The element of race is embedded within and underpins the de-legitimization of certain mothers due to racist notions of Black womanhood that places Black women in a position “in which their capacity and agency as mothers is either challenged or negated” (Pietsch *Good* 27). As articulated by Nicole Pietsch, “in order to be a good mother, one must first be a real and valuable woman” (*Good* 29). Black motherhood (womanhood) has been devalued and characterized as inferior as it does not fall into the ‘good’ mother category that presumes whiteness. This de-legitimization of Black mothers has led to the loss of their children. Black feminist Patricia Collins “identifies various concerns of racial ethnic mothers that differ from mothers in the dominant culture—the first of which is “keeping the children born to you” (qtd in O’Reilly *African* 97). What are the multi-layered meanings within the phrase “keeping the children born to you” in the context of racial ethnic mothers as posited by Collins? And, why would these mothers face such concerns?

Black women living in bondage were denied the right of motherhood. During slavery, Black children were considered commodities and routinely bought and sold away from their mothers (Solinger *Pregnancy* 39). As proffered by Dorothy Roberts, “the brutal domination of slave women’s procreation laid the foundation for centuries of reproductive regulation that continues today” (*Killing* 23). Black motherwork entailed negotiating strategies to keep children safe and

ensuring their physical survival. Andrea O'Reilly points out that while the tenet of nurturance has been "naturalized as the universal normal experience of motherhood", the disproportionate work of child preservation in the context of white supremacy is minimized and is not recognized as a part of "real, legitimate, or 'good enough' mothering" (*African* 99). Sarah Ruddick re-conceptualizes the tenet of preservation, for instance, as it relates to Black mothering because Black women must consistently negotiate racism to maintain their families, thereby recognizing that individual and group empowerment are interrelated (Collins *Matrix* 222). Patricia Collins asserts that "racial ethnic children's lives have long been held in low regard" (qtd in O'Reilly *African* 98). Preservation in Black mothering then, becomes a daily struggle to preserve the lives of children in a racist dominant culture where the likelihood of physical survival can only be "assumed for children who are white and middle-class" (314).

The de-legitimization of Black mothers by the dominant culture has been and continues to be perpetuated by stereotypes. Collins suggests that "the dominant ideology of the slave era fostered the creation of four interrelated, socially constructed controlling images of Black women's subordination" (qtd. in O'Reilly *African* 95). The four images Collins refers to are "the mammy", "the matriarch", "the welfare mother" and "the Jezebel" (O'Reilly *African* 95). These very different imageries around Black motherhood pathologize Black women and stoke white supremacist fears of their presumed "hyperfertility" (McKee 83). In March 1965, during the height of the adoption mandate, the Moynihan report<sup>39</sup> entitled "The Negro Family: The Case for National Action" outlined the "tangle of pathology" that characterized the Black family (47). The report compared illegitimacy rates between Black and white communities reporting that "the

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<sup>39</sup> The Moynihan Report was a 1965 document on black poverty in the United States written by Daniel Patrick Moynihan, an American scholar serving as Assistant Secretary of Labor under President Lyndon B. Johnson and later became a US Senator.

white rate was 2 percent in 1940; it was 3.07 per cent in 1963. In that period the Negro rate went from 16.8 to 23.6 per cent” (11).

This preoccupation with Black fertility and illegitimacy mirrored that which led to the adoption mandate for young white unmarried mothers during the same period. Constructions of race and illegitimacy were used jointly as evidence of “individual pathology on the part of the white woman and cultural pathology on the part of the Black – [ideas that] were developed and articulated by a new set of experts interested in out-of-wedlock pregnancy” (Kunzel 165). Such notions of Black and white unmarried motherhood informed the different social prescriptions for Black and white unmarried mothers. While white unmarried mothers were mostly encouraged to surrender their illegitimate babies for adoption, due to their race, Black infants were not considered a valuable commodity for adoption and their mothers were deemed unworthy for rehabilitation through the relinquishment of their children for adoption (Solinger *Wake Up* 25).

Despite pushback during the 1960s from organizations like the newly formed National Association of Black Social Workers (NABSW), which was opposed to placing Black children in white homes, and despite the NABSW’s efforts to change the system to offer adoption to unmarried Black girls and women, the majority of Black children born out-of-wedlock in the postwar decades were either raised in the community or placed in foster care. Black unmarried mothers who sought social assistance had their children removed from what were deemed to be their “unsuitable homes: - which could mean exposed wires, lack of groceries, and all the failures to which impoverished mothers renting substandard housing and making do on woefully inadequate income are subject” (Briggs *Somebody’s* 30). Laura Briggs asserts that this was the genesis of the current foster care system and suggests that it was the “politics of loathing of Black mothers in general” that contributed to the burgeoning child welfare system in the United

States (55).

Preserving children and community becomes critical when the structural domain of power conspires to remove children from disempowered mothers. Collins asserts that “physical or psychological separation of mothers and children, designed to disempower individuals, forms the basis of systemic effort to disempower racial/ethnic communities” (54 *Shifting*). This separation is reproduced in contemporary culture with the construction of Black mothers as ‘unfit’ or as ‘welfare queens’,<sup>40</sup> coupled with the hypervigilance of the state gaze that continues to threaten the ability of Black women to keep and raise their own offspring. Jallicia Jolly observes that, “the current functioning of the child welfare and criminal justice systems work to systematically deny Black women the right to parent” (171). In *Killing the Black Body*, Roberts discusses Black children being taken from their families in disproportionate numbers by child welfare authorities, the sterilization of Black women, the mandatory use of birth control for young Black women, and the increase in adoption of Black infants into white middle class families throughout the twentieth century and beyond. The ability to keep and mother one’s own child remains a significant challenge for many Black women, particularly those living in poverty.

Within a discussion of the American context, Rickie Solinger suggests that the politics of race and class shape reproductive politics, and that the reconstruction of the distinct histories of the ‘good’ white mother and the Black mother in western societies is crucial to the project of understanding how social value was organized for women (*Pregnancy* 21). The structural and systemic disempowerment of Black women in the west has been reproduced through various social institutions over time as racism is embedded within institutional policies that “encourage white, middle-class women to reproduce and discourage and even penalize low-income racial

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<sup>40</sup>“Welfare Queens” are mothers characterized as defrauding the government of and through social assistance



ethnic women from doing so” (Collins *Black* 53). While white activists pushed for increased birth control and abortion rights—reproductive rights to control fertility, Black women and others living in poverty continued to struggle for the “rights to have children and to parent the children they had, a concern little noticed by the mainstream reproductive rights advocates” (Luna & Luker 333). In her work on the “de-kinning” of mothers in adoption, Claudia Fonseca refers to the “mechanisms that so readily permit birth parents to be written out of their children’s lives” (307). Fonseca refers to how court processes that remove children from their mothers have become normalized and comments on the “lack of discomfort” that is inherent in such proceedings (307). In view of the overrepresentation of Black children in state care, Fonseca’s assertions can easily be applied to the Black mother who struggles to keep and mother the children born to them.

More recently, U.S. governments have sought to move up the termination of parental rights of children in foster care to free them for adoption earlier, including children who remain in contact with their natal families,

Over the past 25 years, courts and child protective services agencies have increasingly turned to this ultimate consequence, partly in response to Clinton-era federal policies that support faster adoptions. According to a recent study, the risk that a child will experience the loss of their legal relationship with their parents roughly doubled from 2000 to 2016. One in 100 U.S. children—disproportionately Black and Native American — experience termination through the child welfare system (Agnel et al., 1).

As Black children are de-kinning from their natal families, it is often the mother-child bond that is used as a weapon by child welfare organizations. Dorothy Roberts states that “Black mothers’

bonds with their children in particular are portrayed as a barrier to adoption, and extinguishing them is seen as the critical first step in the adoption process” (*Feminism* 48). Although altruistic motives are often attributed to such legislation and policies it must be considered that permanent adoption frees the state of any continuing obligation and expense for a child; whereas assisting and preserving families increases costs for governments as does any associated social programming. It must also be considered that “Black children in foster care move between homes more frequently, spend more time in foster care, and are less likely to be reunited with their parents compared to their white counterparts” (Wexler et al 3). So then, as Black mothers continue to be targeted and regulated by the state, they remain particularly vulnerable to having their children taken into state care which often leads to adoption. And, while the children of white mothers would pose a similar burden to the state, the institutional and structural inequality that continues to target Black mothers that results in the overrepresentation of their children in state care remains unaddressed by feminists, governments, and policy makers (Roberts *Feminism* 52). It becomes unsurprising therefore, that “keeping the children born to you” would continue to be a concern for Black mothers today.

### **Transnational Mothers**

The de-valuing of women of colour is not limited to the west. Voices of transnational mothers in adoption have mostly been silenced due to poverty, and inaccessibility to these mothers due to the notion that they are “over there somewhere”. The voices of natal mothers in transnational adoption are only now emerging slowly, often through the scholarship of transnational adoptees.<sup>41</sup> Race and class are integral to the discussion of transnational adoption, since 92% of international adoptions are transracial placements, and transnational mothers are mostly

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<sup>41</sup> See Kimberley McKee

experiencing severe poverty (McKee 75). The reproductive destinies of women in the Global South mirror those of racialized women in the west, in that the marketplace of adoption turns on the lack of reproductive choices for certain women. Inequalities and risks exist for fertile, choiceless, and oppressed mothers experiencing poverty, and leads to the notion that the children of certain transnational mothers need ‘saving’ or ‘rescued’ (Dubinsky *Fantasy* 339). This is a notion that remains prevalent in western discourses of adoption and has operated to place natal mothers in developing countries at a higher risk of losing their children to adoption systems (Briggs *Somebody’s* 132).

Coercive tactics used by international adoption agencies to undermine the legitimate motherhood of racialized and resourceless women to obtain their babies and children reproduce those used during the adoption mandate. Convincing mothers that their children will be ‘better off’ and that their motherhood is not good enough is at the core of most adoptions. What is referred to by Silvia Posocco as the “legal technologies of erasure and suspension of the past” is achieved in myriad ways in the context of transnational adoption systems (*Queer* 78). The entities involved in transnational adoption transactions occupy distinctly different social locations. The biopolitical categories of women (mothers) constructed as illegitimate due to race, geography, lack of education, or poverty unlocks opportunities for adoption systems to obtain children to fulfil the insatiable desires of the west (Posocco *Queer* 79).

The movement of infants and children to the west through transnational adoption had its beginnings during the interwar period. Subsequently, after WWII the adoption market became globalized due to wars, refugee migrations, and disasters. Representations of children with themes of orphans and rescue emerged through organizations like UNICEF, among others (Briggs *Somebody’s* 144). Most orphan rescue missions began in relation to military conflicts;

German and Japanese children after WWII, then Korean, and Vietnamese children were sent to the west in “babylifts” meant to rescue children from communism (Briggs *Somebody’s* 156). The substantial domestic supply of white newborns from unmarried mothers in the post WWII period kept transnational adoption restricted to such initiatives. It wasn’t until the 1990s that transnational adoption increased dramatically as western birth rates dropped, and the supply of domestic newborns dwindled.

The emerging ideology of the “right to parent” and the delay in childbearing for women in the west changed the paradigm of child transfer from finding homes for needy children to seeking babies for prospective adopters. As new constituencies were legitimized (such as sole parents and gay and lesbian adopters), the market, once driven by altruism, has since been transformed into a profit generating industry. In addition, the emergence of the conservative Christian social movement, by actively promoting adoption, not only through its ‘Adoption Not Abortion’ stance, but also through its belief in a “global orphan crisis”, has fueled the adoption marketplace; and played an active role in disseminating the idea that there are millions of orphaned children waiting to be adopted (Joyce, 13). In a changing and emerging landscape of prospective adopters seeking children, coupled with the American dollar and unregulated and crisis torn countries such as Guatemala, Liberia, Ethiopia, and others, it is unsurprising that transnational adoption became a locus of corruption and child trafficking (Joyce). For example, the adoption program from Guatemala was a “booming system fueled by an insatiable demand from prospective US parents ...[that] had led to a number of abuses including coercion of Guatemala families, child buying, and even kidnapping” before it was finally shut down in 2008 (Joyce, 10).

As an adoptive mother of a South African child, Riitta Högbacka has written extensively about transnational mothers and how they are de-legitimized. Högbacka asserts that the inequalities in

power structures that are inherent in transnational adoption systems are a form of stratified reproduction (10). Shellee Colen describes stratified reproduction as “inequalities that are based on hierarchies of class, race, ethnicity, gender, place in global economy, and migration status and that are structured by social, economic and political forces” (78). Such stratification implies an unevenness in power relations between natal and adopting mothers or, as it occurs most often, between the Global North and Global South in adoption transactions. Högbacka suggests that the relationship between adoptive and natal mothers “is one of highly asymmetrical power emanating from positions of inequality in global relations” (25). This leads to the othering of natal mothers in adoption systems and reinforces the notion that their children will have a ‘better life’ in the west. Adoption social workers in South Africa have reiterated that the prime motivators of transnational adoption are economic reasons, along with unemployment, poverty, lack of housing and HIV/AIDS (Högbacka 95). In this context, there are few supports for mothers that aid them in overcoming such difficulties, “because the majority, 99% of the mums giving up are giving up purely due to poverty and just helplessness and hopelessness and destitution” (Högbacka 96).

The experiences of natal mothers in transnational adoption are as varied as the countries from which they spring. However, adoption transactions within ‘sending’ countries continue to be marked by structures of inequality and by unbalanced power relations in relation to ‘receiving’ countries. Such transactions have been shaped by the forces of colonialism, imperialism, the Cold War, globalization, and the aftermaths of war and conflict (Briggs & Marre 2). The transfer of children within neo-liberal globalised markets has mostly been represented as a personal or family affair instead of a complex and multi-layered process concerned with and impacted by globalisation, politics, citizenship, economics, diplomacy, imperialism, and colonization, along

with intersectional matters of race, gender, class, culture and nation (Briggs). As Briggs has noted “adoption is above all the neoliberalization of child welfare”, as a state abandons or fails to initiate public services such as health care or assistance to resourceless mothers, instead placing children in privatized families (*Foreign* 58). As previously discussed, western notions of ‘good’ motherhood serve to de-legitimize those mothers who do not conform to those ideals.

The perceived unsuitability of some women due to a variety of biopolitical categories “such as age and health status – for adoptees – or poverty – notably for mothers - to existence in ‘zones of indistinction’...where the boundaries between the citizen and the outlaw, legality and illegality, law and violence, and life and death are blurred”, leads them to adoption systems (Posocco *Queer* 79). As states reserve support and programming to assist mothers, and as Högbacka has uncovered, managing life and death becomes a ‘choice’ for adoption by resourceless mothers unable to feed and care for existing children, and wanting their newly born infant to live (96). This plots directly onto the ‘management and governance of life and death’. Through kinning and de-kinning within adoption, “children are seen as kinless, as not having any previous ties, as something that can be sent or delivered, anonymously from somewhere” (Högbacka 91). Transnational adoptees are often viewed as children with no past, or as socially and politically dead until a new identity is conferred upon them and they are “folded back into life and the racialized queerness that emerge through the naming of populations, often those marked for death” (Puar qtd in Posocco *Queer* 81). Race and class vulnerabilities of mothers in certain contexts whose children are constructed as commodities subject to the powers of life and death, remains a fundamental aspect of transnational adoption.

Transnational adoptions are now in severe decline. At its peak in 2004, transnational adoption saw 22,990 children adopted to the U.S. (45,388 globally) (United States, Dept. of State).

However, more recently, transnational adoptions have plummeted because many countries, including Guatemala, Kenya, Ethiopia, Democratic Republic of Congo, and Kazakstan have discontinued adoption programs due to corruption, illegal, unethical, and human rights abuses within adoption transactions (United States, Department of State). Due to the one child policy,<sup>42</sup> China had been one of the main sources of children for transnational adoption to the west (Johnson 2).

<b>Country</b>	<b>Year</b>	<b>Highest #</b>	<b>2021</b>
China	(2005)	7,903	0
Guatemala	(2007)	4,726	0
Romania	(2000)	1,119	4
Ethiopia	(2010)	2,511	0
S. Korea	(1999)	1,994	156

(United States, Department of State).

As the one child policy was relaxed and eventually dismantled, adoptions to the west declined and the demographics changed significantly including the ratio of gender and age, and ability as exemplified in the following chart:

<b>CHINA</b>	<b>Average Age</b>		<b>Male/Female Ratio</b>
<b>2005</b>	Under Age 1 (2,775)	Age 1-2 (4,663)	94.9% Female
<b>2018</b>	Under Age 1 (0)	Age 1-2 (464)	50.7% Female/49.3% Male

(United States, Department of State).

Early in 2020, China suspended all adoptions to the United States and this remains the current

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<sup>42</sup> The “One Child Policy” was first announced 1979 and limited Chinese families to one child. Although informally, the policy was becoming relaxed by 2013, but the end of the policy was not announced until late 2015, and it formally ended in 2016. Beginning in 2016, the Chinese government allowed all families to have two children, and by 2021 all married couples were permitted to have as many as three children (Brittanica).

state of affairs (United States, Department of State).

In addition to corruption, the complexities of societal, economic, legal, and political factors also contribute to the changing landscape of contemporary transnational adoption. As countries create their own domestic social welfare programs, (as in the case of Romania as a condition for its entrance into the European Union), tighter controls from sending countries are being implemented. As a result, more children are less likely to be adopted transnationally.

Politics and diplomacy play a role in transnational adoption. For example, Russia suspended all adoptions to the US in retaliation to the Magnitsky Act, which is legislation that imposes sanctions on Russians suspected of human rights abuses.<sup>43</sup> There have been no adoptions to the U.S. from Russia since 2015, and the moratorium on adoption continues to be used as a political/diplomatic tool.<sup>44</sup> The powerful right-wing adoption lobby in the U.S. continues to express urgency about falling transnational adoption numbers, and has strongly advocated for pro-adoption policies to be tied to foreign aid (Joyce 225).

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption was enacted in 1993 and it:

protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. This Convention, which operates through a system of national Central Authorities, reinforces the UN Convention on the Rights of the Child and seeks to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental

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<sup>43</sup> See Kopan, "Why is Everyone Talking about Russian Adoptions?" Accessed 23 June 2023.

<https://www.cnn.com/2017/07/21/politics/russian-adoptions-magnitsky-act/index.html>

<sup>44</sup> As an example see Donald Trump Jr. remarks at a meeting at Trump Tower 2016. Accessed 23 June 2023.

<https://www.nytimes.com/interactive/2018/08/06/us/politics/trump-tower-russia-meeting.html>



rights. It also seeks to prevent the abduction, the sale of, or traffic in children (Adoption Section, 1).

The Convention currently has approximately one hundred states parties. However, not all countries subscribe to the convention, and at the height of transnational adoption in the early 2010s,

unscrupulous adoption agencies were often circumventing the convention by ‘finding’ children for their consumers by contracting directly with Vietnamese orphanages or Ethiopian maternity homes or Cambodian hospitals or Guatemalan lawyers, unsupervised by their respective governments” (Brandeis).

Pro-adoption advocates blame “familiar scapegoats, like UNICEF or the Hague Convention” for falling transnational adoption numbers as countries entering the Hague suspend adoption programs as they work to become compliant with Hague rules (Joyce 218). Moreover, these numbers have rarely returned to pre-Hague numbers once implemented (218). In response to the decreased supply of children available for transnational adoption, the evangelical community insists that there are no irregularities. Instead, they assert that “forces ideologically opposed to adoption are ‘falsifying, fabricating, or exaggerating’” transnational adoption corruption (Joyce, 219).

Due to the illegal, unethical and human rights abuses inherent in transnational adoption transactions, the overall decline is a positive development. Increasingly, however, surrogacy has overtaken the number of transnational adoptions in recent years, an advent which opens a new area of concern for feminists and marginalized women in developing countries. To illustrate this trend, the total number of transnational adoptions to the US in 2021 were 1,785 (USA Adoption Statistics) while surrogate births from Ukraine had been averaging over 2,500 annually before

the war (The War). Surrogacy is quickly emerging as ‘the new adoption’ as some of the same actors in corrupt transnational adoption schemes (in countries such as Guatemala) now act as surrogacy brokers (Fixmer-Oraiz 132). An intersectional analysis of the socio-economic, political, and historic contexts within which surrogacy operates has already begun to reveal structural and racial inequalities and human rights violations experienced by marginalized women that mirror those within transnational adoption practice.

In this chapter, we discussed how certain categories of mothers are de-legitimized in contrast to the ‘good’ mother ideal. The legitimacy to mother for young, Indigenous, Black or transnational mothers is impacted by their social construction as ‘lesser’, or ‘discounted’ persons as described by Heller-Roazen and Goffman. Such women are unable to operate as mothers due to representations as being ‘unfit’, ‘unable’, or ‘not ready’, and they subsequently become vulnerable to adoption systems; their children either removed or relinquished due to race, class, resourcelessness, poverty, lack of support, ideals of heteronormativity, or the ongoing impact of colonialism. The next chapter will examine in more detail how reproductive exploitation operates as it relates to adoption systems within various contexts. I will examine how the illegal, unethical, and human rights abuses inherent in adoption systems continue to reverberate in the lives of natal mothers and adoptees and are uncovered through various United Nations, state inquiries, and investigations.

## **Chapter Three**

### **REPRODUCTIVE EXPLOITATION/VIOLENCE IN ADOPTION SYSTEMS**

Social justice and human rights are central to feminism within the overall project of identifying and challenging sites of oppression with respect to gender, race, class, and sexuality. However, the oppression and exploitation of reproducing bodies through adoption systems has generally not been well documented by feminists, although scholarship is slowly emerging through critical adoption studies. The exploitation of women's bodies as "fertile fields to be farmed" has been a matter of concern for adoption reformers, academics, literary and media commentators alike (Murphy 68).

This chapter is concerned with identifying illegal, unethical, and human rights abuses in adoption systems in domestic and transnational contexts that oppress and exploit the fertility and offspring of marginalized and racialized women who are vulnerable due to multiple disadvantages. As well, this chapter explores the concept of exploitation and adoption as a marketplace with its innate representations of supply and demand, pricing, and promotion. In addition, I interrogate adoption as a form of reproductive violence, and include in Appendix A, an original list of state inquiries and studies which exemplify the various oppressions and exploitations discussed.

#### **What is Exploitation?**

Exploitation relies on an interactive relationship between the 'exploiter' and the 'exploitee'. One meaning of exploitation relies on a sense of injustice or oppression that can be attributed to a wide range of social relations, such as exploitation of women by men, workers by capitalists, the enslaved by slave owners, low castes by high castes, or serfs by feudal overlords (Darity 64). According to Johanna Kostenzer, "exploitation can be summarized as the 'taking of unfair

advantage' of another party who is usually at a disadvantage for social, economic, and/or other reasons" (91) or, a relationship in which one party benefits from the use of another. Inherent in exploitative relationships is the degree of unfairness involved, in that the exploitee most often has a vulnerability. Alana Cattapan describes vulnerabilities that are, "economic", or that are related to "race, class, physiological or mental disability, sexual orientation, family or marital status, and age, that may put the exploitee in a position of sociocultural vulnerability or render them otherwise susceptible to harm" (6). The basic elements of exploitation do not always lead to policy interventions because to be recognized as such the act of exploitation must not only "consider use and vulnerability", but also whether or not the exploitee feels "forced or compelled to accept attractive offers that they otherwise would not accept" (Beauchamp & Childress 256). The idea of the exploitee might apply to a majority of pregnant and birthing women who interact with adoption systems as they are mostly women who experience a wide range of vulnerabilities including those related to gender, race, and class. According to Wrexler et al, "racism and classism make poor families and families of color more vulnerable to having children removed. The majority of children available for adoption today are children of color" (Wrexler et al 512). Rickie Solinger asserts that "adoption is rarely about mothers' choices; it is, instead about the abject choicelessness of some resourceless women" (*Beggars* 67).

The term "reproductive exploitation" was coined in the 1980s by Tina Kimmel of the Bay Area Birth Mother's Association to describe adoption systems and to locate adoption within the general context of women's struggle for reproductive rights (Newbrough 6). The concept of children as property within adoption, coupled with the child-creating ability of women, led to both women and their children being treated as commodities, i.e. as reproducing bodies, and as offspring. Reproductive exploitation is specific to reproducing bodies, and encompasses the

elements of force, coercion, or constraint of choice, due to the various vulnerabilities created by global injustice and the lack of choice of certain marginalized and racialized women around the world that place them in the path of adoption systems.

### **Adoption as a Marketplace**

Marketing is a process of exchange. It is the means by which two or more parties give something of value to one another to satisfy felt or perceived needs (Beckman & Rigby 6). In the adoption marketplace, the ‘something of value’ exchanged is a human infant or child. As observed by Hermann and Kasper, “fertility and babies have a market value in a global economy” (51). The altruism that is represented within the narrative of adoption as a public good often overshadows the commerce and consumerism of the adoption marketplace (Fenton 7). The market of adoption relies on both a steady supply of product—the infant or child—and a market demand for that product. For a product to thrive in any marketplace, the elements of supply and demand must exist. That demand in adoption, to form families with the babies and children of others by those in the west, continues to drive the adoption marketplace both domestically and internationally (United Nations *Economic* 1).

The framing of adoption as an act of humanitarianism obscures the commodification of marginalized, predominantly non-white children in the adoption industry (Wrexler et al 513). Viewed as commodities, children have historically been bought, sold and traded (Hermann & Kasper 47). During the post WWII decades, the number of domestic adoptions soared, and the majority of adoptees were the white babies of unmarried mothers (Andrews *White* 165). The post WWII climate also saw an expansion of transnational, and transracial adoption which led to the creation of a global market (Monico 510). In the twentieth century, these types of adoptions grew into an “unregulated multinational and multimillion-dollar industry... generating even higher

profits for thousands of adoption ‘service providers’ and facilitators” (Hollinger 42). By the end of the cold war international adoption entered into what might be referred to as its “hyper-globalization” phase, a period when unprecedented numbers of adoptions to the west took place in the 1990s and early 2000s (Hübinette *End* 147).

As in any marketplace there is a cost for goods, including in this case, children and infants. Contemporary domestic adoptions are usually processed through child welfare systems or through an adoption agency. Such adoptions can cost anywhere from zero, if processed through domestic child welfare systems, to thousands of dollars for adoptions through an agency (Fedders 1694). Although child welfare services do not usually charge for adoptions per se, prospective parents may still encounter out of pocket expenses for home studies, or mandatory adoption courses. Children adopted through child welfare today are most often those living with disabilities or special needs, are likely to be older, racialized, or in sibling groups (Krawiec 52). Newborn infants are mostly processed through private domestic adoption agencies, and the source of such infants are mainly mothers considered too young, not ready, or unable to mother (Andrews *Young* 56). Agency adoption costs are much higher than child welfare adoptions. Fees paid by prospective adopters to agencies typically cover courses, home studies, legal representation, court fees and more (Skidmore 170). Prospective adoptive parents may also be responsible for mothers’ medical expenses (e.g. in the U.S.), or fees to market themselves through “Dear Birthmother” letters, or other types of marketing packages to promote themselves to pregnant women who may be considering adoption (Andrews, *Young* 57).

In most marketplaces, when supply is short for a given commodity, the price increases (Beckman and Rigby 404). Alternatively, if there is no demand for a particular product, then it will likely become less expensive and may even become obsolete, as no market for that product

may exist. Within the marketplace of babies and children, there continues to be a high demand for white infants which exceeds their supply (Fedders 1688). This demand drives the marketplace and in turn, the price of adoption. Barbara Fedders observes that:

white infants are the most in demand, and relatively speaking, in the shortest supply. Some domestic adoption agencies have responded to this mismatch by assessing higher fees for the adoption of white infants than for infants of other races (1687).

One study on costs of adoption revealed a consistent pattern of cost differentials based on characteristics of the children within the adoption marketplace (Skidmore et al 184). As an example, Skidmore et al found that relative to children with “fair” skin color, children with brown and dark skin color had a lower cost (about US \$8200 and US \$14,700 respectively)” (184). Buyers value certain characteristics in a child and in turn, “bid up the price” for that particular characteristic (174). Due to the fact that white infants are in short supply, “a significant number of agencies charge prospective adoptive parents a higher fee to adopt a white infant than to adopt a black infant” (Fedders 1688). Race-based pricing is more prevalent in private agencies in the U.S. (Fedders 1698). Fedders suggests that the racially stratified market is supported by state laws that allow wide latitude to agencies in setting fees, and that “while baby selling – the direct payment of money to a person for that person’s child – is outlawed in every state..., state law does allow for agencies to charge a variety of fees for adoption related services” (1700). This results in a prevalence of agency fees geared to demand.

This raises strong ethical concerns as race-based adoption fees not only perpetuate the commodification of human beings within adoption systems, but also “sends the message that black children are less valuable than white” (Fedders 1712). The high value placed on white

babies perpetuates white supremacy and can create an incentive for agencies to coerce young resourceless white women to part with their babies in expectation of a larger financial gain for the agency (1713). Fedders suggests that the concept of transferring one human being to another using stratified economic values by race “harms personhood” (1712). This practice, I would assert, should be recognized as a violation of human rights and as a form of legalized human trafficking, a topic that will be discussed further in the following section.

Intercountry or transnational adoption fees differ widely depending on the sending country. According to the Province of Ontario website:

An agency or individual licensed for international adoptions usually charges \$20,000 to \$50,000 for their international adoption services. There are also additional fees for a homestudy assessment, a mandatory parent training program [and] travel and accommodation costs in a foreign country.<sup>45</sup>

The need for travel can increase the costs of international adoptions significantly. Some countries require prospective adoptive parents to stay in the country for a period of time which can significantly increase adoption costs (Dodge). As an example, one American couple was required to stay in South Africa for six weeks in order to complete the process (Dodge 1). Adoptive parents have also reported handing over thousands of dollars in cash to adoption facilitators which, although suspicious, became part of the process they encountered. One adoptive parent reports that while in Nepal:

we were told to show up at [our adoption agency’s U.S. office] with five thousand dollars cash in new one-hundred-dollar bills. So I went to the bank, made a

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<sup>45</sup> See International Adoptions/Ontario. Accessed 4 Sept 2023. <https://www.ontario.ca/page/international-adoptions-ontario>



withdrawal, popped over there, and to this day, I don't know what that money was for, where it went— (Fenton 48).

Costs of international adoption can also vary depending on the type of institution handling the adoption including government, private adoption agency, orphanage, private facilitator, and so on. Finalizing international adoptions may also include additional immigration or legal fees.

Also, in the international context, the notion of an “orphan crisis” has also evolved over time which creates orphans that can be marketed for adoption (Cheney & Ucembe 37). In a 2019 study of the orphan industrial complex (OIC), Kristen Cheney and Stephen Ucembe assert that:

persistent narratives of “orphan rescue” are driving the proliferation of an orphan industrial complex that not only commodifies orphans and orphanhood...but can actually spur the “production” of “orphans”, resulting in child exploitation and trafficking (38).

According to Cheney & Ucembe, “the commodification of orphanhood involves the monetization of “everything orphan” (40). These authors show how orphans in various regions and countries around the world are manufactured through fundraising, school trips, the establishment of orphanages, and NGOs that support them, producing “more 'orphans' who necessitate still more invention and thus commodification” (40). As more orphans are produced, and supplied more “child saving” through adoption takes place. Tour companies tend to market to young white women who, while visiting orphanages in the Global South as volunteers, often identify children they would like to adopt. This is in contravention of international law which prohibits contact with a child prior to the determination of their legal adoptability and their being matched professionally (46, 47). Such adoptions can quickly become a lucrative enterprise for both local and international intermediaries (47). As an example, child protection advocates in

Uganda reported that “child finders” went out into poor communities to entice parents to give them their children with the promise of education, medical care, and food, at “free boarding schools” which were, in fact, orphanages, from which they were marketed for adoption as “orphans” (52). Cheney & Ucembe suggest that developing countries can make a difference by supporting initiatives to dismantle orphanages as was done in Rwanda which was on track to make the country orphanage-free by 2020 through a domestic program to “raise children in families” (56).

The marketplace of adoption not only includes mothers, babies, and children on the ‘supply’ side, but also prospective adoptive parents on the ‘consumer’ or ‘demand’ side. Estye Fenton conducted a study with adoptive parent informants post 2004, a period when international adoptions to the U.S. were transitioning and decreasing dramatically due to exposed corruption in the international adoption marketplace. Fenton’s study reveals “how international adoptive parents function as consumers and, indeed, can embrace the position of power and privilege that comes with being a buyer in a market-place defined by inequality” (54). Fenton’s study illustrates how one couple of prospective adopters increasingly became aware of themselves as consumers in a marketplace:

Ivy described taking her newly adopted daughter on outings in Kathmandu while waiting for the adoption to be finalized and how “everybody took one look at us and said, ‘Nepali baby? How much did you pay?’ That was the immediate question, every single time.” Ivy told me that this insinuation made her profoundly sad and that her sadness emanated from “both the truth and [the] lie” within it...Ivy, ever-critical, came home to inhabit a profound ethical and emotional dissonance among altruism, care, and the market (54).

Hermann and Kasper have noted that “in their desperation for a baby, most women do not explore (nor are they typically fully informed of) the conditions under which their adopted child’s birth mother surrendered the child” (52). Some adoptive parents justify the adoption, even those aware of illegal or unethical factors. In referring to adoptive parents in the study, Fenton writes:

They acknowledged that there may have been improprieties in their children’s adoptions but happily moved on, sweeping human rights abuses and extreme global inequality under the rug by relying on the presumption that their children were better off in families in the United States (88).

The justification that a child will be “better off” in the west mirrors the ideology surrounding the adoption mandate, a phenomenon during the postwar period wherein unmarried mothers had their children taken for adoption due to the idea that children were ‘better off’ in two parent families. The mandate also justified and concealed any legal, ethical, or human rights abuses that were perpetrated against the mother.

The participation and demand of prospective adoptive parents in the west as consumers within the adoption marketplace drives a domestic and international market for babies and children; and as previously discussed, it negatively impacts those mothers who fall prey to adoption systems for a variety of reasons. Not every adoption is an illegal or unethical one. However, the fact that adoption systems are so entangled and congruent with marketplace behaviour in theory and practice, and that they cater to the needs and desires of prospective adoptive parents as potential sources of income through the adoption transaction, ultimately leads to serious irregularities in far too many cases.

### **The Hague Convention (HCCH)**

As the interest in transnational adoption progressively increased in the early 1990s, the lack of procedural uniformity, monitoring and enforcement of transnational adoption policies and processes were brought to light (Kimball 565). In response to this situation, The Hague Convention (HCCH) was created and finalized in 1993 to establish international safeguards to protect the rights of the child and the implementation of international law for adoption transactions (Kimball 563). David Leblang et al notes that, “the primary impetus for establishing a convention on international adoption was a growing concern about adoption abuses—selling or abduction of children—that thrived in the absence of government involvement and regulation” (619). The HCCH was not created to prevent child trafficking or other illicit activities per se, but instead it was “expected that the observance of the Convention’s rules will bring about the avoidance of such abuses” (Yacoubian 824). While the HCCH has succeeded in bringing attention to such issues, and operates as a human rights protocol, it remains somewhat ineffective due to poor participation rates, lack of oversight and prosecutorial teeth, as well as the loopholes in the Convention.

Those who do participate in the HCCH have responsibilities as a sending or a receiving state. Sending states must establish:

- (1) that the child is adoptable; (2) the adoption is in the child’s best interests; and (3) consent from necessary parties, such as persons, institutions, and authorities that have been ‘duly informed of the effects of their consent’, and have given their consent freely (570).

Sending countries are also required to create a central authority within their own country to facilitate international adoptions. However, due to economic hardship, for some countries, creating such infrastructure can be a difficult task. Receiving states must ensure that,

- 1) the prospective adoptive parents are both ‘eligible and suitable to adopt’,
- 2) the prospective parents have been counseled on intercountry adoption and the process: and 3) the child is authorized to enter and permanently reside in the receiving state (570).

As noted above, the Convention requires free and informed consent “of the proper persons, institutions, and authorities whose consent is necessary for adoption” (HC 4C1). This portion of the HCCH has proven to be problematic in some instances. For example, custody of a child may have been illegally obtained through abduction or other means, meaning that consent may, at the outset, appear to have been given by what constitutes a “proper” institution or authority, when in fact the child’s mother has not actually given consent. This is one of the ways in which children can be ‘laundered’ as available for adoption through the HCCH. The Convention also states that, “prior to giving consent, the parties must be counseled and fully informed about issues concerning the adoption and it must be ensured that the consent was not secured through payment or any other kind of compensation” (Yacoubian 824).

Findings show that consent is often manufactured or sidestepped in many international adoption transactions. One study completed by O’Driscoll et al and published in 2022, surveyed ninety-nine transnational adoptees in Flanders (Belgium) adopted from 2005 to 2020. Multiple irregularities were found in the process of these adoptions. The problematic aspect was mostly related to the original families who were confronted with irregularities during the process. Adoptees reported that:

In the period prior to the adoption procedure, malpractices concerned: child trafficking (20); lack of evidence that the adoptee was effectively orphan (19);

first parents gave consent under false pretenses (17); first parents did not give consent (12), were pressured (70); errors in documents (8); kidnapping within (6) or outside the first family (O'Driscoll et al 1).

This study highlights the ongoing nature of the problem of serious irregularities in transnational adoption transactions, despite the implementation of the HCCH.

In order to be successful, the HCCH needs the participation of both receiving and sending countries. As the largest receiving country in the world, final legislation was enacted by the United States on October 6, 2000 to adopt the HCCH (United States, An Act). The United States ratified the Convention as a States Party<sup>46</sup> on April 1, 2008, over 15 years after the HCCH's original implementation (United States, U.S. Citizenship and Immigration Services). Since that time, residents of the U.S. who seek to adopt a child residing in a country outside of the U.S. that is also a States Party, must generally follow the process of HCCH.

According to Caeli Elizabeth Kimball, despite the good intentions to protect children internationally within adoption systems, the HCCH has had only a mediocre measure of success (562). One of the reasons for this, according to Kimball, is that the HCCH tends to emphasize the compliance of receiving countries that are more affluent, because they are able to withstand the economic burdens of compliance. Sending countries tend to be less economically able to facilitate compliance and are therefore less likely to enter into the HCCH. Further, there is no prohibition against states parties engaging with non-states parties (563). Therefore, not becoming a party to the HCCH does not prevent sending countries from participating in international adoption, which suggests it may be "questionable as to whether they should use their resources and time on the compliance"

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<sup>46</sup> A States Party is an entity that has entered into an international agreement

(583). Also with respect to sending countries, Marijke Breuning & Melissa Martinez who conducted a study in 2018, ultimately found that many countries that have adoption programs have still not joined noting that, “assessments of the Hague Convention on intercountry adoption have not previously considered that less than half of the countries with active adoption programs to the United States have joined...this suggests that the Hague Convention’s legal framework faced significant hurdles in achieving it’s stated purpose” (262). Breuning and Martinez also found that many countries are still using bilateral agreements, despite the fact that one of the reasons the Hague Convention was established was because such agreements did not provide adequate protections for children and their families (263).

Pro-adoption and pro-life groups supporting adoption argue that the HCCH slows down adoptions (Joyce). As an example, the National Council for Adoption (NCFA), a right wing pro-adoption lobby group in the U.S., is highly critical of the HCCH because it blames the Convention for the decline in the number of transnational adoptions (NCFA). Leblang et al echo this after undertaking an intensive study of international adoption flows, stating that, “more broadly, US officials contend that the stricter Hague standards create long delays and are an obstacle to adoption (625). The African Child Policy Forum (ACPF) expressed concerns that prospective adoptive parents were “flocking to non-Adoption Convention countries like Ethiopia and Liberia as adoptions in States Parties become more restrictive” (Yacoubian 825). Legal scholar Elizabeth Bartholet, who supports permanent homes for children and reducing all barriers to adoption, articulates that the influence of the HCCH has been entirely negative and that there “is no evidence that it has operated in any significant way to provide greater protection for children or birth parents against exploitation” (*The Hague* 3).

While pro-adoption entities continue to blame the HCCH for the decline in transnational

adoptions, it remains a human rights law that has merit even as it needs reform and needs more States Parties to participate to effectively regulate transnational adoption. Criticisms of the HCCH include the fact that it lacks prosecutorial teeth and that not all sending countries participate in the Convention. As a result, room is left for illegal, unethical, and human rights abuses in adoption transactions on the part of non-participating states that may still enter into international adoption transactions without becoming a States Party to the HCCH. Since full participation of sending countries is crucial to the success of the Convention, Breuning and Martinez suggest that further inquiries into the shortcomings of the HCCH should include an investigation into the reasons why countries that continue to actively send children to the west do not choose to participate (263).

### **Adoption as a Form of Child Trafficking/Reproductive Exploitation**

The concept of human trafficking has mostly been associated with the exploitation of human labour, sex, or organs. Although sexual exploitation and various forms of forced labour account for the majority of human trafficking cases, illegal adoptions and baby selling remain critical elements of this unsavoury practice. Because of its hidden nature, the exploitation of women for the purpose of reproductive exploitation and/or trafficking is infrequently taken up as a discussion.

According to David M. Smolin, there are sharply conflicting views about transnational adoption as a form of child trafficking, “when one group views intercountry adoption as a form of child trafficking, while another views intercountry adoption as a beautiful act of compassion, the actual operation of our system of intercountry adoption becomes obscured” (283). Insofar as transnational adoption operates as a marketplace, and encompasses a diverse number of sending countries, each with their own adoption processes, regulations, and laws (or lack thereof), it can



be difficult to tease out what might be considered child trafficking from what might be a legal, ethical adoption. This section provides a brief discussion of the current debates surrounding the idea of adoption as a form of child trafficking.

Various UN Protocols have attempted to identify what constitutes human trafficking in adoption systems. Current trends in human trafficking are being shaped by evolving family systems, decline in fertility, and various advances in biomedicine (Kostenzer). In 2000, the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women, and Children (known as the Palermo Protocol) defines human trafficking:

“Trafficking in Persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (United Nations *Protocol*).

Smolin suggests that this definition contains three elements: “(1) some transfer, harbouring or receipt of a person; (2) by wrongful means, broadly defined to include coercion, deception, abduction, abuse of power, or payment, and (3) for purposes of exploitation” (295). The Protocol expressly specifies that trafficking in persons exists when the first and third elements, transfer and exploitation are present, even if there are no wrongful means (Smolin 295). The argument has been made that such adoptions are not a form of exploitation, therefore not child trafficking (Smolin 295).

Taylor Brown and Jini Roby argue that “while we ultimately affirm that all illicit adoption is exploitative...we are careful to emphasize that there are many forms of adoption abuse—not all

of which are accurately categorized under the term “child trafficking” (64). Brown and Roby identify two ‘camps’ within adoption discourse. The first being those who require:

physical or sexual exploitation to be perpetrated against the adopted child at his or her *final destination*...and the second as, those who generally argue that a case of trafficking is established through some means of exploitation at any point in the adoption process (67).

Bartholet asserts that there is no evidence to suggest that even in cases where some illegality is involved in international adoption that it results in what are referred to as common trafficking practices such as “exploitation of children like kidnapping for the purposes of prostitution, slavery, killing for the removal of organs, and child military service” and that, “any fair minded observer of international adoption would have to admit that the children overwhelmingly end up in adoptive families where they are loved and nurtured” (*International* 187). Virginia Garrard concurs, stating that “an illegal form of inter-country adoption—“baby selling”—does not always constitute child trafficking, but becomes trafficking when the child is exploited through coerced labour or sexual exploitation” (157). Both Bartholet and Garrard’s position is suggestive of being in the *final destination* camp as described by Brown & Roby. However, this stream of thought precludes exploitation within the adoption process itself which may include abduction, force, fraud, or coercion. David M. Smolin alternatively suggests that, “the abduction or sale of a child for adoption is sufficient to constitute exploitation” and is therefore “trafficking” under the Hague Convention” (Brown & Roby 67).

Roelie Post, a former EU official and executive director of the NGO Against Child Trafficking (ACT) has travelled and written extensively about the irregularities in international adoptions. Commenting on the HCCH, Post writes:

It is almost impossible for receiving countries to judge how and why children end up in residential care, because the formal adoption process masks the underlying child trafficking. This means that also stolen children, or children with a falsified identity, can be legally adopted under the Hague Adoption Convention (8).

This has been defined as “child laundering” by David Smolin in that children are taken illegally from their parents, and then “laundered: through the official system of legal adoption” (115).

As a result of the above noted concerns, a further document was instituted by the UN in 2002 to strengthen international law in this area. This international document directly addressing intercountry adoption as a form of child trafficking is the UN Optional Protocol<sup>47</sup> to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (OP-CRC).<sup>48</sup> Article 2 of the Protocol states that,

(i) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration; and, (ii), improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption” (OP-CRC 1).

As part of the mandate of this Protocol, the Special Rapporteur issued a thematic report

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<sup>47</sup> Optional Protocols are as stated—optional additions to original Conventions, but act as legal documents in their own right.

<sup>48</sup> See OP-CRC. Accessed 3 Sept 2023.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>

entitled *Illegal Adoptions* in March 2017.<sup>49</sup> Even as the Protocol attempts to parallel the consent elements of the HCCH noted above, in the majority of illegal adoptions, proper consent is wilfully sidestepped, or falsified by unscrupulous adoption intermediaries. Among the recommendations of the Special Rapporteur was to “adopt legislation that prohibits and criminalizes illegal adoption as a separate offense, as well as the sale of and trafficking in children that result in illegal adoptions, with sanctions that reflect the gravity of the crimes” (UN *Illegal Adoptions* 2).

Girls, youth, and women are particularly at risk of human trafficking within reproductive exploitative gender specific situations that include illegal and unethical adoptions which contravene human rights and negatively impact reproductive outcomes. Forced pregnancy is one type of reproductive exploitation that is employed by child traffickers who profit from illegal adoptions and it often takes place in a “baby factory”. The first cases of baby factories emerged in approximately 2007 in a number of countries, including Thailand, Cambodia, Vietnam, Nigeria, and other parts of Asia and Central America (Kostenzer 103). Baby factories operate by establishing locations to shelter young pregnant girls and women for the purpose of trafficking babies, mostly into illegal adoptions (Makinde et al 99). In Nigeria, it was found that teenage and adult women who were pregnant may have sought assistance for an unplanned pregnancy, and “had either agreed to participate under false assumptions, or were seeking shelter to escape stigmatization...[while] others were kidnapped or coerced, raped until they became pregnant, and forced to give birth” (Kostenzer 102). As an example, from 2008 to 2014 in Nigeria, more

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<sup>49</sup> United Nations. *Illegal Adoptions*. Accessed 9 Sept 2023. <https://www.ohchr.org/en/special-procedures/sr-sale-of-children/illegal-adoptions#:~:text=Adoptions%20resulting%20from%20crimes%20such,financial%20gain%20by%20intermediaries%20and>

than twenty such baby factories were discovered by law enforcement and more than 290 women who were pregnant, or had recently delivered, were found on site (Kostenzer 102). Crimes in baby factories include “baby breeding, rape, forced impregnations, sale of infants, and illegal adoption” (Makinde et al 99). Other baby factories were uncovered in Thailand and Cambodia where Thai authorities discovered severe cases of forced pregnancy (Kostenzer 102). The operation of baby factories violates multiple human rights including the rights of the child as both mother and child are exploited and trafficked. Svetlana Huntley found that the majority of the babies garnered from such activities were sold for adoption, or to trafficking rings where they faced exploitation for labour, sex, or rituals (Huntley 11).

Son preferencing also drives reproductive exploitation and child trafficking for illegal adoptions. In many parts of the world the desire for male offspring is not always a simple preference of boys over girls, but is driven by “discriminating social, cultural, legal or economic conditions that favour males” (Kostenzer 104). In China, the one child policy combined with son preferencing led to high numbers of infanticide, as well as large numbers of trafficked and abandoned female infants. Transnational adoptions from China to the U.S. soared to an all-time high in 2005 at 7,903, and of these, 94.9% were female infants and toddlers under two years of age (U.S. Department of State). Early in 2020 China suspended all adoptions to the west. India also struggles with the issue of son preferencing that leads to both infanticide and adoption. Pien Bos writes that “between May 2001 and September 2003...745 children were relinquished...in all, only 48 of these babies were boys, and 697 babies were girls” (40).

As a result of the one child policy, China now has what Kostenzer refers to as the “marriage squeeze” (104). The shortage of women for brides in China leads to the trafficking of women for

marriage and reproductive exploitation from North Korea and other states. Women were deceived about future job opportunities abroad or about the arrangement of a good marriage in China (Kim et al 161). These women were sold to intermediate traffickers “where psychological and physical abuse and rape were common methods [used] to control the victims” (Kostenzer 105). These women once married, were “under immense pressure to give birth to male children” (106).

In the following section I focus on specific examples of illegal, unethical, and human rights abuses in transnational adoption systems pertaining to selected countries, including Ethiopia, South Korea, Guatemala, and Colombia. These represent a sample of the many countries that have had a history of high numbers of adoptions to the west and that have been identified as notoriously problematic in terms of adoption practices.

## **ETHIOPIA**

Ethiopia banned international adoption in 2018 after illegal, unethical and human rights abuses in adoption practice were uncovered (Steenrod 81). Transnational adoptions from Ethiopia rose exponentially during the first decade of the twenty-first century. This was mostly in response to the HIV/AIDs crisis in that country. The country of Ethiopia provides an internal legal framework for adoptions, and it is helpful to explore how the legal framework was both circumvented and used to facilitate illegal and unethical adoptions (Hailu 202).

Daniel Hailu conducted a study to uncover the processes in illegal intercountry adoptions in Ethiopia. Hailu identified three stages in the process:<sup>50</sup>

### **1) Separating the child from guardians**

Hailu identified this as the most “critical and elaborate of the three stages in the illegal process

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<sup>50</sup> Note that these methods are not only used in Ethiopia, but in many countries.

and requires mobilization of a wide range of actors in local communities and government structures at local and regional levels” (208). This stage includes fabricated documentation, and false testimonies, as well as coaxing parents to voluntarily relinquish their parental rights. Children were separated from their families through “theft, abduction, false promises and bribes perpetrated by local child finders. Police officers were incentivized to collude in staged infant abandonments” (Steenrod 85).

## **2) Acquire legal guardianship of the child**

The goal of illegal adoption is to transfer the legal guardianship of the child to the orphanage or other institution (Hailu 212). With no child welfare system in Ethiopia, thousands of NGOs provide community-based services to children. Transferring legal guardianship to orphanages and other NGOs is an “easy and obvious option” (Hailu 212).

## **3) International Traffic in Children**

The goal is to ensure that the Federal First Instance Court endorses the adoption agreement between the orphanage and adoption agency.

Shelley Steenrod conducted a study of adoptive parents who obtained their children from Ethiopia. One of the questions Steenrod asked was “What did your adoption agency tell you about your child upon referral? Five were told the parents had died, one was told the child had a surviving parent who lived in poverty, and another that the surviving parent had a mental illness. Two more were told the child was either abandoned or found wandering (90). One adopter reports, “Yeah, we received a package of papers at the time of the referral...the basic information was that she was an abandoned orphan with no living relatives” (93). Another reports, “we were told the mama had died of HIV/AIDS and that he was an only child...Grandma had tried to take care of him, but then she died as well” (93). And another

indicated that, “we were told that her mother died in childbirth and her father couldn’t afford to keep her” (93).

In a study of Ethiopian mothers who had been coerced to relinquish their parental rights, Rebecca Demissie found that the circumstances of mothers had influenced their decision to participate in international adoption (81). Demissie writes that,

[in] these circumstances, in most cases the gender based violence and the gender role socialization, include birthmothers’ childhood experience, early and arranged marriage, teenage pregnancy, rape, poor economic situation, poor health condition, large family size, a burden of caring for the family and lower educational background (81).

The majority of the Ethiopian mothers studied, not fully understanding the logistics of plenary adoption in the west, and receiving information only through those who benefited from an adoption transaction taking place, believed they were still the family of the child and that the child would come back to help them in the future (Demissie 70). The pain and suffering of one couple is illustrated in the award-winning documentary film *Mercy Mercy*,<sup>51</sup> which tells the story of Ethiopian parents who voluntarily placed their son and daughter for adoption due to the mother being diagnosed with HIV/AIDS. The parents were promised ongoing contact by the local agency and the prospect of financial help from the adoptive parents both of which never came. After four years, the adopters rehomed the eldest child due to non-attachment. The pain and suffering of the Ethiopian parents and the adopted child is palpable in the film.

## **SOUTH KOREA**

In the early 1950s, the Korean War caused a complete disruption of Korean society, including

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<sup>51</sup> See the film *Mercy Mercy*. Accessed 9 Sept 2023. <https://www.youtube.com/watch?v=LlnuxSwJWO4>



a partition of the country along with the deaths of 3.5-4 million Koreans (*Hübinette Adopted* 17). At the end of the war, a number of displaced children were sent to North America by homecoming soldiers and officers as adoptive parents. By 1954 the Korean government had set up a child placement service for the purposes of providing international adoptions of Korean children to the U.S. (17). Harry Holt, a U.S. farmer who had personally adopted eight biracial children from Korea founded an adoption agency, Holt International, which in turn has placed over 100,000 children for adoption in the U.S., the majority being from Korea.<sup>52</sup>

Adoptees from South Korea represent the world's largest diaspora of adoptees in that almost 200,000 South Koreans—mostly girls—have been adopted internationally since the end of the Korean war in 1953 (Tong-Hyung 1). Family lineage, heritage, and bloodlines play a dominant role in defining community within Korea's Confucian culture and hierarchical society (Babe 1). These belief systems have underpinned child trafficking for illegal adoptions. In South Korea bloodlines are considered to be extremely important, and in general, Koreans do not adopt domestically due to cultural beliefs about blood ties, "few Koreans wanted to adopt children who were not of their own family bloodlines" (Kimball 580). Further, in the postwar decades there existed a "deep seated xenophobia and prejudice against biracial children...[and] the country's first president Syngman Rhee pursued a policy he called 'one state for one ethnic people'" (Sang-Hun 2). This policy was a factor in the adoption of transracial children, many who had been fathered by Americans during the Korean War.

In contemporary South Korea there are few social programs that provide assistance to unmarried mothers. Strong social norms against ex-nuptial pregnancy (similar to the postwar adoption mandate period in Canada) force unmarried mothers to surrender their children for

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<sup>52</sup> See Holt International. Accessed 9 Sept 2023. <https://www.holtinternational.org/about/>

adoption as they are considered to have no bloodline in that no marriage took place, rendering them outcasts from the family. Karen Smith-Rotabi writes that, “concerns include the fact that mothers cannot engage in a fair consent process for relinquishment” (5). Although the sample is not specified, Kenneth Hermann and Barbara Kasper (2004) write that, “one home for unwed mothers in Korea [Ran Won] reported that initially as many as 90 per cent of the birth mothers want to keep their babies. After counseling, perhaps 10 percent do so” (51).<sup>53</sup> It was also found that many unmarried mothers were coerced into signing adoption papers, prior to the birth of their child (Sang-Hun 1). These homes still operate in South Korea, as unmarried motherhood remains a severe social stigma, similar to that experienced in the west during the postwar decades, although it is slowly changing through organizations like KUMFA, the Korean Unwed Mothers Families Association which supports unmarried mothers to keep their children despite social stigma (Babe 1).

Through the recent Truth and Reconciliation Commission of the Republic of Korea, falsified documents and various unethical practices have been uncovered that created babies and children as “legal orphans” to facilitate adoptions (Ton-Hyung 2). Despite having either one or two parents, many Korean adoptees were re-classified as orphans in order to sever biological ties and to make them available for international adoption. Origin narratives attached to South Korean adoptees have rarely been found to be true. Many have been falsified in order to facilitate international adoptions. As an example, Mia Lee Sorensen was adopted to Denmark, and her adoption papers state that “she was born prematurely in 1987 to a family that could not afford her medical bills and wanted for her to have a ‘good future’ abroad” (Sang-Hun 1). However,

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<sup>53</sup> See Rothschild. “Many of the babies [for adoption from South Korea] come from unwed mothers’ homes, about 250 a year from Ran Won alone” (18). Ran Won is a home for unwed mothers in South Korea.

when Sorensen found her family in Korea they were shocked as they were told she had died during birth (Sang-Hun 1). Knowledge of such irregularities and illegalities have long been known within the adoptee diaspora in the west, but are only now becoming national news as Korea undertakes the Truth and Reconciliation Committee process. The CBC in Canada highlighted this issue on *The National* and *The Current* during the week of September 25, 2023. The CBC interviewed various Canadian-Korean adoptees about their manufactured orphan status<sup>54</sup>, false origin stories, and the lack of quality information they have received from Korean authorities.<sup>55</sup>

## LATIN AMERICA

During the late 1970s and 1980s transnational adoptions from Latin American countries were increasing, including from Guatemala and Colombia, which are briefly discussed here. The impact of civil wars were central to the increase in adoptions from these countries as right wing governments and their militias engaged with what they labeled as leftist (communist) insurgents. They perpetrated “massive human rights violations against civilian populations and used “disappearances”—clandestine arrests, kidnapping and murder—as a tactic of terror” (Briggs *Somebody’s* 161). According to Briggs, “some, (like the Ixil-speaking Maya of a remote region of the highlands) were identified as a subversive group, guerilla sympathizers or worse, and targeted for elimination” (*Taking* 91). Many children were either killed or sent for intercountry adoption, while a few were adopted within the country, but

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<sup>54</sup> The illegal manufacturing of paperwork claiming a child is an orphan available for adoption, when they are not in fact an orphan, but have living parents and extended family.

<sup>55</sup> See CBC The Current “They Were Adopted As Orphans. It Was a Lie”. 28 Sept 2023. Accessed 4 Oct 2023.

<https://www.cbc.ca/listen/live-radio/1-63-the-current/clip/16012367-they-adopted-orphans-it-lie>

Also CBC The National “Korean ‘Orphans’ Uncover The Truth About Their Adoption History” 27 Sept 2023.

Accessed 4 Oct 2023.

<https://www.cbc.ca/player/play/2267728451832>

away from their Indigenous culture and language “to prevent the creation of another generation of “reds” (161).

## GUATEMALA

Guatemala is known to have had the worst anti-communist civil war in terms of the number of people killed and disappeared (Briggs *Somebody's* 178). And, adoption was one way in which these disappearances occurred. Of the 17,883 adoptions that took place between 1997 and 2004, only 500 were domestic adoptions—less than 3% (Monico 513). Transnational adoptions from Guatemala ended in 2018, but not before thousands of children were sent to homes in the U.S. and Canada. It is estimated by the U.S. State Department that between the 1990s and the mid-2000s, tens of thousands of Guatemalan children were adopted in the United States and internationally—30,000 to the U.S. alone (Acevado 1).

Karen Dubinsky notes that after the peace accords were signed in 1996, adoptions in Guatemala “almost doubled, from 731 children in 1996 to 1,278 in 1997...[and] by 2006, 4,918 children were adopted internationally, making Guatemala the country with the highest per capita transnational adoption rate in the world” (*Babies* 108). According to Briggs, since the peace accords, the civic process of building peace is still ongoing. The now-grown children who were kidnapped are still searching for their families and communities, while parents and relatives keep looking for them” (*Taking* 92).

In 2010, The Comision Internacional contra la Impunidad (CICIG)<sup>56</sup> investigated 153 cases of “adoptable” Guatemalan children and found that 78% of these adoptions violated international

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<sup>56</sup> See International Commission Against Impunity in Guatemala: Report on Players Involved in the Illegal Adoption Process in Guatemala Since the Entry Into Force of the Adoption Law (Decree 77 -2007). Accessed 5 Oct 2023. <http://cicig.org>

law (Monico 510). The CICIG found numerous irregularities: “including negative DNA tests, false identities of alleged birthmothers, children rescued from a sale and still given up relinquish [sic] for adoption, children with false identities, fake birth certificates ages inconsistent with forensic tests, among others” (Monico 516). One adoptee, Mariela Sifonte, now 31, grew up in Belgium and was able to find her Guatemalan mother in January 2018—“that's when Sifonte learned she had been stolen from the hospital as a newborn. Her mother had been told her baby died during birth. When Sifonte's mother asked for the body, the hospital told her it had already buried the baby” (Acevado 1).

Trafficking of children for adoption in Guatemala continued into the new millennium. Carmen Monico undertook an ethnographic study of Guatemalan women who had been victims of child traffickers for the purpose of adoption in 2016. Monico found that prior to the theft of their children, the majority of women were socially vulnerable, low income, of Indigenous origins, and lacking knowledge of their legal rights, “which made them vulnerable to the abduction and trafficking of their children and their subsequent irregular adoptions” (514). In 2016, Juana, an Indigenous woman, had her daughter stolen from her home: “Juana mostly spoke a Mayan language prior to the theft of her daughter by traffickers. She had difficulties reporting the child’s theft to the police, who instead of helping her, accused her of selling her daughter for money... (Monico 515). Monico reports that eventually Juana found a photo of the child she identified as her daughter in the migration files and learned that her daughter was in the U.S. She underwent a DNA test, however a similar test was not done for the child she identified as her daughter, so the case remains unresolved (515). Also in 2016, another Guatemalan woman, Maria, left her six-month-old baby in the care of her mother when she went out to do some errands. Maria returned home to find that her mother had been drugged and the baby taken.

Maria engaged in a long search for her daughter but was unable to find her (515).

Monico reports that multiple forms of victimization have been perpetrated against the mothers of Guatemala and have been documented along with various forms of oppression that have been verified resulting in the “loss of their health and quality of life...shame and guilt, cumulative stresses and many losses” (518).

## COLOMBIA

Adoptions from Colombia began in the 1970s when the country was mired in political violence, interstate conflict, and poverty (COIA 80). Prior to 1975, adoptions from Colombia were private—with no government controls. Adoptions were handled through a notary who simply registered the child under a new name at the registry office (COIA 70). After 1975, adoptions became a more regulated process through the *Instituto Colombiano de Bienestar y Familiar* (ICBF). From the 1960s to the 1990s over 50,000 adoptions from Colombia to western nations took place (Branco & Cloonan 82).

One of the key sources for irregularities in Colombian adoptions is the study undertaken by the Netherlands, *Commissie Onderzoek Interlandse Lijke Adoptie* (*Commission on the Investigation of Intercountry Adoptions*, (Netherlands COIA), also known as the Joustra Committee. Although Colombia is a States Party to the Hague Convention, evidence of illegal and unethical adoptions have been uncovered (COIA 70). Abuses in adoption practice were undertaken not only by private actors, but also through official state channels and ranged from “document falsification, incorrect payments, bribery, corruption, child trafficking for profit, theft and kidnapping of children, and having children relinquished under duress” (COIA 82). Some Colombian mothers who were illiterate signed documents to relinquish their parental rights although they had no idea what was included in the paperwork signed (Branco & Cloonan 87).

Susan Branco and Veronica Cloonan studied Colombian adoptees who were adopted during the 1960s to 1990s. They report the displacement of large numbers of people during the civil war along with child trafficking, coercion of mothers, and adoption documentation that was “falsified, sealed, nonexistent, and/or destroyed” which created barriers to accessing identity (82). Transnational adoptees encounter significant barriers in accessing their rights to know their origins as well as fictional adoption origin narratives (80). Branco and Cloonan report that over 50% of the participants in their 2022 study reported “some type of illicit practice in their adoption narratives” (88). One adoptee born in 1991, who found his family in Colombia relates this experience:

anyways, I found her, she immediately asked me if I was OK health-wise...yea they all started coming out of the woodworks and asking me how I am. Am I healthy? Am I OK?...they basically approached her like a day after I was born... they told her that I had some rare heart defect, and that I needed emergency surgery to live...obviously on our side of things here in the U.S. that’s not what shows on paper (84).

Branco and Cloonan found that those illicit adoptions, which were quite prevalent in Colombia, caused an added layer of increased emotional distress to adult adoptees seeking reunification (87).

### **Adoption as a Form of Reproductive Violence**

In *The Handmaid’s Tale*, Margaret Atwood writes about a dystopian society in which fertility is declining and young fertile women are held captive to bear children for sterile upper class wives (Del Balzo & Lake). *This* is reproductive exploitation—and it is not limited to fiction. Marginalized and vulnerable women around the world have fallen prey to the forces of

adoption systems, losing their children to those with greater social or financial capital as a result. Like sexual assault and domestic violence, reproductive exploitation mostly happens behind closed doors, and involves harmful acts perpetrated against women for their fertility.

Since Joss Shawyers' ground-breaking work in 1979, which identifies adoption as a form of violence against women, adoption scholars and activists have explored the ways in which adoption operates or effectively functions as a form of reproductive violence. Reproductive violence is not always specifically categorized as a distinct form of violence, but instead is often more broadly incorporated into what is referred to as gender-based violence, or sexual violence (Chadwick & Mavuso 3). Although obstetrical violence has, more recently, been recognized as a specific form of violence against women (Davis-Floyd & Premkumar), reproductive violence as a category of analysis continues to be obfuscated as sexual in nature (Lavery & de Vos 616). Reproductive violence includes state-level coercion such as, "state policies on reproductive health that constrain, coerce, and impede reproductive autonomy" (Chadwick & Mavuso 4). It should be noted that while Lavery and de Vos provide many examples of reproductive violence, including forced pregnancy, forced sterilization, forced abortion, or forced contraception, the concept of forced adoption<sup>57</sup> is absent in the analysis, a phenomenon not uncommon in feminist discourse within reproductive justice.

A legal focus in international law on reproductive violence as a separate category of violence has only recently emerged and a discourse surrounding the definition of reproductive violence continues. Lavery and de Vos assert that reproductive violence as a distinct category has been

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<sup>57</sup> Adoption coercion has been described by Origins Canada as "any form of overt or covert pressure, manipulation, convincing, force, fraud, human rights violation, or withholding of resources that results in a woman surrendering a baby for adoption".



mostly absent from transitional justice processes, although “there are indications that the reproductive dimensions of violence are starting to emerge more fully in transnational justice discourses and practices” (617). As an example, recent court decisions illustrate a “greater sensitivity” to recognizing reproductive violence as a separate category including the Colombian Constitutional Court decisions in 2019 on forced abortion and forced contraception, and the International Criminal Court (ICC) conviction in a case of forced pregnancy (617).

Rachelle Chadwick and Jabulile Mavuso define reproductive violence as “practices, representations, policy, state, and institutional efforts to coerce, control, punish, diminish, devalue or oppress the reproductive capacities of marginalised peoples” (3). Ciara Lavery and Dienneke de Vos more concisely describe reproductive violence as something that “constitutes a violation of reproductive autonomy, or ...is directed at people because of their reproductive capacity” (616), while Tanja Altunjan makes the following observation:

a violent act can be considered reproductive violence in two scenarios: (1) when the act –objectively harms the victim’s reproductive capacity and thus causes a violation of his or her reproductive autonomy, or (2) when the perpetrator specifically targets the victim’s reproductive capacity and thus – subjectively-intends to cause a violation of the victim’s reproductive autonomy (98).

The consistent theme within these definitions appears to be that of interference with the reproductive autonomy of the person. I would maintain that this should include the ability to keep and mother one’s own offspring. Coercing or forcing a woman to surrender a child for any kind of adoption, I would assert, is a form of reproductive violence that meets the threshold of compromising the reproductive autonomy of the reproducing body.

As illustrated, mothers have had their babies kidnapped, taken at delivery, stolen, sold, and

trafficked (Hermann & Kasper, Monico, Roby). Indigenous mothers have suffered reproductive violence repeatedly, including having their children taken from them through residential schools, forced adoption during the Sixties Scoop, and continuing through social welfare systems (Sinclair, Malone). Women continue to be confined in “baby factories” where they are essentially unlawfully detained, restrained, raped, and physically abused in order to create babies for trafficking (Makinde et al 101). The violence and trauma experienced by natal mothers in adoption practice has been well documented through various parliamentary inquiries. Multiple studies on the mental health impacts of mothers separated from their children by adoption, whether in closed or open systems, or through fraud and unethical practices, illustrate that adoption can in fact, operate as a form of reproductive violence against women (Krahn & Sullivan, March).<sup>58</sup>

### **State Inquiries/Apologies**

With advances gained through the increase of the mobility of people and goods through globalization and technology, human rights abuses and unethical practices in adoption have also increased. In 1990, the United Nations highlighted the problem of illegal and unethical adoptions as well as the adoption of children for commercial purposes (*UN Convention*). In a further study undertaken in 2016 (and reported in 2017), the UN Special Rapporteur examined a wide variety of illegal and illicit practices that continue in both domestic and transnational adoption transactions, including adoptions that result from crimes including the abduction, sale, and trafficking of children, falsification of documents, lack of proper consent, and so on (*UN Illegal*).

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<sup>58</sup> Also see Australian Institute of Family Studies National Research Study, Research Report No. 21, August, 2012, which outlines the major mental health impacts of adoption separation on natal mothers. Also see more studies at Origins Canada. Accessed 6 Oct 2023. <https://www.originscanada.org/adoption-trauma-2/adoption-trauma-studies/>

This report makes several recommendations to improve adoption systems both domestically and transnationally. Most recently in 2022, The UN *Human Rights Joint Statement on Illegal Intercountry Adoption* states that “illegal intercountry adoptions may constitute serious crimes such as genocide or crimes against humanity” (UN *Joint 1*). In addition, various state studies worldwide have uncovered human rights violations, harsh treatment to unmarried mothers, and exploitation within both domestic and transnational adoption systems (see original list in Appendix A).

The victims of such violations have agitated for justice, and although several state inquiries/studies have taken place worldwide, as of this writing, only Australia, Ireland, Scotland, and Flanders have issued government apologies for the forced adoption of the children of unmarried mothers in the postwar decades, and the confinement of these mothers in residences known as “maternity homes” “homes for unwed mothers”, “homes for girls”, “mother and baby homes”, or “Magdalan Laundries”, throughout the world (Andrews *White* 114). Australia has apologized to Indigenous people for what is referred to as “The Stolen Generations”, much like Canada’s Sixties Scoop.<sup>59</sup>

As noted above, Julia Gillard, the former Prime Minister of Australia, conveyed an apology from the Commonwealth of Australia to those impacted by forced adoption during the postwar decades. This apology was made in front of a large number of mothers and adoptees in parliament at the capital of Canberra on March 21, 2013.<sup>60</sup> In her eloquent speech, which was developed through consultation with natal mothers and adoptees, Gillard received thundering applause along with many cheers from the audience when she stated that,

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<sup>59</sup> Canada has not yet apologized to victims of the Sixties Scoop, but did legally settle with them in 2017 after Sixties Scoop survivors launched a case against the Federal Government.

<sup>60</sup> Commonwealth of Australia Apology. Accessed 10 Oct 2023. <https://www.youtube.com/watch?v=5hVbokTpYeg>

We say sorry to you, the mothers, who were denied knowledge of your rights, which meant you could not provide informed consent. You were given false assurances. You were forced to endure the coercion and brutality of practices that were unethical, dishonest and in many cases, illegal (Commonwealth of Australia, *Attorney-General*).

The fact that the word “illegal” was included in the apology was of great importance to those in the audience, even those who watched worldwide who were survivors of forced adoption—hence the cheering.<sup>61</sup> In her apology to the approximately 60,000 women in Scotland impacted by forced adoption, First Minister Nicola Sturgeon, who offered the apology at Holyrood, stated that “the horror of what happened to these women is almost impossible to comprehend” (Wilcock 1). Sturgeon was referring to the draconian postwar policies and practices of adoption systems that were perpetrated against unmarried mothers and which were similar to those in most western countries including the United States, Australia, New Zealand, Canada, Belgium, Flanders, Germany, and others (Andrews *White* 185).

When the Flanders apology was given, Jo Vandeurzen acknowledged that the apology “did too little, and acted too late to address the interests of both mothers and children”, and that “we must do whatever victims need to help process their grief and to move towards recovery” (Hope 1). In addition, Antwerp Bishop Johan Bonny noted that, “we need to admit that too little attention was paid to the mother and the effect on the rest of her life” (Hope 1). In their government apology, Ireland’s Prime Minister, Micheál Martin stated that, “On behalf of the government, the state and its citizens, I apologise for the profound generational wrong visited

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<sup>61</sup> I viewed the apology remotely along with many mothers in Canada, and all were electrified by the use of the word “illegal” in the statement because we knew illegal acts had taken place and we were both astounded and gratified that the government openly acknowledged this in the apology.

upon Irish mothers and their children who ended up in a mother and baby home or a county home”. He continued,

in apologising, I want to emphasise that each of you were in an institution because of the wrongs of others. Each of you is blameless, each of you did nothing wrong and has nothing to be ashamed of...the lack of respect for your fundamental dignity and rights as mothers and children who spent time in these institutions is humbly acknowledged and deeply regretted (State Apology 2).

Inquiries continue to uncover the illegal, unethical and human rights abuses in adoption systems, and activist groups such as Movement for an Adoption Apology UK, and Origins Canada persevere in their efforts to obtain government apologies for inquiries already completed in the UK and Canada.

The adoption expert panel into transnational adoptions which began in 2021 and was headed up by the Health Minister in Belgium resulted in the following statement by Flemish Health Minister Wouter Beke on February 10, 2023: “we are examining the situation with regard to high-risk countries, and for those countries we shall press the pause button” (Belga 1). Media attention on the countries of Guatemala and the Democratic Republic of Congo (DRC) put pressure on the government to pause adoptions from these countries. Abdula Libenge is a father in rural DRC who sent his daughter to the capital of Kinshasa in 2015 on what he thought was a holiday camp—his daughter never returned. She was trafficked into an orphanage and subsequently adopted by a Belgian family (Liang 2). Suriya Moyumbe, a mother whose child was also trafficked in the same way explains that “my husband’s family blames me for giving her away for that holiday. I should never have done that. But we all thought it was a great opportunity” (Liang 2). The public prosecutor from Belgium had found through his

investigations, that the families of children adopted from the DRC were still alive and that their children had been taken from them through child trafficking (Liang 2). Another adoptee tells the story of being born in Guatemala in 1986. Her mother took her home from hospital, but she became ill a few days later. Her mother brought her back to the hospital, but the baby disappeared. Her mother was ultimately told that she had died and that her body had already been buried in a communal grave. In fact, she had been illegally trafficked by transnational adoption to Belgium. After becoming an adult and after an eight-year search, this adoptee found her Guatemalan mother and father (Intercountry Adoptee Voices ICAV).<sup>62</sup>

On April 3, 2019, Prime Minister Charles Michel of Belgium apologized to thousands of transracial children for the segregation, kidnapping, deportation, and forced adoptions from its former African colonies, including Birundi, Congo (DRC), and Rwanda, to Belgium (Schreuer 1). Racial segregation had been a mainstay of Belgian colonial rule. Children born from a Congolese mother and a Belgian father were considered to represent an abuse of the law and shipped away, because they were regarded as a threat to the colonial enterprise (Paravicini 1). Charles Michel recognized those impacted as victims under Belgian colonial rule. Also, as part of the apology, the Prime Minister said, “I also wish to express compassion for the African mothers, from whom the children were taken” (Schreuer 1). One group, Métis de Belgique, is still fighting for their rights to obtain Belgian nationality (1). To date, Belgium’s apology is the only one that has been offered for the transnational movement of children for forced adoption.

Another receiving country, The Netherlands, set up an independent committee on April 18, 2019 under the direction of the Minister for Legal Protection, Sander Dekker to research the systems of international adoption in that country. This was informally called the Joustra

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<sup>62</sup> See Adoptee Voices. Accessed 10 Oct 2023. <https://intercountryadopteevoices.com/individual-stories/stories/>

Committee, after the Committee Chairman, Tjibbe H. J. Joustra. The Joustra committee completed their investigations and in 2021 concluded that:

for years the Netherlands had not acted forcefully enough against wrongdoings in adoptions into the Netherlands, because it was felt that these adoptions were ‘the right thing to do’. There was forgery of documents, child trafficking, fraud and corruption...Minister Dekker suspended adoptions from abroad (Government of the Netherlands, News Item, June 4, 2021).<sup>63</sup>

In 2022, Minister Dekker stated that adopting a child will still be possible from the following countries: Philippines, Hungary, Lesotho, Taiwan, Thailand and South Africa (Government of Netherlands, News Item, 11 February 2022).

In South Korea, The Truth and Reconciliation Commission of the Republic of South Korea is currently investigating, among other historical wrongs, the illicit manufacture of orphans sent abroad for transnational adoption. A one-year extension of the commission was granted in January 2024 to further examine human rights violations pertaining to the falsification of child origins during the adoption boom of the 1970s and 1980s (Tong-hyung).

Human rights violations in transnational adoption have also been revealed with respect to the United Nations Convention on the Rights of the Child (CRC 1990), The Hague Convention on Protection of Children in Respect of Intercountry Adoption (HCCH 1993), and the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979). As referred to earlier, during the 34th session of the United Nations Human Rights Council in March 2017, the Special Rapporteur on the Sale and Sexual Exploitation of Children

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<sup>63</sup> See Against Child Trafficking. Accessed 21 Oct 2023.  
[https://www.againstchildtrafficking.org/wp-content/uploads/ENG\\_Translation\\_COIA\\_Report.pdf](https://www.againstchildtrafficking.org/wp-content/uploads/ENG_Translation_COIA_Report.pdf)

presented the findings of a 2016 study on illegal adoptions, which stated that:

Adoptions resulting from crimes such as abduction and sale of and trafficking in children, fraud in the declaration of adoptability, falsification of official documents or coercion, and any illicit activity or practice such as lack of proper consent by biological parents, improper financial gain by intermediaries and related corruption, constitute illegal adoptions and must be prohibited, criminalized and sanctioned as such. Illegal adoptions violate multiple child rights norms and principles, including the best interests of the child, the principle of subsidiarity and the prohibition of improper financial gain. These principles are breached when the purpose of an adoption is to find a child for adoptive parents rather than a family for the child. (United Nations *Illegal*).

Here the Special Rapporteur refers to adoptions that are primarily initiated to find a child for prospective adoptive parents as adoptions in which child rights are violated.

The voices of mothers of transnational adoptions are still mostly subjugated, and are only slowly emerging, mostly through the work of adult adoptees (many Korean) in the west through critical adoption studies. Various state studies have uncovered the voices of the mothers of the post-war adoption mandate along with illegal, unethical and human rights abuses within various sending countries, and, although the Hague Convention has sought to provide a framework to regulate transnational adoption, it continues to be somewhat ineffective. And, even as we begin to acknowledge the legacy of residential schools and the Sixties Scoop, child welfare systems continue to violently separate Indigenous mothers from their newborn babies and children today (Malone).

As the struggle for reproductive justice continues, feminist scholars within the reproductive



justice movement must seek to include adoption systems within what Rachelle Chadwick refers to as a wide range and lived experiences of reproductive exploitation and violences that are routinely practised, normalized and invisibilized in many parts of the world (9). In the next chapter, I will explore how the feminist concept of reproductive justice can be applied to adoption systems, and how this concept can operate to improve the lives of women and children who continue to be oppressed and exploited by such systems, whether by so-called choice or through illegal and unethical means.

## **Chapter Four**

### **ADOPTION: THE UNFINISHED BUSINESS OF REPRODUCTIVE JUSTICE THEORY**

Dominant narratives of adoption as a right and the normalisation of multi-faceted aspects of interlocking oppressions embedded in adoption practice and culture both domestically and transnationally provide an entry point for feminists to apply the lens of reproductive justice. The theory of reproductive justice was developed in response to the matrix of reproductive oppression and violence that is produced by inequalities through gender, race, class, sexuality, ability, and nationality within the reproductive realm. Reproductive justice theory takes a broad view that provides scholars with a framework that includes the right to have a child and to mother that child in a safe and sustainable community (Ross & Solinger 9). Although the concept of reproductive justice is rooted firmly in feminist theory due to its foundation which is entrenched in intersectionality, human rights, social justice, and interrelated oppressions, a disconnection remains between the theory of reproductive justice and adoption systems (Sisson). Indeed, a cursory look at reproductive justice literature reveals that the institution of adoption is rarely mentioned in analyses of the otherwise multi-faceted concept.

This chapter not only offers a brief critical analysis of the tenets of reproductive justice theory as defined by its Black feminist founders, but also an analysis of the omission of adoption systems within reproductive justice theory. Further, I engage with reproductive justice in order to explore how reproductive justice theory can provide scholars with a tool, a framework, to deconstruct the reproductive oppression that is inherent within adoption systems. In this chapter, I locate the institution of adoption within the theory of reproductive justice in order to 1) forefront adoption within reproductive justice theory, 2) to create space for analyses of reproductive exploitation/violence within adoption systems through a reproductive justice lens

and, 3) to apply reproductive justice theory to provide improved reproductive outcomes for the mostly racialized and marginalized women who are impacted by adoption systems in various contexts. With the application of a reproductive justice framework that interrupts, resists, and critiques modern adoption culture rooted in a human rights foundation that places marginalized communities and women at the centre of analysis, improved reproductive outcomes can be achieved.

### **What is Reproductive Justice?**

According to Loretta Ross and Rickie Solinger, reproductive justice is not only a contemporary framework for activism, but also a “political movement that splices *reproductive rights* with *social justice* to achieve *reproductive justice*” (9). Influenced and inspired by a human rights framework, the theory of reproductive justice was developed in 1994 by Black feminists and was expanded and deepened by the organization SisterSong.<sup>64</sup> Reproductive justice represents a departure from the earlier pro-choice structure of reproductive rights in that it moves beyond the limited emphasis on abortion rights to include reproductive exploitation and oppression as well as motherhood and parenting. Loretta Ross explains that the shift from reproductive rights to reproductive justice, “shift[ed] the focus to reproductive oppression—the control and exploitation of women, girls and individuals through our bodies, sexuality, labour and reproduction, rather than a narrow focus on protecting the legal right to abortion (*What Is* 4). The Black feminists that developed reproductive justice theory observed that the issue of ‘choice’ as articulated by white feminism focused entirely on preventing conception and motherhood, which on its own did not adequately reflect their lived experience. Instead they

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<sup>64</sup> SisterSong is a Black Feminist organization. Accessed 23 Nov 2023. <https://www.sistersong.net/reproductive-ce>

argued that reproductive dignity included the right to have and parent a child, not just to prevent conception (Ross & Solinger 55). This meant that motherhood and parenting were ostensibly back on the feminist agenda even as mothers remain on the margins of mainstream feminist theory and practice.

As the theory of reproductive justice is not limited to pro-choice debates, it leads to scholarship and activism that instead attends to the ways in which inequality is reproduced through intersecting systemic oppressions that harm, restrain, and stratify women's reproductive choices, thereby impacting reproductive outcomes (Ross). In contrast to reproductive rights or pro-choice movements, Loretta Ross articulates that "reproductive justice is neither an oppositional nor a peace-making ideology; it is an emergent radical theory that recasts the problem using a human rights framework" (*Radical* 13). So then, the theory of reproductive justice goes beyond pro-choice debates and is rooted in human rights, which allows for a broader scope than abortion rights.

### **About Rights**

Liberalism is a political ideology that centres upon the individual who is thought of as possessing rights against the government, including rights of due process under the law, equality of respect, freedom of expression and action, and freedom from religious and ideological constraint (Oxford Dictionary). The concept of human rights flourished in the mid-twentieth century after WWII with the culmination of the Declaration of Human Rights in 1948. Rights based movements during the latter part of the twentieth century were successful in creating social change.<sup>65</sup> In an analysis of Foucault, Ben Golder claims that, "all manner of claims for justice social and transitional, individual and communal—are made in the name of rights, channelled

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<sup>65</sup> For example, Women's rights, Civil rights, and LGBTQ+ rights

through their particular juridico-institutional avenues, stamped with their moral imprimatur” (2). Some scholars assert that the discourse of rights is “less useful in securing progressive social change than liberal theorists might assume”, while others suggest that “the language of rights assists in articulating standards to which people aspire without pretending to have found the ultimate and unalterable truth...people use rights and claims to particular freedoms or entitlements to refer to what they perceive as their due, even when the formal legal apparatus has not acknowledged or approved of those perceptions” (The Bridge 1,7). Although the concept of rights might be perceived as problematic by some scholars such as Foucault and many Queer theorists, the grass roots articulation of rights can serve as a locus to spark an entire movement leading to social change.

Reproductive justice rests on both positive and negative rights in that reproductive justice “simultaneously demands a negative right of freedom from undue government interference, and a positive right to government actions in creating conditions of social justice and human flourishing for all” (Luna & Luker 328). So then, within a reproductive justice framework, women are fully supported in their reproductive choices and decisions free of coercion and government interference, but at the same time, entitled to state supports for those choices. The rights as expressed by the reproductive justice movement may also butt up against competing rights when considering such rights through the lens of adoption systems.

Ross and Solinger write that, “at the heart of reproductive justice is this claim: all fertile persons and persons who reproduce and become parents require a safe and dignified context for these most fundamental human experiences” (9). *Today*, the key principles of reproductive justice are, “the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities (SisterSong1).

Here, *today* is emphasized, because the tenets of reproductive justice have evolved and changed since their original inception. Although the “right’ to have a child has recently shifted to “the human right to maintain personal bodily autonomy, have children, not have children,” it could be argued that the meaning of the rights as articulated is effectively the same, while the definition and meaning of the third tenet of reproductive justice has changed significantly over time. As an example, in 2006, Loretta Ross articulated the tenets of reproductive justice as “(1) the right to have a child (2) the right not to have a child; and (3) the right to parent the children we have, as well as to control our birthing options, such as midwifery” (*Understanding* 14). In 2017, Ross and Solinger continue to include ‘rights’ in their definition “(1) the right *not* to have a child; (2) the right to *have* a child; and (3) the right to *parent* children in safe and healthy environments” (9). Again in 2017, Loretta Ross defines reproductive justice as “(1) the right to have a child under the conditions of one’s choosing; (2) the right not to have a child using birth control, abortion, or abstinence; and (3) the right to parent children in safe and healthy environments free from violence by individuals or the state” (*Reproductive* 290). These two definitions have virtually the same meaning, although the most recent version removes ‘rights’ per se and uses a preamble instead which is stated above beginning with “the human right to retain bodily autonomy...” (SisterSong1).

A more important distinction is that earlier in its inception, the third tenet of reproductive justice had echoed Patricia Hill Collins concerns on behalf of racial ethnic mothers—the right of “keeping the children born to you” (O’Reilly *African* 97). Since then, the word “parenting” has been added and “keeping” discarded—two very distinct concepts in that a biological child is not always parented by its biological parents. Changes over time were likely due to the organic evolution of the theory as the principles of reproductive justice evolved.

The framework of reproductive justice analyzes how conditions in a woman's community impact her ability to determine her own reproductive destiny (Sister Song). Loretta Ross suggests that there are three main frameworks for implementing reproductive justice: 1) reproductive health that attends to the service delivery of women's health, 2) reproductive rights that address the legal framework of reproductive freedom and, 3) reproductive justice, building a movement based on human rights (*Radical* 15). Although conceived primarily by Black feminists, Loretta Ross articulates that reproductive justice theory, analysis, and practice is not exclusive to women of colour and that reproductive justice must be an inclusive movement in order to drive and achieve social change (*Understanding* 15).

### **Intersectionality: The Root of Reproductive Justice**

Kimberlé Crenshaw's influential work in 1989 introduced the concept of intersectionality, the idea that intersecting vectors of oppression impact the lived experience of women. Crenshaw observes that, "one's location in multiple socially constructed categories affects one's lived experiences, social roles, and relative privilege or disadvantage" (139). Through this groundbreaking work, Crenshaw inspired feminist scholars to begin to analyse the multiple and interrelated oppressions that socially construct one's social location. Intersectionality has become a principle within feminist research methods, and a flourish of papers have contributed to the power and implications of intersectionality as a concept. According to Ross & Solinger, the concept of intersectionality has become one of the most significant Black feminist contributions to feminist theory and practice (74).

Catharine McKinnon suggests that instead of adding variables or thinking specifically about intersecting categories when theorizing intersectionality, we need to think differently, or as Crenshaw stated to "think "intersectionally"—to be acutely aware of people, experiences, and

social dynamics that are often overlooked” (1019, 1023). On the twentieth anniversary of the ground-breaking paper in which she coined the term, Crenshaw was interviewed about the direction of the concept of intersectionality. Crenshaw explains:

Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and insects. It’s not simply that there’s a race problem there, a gender problem here, and a class or LBGTQ [sic] problem there. Many times that framework erases what happens to people who are subject to all of these things (1).

So then, to use intersectionality in reproductive justice work, we have to think differently. It is not simply about different categories of gender, race, sexuality etc., but more about uncovering the power systems that generate oppression unequally, or where and how the power collides with lived experience. As an example, a Black woman who is pregnant and experiencing homelessness may be simultaneously impacted by a multiplicity of oppressions that overlap and interact with one another, such as racism, poverty, violence, gentrification, adoption systems, and so on. The theory of reproductive justice is firmly rooted in the concept of intersectionality in that it identifies “how reproductive oppression is the result of the intersection of multiple oppressions and is inherently connected to the struggle for social justice and human rights” (Ross & Solinger 69). Despite the emphasis on intersectionality as a process for reproductive justice, adoption has remained in the margins of reproductive theory and scholarship.

### **Reproductive Justice and Adoption in the Margins**

In earlier chapters, I discussed the marginalized women who are unequally oppressed by adoption systems, as well as the illegal, unethical and human rights abuses within such systems that oppress certain women both domestically and transnationally. And, after identifying the



power systems at play within the institution of adoption through state studies and apologies that validate the lived experience of these women, I would expect to find the institution of adoption to be included within *reproductive* justice theory. However, there is very little scholarship in the field. It is hardly mentioned by Black feminists, who are the founders of this theory. Since adoption is a negative reproductive outcome for marginalized women and girls, mostly of colour, why the omission? Also, considering the fact that the principles of reproductive justice include the right to motherhood and parenting, it seems a notable omission that the mothers who are most susceptible to losing their children to adoption systems due to intersecting social vulnerabilities would not be included.

Apart from emerging critical adoption scholars, many of whom are Korean adult adoptees who view adoption through a reproductive justice lens, adoption remains on the margins of the broader feminist reproductive justice project. One example is the notable exclusion of an adoption analysis in Ross & Solinger's foundational introduction to reproductive justice in 2017, which contains one paragraph on the topic (201). One critical adoption scholar, Tiffany Hyeon-Brooks, recalls how she was the only speaker on adoption at a reproductive justice conference as recently as August 2022, "Going in, I honestly didn't know what to expect. I remember realizing there were no other adoption-centred sessions" (quoted in Vásquez 3).

Critical adoption scholar Kimberly McKee uses the model of reproductive justice as a method to locate adoption within feminism. While highlighting the inequities of adoption and the privileging of white adoptive mothers, McKee centres reproductive justice as a lens from which to discuss issues within the areas of bodily autonomy, reproductive technologies, and reproductive destinies; and disrupts narratives of adoption as a form of child rescue and humanitarian practice. McKee appeals to feminist scholars and members of the adoption

community to re-think adoption's intrinsically unjust structure; suggesting that interrogating adoption through a reproductive justice lens "exposes how the reproductive destinies of white, American adoptive parents are privileged at the expense of birth parents and mothers of colour in cases of both domestic and international adoption" (75).

Critical adoption scholar Sung Hee Yook uncovers the voices of natal mothers in transnational adoption through their writings, highlighting what they view as "65 years of child displacement and reproductive injustice" in adoptions from Korea, where transnational adoption has been used as a replacement for domestic social welfare programs (3). Hosu Kim also explores the lived experience of mothers within the context of transnational adoption in South Korea. Kim describes her work as an "archive of voices and actions in resistance and alliance with one another through which to foster a vision of reproductive justice on a global scale" (*Transnational 2*). Through Kim's work, lives are valued that have been considered in adoption to be valueless—the lives of natal mothers in adoption.

Critical adoption studies scholar Gretchen Sisson illustrates the disconnection between the reproductive justice movement, feminism, and the adoption activist community. Sisson recalls a keynote speech given by Leslie Pate MacKinnon (a well-known adoption reform advocate, and a mother separated from her child through adoption) at the American Adoption Congress in 2014, where MacKinnon stated, "The feminist movement that let us down before? Well, it's called reproductive justice now. And I want in!" (Sisson, *I Want 1*). This exemplifies the ongoing struggle for acknowledgement of adoption as a feminist and reproductive justice issue. Drucilla Cornell asserts that there has been little sympathy for natal mothers on the part of feminists within adoption. In a conversation about these mothers and the 'feminist press', she writes,

...members of the various birth mothers' associations have tried to publish

for years without success. These organizations have accused feminists of favoring adopting mothers, either because they are adopting mothers themselves or because, like the public in general, they have disdain for the birth mother who gave up her baby (556).

The institution of adoption is a notable omission within the mainstream reproductive justice (and overall feminist) agenda, although this is slowly changing with the emergence of critical adoption studies. Access and support for reproductive choice within the stated aims of reproductive justice and within the feminist project is clear, but not in the context of adoption. The historical silence on adoption not only within the feminist realm, but also within reproductive justice literature might be understood, as the institution of adoption presents a clear political and cultural dilemma that remains a significant tension within feminist circles.

### **The Scope of Reproductive Justice Theory**

The theory of reproductive justice takes a broad view that provides scholars with a multi-faceted framework that interconnects the reproductive lives of women on a number of fronts, including immigration, incarceration, gentrification, education, schools, affordable housing, migration, militarization, and environmental degradation (Ross & Solinger 73, 169). These elements become sites for activism and scholarship as they shape the third tenet of reproductive justice theory—the right to parent in safe and healthy environments (170). Thus, the reproductive justice framework provides wide latitude for scholars to theorize adoption within feminism.

Loretta Ross writes,

Because reproductive justice praxis and theory accounts for diversity and differences among people and avoids essentialism, it examines multiple experiences of injustice and subordination. Its ambiguity, flexibility, and open-

endedness provides a heuristic and evolving approach revealing insights about multiple and intersecting individual and group experiences by examining the webs of social structures that affect reproductive decision making (*Intersectional Feminist Activism* 300).

As Ross articulates, reproductive justice examines multiple and intersecting oppressions through social structures that impact reproductive decision making. It is astonishing that this exceptionally broad scope that encompasses multiple factors impacting reproductive choices and outcomes still leaves out adoption. It's almost like the scope of reproductive justice theory includes everything (including the kitchen sink), but not adoption, which ironically, is directly related not only to reproductive oppression, choice, and outcome, but also impacts mostly marginalized and women of colour.

### **The Right to Have a Child**

The idea that individuals have a 'right' to a family originates with the Universal Declaration of Human Rights of 1948 which states in Article 16 that: "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family" (Universal Declaration of Human Rights). In 1948 this statement referred to traditional nuclear families created by married heterosexual men and women through biological children, or adoption, which as noted previously was prevalent at the time, the majority of babies originating from unmarried mothers. Queer led and alternative families were not visible in 1948 and were not granted such rights as such. Assisted reproductive technologies (ARTs) were unavailable as were modern treatments for those experiencing infertility. In 1948, forming a family by human rights standards meant that heteronormative couples either gave birth, or adopted. Does this right, as articulated in 1948, when the formation of families was restricted to biological birth or

adoption, stand scrutiny as a right by contemporary standards?

The concept of a ‘right to *have* a child” (my emphasis) as proffered by reproductive justice theory, or the ‘right to found a family’ as stated by the Declaration of Human Rights, are rights that could be construed as problematic. These might be interpreted as both or either the right to give birth (*have* a child) and become a mother, or the right to *have* (be in possession of or obtain) a child. These are very different concepts. The right to give birth might be described as a human and reproductive right premised on bodily autonomy that provides an individual the choice to become pregnant, continue with a pregnancy, and to give birth, hence the right to have a child and become a mother. The right to *have* a child/found a family could also suggest a right to adoption, which is independent of, and potentially at odds with the right of bodily autonomy for natal mothers given the other principles of reproductive justice. So, although the right to have a child in common parlance usually signals natal motherhood, in the context of reproductive justice it may be ambiguous. For instance, Ross & Solinger observe that: “reproductive justice activists believe that motherhood is a human right” and that, “no right can achieve the status of a human right if it doesn’t apply to all people” (185). This is in contradiction to the preamble surrounding bodily autonomy as a principle of reproductive justice since the right of motherhood for *all* people does not necessarily overlap with bodily autonomy, especially insofar as motherhood can be performed by any person. In light of this, it is unsurprising that the principles of reproductive justice continue to evolve over time simply because of the complexity of interpreting human rights for *all* people as they pertain to *having* a child.

Applying the right to motherhood to all people, as articulated by the principles of reproductive justice, might be viewed as a site of tension for adoption reform activists, considering that adoption systems are still providing children to form families. While it is

recognized that the right to have a child as proffered by reproductive justice theory is rooted in resistance to the oppression of Black and de-legitimized mothers who have been subject to enslavement, sterilization, limited reproductive choices, colonialism, and children overrepresented in child welfare systems, ironically it is precisely these mothers who continue to lose their children to adoption systems to fill the order of those who invoke their ‘right’ to form a family. Also ironic is the fact that this ‘right’ is unevenly distributed to those who are predominantly white and privileged, while reproductive justice is rooted in Black feminism and oppression.

Although motherhood is a locus of empowerment for Black mothers as reflected in the tenets of reproductive justice, the institution of adoption has not been a key element of the movement. Uncovering the reasons for the exclusion of adoption within reproductive justice theory is difficult. One reason might be that reproductive justice was conceived by Black feminists as a result of reproductive exploitation and oppression that have been experienced by the Black community therefore, “placing the ideas and experiences of women of color in the center of analysis [that] requires invoking a different epistemology” (Ross *Shifting* 48). The focus by Black feminists within reproductive justice theory on the right to have a child is rooted in, and takes into account, conditions of slavery, eugenics, sterilization, forced birth control, and other reproductive issues (Ross & Solinger). For many Black mothers therefore, the experience of mothering/motherhood is closely linked to the concerns of the racial ethnic community which due to the legacy of enslavement, includes the struggle to keep one’s children, the practice of othermothering, and the fight for the survival of Black children and the Black community in what can often be harsh urban environments (*Shifting*). Although Black children comprise the majority of children apprehended by child welfare systems and often become subjects for

adoption, adoption is not widely utilized as a parenting choice by Black mothers (Roberts *Feminism* 42). According to Nicholas Zill of the Institute for Family Studies who studies race in adoption statistics, only 9% of adopted kindergarteners were Black in 2011 (1). And, although the practice of othermothering is often utilized within Black communities, formal plenary adoption—the final and legal termination of the mother-child relationship, has remained on the margins as Black women strive to do motherwork that preserves their community (Collins *Shifting* 48). Black, single, adoptive mother, Nefertiti Austin suggests that there are few Black adoptions by the Black community from the child welfare system. In a radio interview she states that:

Essentially black people tend to adopt people we know. So we are seeking a point of reference. We adopt within our families. So typically we start there—nieces, nephews, cousins, extended family members. We have a very large Christian faith in our community. That's very important to us (Mosley).

In the book *Motherhood So White*, Austin writes about her experience of adopting a child, and asserts that white middle-class meanings of normative motherhood dominate the genre of motherhood memoir, therefore subjugating the voices of Black mothers. Deesha Philyaw concurs, and articulates “how the absence of Black mommy memoirs mirrors the relative absence of Black women’s voices in mainstream U.S. media discourse about motherhood in general” (1). The silencing of the experiences of Black women who either place a child for adoption, or adopt, may be a contributing factor to the exclusion of adoption as a marginal topic within reproductive justice theory. It may also be that such adoptions are infrequent in the Black community. Further, the tensions created by the complexity of adoption practices in relation to the feminist location of motherhood as essentialist or socially constructed, may also contribute to

the reason that it is left out of reproductive justice scholarship by feminists generally.

The competing rights of forming a family with the children of others against the human rights of a youth or woman to mother her child creates a formidable tension within reproductive justice theory, especially because liberal feminism generally takes a pro-adoption stance due to its support of the ‘right’ to form a family. According to Ross & Solinger, reproductive justice “maintains that people should be able to have the number of children they want, when they want, in the way they want to have them” (170). Using this example, a couple experiencing infertility might say, “we want ten children”. According to reproductive justice theory, which purports to be based on human rights, this couple should be able to do so. But, as previously stated, children still come from the bodies of women (or transpeople) so how can this be achieved? How can this so-called right be operationalized without considering the human rights of marginalized, resourceless, and mostly racialized women—which is antithetical to reproductive justice theory? Again, I am moved to ask, “From which body?” and “Who benefits?”

### **Adoption - A Matter of Reproductive Justice**

Intersecting power systems impacting reproductive oppression have not been an essential point of analysis within women’s reproductive histories (Stettner et al 307). According to Stettner et al, the “reproductive justice framework challenges us to explore the divergent reproductive experiences of women based on issues of class, ethnicity, race, language, ability, age sexual identity, religion and relationship status, among other factors” (308). Reproductive health and outcomes of women and girls are “intricately tied to their cultural, social, economic, and political locations” (Eaton 208). This provides critical adoption scholars with multiple points of entry into reproductive justice theory in the context of adoption systems.

As previously outlined, reproductive oppressions, exploitation, and constraints created by and



emanating from multiple and concurrent interlocking power systems often lead to adoption for racialized, unsupported, and resourceless women. The matrix of structural barriers experienced by marginalized and racialized women in accessing their rights within a reproductive justice framework may include, gender discrimination, racism/white supremacy, imperialism, settler colonialism, capitalism, patriarchy, and globalization, all of which are vectors of power that are interrelated and that interconnect with adoption systems (Stettner et al 307).

Issues of class and white supremacy are relatively silent in analyses of adoption. The term “white supremacy is employed to describe the structural inequalities that result from and reinforce the continued supremacy of whites over non-whites” (Stettner et al 307). Systems of power rooted in white settler society uphold certain structures that allow certain groups (white) to accrue unearned privilege over others (Stettner et al). This privilege in turn, allows for the reaping of children of Indigenous, racialized, and economically disadvantaged mothers by white families through adoption systems as “domestic Canadian and US child welfare systems are deeply embedded in systems of structural racism and classism” (Wexler et al 3). White supremacy is the foundation of adoption systems as infants and children are mostly adopted into white middle-class families in the west.

The power systems that underpin racism and classism render women of colour and those who are economically disadvantaged more vulnerable to having children removed (Wexler et al 3). While Indigenous, Black, and children of colour are highly represented in child welfare systems, white people are overrepresented in the population of foster and adoptive parents (Wexler et al 4). This allows white prospective adoptive parents to benefit from Indigenous, Black, and parents of colour who remain stigmatized, subject to a hyper-disciplinary gaze, and denied material resources that would enable them to raise their children in supportive environments as posited by

the third tenet of reproductive justice.

The study of whiteness argues that “a critical look at white privilege, or the analysis of white racial hegemony, must be complemented by an equally rigorous examination of white supremacy, or the analysis of white racial domination” (Leonardo 137). In other words, it is the condition of white supremacy that makes white privilege possible. Zeus Leonardo states that,

In order for white racial hegemony to saturate everyday life, it has to be secured by a process of domination, or those acts, decisions, and policies that white subjects perpetrate on people of color. As such, a critical pedagogy of white racial supremacy revolves less around the issue of unearned advantages, or the state of being dominant, and more around direct processes that secure domination and the privileges associated with it (137).

So then, white supremacy within adoption systems is maintained by the processes that secure domination, including systemic racism and the dominant discourse of ‘humanitarian rescue’ of babies and children of colour by white adoptive parents. White adoptive parents often have the ability to pay exorbitant fees, obtain access to legal assistance and advice, and to afford travel, advantages that are only available to those who are economically advantaged. Such processes maintain white supremacy, and ultimately creates white privilege within adoption systems.

Dismantling the white supremacy that results in unearned privilege in adoption systems relies on the ability of those with power within such systems and the adoption transaction itself to be educated about, and understand how whiteness operates, and then to engage in self-reflection in order to recognize and act upon the exploitation that informs their unearned privilege when obtaining a child from a person of colour who may be experiencing various social disadvantages. Here, the infamous words of Audre Lorde “the master’s tools will never dismantle the master’s

house” (Lorde 5) resonate, for as we have learned, those who adopt are predominantly economically privileged and white, and not only benefit from an adoption transaction but often justify it as being in the best interest of a child even when they are aware of irregularities in the adoption process.

White supremacy and settler colonialism has its roots in imperialism. Imperialism is the act of domination of one country over another, the exploitation of human and natural resources, and the exerting of economic, political, and cultural dominion (Wrexler et al). Imperialism is foundational to adoption practice, in particular to Indigenous and transnational adoption,

which overwhelmingly involves the transfer of children of color from poorer families, communities and nations in the Global South to wealthier, white adoptive parents in the U.S. and other Global North countries under the guise of humanitarianism (McKee quoted in Wrexler et al 4).

Viewing adoption as a humanitarian act elides not only the commodification of children within the marketplace of adoption, but also the illegal, unethical and human rights abuses inherent in adoption practice that are entrenched in imperialist exploitation. As an example, countries such as South Korea that have a lucrative transnational adoption program, have been criticized for profiting from the export of their own children and using transnational adoption as a replacement for domestic social welfare programs (Wrexler et al 4).

Each time war, crisis, or natural disasters erupt, pro-adoption entities engage. Demand for adoptable ‘orphans’ during war and disaster has become a routine ‘humanitarian response’. The Korean adoption program began after the Korean War when American servicemen fighting in Korea fathered children that were not accepted into Korean society (Joyce 47). Recently, Korean adoptees from Europe, Australia and the U.S. are demanding South Korea’s Truth and

Reconciliation Commission<sup>66</sup> investigate the circumstances surrounding their adoptions (Olsen 1). Also seen in Haiti after the 2010 earthquake, the border separation of families during the Trump era, the war in Ukraine, and most recently, in Gaza when over 10,000 people signed a Change.org online petition to allow governments to ease rules and regulations so that the children of Gaza can be adopted to the west.<sup>67</sup> When Russia invaded Ukraine, officials worked to prevent separation of families and abuse of children through trafficking and other means,

Almost immediately, however, American adoption service providers, their prospective adoptive parent clients and hosting programs which are not licensed or accredited, began an aggressive campaign to pressure the Congress and the U.S. Department of State to permit Ukrainian children to come to the United States and be adopted (Jacobs & Flatley 1).

Rather than ceasing imperialist exploitation or addressing resource inequities, adoption is portrayed and accepted in western adoption culture as the way to help children—remove them from their country, culture and families (Wrexler et al). According to Jade H. Wexler et al, “true reproductive justice requires completely uprooting systems of oppression and inequity” (12). A major shift in dominant discourse of adoption as a humanitarian act will need to take place in order to dismantle such systems.

In general, adoption continues to be viewed in a positive light, an altruistic act of child saving or rescue in which natal mothers are invisibilized and silenced in order to maintain the adoption

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<sup>66</sup>See CBC News “Paper Orphans”. Accessed 21 Oct 2023.

<https://www.cbc.ca/newsinteractives/features/korea-orphans-adoptions-canada#:~:text=Last%20year%2C%20the%20Korean%20Truth,to%20Europe%20and%20North%20America>.

<sup>67</sup> Adoption of Orphaned/Refugee Children from Gaza. Accessed 21 Oct 2023.

<https://www.change.org/p/facilitate-adoption-of-orphaned-refugee-children-from-gaza-palestine>

myth that fulfills the desires of adoptive parents, supposedly relieves mothers of an unwanted child, and provides adoptees with a ‘better life’ for which they should be grateful (Vásquez 2). Further, the pro-life movement has been successful in conflating adoption with abortion (Andrews *Young*). Disrupting such a powerful dominant narrative that has been embedded and invisibilized in western society, and a narrative that has been approximately eighty-five years in the making, will not be an easy task since, from the early 1940s adoption has been posited as a “win win” for adoptive families, mothers, and adoptees.

Up until the 1990s adoptions were closed, meaning that those separated by adoption had no knowledge of the name or whereabouts of their mother or child, and no contact. Adoption was originally formulated to be an “as if born to” concept, disappearing any trace of natal mothers and families. Owning a child, giving it a new name, rendering its past invisible and unattainable is a human rights violation against the child (UN, *Convention on the Rights of the Child*).

**Article 7** states that:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.

**Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Since the 1990s, the trend has been to more openness in adoption, however, such openness has been illusory, and, as we have seen, continues to perpetuate power differentials between natal and adoptive mothers. Adoption records remain closed or semi-closed in virtually all provinces in Canada and U.S. states (Origins Canada). Preventing an adoptee from obtaining their identity and origin violates their human rights as they have been deprived of elements of their identity as specifically stated in the Convention. This is an oppression and violence that persists in adoption as adoptee and mother activists continue to advocate for transparency in adoption records.<sup>68</sup>

The dominant discourse of adoption as a positive social institution is so strong that even those with lived experience are either not believed or seen as anomalies when telling their stories. As an example, adoptee activists are now coming forward, disrupting the dominant narrative of being special, chosen, lucky, and grateful. However when they do so, much like the “feminist killjoy” Sarah Ahmed examines, they are often seen as “adoption killjoys”. Kimberley McKee, a Korean adoptee and critical adoption scholar explains,

People like Amy Coney Barrett argue that I should be grateful for not having been aborted. Not only that, but they dismiss critiques of adoption forwarded by adoptees, including those of us who are critical adoption scholars, as emanating from a presumably deficient relationship with our adoptive parents. It’s believed that adoptees like me should be happy for our upbringings, because adoption saved us from a far worse fate—being raised by our birth families (*Flipping 2*).

Korean adoptee Tiffany Hyeon Brooks attended SisterSong’s reproductive justice conference in August 2022, and presented a session entitled “An Adopted Person’s Lived Experience at the

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<sup>68</sup> See Origins Canada, Origins America, Parent Finders, Bastard Nation among others.

Intersection of Reproductive Justice, Adoption, and Survivorship” (Vásquez 1). The adoptees present at this session agreed that media reporting must begin to disrupt the “win-win” narrative of adoption “that positions adoptive parents as heroes who are fulfilling their reproductive destinies and adoptees as silent and grateful recipients of a new family” (Vásquez 1).

When natal mothers express their lived experiences they are also seen as adoption killjoys, or as expressing ‘negative’ stories of adoption that they have no right to do. As an example, when Canada’s Senate Committee was in session in 2018 on the topic of how unmarried mothers were subject to the postwar adoption mandate, I received several calls from adoptive parents across Canada expressing anger that a) they were not included in the senate study, and b) that adoption was a “beautiful thing and we should be ashamed of ourselves”, a sentiment expressed to adoption reformer and natal mother Lee Campbell more than forty years ago in 1979 when she made a ground-breaking appearance as a ‘reunited birthmother’ on the Donahue Show.<sup>69</sup>

In framing adoption as a reproductive justice issue, the lived experiences of the key stakeholders—natal mothers and persons adopted must be at the centre, in place of the current dominant narrative that places an intense focus on prospective and adoptive parents and their compelling stories of failed pregnancies, infertility issues, and failed adoptions which permeate the airwaves. I would submit that prospective and adoptive parents are NOT key stakeholders in adoption since they have not been separated from a family member through the adoption process. It is only when we forefront and continue to centre the lived experiences of those separated by

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<sup>69</sup> Lee Campbell is a founder of Concerned United Birthparents (CUB) a US organization that centres the experiences and support for mothers who have been separated from their child by adoption. Lee’s appearance on the Donahue show as a reunited “birthmother” was ground-breaking at the time. Many in the audience felt that she should have remained in shame and in the shadows. Accessed 4 Nov 2023. [https://www.youtube.com/watch?v=qz8LV2\\_DsSM](https://www.youtube.com/watch?v=qz8LV2_DsSM)

adoption—mothers and their children—that we can start to create change in the dominant adoption narrative, perceptions, and ultimately practice, leading to improved reproductive futurities.

This will not be an easy task, however, as adoption myths and culture continue to be deeply embedded in our society,

“What about people who are infertile or older or LGBTQIA+?” That question comes up a lot in conversations around adoption. I would never say these populations shouldn’t have the right to create their own families, but everything I know about the modern adoption system pushes me to question adoption as the solution. I can understand why that’s hard to talk about. The reality is this is a system that perpetuates a lot of harms and inequities. I think we need to grapple with that. (Vásquez 3).

The continuing work of critical adoption scholars is vital in the dismantling the dominant discourse of adoption culture and practice in western society. A reproductively just society would eliminate the conditions that produce the majority of adoption systems. The increasing trend to surrogacy and preference of procreation using one’s own gametes using ARTs is already reducing the number of adoptions, although gestational surrogacy raises a separate set of ethical concerns for feminists (Chamie and Mirkin 1).

### **Mobilizing Reproductive Justice Within Adoption Systems**

Since reproductive justice posits that the ability to “determine her own reproductive destiny is linked directly to the conditions in her community” various adoption systems can be examined through this lens (Ross *What Is* 1). Using a human rights and social justice perspective within the principles of reproductive justice theory as it relates to adoption systems assists in building a



more in-depth analysis, and creates space for the pursuance of more just reproductive outcomes for women and girls. In this section, I will consider the intersecting vectors of oppression that impact women in three adoption systems, contemporary domestic adoption, transnational adoption, and colonialism. I will also examine briefly how reproductive justice theory might be operationalized to positively impact reproductive outcomes for these categories of girls and women.

### **Contemporary Domestic Adoption/Young Mothers**

*Teenage pregnancy is not a “crisis” or “epidemic”, like so many people would like us to believe. The only true epidemic associated with teen pregnancy is the overwhelming and universal lack of support available to young mothers. The only true crisis is the denial of the fact that teenage girls can be, are, and always have been, both sexual and maternal beings, with the capacity to love, procreate, and nurture (Rock Girl-Mom.com).*

### **The Right to Have a Child**

The separation of a young healthy mother and her newborn baby through adoption has been embedded and normalized in western society since the mid-twentieth century (Andrews *Young* 47). Within contemporary domestic adoption systems it continues to be the young mother that is the primary source of newborns (which are in high demand) for adoption. As previously discussed, young and resourceless women fall prey to adoption systems through discourses of being “at risk”, “unable”, “too young”, and “not ready” to mother, and through the construction of their pregnancy as a “crisis” which leads to hyper-surveillance by the state. Such categories of negative construction reproduce policies, programs and popular narratives that stigmatize, punish and penalize young mothers and often lead them to adoption systems, ultimately preventing them

from parenting (Andrews *Flip*).

The term “teen mother” has increasingly been replaced in recent years with “young mother” in policy and media (Bekaert 663). The connotation of “teen” is that of a fixed number surrounding the teen years, whereas “young” can include mothers well into their twenties as motherhood continues to be delayed in the west. This simple change of terminology does not however, eliminate the stigma attached to, and the construction of young motherhood as non-normative. Young mothers continue to be seen as responsible for their own and their children’s economic and educational struggles (Byrd et al *Introduction* 17). As well, since young mothers are less likely to be married and live in a traditional nuclear family, discourse has historically constructed such mothers as economically undeserving, and morally irresponsible (Bekaert 667).

Most research and media coverage on young mothers and young mothering focuses on negative outcomes—for mother, child, and society (Byrd et al *Introduction* 14). Black young mothers continue to be associated with “deviance and blame” while white young mothers are associated with “mistakes and shame” (Byrd *Young* 497). This reveals that analyses of young mothers continue to be racially charged. The dominant discourse of young motherhood is an oppression that stigmatizes young mothers and one that can lead to reproductive violence in the form of adoption. Coercive pressure on young women to either abort or to surrender their child for adoption still comes from parents, society, and religious dogma as it did during the adoption mandate as young mothers continue to give their reasons for entering into adoption as lack of resources, lack of support, domestic violence, and family pressure/shame (Coleman 3).

Applying the lens of reproductive justice provides critical adoption scholars with a framework to ‘flip the script’<sup>70</sup> on young mothers and the positioning of young motherhood by dominant

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<sup>70</sup> See McKee, *Flipping*. “Centering adoptees as experts was at the core of the 2014 Twitter hashtag movement #FlipTheScript, which was started by Korean adoptee Rosita González at Lost Daughters, who took

discourse as “uni-directionally causing such problems as poverty, child abuse, poor health, criminality, substance abuse, or low rates of educational attainment” (Byrd *Introduction* 16). Such narratives construct young mothers as having no agency, doomed to a life of poverty and state dependence which places them in the path of adoption systems. However, Deborah Byrd asserts that we rarely hear the stories of young mothers “whose self-confidence, courage, and sense of agency grow by leaps and bounds once they start caring and advocating for a child” (Byrd *Young* 499).

The reproductive oppressions that intersect for young mothers are mostly rooted in the dominant discourse that constructs her as “unfit”. Disrupting this powerful dominant discourse surrounding young mothers is crucial to locating the power in adoption systems. It is important to protect young mothers from discourses disseminated by adoption agencies, clergy, pro-life propaganda, and certain scholarly studies that not only target her for various agendas, but also serve to compromise her agency and choices. Scholarship that supports and empowers young pregnant women is critical to de-constructing reproductive oppressions and exploitation that can lead to adoption systems.

It is also crucial to locate the young mother intersectionally using a reproductive justice lens in order to uncover the various matrixes of oppression that each mother experiences within her community. As an example, a young, Black, resourceless, single woman may be overwhelmed and led to believe she is “unable” to mother. Culturally appropriate assistance and resources such as mother mentoring and othermothering may be available within her family and community and these types of resources must be considered as a form of family and community preservation

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up the call to “flip the script” issued by Amanda Transue-Woolston, the Declassified Adoptee. The aim was to center adoptees’ voices and perspectives, and the rhetorical strategy of #FlipTheScript underscored what it means to listen, amplify, and call attention to adoptees as experts on the adoption experience”. I contend that we also need to ‘flip the script’ on natal mothers in adoption.

prior to any adoption taking place.

### **To Parent the Children We Have in Safe and Sustainable Communities**

Also essential to reduce adoptions and improve reproductive outcomes for young mothers is the operationalization of the third tenet of reproductive justice wherein young mothers would be provided with the resources and supports they need to mother their child in safe and secure environments. Scotland and Finland have attempted to assist new mothers with their baby box schemes. These initiatives provide every new mother with a “baby box” which also acts as a baby bed, filled with clothing, linens and other baby needs for the first few months of life.<sup>71</sup> Another program is one of mother mentors on Whidbey Island, off the west coast of the US. This program offers new mothers respite and assistance with their babies and young toddlers.<sup>72</sup> These types of material supports and programs directly address some of the reasons given by young mothers for considering adoption.

Another supportive program for young mothers that has developed through the adoption reform community is Saving Our Sisters (SOS). This organization emerged through mothers who had lost their children to domestic adoption systems and who later came to realize the coercion they had experienced. SOS works with young women who are either close to, or have recently completed an adoption and either do not want to complete the transaction but feel unable to extricate themselves, or have already surrendered their infant and want them back. They offer material support, encouragement, friendship, and assistance for women to keep and mother their child, and have successfully retrieved many babies from adoption systems. The women who support others as a part of the Saving Our Sisters organization across the U.S. are known as

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<sup>71</sup> See Baby Box. Accessed 6 Nov 2023.

<https://www.nhsinform.scot/ready-steady-baby/pregnancy/preparing-for-parenthood/baby-box/>

<sup>72</sup> See Mother Mentors. Accessed 6 Nov 2023.

<https://www.mothermentors.org/family-mentoring/>

‘Sisters on the Ground’:

Being a Sister on the Ground has given me a chance to help another mother avoid the lifelong trauma of being separated from her child, a heart breaking pain that I personally lived with for more than 42 years before being reunited with my son. I’ve been a Sister On The Ground twice, meeting and befriending mothers who, with guidance and encouragement, decided against adoption and are parenting their children. They were provided support in the form of diapers, formula, toys and clothing as well as someone to talk to when they needed it. I’ve stayed in contact, visiting in person or online, and offer occasional financial support (like a new car seat). We share stories and pictures, laughs and tears. I realize that the issues that brought a mother to consider adoption may take some time to resolve and I want to do what I can to help their family succeed (Linda SOS).<sup>73</sup>

Reproductive justice must support the empowerment of young mothers and the support for the social services and resources necessary for their well-being and success (Fixmer-Oraiz 513). Such steps will contribute to more just and positive reproductive outcomes as many more young mothers will have the opportunity to avert adoption systems and to succeed in the mothering role.

Reproductive justice in modern domestic adoption must also include adoption reform. A young mother considering adoption must be able to give birth without stress and interference and to bond with her newborn as any other mother. If desired, an adoption plan can always be made once the mother has had this opportunity. In addition, if an adoption plan is ultimately made, “a reproductive justice ethic would include reforms to adoption policy; for example fighting for

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<sup>73</sup> See Saving our Sisters (SOS) Accessed 6 Nov 2023. <https://savingoursistersadoption.org/sisters-on-the-ground/>

legal enforceability of open adoption arrangements that at present, often leave birth parents with no legal recourse should adoptive parents cut ties” (Fixmer-Oraiz 514). So then, how can an ethical/feminist adoption be achieved? The stated reproductive exploitation, oppression and violence against young mothers can lead to an examination of how domestic adoption practices might be improved so that an ethical, feminist, adoption can take place. There are a number of initiatives that would improve reproductive outcomes for women and girls considering an adoption plan. Suggested reforms may include but are not limited to the following: a) discontinuing the practice of pre-birth matching with prospective adoptive parents which has been found to be coercive, b) no contact with the mother while pregnant or at until three weeks after birth from any entity or persons that would benefit from an adoption transaction taking place, c) for the mother to be free of financial coercion either in the form of (1) poverty, financial insecurity, or lack of resources, or (2) any monetary obligation to any entity or persons if she should change her mind about an adoption, d) for the mother to have recovered from childbirth and had access to her child with adequate support and mentoring, e) the mother to be screened for post-partum depression or any other health issue that may influence her decision for adoption, f) the mother must have appropriate and arms-length psychological counselling so that she is fully informed of the lifelong emotional consequences of relinquishment on herself and her child, g) the mother must have appropriate and arms-length legal counselling so that she is fully informed of legal consequences of relinquishment, i.e., that filiation will be permanently severed and that she will no longer be legally related to her child, h) national standardization of the timing of consents, allowing mothers at least three weeks or more after birth to make a decision for adoption, and i) for open adoption agreements to be legally enforceable (Origins Canada). Such reforms would greatly improve reproductive outcomes for mothers who choose to place

their child for adoption. Further, if an adoption plan is ultimately pursued, kin adoption should be the first consideration, prior to stranger adoption. Such reforms would not only prevent unnecessary adoptions, but also improve reproductive outcomes if an adoption does take place.

Young mothers need emotional and material support, access to education, jobs, housing, childcare, and mother mentors, “so that the decision for adoption is not coerced by social, political or economic circumstance” (Fixmer-Oraiz 514). Young mothers need to be understood intersectionally, as well as within historical and cultural contexts. Young mothers need to be viewed as agents and be free of coercion. What young mothers do not need are more research studies and public policies that perpetuate the framing of their motherhood as a crisis and epidemic, and that reproduce outdated psychoanalytic theories, racialized statistics, and negative social and political narratives and outcomes, all of which vilify and position young mothers and their children as enemies of the state unlikely to achieve any measure of success or happiness in their lives, or to contribute to society in any meaningful way. I would also submit that it is crucial to consider the moral and societal implications of categorizing, targeting, shaming, demonizing, and withholding support to a healthy young mother and her newborn baby—outdated strategies that ultimately lead to adoption, a poor reproductive outcome for both mother and child (Andrews *Flip*). The removal of barriers to young motherhood including the negative messaging, providing material supports and empowerment, and reform in domestic adoption processes would constitute the beginning of a path toward reproductive justice for this category of mothers.

### **Transnational Adoption**

The combination of poverty and profit potential are inherent in the processes of transnational adoption (Cheney 14). However, the global trend in the new millennium is a rapid decrease in

transnational adoptions due to concerns of illegal, unethical and human rights abuses in adoption practices, the improvement of domestic child welfare programs in sending countries, increasing regulations, access to abortion, and growing sentiment in some sending countries against sending children abroad for adoption such as China and Russia (previously the top two sending countries) (European Parliament). Simultaneously, ARTs and surrogacy are emerging as the preferred way for prospective parents to form families (Cheney). Nonetheless, there are still children being adopted from various countries to the west. As an example, 1,517 transnational adoptions were recorded by the US Department of State in 2022, the majority being from Colombia, India, and South Korea (US Dept. of State *Adoption Statistics*). The reasons for the majority of transnational adoption are rooted in poverty, lack of resources including healthcare, and various social and cultural norms that perpetuate inequalities for women.

Globalization, the interconnecting and interdependence of world economies through technology and trade has influenced the biopolitical—the technology of power over life that renders certain populations into political problems (Kim *Birth* 85). The increase in the movement of children through transnational adoption during the 1990s was a result of globalization as ‘excess’ children deemed ‘politically problematic’ mostly due to their mothers’ social or economic vulnerabilities, crisis, poverty, or war, were sent to other countries “in the child’s best interest” (Kim *Birth*). As technology allowed for increased communication and the ease of sending images and documents, transnational adoption became a more fluid process globally.

In the absence of the lived experiences of mothers and transnational adoptees, various narratives of transnational adoption have developed. Barbara Yngvesson writes that, “in the world of intercountry adoption, two stories predominate: a story of abandonment and a story about roots. In the abandonment story a baby is found in a marketplace, on a roadside, outside a



police station, or in the ‘tour’ of the orphanage” (25). Today, we know that these kinds of transnational adoption narratives rarely prove to be true. Uncovering the truth of transnational origin stories is messy at best as silencing and obfuscation occurs within both sending and receiving countries. Corruption in adoption practice in sending countries often obscures or fabricates a child’s origin story, while in receiving countries transnational adoption is often preferred by prospective adoptive parents as there is “little or no interaction with the birthmother or family” (Wall 91). As Sarah Wall writes, “once the adoptive parents return home with their child, it is practically difficult to maintain any meaningful contact with the biological family. Indeed, this type of arrangement was appealing to me” (91).

### **The Right to Have a Child**

Transnational adoption takes place in the (mostly private) space of gender inequality. As an example, unmarried mothers around the world are still subject to societal influence to place their child for adoption. Due to family shame and societal stigma, pressure on unmarried mothers to surrender their child for adoption continues in countries like South Korea (Kim *Birth* 9), India (Bos 15), the Marshall Islands (Roby), and more.

There is little scholarship on transnational mothers, as their voices are mostly subjugated, although their lived experiences sometimes surface. In the book *Message from an Unknown Chinese Mother: Stories of Loss and Love*, the author Xinran interviews many Chinese women who had lost their children to adoption during China’s one child policy era. One Chinese mother interviewed who had relinquished her baby daughter to adoption commented that,

Chinese women are the most unselfish in the world. They’ll do anything for their husbands and children, suffer any pain, [and] shed their own blood and tears to look after them. The one thing that comforts them is that one day their daughters

may understand that their mothers loved them and they paid for that love with an endless stream of bitter tears (158).

In a study of natal mothers in South Korea, Sandra Patton-Imani found the following:

The stories Korean birth mothers told me are not stories of choosing to relinquish their children. They are wrenching narratives of loss. They are stories about men they thought they loved, who left when they became pregnant. They are stories of being disowned by family. Some stories emphasize coercion or rape. Several of the women I interviewed lost their jobs when their employers discovered their unwed pregnancy. Two elements were consistent throughout the life histories of the Korean birth mothers I interviewed: each of them to keep her child, but found herself shamed and stigmatized by her unwed pregnancy, and the social laws, policies, and conventions of South Korea made it nearly impossible for her to support her child financially (*Orphan* 299).

Although different countries employ various methods, in South Korea transnational mothers of adoption are inundated with the discourse that they are inadequate to mother, that their ‘illegitimate’ children will have no future and live worthless lives, and that adoption would be “best” (Kim *Birth* 93). These mothers are viewed as self-sacrificing through an expression of motherly “gift giving” in surrendering their babies for adoption (93). This discourse mirrors that in the west when thousands of unmarried mothers in the post-war decades were coerced to surrender their children for adoption through similar methods, and today, through the Bravelove<sup>74</sup> campaign which encourages young women to surrender their child for adoption as a brave, self-sacrificing and courageous ‘choice’.

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<sup>74</sup> See page 67

## **The Right to Parent the Children We Have in Safe and Sustainable Communities**

There continues to be much debate about transnational adoption and whether it should or should not take place. Two opposing streams of thought prevail. Elizabeth Bartholet, a pro-adoption law professor writes the following:

Many millions of children worldwide are living and dying in orphanages or on the streets, with no possibility of finding homes in their own country. UNICEF argues for the creation of foster care and social welfare programs, but these things will not happen overnight, and foster care generally doesn't work nearly as well for children as adoption. International adoption provides good homes for the children lucky enough to be placed... (NYT 1).

David Smolin advocates for children being raised with their parents and in their own country and culture as per the Rights of the Child. Smolin writes,

Celebrity adoptions highlight in extreme form the problems of the international adoption system: "orphans" often turn out to have immediate and extended families, laws are circumvented, money corrupts, facts are elusive, powerful adoptive parents and their agents overwhelm vulnerable birth families and the desire of comparatively wealthy Western people for children drives adoptions (NYT 1).

Reproductive justice in transnational adoption is a messy and difficult prospect considering the vast number of countries involved, the multitude of situations, laws, cultures, and the ongoing patterns of illegal, unethical and human rights abuses in transnational adoption practice, and; as we have learned, although the Hague Convention has attempted to regulate international adoption, it has been somewhat inadequate. During the 2014 International Forum on Intercountry

Adoption and Global Surrogacy, recommendations were tabled for improvement including better preservation of information, pre- and post-adoption support, and accountability of all agencies to ensure the equity and rights for all involved in international adoption (Cheney 6). Jallicia Jolly asserts that reproductive justice offers: “frameworks to craft and expand interventions aimed at maintaining the conditions necessary for safe and healthy lives and living conditions” through “policy, advocacy, research, and education strategies” (174). There is much work to do for feminists in all countries, especially in the Global South, to continue to work to eradicate gender injustices and inequalities that lead to adoption as a reproductive outcome. However, the combination of demand from the west, poverty, and the large amounts of money exchanged in such transactions continue to make transnational adoption a lucrative pursuit for certain unscrupulous actors and thus perpetuates the practice, despite the current decline.

### **Decolonizing Adoption for Reproductive Justice**

*For me reproductive JUSTICE fills a huge gap in ‘feminist’ conversation about previous (and current) injustices that dictate how we are able, or not able to make informed choices and what those options might look like. Specifically, it helps us acknowledge that colonization comes in many forms and is currently one of the strongest forces that dictates choice for Indigenous women and communities. Without acknowledging that our native voices have not been listened to, and without understanding the injustice that we deal with on a day to day basis, there can be no peace, and no choice. This ignorance and lack of will to listen comes not only from oppressive forces, **but from feminist and activist communities as well** (Williams quoted in Danforth 2, my emphasis).*

Indigenous ideologies of motherhood view the maternal body as a metaphor for the power of

creation and women as life-givers, a concept that is endemic to creation stories within Indigenous cultures (Anderson 765). However, contemporary Indigenous motherhood can only be understood within the specific historical contexts that have controlled, and through assimilation efforts in many cases, completely eradicated the right of Indigenous women to be mothers (Brant 11). For Indigenous people, reproductive justice is intimately related to the broader struggle for environmental justice, cultural rights, respect for Indigenous ways of knowing, and self-determination (Stote 116).

In this section, I will attempt, through the voices of Indigenous scholars, to identify ways in which reproductive justice theory, when implemented, can impact reproductive outcomes and operate to decolonize the reproductive exploitation, oppression, and violence that often leads to adoption systems. Here, tenets of reproductive justice are explored in the context of decolonization as Indigenous mothers practice resistance, reclamation, and recovery.

### **The Right to Have a Child**

The Euro-settler vision of normative families and motherhood continue to regard Indigenous motherhood as inferior. While liberal white feminists fought for the right to limit and control reproduction through abortion, birth control, and sterilization, Indigenous women continued to struggle to give birth on their own terms and in traditional ways, and to keep and raise their children (Stettner et al 303). As Karen Stote asserts, Indigenous women “continue to make reproductive choices under conditions of colonialism and assimilation” (114). The right to have a child and to mother that child has been denied Indigenous women as assaults on traditional family structure have been operationalized through residential schools, forced sterilization, forced Sixties Scoop adoptions, and child welfare systems. It is within this overarching backdrop of colonial violence (which continues) that Indigenous women continue to struggle with the right

to birth and mother their children.

The right to have a child is entwined with life itself. Cultural loss and intergenerational trauma has resulted in young Indigenous people rejecting life through suicide (Ritland et al 1). Young Indigenous women report a rate of 4 suicide attempts per 100 persons per year (Ritland et al 12). This corroborates previous research that concludes that Indigenous young people attempt suicide to end feelings of grief and loss arising from ongoing colonial oppression and violence (Ritland et al 12). The reproductive justice tenet of the right to have a child becomes a messy proposition when an Indigenous mother/prospective mother is unable endure the pain and hopelessness of her own life, either attempts or completes the act of suicide, and continues to be impacted by contemporary injustices and face barriers to maintaining custody of any children they do have (12). Despite such challenges and ongoing violent colonial influences and outcomes, more Indigenous women are asserting their right to traditional customs and practices that lead to the healing and recovery of their families—and Indigenous mothering survives (Brant 23). Reproductive justice for Indigenous Peoples is interconnected to the broader struggle for cultural rights, environmental justice, and respect for Indigenous ways of knowing and doing (Stote 116).

### **Choosing Pregnancy and Parenthood**

*There is always the threat of someone coming to take the children away, someone scheming to erase us permanently. The political, social, emotional and practical response to these issues has been to reproduce in spite of it all (Anderson 176).*

In Indigenous culture, children are considered to be gifts from the Creator and play a critical role in the cultural continuity of Indigenous communities (Ritland et al 1). However, as a result of colonial discourse, racialized and Indigenous youth and women are often scrutinized for their

choice to continue with a pregnancy. One young woman talks about how agency is crucial in deciding to have a child as a young person—the right to assert her choice to have a child at the intersection of gender, age, and race and to be free from coercion (to continue or to discontinue a pregnancy) and social censure due to her age:

Well I find that as girl of colour (or half-colour) people, including pro-choicers tried to make the assumption that I'm going to fuck up my life. Because...you know....I'm black, (kinda) and therefore am at a disadvantage. Drugs and teenage pregnancy seems to seek out racial minorities. (yes I'm being sarcastic here)  
(Danforth 5).

The Native Youth Sexual Health Network (NYSHN) is an organization that works with Indigenous peoples to advocate for, and to build strong, comprehensive and culturally safe sexuality and reproductive health, rights and justice initiatives in their own communities (NYSHN). The NYSHN states that justice comes before choice, “it’s about recognizing just how interrelated issues are having to do with our bodies ...and that often we need justice before “choice” even becomes a possibility” (NYSHN 1). Statistics Canada 2016 census reports that Indigenous people are more likely to be young parents than those in the non-Indigenous population and to live in multi-generational families (*Canada Portrait* 6, 7). These statistics underline the need for support for Indigenous youth who choose to give birth and parent and for Indigenous-led programs and organizations such as NYSHN that are crucial to changing the paradigm for pregnant and birthing Indigenous mothers.

### **Giving Birth**

As observed by Erika Finestone and Cynthia Stirbys, as birth has become more medicalized in Euro-settler culture, birth models in Indigenous culture do not “fall comfortably within the

realm of “healing practice”; [as] pregnant Indigenous women do not require a “cure” or “treatment” (137). Indigenous birthing needs to be rearticulated due to the pathologization and medicalization of pregnancy and birth within Euro-settler societies (Finestone & Stirbys). Reclaiming traditional birthing rituals within Indigenous cultures constitutes an act of reproductive justice. Leanne Simpson writes:

The transformative power of the Anishinaabeg birth ceremony, and the responsibilities of mothering grounded in Anishinaabeg values caused a radical shift in both my spiritual and political consciousness, eventually causing me to leave the academy to focus on mothering and Indigenous nation-building (25).

Indigenous women living in rural communities have often been removed to medical facilities as a means to modulate risk, and provide ‘safe’ births. Such policies can have a negative impact and long term effects on reproductive outcomes,

giving birth outside of one’s community could mean the loss of crucial opportunities for mother-child bonding...for intergenerational knowledge exchanges surrounding birth, and the inability to perform ritualistic postpartum practices involving the mother, newborn, the extended family, and the land (Finestone & Stirbys (140).

Risks abound with the so-called safe hospital birth as mothers may be subjected to reproductive violence in the form of psychological abuse, loss of freedom over one’s body, cultural erasure and loss of identity (140). Further, when Indigenous mothers give birth far away from community supports, they are more likely to be subjected to hyper-surveillance from child welfare systems which can lead to child apprehension and adoption, especially considering that domestic newborn infants are rare and valuable commodities within contemporary adoption



systems. Finestone and Stirbys write,

The systemic dislocation of Indigenous lifegivers from their traditional territories (or whichever community they call home) represents a direct assault on Indigenous spirits, bodies, lands, and relations. Any fissure in the sacred relationship between birth, memory, and land affects all levels of the socioecological model and, by extension the long-term health of Indigenous families and communities (142).

Indigenous birthing centres have opened across Canada in recent years. Facilities such as the Toronto Birth Centre<sup>75</sup> which supports the practice of Indigenous midwifery both culturally and professionally; the Tsi Nón:we Ionnakerátstha (Six Nations Maternal and Child Centre)<sup>76</sup> which provides full time Indigenous midwives that provide a balance of traditional and contemporary midwifery services, and the K’Tigaaning Midwives<sup>77</sup> are examples of Indigenous focused practice. Indigenous resistance to the erasure of traditional Indigenous birth, and the resurgence of traditional Indigenous pregnancy, midwifery, birth, and childrearing contributes to the social, spiritual and cultural life of the community and “creates a foundation for sustained Indigenous nationhood” (Finestone & Stirbys 148). This is the first tenet of reproductive justice in action which can lead to more positive outcomes for Indigenous mothers and communities. Increased political will, work, and funding is required to implement increased access to similar Indigenous-led programs across Canada.

### **The Right to Parent the Children we Have in Safe and Sustainable Communities**

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<sup>75</sup> See Toronto Birth Centre. Accessed 20 Nov 2023. <https://torontobirthcentre.ca/about-the-tbc/>

<sup>76</sup> See Tsi Nón:we Ionnakerátstha. Accessed 20 Nov 2023. <https://www.snhs.ca/child-youth-health/birthing-centre/>

<sup>77</sup> See K’Tigaaning Midwives. Accessed 20 Nov 2023. <https://ktigaaningmidwives.com/>

*Mohawk grandmother and traditional midwife Katsi Cook teaches that, “women are the first environment”. She also explains that in the Mohawk language, one word for midwife is iewirokwas, which means, “She’s pulling the baby out of the Earth”. These teachings describe how the waters of the Earth and the waters of our bodies are the same; for better or for worse, there is an undeniable connection between the health of our bodies and the health of our planet. Violence that happens on the land is intimately connected to the violence that happens to our bodies. (As quoted in Women’s Earth Alliance Violence 4)*

Finestone and Stirbys explain that, “Indigenous women across Turtle Island are coming together to signal the importance of women’s bodies as the ‘first environments’ for community growth” (Finestone & Stirbys 149). Reproductive assaults on Indigenous bodies need to be read as a total embodied assault on culture and community. Accordingly, “policy geared toward decolonization and social equity must move away from the singularity of the female body involved in birth and reproduction to think more broadly about the contextually embedded reproducing body (Stettner, Burnett & Chambers 304). Environmental violence on Indigenous land “impacts reproductive health and outcomes for Indigenous women, Two Spirit and young people” (Women’s Earth Alliance Violence 4).

The links between the land and body in Indigenous communities are powerful. Indigenous lands have been sites of chemical manufacturing, waste dumping, wastewater pits for the oil and gas industry, contaminated soil and waterways, lack of clean drinking water and more, causing toxic exposure resulting in threats to culture and Indigenous life. Some Indigenous leaders are calling these impacts “environmental violence” (Women’s Earth Alliance Violence 11). Katsi Cook writes, “each succeeding generation inherits a body burden of toxic contaminants from

their mothers. In this way, we, as women, are the landfill.” (Women’s Earth Alliance *Violence* 20).

So then, what does reproductive justice look like for Indigenous mothers? Reproductive justice as an analytical framework emphasizes how reproduction must be considered within an array of social justice concerns (Luna & Luker 343). The right to raise children in safe and sustainable communities as a principle of reproductive justice maps directly onto Indigenous sovereignty, and the reclaiming of traditional Indigenous birth culture. Colonialism is the root cause of the environmental problems faced by Indigenous mothers, and it is self-determination through the regaining of jurisdiction and sovereignty over Indigenous lands that will heal the people (Simpson 29). Examining and focusing on Indigenous mothers and the structural barriers and the interlocking power systems (including white supremacy and patriarchy) that prevent Indigenous women from mothering is crucial to moving towards reproductive justice within Indigenous communities. Reproductive lives do not exist in isolation, but are connected to the land, environment, and other reproductive oppressions and rights violations (Stote 113). Leanne Simpson writes,

We are our children’s first environment. We are responsible for bringing these new spirits through the doorway into this world. Reclaiming Indigenous traditions of pregnancy, birth and mothering will enable our children to lead our resurgence as Indigenous Peoples, to rise up and rebel against colonialism in all its forms, to dream independence, to dance to nationhood (32).

*This* is reproductive justice for Indigenous women and communities. *This* is what will prevent unnecessary and traumatic birth alerts and child welfare apprehensions of Indigenous infants and children that lead to adoption. Reproductive justice as a theoretical paradigm allows for a

feminist practice that intersects with Indigenous mothers and communities in order to improve reproductive outcomes.

## **Summary**

Reproductive justice takes a broad view that provides scholars with a multi-faceted framework to theorize adoption within feminism. There are still many strands within adoption culture yet to be explored within what Ross and Solinger call the “enormous agenda” of reproductive justice,

The reproductive justice movement has an enormous agenda. It aims to build a world in which all children are wanted and cared for, and which supports exist for families of all sizes and configurations, and in which societies give priority to creating the conditions to be healthy and thrive in the United States and globally (168).

This lofty and idealistic agenda, if achieved, would likely devastate the institution of adoption and in its wake, eliminate certain family configurations. At present the implementation of reproductive justice remains a distant shore. It is unlikely to be achieved in any of our lifetimes in even one country of the world due to the radical change that is required. A brochure published by Asian Communities for Reproductive Justice (A New Vision), sums up what is needed for reproductive justice to thrive,

for reproductive justice to become a reality, we must undergo a radical transformation; change must be made on the individual, community, institutional and societal levels to end all forms of oppression so that women and girls are able to thrive, to gain self-determination, to exercise control over our bodies, and to have a full range of reproductive choices” (1).

As we have seen, there are activists who continue to work toward change and toward the implementation of reproductive justice and decolonization. Through continued activism, positive momentum towards reproductive justice will continue.

As a theoretical framework, reproductive justice is a “powerful tool for exploring issues of racial, economic, and social inequality” (Ross *Radical* 11). It is incumbent upon feminists to pay attention to the networks of power within adoption systems, and to how power operates, circulates, and is reproduced. Through an examination of the various intersectional social locations of mothers impacted by adoption systems through decolonization, globalization, neoliberal capitalism, transnationalism, and ongoing harm to the environment, we can begin to listen to the lived experience of those impacted by adoption systems without producing the killjoy narrative that silences them. Stories construct reality, are documentary in nature, create space, and serve as consciousness-raising tools for reproductive justice (Price 50). The accounts of those separated by adoption hold the key to dismantling the oppression and violence that are endemic to adoption systems and culture and create an environment where reproductive justice can thrive. While the dominant discourse of adoption continues to spark myths of happy loving adoptive families, grateful perpetual children, and unselfish and brave mothers, adoption transactions continue, mostly through the reproducing bodies of de-legitimized, resourceless, and racialized mothers while those who benefit remain silent and complicit. This I submit, is the unfinished work of reproductive justice.

## **CONCLUSION**

This work has illustrated that the institution of adoption is rarely the romanticized and superficial image of “forever families” that is portrayed by modern adoption culture. An important motivation that has generated this dissertation is the need to challenge contemporary notions of adoption culture through the principal questions: From which body? and Who benefits? This project has challenged conventional ideas and myths about the institution of adoption as being a so-called ‘social good’, and concentrated instead on the ways in which the institution of adoption operates as a form of reproductive oppression, exploitation, and violence in various contexts. This work has focused on four main themes or areas of concern: 1) the exclusion of the institution of adoption as a location of critique by the project of feminism, the academy, and the reproductive justice movement, 2) the identification of the women and girls most likely to be impacted by adoption systems 3) the exposure of the reproductive oppression, exploitation and violence within adoption systems in domestic, transnational, and colonial contexts, and 4) an examination of the ways in which the institution of adoption can be theorized within a reproductive justice framework to improve reproductive outcomes.

### **Theoretical Contributions**

To accomplish the goals of this research, various feminist theoretical perspectives have been utilized, the most relevant being critical adoption studies, maternal theory, and reproductive justice theory. This work contributes to each of these fields of study through the application of critical thought to the institution of adoption and its representations. Critical adoption studies, which is currently dominated by the scholarly work of adoptive parents and adoptees, rarely examines the impact of adoption on natal mothers. This work notably contributes to this field of study by offering perspectives that take into account the subject position of women who lose their children to adoption systems. It also challenges the practices of adoption by uncovering

illegal, unethical, and human rights abuses that are inherent in most adoption transactions within domestic, transnational, and colonial contexts. Through an original list and brief discussion of state inquiries and studies from around the world in domestic and transnational contexts, this work verifies through evidence that adoption systems operate as a form of violence against the reproducing body. As an example, the practices of child theft, child trafficking, coercion of mothers, and the laundering of children within transnational adoption systems were demonstrated. These contributions to the field of critical adoption studies are congruent with the aims of the field that are characterized by a “resistance to marginalization”, a “rejection of existing perspectives that appropriate adoption to answer questions on the relation between nature and nurture”, and the expectation that critical adoption studies “take a global focus that is not restricted to the United States only” (Phelan 6).

Although critical adoption studies draw from already established theoretical frameworks such as feminist, queer, postcolonial, psychoanalytic, ethical, biopolitical, and critical race theory, adoption also proves to be a “source of new perspectives that alter the theoretical frames they enter” (Homans 2). The inclusion of the institution of adoption and its systems in various contexts through analysis, and praxis within the theory of reproductive justice alters, contributes to, and adds to the body of work of critical adoption scholars including Laura Briggs, Kimberly McKee, Sung Hee Yook, Gretchen Sisson, Hosu Kim, and others, who have initiated discussions that interrogate adoption through a reproductive justice lens.

### **Maternal Theory**

Motherhood studies and maternal theory encompass the site of motherhood as experience, identity, institution, ideology, and empowerment. The theories and concepts of motherhood studies were helpful in exploring representations of mothers, non-mothers, il-legitimated

mothers, the destruction of the maternal body, and adoption as a form of reproductive and maternal violence against women. This work contributes to the field of motherhood studies/maternal theory by uncovering the interrelated structures of reproductive oppression and violence within adoption systems that impact certain vulnerable women in various contexts that prevent them from mothering the children they birth.

Within this work feminists are challenged to consider the various disconnections that occur between motherhood studies and critical adoption studies. Firstly, the dissonance between the minimal representations of motherhood within the academy and the lived experiences of women as mothers was discussed, and it was illustrated that the various reasons for this were mostly rooted in the second wave feminist rejection of essentialist and heteronormative motherhood and family. The fact that the feminist ideology of motherhood maps on to the typically unremarked upon space between the institution of adoption (arguably a motherhood issue) and feminist analysis was further illustrated. In addition, a further gap within the theory of reproductive justice was uncovered. While the principles of reproductive justice revitalizes a focus on the mother in the feminist academy through its inclusion of the right of motherhood and parenting, it neglects adoption systems as a reproductive justice issue.

The empowerment of mothers is one of the key principles of maternal theory. This project not only identifies mothers who may be vulnerable to adoption systems, it also looks for ways in which such mothers might be empowered to keep and mother a wanted child using the theory of reproductive justice. This is an important contribution of this thesis to maternal theory—the linking of reproductive justice theory which emphasizes and revitalizes the lost mother in academia, together with motherhood studies. The mother as a revived subject within reproductive justice theory may be one of the most significant developments for motherhood



studies in recent years, and this thesis not only provides an analysis of such developments, but also attends to the ways in which these theories can overlap to provide improved maternal outcomes.

### **Reproductive Justice Theory**

One aim of this work was to resolve the lack of critique of the institution of adoption within reproductive justice theory. To accomplish this, various reasons were examined as to why the institution of adoption appeared to be omitted from the theory. This included an examination of the roots of reproductive justice which was founded by Black feminists. These scholars, in conceiving the theory of reproductive justice, were responding to historical and present matrixes of reproductive oppression and violence perpetrated against Black women, including enslavement, eugenics, forced sterilization, forced birth control, poor maternal healthcare, and child apprehensions through child welfare. These negative forces have led to overt policies and practices that de-limit motherhood. It was also suggested that one of the reasons for the omission might be that considering adoption had not been a practice often employed by Black mothers due to various social norms within the Black community, it may be understandable that the institution of adoption has been excluded from the reproductive justice framework.

This research contributes to the field of reproductive justice theory in that it provides an entry point for feminists to apply the theory and praxis of reproductive justice to adoption systems. Since the framework of reproductive justice looks at how the conditions in a women's community impacts her ability to determine her own reproductive destiny (Sister Song), it becomes vital that the institution of adoption be considered in this framework. This work demonstrates the importance of first, recognizing adoption as a reproductive outcome, and second, including the reproductive outcome of adoption in an analysis within reproductive

justice theory. Dominant narratives of adoption as a right and the normalisation of multi-faceted aspects of interlocking oppression and violence embedded in adoption practice and culture domestically and transnationally were discussed as opportunities for feminists not only to recognize the importance of, but to enter the realm of reproductive justice scholarship as it relates to adoption systems.

To realize the potential of reproductive justice theory in relation to reproductive outcomes for women in adoption systems, three categories of women and girls were examined. Through the application of reproductive justice theory, and by putting marginalized women, and girls at the centre of the analysis, it was found that there are unlimited possibilities that can be applied to prevent vulnerable women from coming into contact with adoption systems. This is a major contribution to reproductive justice theory and practice.

### **Adoption & Feminism**

One of the goals of this research was to identify how and why the liberal feminist project has, for the most part, excluded the institution of adoption within feminist analysis and the academy, despite feminist concentration on the dismantling and disruption of structures of oppression that impact women and the barriers to human rights and social justice that emanate from them. Through the interrogation of the key issues, debates, and tensions that intersect with the institution of adoption, including social justice/human rights, intersectionality, reproductive justice, reproductive violence, colonialism, reproductive rights, motherhood, and the concept of choice, it was illustrated that not only are adoption systems generally absent from feminist scholarship, especially as it relates to natal mothers, but that adoption systems clearly should be subjected to feminist critique.

This project uncovered the structural supports that continue to perpetuate racism, colonialism,

classism, oppression, inequality, and social injustice within adoption systems, all of which are major areas of feminist concern. Also brought to the forefront in this work are the interlocking power systems, including white supremacy and colonialism, all of which are at play within adoption processes but are rendered invisible by contemporary adoption culture.

This work also provided a number of examples that illustrate how the institution of adoption, and critical adoption studies remain on the periphery of the feminist project and the academy. Some reasons for this exclusion that were explored in this dissertation found that natal mothers in adoption continue to inhabit the pro-natalist realm of feminist thought and have been interpreted by some feminists as victims of essentialist and socially constructed notions of gender and motherhood. Further, feminists often adopt, and support adoption as a way to form families, including as a “right” for those in the LGBTQ+ community. In the article “Critical Adoption Studies: Conversations in Progress” Peggy Phelan discusses how the field of critical adoption studies remains marginalized within the academy. Phelan writes,

the academy as a whole has tended to view fields of this sort as somewhat marginal to their larger enterprise, a kind of “special interest” rather than a central source of respected expertise. Compare this attitude with, for example, the way subatomic physics, also arguably a special interest, is revered rather than tolerated on most university campuses. The abstract logic of that field is highly valued, while the concrete and material efforts to improve the lives of disenfranchised groups of people are seen as somehow lesser pursuits (Phelan 6).

Pro-adoption feminists are challenged to question their positions, and their silence with respect to the issues of social injustice that face natal mothers and their children within adoption systems. More importantly, this work calls upon feminists to examine and uncover the ways in

which adoption systems operate to oppress and exploit reproducing women, most of whom are economically vulnerable, racialized, and marginalized. As appropriate, it also presses white feminists to examine their whiteness, position, and power within the adoption transaction to prevent the normalization of the oppression and exploitation of reproducing bodies.

As suggested in this work, it is incumbent upon feminists to ask the following questions when considering the adoption transaction: From which body? Who benefits? and What voices are missing? The human rights violations and reproductive violence inherent in domestic and transnational adoption systems continue to be invisibilized, normalized, and even celebrated as a result of the embeddedness of adoption culture in contemporary western society. It therefore becomes incumbent upon feminists to address this yet to be explored frontier of oppression, one that has been normalized and excluded from the feminist which has been excluded from the project of feminism and the academy.

## **II-Legitimate Motherhood**

Through an analysis of the structural injustices that exist for categories of reproducing women who come into contact with adoption systems, this study has demonstrated that maternal de-legitimacy is the singular most important factor that impacts the reproductive destinies of women in relation to adoption systems. It was found that the motherhood of certain women is de-legitimized through multiple and intersecting vectors of othering and marginalization that negatively impact reproductive outcomes and increase their vulnerability to adoption systems. This finding, juxtaposed against the ideal of the ‘good’ mother (i.e. those with the perceived suitability to be mothers because they are white, western, and privileged) exposed significant injustices and disparities that elide the diversity of other mothers and mothering practices. In particular, it was demonstrated that those who adopt have the resources, and the political, and

legal support to complete what they perceive to be their ‘right to form a family’ insofar as it is at the expense of a natal mother’s right to form a family by means of providing the social and economic supports that ensure her family remains intact.

Through an examination of four categories of mothers (i.e. Young, Indigenous, Black, and Transnational), the broad implication of this work is that those mothers who fail to conform to the dominant and moral discourse of what is considered to be ‘good’ motherhood may be alternately constructed as: ‘unwilling’, ‘bad’, ‘unfit’, ‘unable’, or ‘not ready’ to be mothers, in need of regulation, and thereby are exposed to adoption systems.

The present findings confirm that these negative constructions create and reproduce policies, programs, and popular narratives that stigmatize, punish, and penalize young mothers. How the negative messaging surrounding teen motherhood in western culture is supported and financed by governments, social conservative groups, pro-life lobby groups, and the institution of adoption, each of which promote specific goals and ideologies that overlap to greater and lesser extents was also illustrated. It was established how, since the Dobbs decision in the US, young mothers have become increasingly at risk (again) to lose their children to adoption because access to abortion has become more difficult at the same time that right wing policies, evangelical ideologies, and pro-life groups reiterate the “adoption is the option” message.

This dissertation has considered the history of how successive Canadian governments targeted Indigenous kinship and family systems to destroy, oppress, and assimilate Indigenous people for instance, through the Indian Act, residential schools, sterilization within eugenics, the Sixties Scoop, and via the current overrepresentation of Indigenous children in child welfare systems. It has determined that Indigenous mothering must be viewed within the context of colonialism; the representation of Indigenous mothers as “unfit” is a harmful stereotype that

continues to justify inappropriate and unjustified state intervention in the lives of Indigenous women. It contends that the state focus and hypervigilant surveillance of Indigenous mothers has led to the overrepresentation of Indigenous children in child welfare systems that subsequently fuel adoption systems.

In a discussion of Black motherhood, this work found that Black motherhood is devalued and characterized as inferior because it does not meet the ideals of ‘good’ motherhood, which presumes whiteness. Most importantly it illustrated how the concept of “keeping the children born to you” (Collins), and the practice of othermothering within Black culture is a response to the legacy of enslavement wherein babies and children were often ‘sold away’ from their mothers. This work argues that the de-legitimization of Black mothers invites state interventions that often lead to the loss of Black children to adoption systems. It was illustrated that, like Indigenous children in Canada, Black children in the US are overrepresented in child welfare systems due to the de-legitimization of Black mothers and Black families. This work reiterates the call to action initiated by Dorothy Roberts for white feminists to pay attention to the role of race in the separation of mothers and their children by child welfare systems that employ adoption as a remedy, as opposed to a reimagining of present policies that concentrate on child removal over and above family preservation, policies which unjustly target Black families.

Mothers impacted by transnational adoption are another category of de-legitimized mothers examined within this work. After the ‘supply’ of domestic white babies dwindled in the mid-1970s, transnational adoptions increased exponentially. And, although these numbers are now decreasing as surrogacy has emerged as a preferred way to form families, transnational adoptions do still take place. The present findings confirm that some mothers within developing countries lack the ability to either assert or continue with their motherhood on the basis of the concept of

reproductive rights as defined by reproductive justice. Moreover, the marketplace of transnational adoption relies on the lack of reproductive choices for certain women, who disproportionately are resourceless women of colour, whereas mothers who adopt from other nations are predominately economically advantaged—and white. It was also established that adoption transactions within ‘sending’ countries continue to be marked by structures of inequality and by unbalanced power relations in relation to ‘receiving’ countries. These findings are important in the understanding of how mothers are de-legitimized through representations or characterizations of their ‘unfitness’ in relation to the ideal of ‘good’ or white motherhood in the west.

It can be drawn from the analysis of young, Black, and natal mothers in transnational adoption that reproductive outcomes are shaped by the politics of race and class. The transfer of children from one social location to another within neo-liberal globalised markets has mostly been represented as a personal or family affair instead of as a complex and multi-layered process that is concerned with and impacted by globalisation, politics, citizenship, economics, diplomacy, imperialism, and colonization, as well as intersectional matters of race, gender, class, culture and nation. Furthermore, the findings of this inquiry into the reproductive oppression and exploitation of marginalized women exposes how the structural and systemic disempowerment of such women continues to be reproduced through various social institutions such as adoption, because racism is embedded within institutional policies that encourage white middle-class women to reproduce, while other women are discouraged and even penalized for doing so.

### **Reproductive Exploitation in Adoption Systems**

Scholarship surrounding the oppression and exploitation of reproducing bodies through adoption systems is emerging through critical adoption studies. One of the aims of this work was

to contribute to existing knowledge about illegal, unethical and human rights abuses that remain prevalent within adoption systems and that exploit the fertility and offspring of women experiencing various vulnerabilities. It has illustrated how natal mothers and their children are commodified within the marketplace of adoption through the marketing principles of ‘supply and demand’. And, it has further discussed how white children are considered to have a higher value in the adoption transaction in comparison to children of colour, clearly a human rights issue. This work contributes to the conversation about how adoption can operate as a form of reproductive exploitation and how market principles, when applied to adoption systems, serve not only to undermine legal and ethical adoption transactions, rendering the institution of adoption suspect, but at the same time, commodify and diminish human beings.

The discussion of adoption as a form of child trafficking is not new. In fact, the Hague Convention was originally conceived to implement safeguards to protect the rights of mothers and children within transnational adoptions. However, the conclusion of this work is that the Hague Convention has not been completely successful in protecting the rights of mothers and children because of the fact that less than half of sending countries participate as States Parties to the Convention and continue using bilateral arrangements, which perpetuates pre-Convention problems. Further, the actual origins of many children who are placed for adoption continue to be ‘laundered’ through transnational adoption systems that often use the processes of the Convention itself to do so. Although the concept of the Convention is merited and has shed light on the need for regulation in transnational adoption practice, amendments are still needed to improve the Hague Convention in its current form so that non-states parties and market systems are no longer able to contravene the rules of the Convention on a consistent basis.

### **Adoption as a Form of Reproductive Violence**



An original list of state inquiries into both domestic and transnational adoptions, and the apologies that have emanated from them provide empirical evidence that adoption can be exploitative and cause lifelong harm to both natal mothers and their children. But these practices are not limited to history. Vulnerable women and girls continue to lose their children to those with more social or financial capital. Although adoption was identified as a form of reproductive violence in Joss Shawyer's ground-breaking book *Death by Adoption* in 1979, it has not been explored as such in an in-depth way by feminists since that time. This work included a discussion that illustrated that it is only recently that the concept of *reproductive violence* has emerged as a distinct form of violence against women; previously it was located in the catchall categories of gender-based violence, or sexual violence, and not named per se. And, although this is a positive development, forced or coerced adoption has still not found its way into the current definitions of reproductive violence as provided by scholars. Reproductive violence is: a type of violence that "harms the victim's reproductive capacity" and "causes a violation of his or her reproductive autonomy" (Altunjan 98). As such, it is clearly a category of violence that can be associated with adoption systems and the principles of reproductive justice. This work brings forced and coerced adoption into the conversation and the category of reproductive violence; and, by doing so, it offers a significant contribution to the field of critical adoption studies.

### **Adoption: The Unfinished Work of Reproductive Justice**

As indicated within the findings of this work, the theory of reproductive justice has a substantial agenda that is wide in scope. This provides an excellent lens for the critical analysis of adoption systems within reproductive justice theory. However, apart from a few critical adoption scholars that have identified the need to bring the theory of reproductive justice into the

conversation, feminist scholarship on adoption has typically neglected the relevance of this theory. The institution of adoption should be a dominant topic of conversation in feminist discussions about reproductive justice because this theory establishes, as a principle, the right of motherhood. This work shines a light on this omission, contributes to, and expands the conversation surrounding the need for reproductive justice theory and analysis as it relates to adoption systems in various contexts. Bringing adoption into the realm of reproductive justice theory is one of the major accomplishments of this work and makes it a contribution to what I have called the unfinished work of reproductive justice theory.

The present findings in this dissertation confirm that the theory of reproductive justice is useful because it offers flexibility and adaptability due to its expansive scope, aids in the interpretation of intersectionality and human rights, and provides wide latitude to theorize the intersections of power and difference (Ross). Further, it is a theory that encompasses diversity, allowing for the “multiple meanings and subject positions of diverse people who experience reproductive injustices” (Ross (290)). One of the goals of this research was to uncover how the use of a reproductive justice framework coupled with an intersectional approach could help to identify and eliminate the oppression and exploitation of the fertility of women impacted by adoption systems. As was illustrated in this work, adoption impacts mostly marginalized women and girls, mostly those of colour, and can be viewed, in most instances, as a negative reproductive outcome for natal mothers and their children. Through a brief analysis of three categories of mothers—young, Indigenous, and natal mothers in transnational adoption, this research offered ways in which the support and empowerment of marginalized and vulnerable mothers can lead to more productive and positive reproductive outcomes that do not include the loss of their children to adoption systems. Further, in framing adoption as a reproductive justice

issue, this work has established that it is only when we forefront and centre the lived experiences of the key stakeholders of adoption—those separated from family members by adoption—mothers and persons adopted—that we can begin to not only change the adoption narrative, but create change in adoption perceptions, and ultimately practice, leading to improved reproductive futurities.

### **Suggestions for Future Research**

Overall, the findings of this study, while highlighting how adoption systems disproportionately impact vulnerable and marginalized women, raised the need for further research on natal mothers within feminist, critical adoption, and reproductive justice studies. One of the limitations that impacted this work was the limited number of women whose voices have been heard as it relates to the impact of adoption systems on their own, and their children's lives. Although voices of mothers from the adoption mandate are emerging as a result of their own activism and through multiple state inquiries, the voices of natal mothers in transnational adoption remain mostly silenced. And, although many voices have been raised by adoptee survivors of the Sixties Scoop through the Truth and Reconciliation Commission, the Sixties Scoop lawsuit against the Canadian government, and their own activism, the voices of their mothers remain mostly unheard. Further research might concentrate on obtaining the perspectives of those missing mothers. For the mothers of the Sixties Scoop, this research would most likely have to be completed by an Indigenous scholar using Indigenous approaches to research and trauma informed methodologies, insofar as these mothers are a traumatized and vulnerable demographic given the intersection of adoption with colonization. Further, the Indigenous mothers of the Sixties Scoop would now likely be elders in the Indigenous community. Natal mothers in the context of transnational adoption can be found all over the

world, and although some Korean adoptees have attempted to bring forward the voices of Korean natal mothers, there remain countless other mothers in many countries whose voices are yet to be heard.

This thesis included a brief analysis of how reproductive justice theory can be applied to support and empower mothers to prevent them from being impacted by adoption systems. To further this research, a more in-depth study might be employed to determine and identify programming and opportunities that reduces adoption as a reproductive outcome for women and girls who desire to parent. Also, because reproductive justice theory offers a myriad of ways to approach reproductive vulnerabilities and outcomes, suggestions for further research might include an in-depth analysis of the challenges the LGBTQ+ community faces through the regulation of their reproductive options. Further, as adoption numbers continue to decline worldwide, and as more prospective parents turn to reproductive technologies such as surrogacy to form families, the legal, ethical and human rights implications of such practices might also be theorized using a reproductive justice lens.

This dissertation has explored the multiple and complex issues, debates, and tensions within feminism that intersect with critical adoption studies and reproductive justice studies, an area at present that remains underdeveloped. This research furthers feminist theory and debate about adoption as a form of oppression, exploitation, and reproductive violence. This work contributes to the feminist project of uncovering subjugated knowledges, values the lived experiences of women, supports social justice and ultimately, the political reform of adoption practice. To accomplish this, it looks at the ways in which the processes of adoption can be theorized within a reproductive justice framework to improve reproductive outcomes for women and girls.

Finally, it can be concluded that the project of feminism and the reproductive justice

movement have typically mostly omitted critical analyses of adoption systems even though such studies are directly relevant to the aims and tenets of these projects. It has also been established through this work that adoption systems in various contexts do operate as a form of oppression, exploitation, and reproductive violence against reproducing bodies. And further, by analysing how reproductive justice frameworks can operate as a tool, a method, to deconstruct the reproductive oppression that is inherent within adoption systems, this thesis has shown how improved reproductive outcomes for women and girls can be worked towards and achieved. This is relevant and contributes to the identification of adoption as a site of women's oppression that must be taken up by the project of feminism as a whole, and more specifically, by and within the fields of critical adoption studies, motherhood studies, and reproductive justice studies. This thesis ultimately invites feminists to join the conversation about adoption systems and to continue to explore these systems in light of the questions: From which body? and Who benefits?

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## Appendix A: State Inquiries

### **COMMONWEALTH OF AUSTRALIA**

**National Inquiry** – Senate of Australia – Community Affairs Reference Committee –

Commonwealth Contribution to Former Forced Adoption Policies and Practices

Report Released February 29, 2012.

National Apology given by Prime Minister Gillard March 21, 2013.

**National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children From their Families** – Human Rights and Equal Opportunity Commission.

Report “[The Stolen Generation] Bringing Them Home” Released April 1997

“Sorry Day” May 26, 1998 now implemented as a national day to reflect annually on that date

Motion of Reconciliation – Prime Minister John Howard – August 26, 1999

**State of Western Australia** – Standing Committee on Environment and Public Affairs -  
Inquiry Into Past Forced Adoptive Policies and Practices

Announced February 22, 2023 – As of March 2023, deadline for submissions was extended to June 16, 2023.

Follows apology October 19, 2010

**State of Victoria – Legislative Assembly** – Legal and Social Issues Committee

Inquiry Into Responses to Historical Forced Adoptions in Victoria

Report Released Dec 8, 1999 – Apology October 25, 2012

**State of New South Wales** – Standing Committee on Social Issues – Releasing the Past -  
Adoption Practices 1950-1998

Report Released February 27, 2001

**State of South Australia**

Apology July 18, 2012

**State of Tasmania**

August 6, 2012 announced an apology would be forthcoming

**State of Queensland**

August 23, 2012 announced an apology would be forthcoming

**Northern Territory**

**Australian Capital Territory**

Apology August 14, 2012

## **CANADA**

### **Senate of Canada – Standing Senate Committee on Social Affairs. Forced Adoptions of the Babies of Unmarried Mothers in Post-War Canada**

Report “The Shame is Ours” Released July, 2018.  
Apology pending as of this writing

### **Indigenous Sixties Scoop**

No Inquiry as yet  
Class Action Lawsuit - Sixties Scoop Settlement November 2017  
No apology at this time

## **UNITED KINGDOM**

### **UK House of Commons/House of Lords - Joint Committee On Human Rights. The Violation of Family Life: Adoption of Children of Unmarried Women 1949-1976.**

Report Released July 15, 2022  
No apology at this time

### **Scotland**

#### **Parliamentary Meeting June 16, 2021**

Apology given by First Minister Nicola Sturgeon March 22, 2023

### **Ireland**

#### **Department of Children, Equality, Disability, Integration and Youth Commission of Investigation into Mother and Baby Homes**

Inquiry Report Released January 12, 2021  
Apology given by The Taoiseach (Prime Minister) of Ireland Micheál Martin January 12, 2021.

## **EUROPE**

### **Belgium**

Apology given by Prime Minister Charles Michel of Belgium April 4, 2019 to children born to mixed-race couples and brought to Belgium for adoption after its colonial rule of Burundi, Congo and Rwanda

### **Flanders (Region in Belgium)**

#### **Government Sponsored Expert Panel 2019 – Adoptions Unmarried Mothers Postwar**

Apology given by Minister of Public Health and Family, Jo Vandeurzen (and supported by



Belgium Bishops) November 25 2015

**Netherlands**  
**Inquiry into Intercountry Adoptions Report**

Recommendations Released Feb 2021  
Netherlands halts international adoptions February 2021

**Switzerland**  
**Adoptions from Sri Lanka March 16, 2018**

**ASIA**

**Republic of Korea**  
**Truth and Reconciliation Commission**

Commenced December 10, 2020. Framework Act on Settling Past Affairs for Truth and Reconciliation. To accommodate the urgent needs of survivors and victims' families who have sought truth and justice for past state violence.

A one-year extension of the commission was granted in January 2024 to examine human rights violations pertaining to the falsification of child origins during the adoption boom in the 1970s and 1980s (Tong-hyung).