Race privilege and its role in the 'disappearance' of birth families and adoptive children in debates over adoption by non-heterosexual people in Australia

Damien W. Riggs

Determining the best interests of children is often difficult due to the competing needs of children and parents. Unfortunately, however, an adult-orientated approach to determining best interests often prevails (Burman, 1994). One example of this occurs when researchers or political commentators claim that heterosexual people are best suited to raising children, and where non-heterosexual people are depicted as incapable or inappropriate parents (Riggs, 2006a). Several things happen when such claims to children's 'best interests' are made: First, children's voices and opinions are typically ignored, and second, non-heterosexual parents may feel forced to make claims to 'normality' in order to justify their capacity as parents (Robson, 1992). Such claims can, unfortunately, serve to perpetuate the notion that adults always know what is best for children.

This has certainly been the case in recent calls for revising legislation related to intercountry adoption by non-heterosexual people, and the practice of domestic adoption within Australia by non-heterosexual people. Such rights claims highlight how notions of 'normality' can result in claims of ownership over children being made on the part of non-heterosexual parents of adoptive children. In the example of intercountry adoption, what disappears in such calls for rights is not only the experiences of children placed for intercountry adoption and their birth parents, but also any attention to the race privilege of the (primarily) white non-heterosexual people who call for intercountry adoption rights.

In order to examine these two 'disappearances', this chapter bring together three interconnected issues that require ongoing attention in research on intercountry and domestic adoption by white non-heterosexual Australians: 1) how rights claims and notions of 'best interests' often ignore children's voices in the rush to normalise particular family forms, 2) how calls for

rights to intercountry adoption typically only allow birth parents to 'appear' as 'bad' parents in comparison to 'good' adoptive parents, and 3) how an alternate understanding of adoption and accountability may begin the work of rethinking adoption in ways that emphasise globally-orientated understandings of family. As such, and with its focus on white non-heterosexual adoption, this chapter responds to Lehr's (1999) suggestion that 'it is dangerous for gays and lesbians to see children who become adoptable as a result of social inequalities and discrimination as benefiting from gay parenting, whilst failing to vocally call into question the politics that create the need for the adoption of these children' (p. 127). Exploring the rights claims of non-heterosexual adopters alongside the social contexts in which such claims are made creates the possibility for developing an approach to adoption that places a range of rights claims in a relationship to one another.

'Gay Adoption'

It is first important to set the context for the discussion that follows. Across most Australian jurisdictions, non-heterosexual couples cannot adopt. Whilst in Western Australia and the Australian Capital Territory non-heterosexual couples are eligible to be considered for approval, the placement of a child with them is contingent upon the consent of the birth parents. As a result, only one such adoption has been reported as occurring since legislation was passed in the one state and one territory that allow non-heterosexual adoption. One further jurisdiction allows for a form of adoption; Tasmania legislates for second parent adoption. This is limited to adults who wish to formally adopt a child born to their partner prior to their relationship or to whom they are not biologically related but who is biologically related to their partner. Duffy (2007) outlines how there exist potential loopholes in the remaining four states and one territory for single non-heterosexual people to adopt, though this means, for non-heterosexual couples, that only one person is recognised as a legal parent.

In regard to intercountry adoption, the previous Howard-led coalition government had hinted at legislation that would deny recognition of

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intercountry adoptions undertaken by non-heterosexual individuals. Whilst the draft bill was never tabled in parliament, considerable discussion of it appeared in the Australian media in 2007, indicating the concerns of potential non-heterosexual adoptive parents. Whilst these concerns were valid, it is important to note that intercountry adoption by non-heterosexual Australians is rare, as all countries that currently allow for intercountry adoption do not allow non-heterosexual couples to apply to adopt, and some countries do not allow single people to adopt. As such, intercountry adoption can only be undertaken by non-heterosexual people as single people (in countries that allow single people to adopt), or by couples who are willing for only one person to be legally recognised as a parent by the country from whom the child is adopted.

Whilst these are all obvious examples of discrimination against non-heterosexual Australians, and whilst law reform continues to be necessary, it is important to consider how the depiction of discrimination as an infringement upon adult's rights can result in those who oppose adoption by non-heterosexual people referring to such people as 'selfish', which can lead to non-heterosexual adopters being forced to fight battles not of their own making. For example, in a 2007 report in the *Sydney Morning Herald* on the previously mentioned possible bill on intercountry adoption, Greens senator Kerry Nettle described it as 'deeply homophobic', and said that it was 'a disgraceful move by the Howard government to pander to homophobic and fundamentally religious interests in the lead up to an election'. Whilst the accusation of pandering during election campaigning may have been accurate, the depiction of the possible denial of intercountry adoption to non-heterosexual people was primarily constructed as one of homophobia – as directed at non-heterosexual adults, rather than at the possible needs of children. Additionally, many of the media articles focusing on this issue utilised titles such as 'gay adoption', thus signalling from the onset that these were 'gay rights' issues, rather than human rights or children's rights issues.

A further instance of this occurred in media reporting of the 2005 legislative change in Western Australia that permitted non-heterosexual people to be

considered eligible to undertake adoption within the state, and in subsequent reporting in 2007 of the first such adoption, undertaken by two men. In contrast to the notion of rights used in a positive sense by Kerry Nettle, in this instance the focus on adoption rights as 'gay rights' was evoked in a negative way by those who opposed non-heterosexual people undertaking adoption. This mirrors reports from both the UK (e.g., see Dey, 2005; Hicks, 2005) and the US (e.g., see Sullivan & Baques, 1999) which suggest that resistance from those on the religious and political right to legislation allowing non-heterosexual people to adopt has typically emphasised the idea that allowing non-heterosexual people to adopt is not child-focused: that it is about the rights of non-heterosexual people, not the rights of children to a 'mother and father'. In the Australian media, examples of this include: 'Opposition Leader Matt Birney said the… debate about same-sex parents had been hijacked by a focus on the rights of potential parents, rather than the rights of a child (Laurie, 2005) and:

> Australian Family Association WA Branch president John Barich said… a child is not goods to pass around, and the child doesn't get to give his or her opinion until it's too late - then he finds out he's got two dads. Having children is not a right, it's something nature gives you. Nature hasn't given it to them - therefore they ought to desist and dedicate themselves some other way to humanity (Quartermaine, 2007a).

Examples such as these highlight how a focus upon rights is used to construct non-heterosexual people as 'hijackers', as having unnatural desires to raise children, and as treating children as 'goods to pass around'. As this demonstrates, the depiction of adoption by non-heterosexual people as a matter of adult's rights can as easily work in the *dis*service of non-heterosexual people as it can work to the benefit of non-heterosexual people. Media reports of adoption that report both 'sides' of the issue thus actually do very little to present a broad range of alternatives that require consideration in regard to adoption (i.e., economic disparities that result in children being placed for adoption). Instead, they emphasise a relatively homogenous image of adoption that centres upon the competing interests of differing groups of relatively privileged adults (Riggs, 2006b). Yet these media reports do more than simply report differing groups as being in

conflict with one another over adoption rights: they also reinforce a very stereotypical image of adoptive families into which non-heterosexual parents are co-opted.

'Loving Families'

In arguing for or against the 'adoption rights' of non-heterosexual people, a range of groups continue to rely upon stereotypical images of what constitutes a family. Primarily, these images of family centres upon notions of love, and moreover, the love provided by a two-parent family. This dominant understanding of family was evoked by both those for and against adoption by non-heterosexual people as reported in the Australian media in 2007. Then Attorney-General Phillip Ruddock was reported as stating in support of a possible bill prohibiting non-heterosexual people from undertaking intercountry adoption that such prohibitions represented 'measures [that] will ensure that priority is given to those in *typical* family arrangements' (Stafford, 2007, emphasis added). Notions of what constitutes a family were also evoked by those in support of changes to adoption legislation in Western Australia:

> [WA Attorney-General Jim McGinty said that] the only consideration when it comes to adoption is the best interests of the child. So long as the child is in a loving, caring relationship I don't think he can ask for much more than that… What we need to do is have loving relationships where the parents love and care for the child (Quartermaine, 2007b).

In both instances reported here the speakers evoke notions of family that normalise one particular family form. In the example of Ruddock (who has consistently spoken out against non-heterosexual families and relationships), a 'typical family arrangement' is automatically taken as referring to a heterosexual nuclear family (see Riggs, 2007a, for more on the implications of these claims for white non-heterosexual parents). Similarly, McGinty evokes a notion of a 'typical family' that, whilst certainly more open to a diverse range of parents, is nonetheless centred upon 'parents' (presumably two) who are in a relationship, and who 'love and care for the child'. Thus, whilst the family forms recognised by McGinty may differ

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from those recognised by Ruddock in terms of structure, they do not differ in terms of process: they involve adults who recognise that children's best interests are best met by loving relationships between two people.

Elsewhere (Riggs 2006c; 2007b) I have written about the limitations of relying upon notions of 'love' to back up the rights claims of non-heterosexual families. Similar concerns have been raised by people who themselves have been adopted internationally, who have highlighted the fact that love alone does not address the challenges that arise from growing up in an adoptive family (e.g., see Armstrong & Slaytor, 2001). The limitations of relying upon notions of love to legitimate non-heterosexual and/ore adoptive families may be understood as taking two differing forms: 1) the imposition of love as an all encompassing ideal for families and the limitations of this for adoptive families, and 2) the ways in which claims to 'love' may be seen as normalising non-heterosexual families.

In relation to the first point, an emphasis upon love, particularly in regard to families formed through adoption, can deny the possibly conflicting emotions of both adoptive parents and children placed for adoption: it is not automatic that all adoptive families (or any families for that matter) will automatically love one another. As such, an emphasis upon love may well set families up to struggle in the face of the expectation to 'love'.

In relation to the second point, recourse to the notion that 'love makes a family' has the potential to overwrite the ways in which only certain family forms are recognised as morally worthy or deserving of protection in Australia (primarily white, middle-class nuclear families). In other words, claiming 'love' in regard to non-heterosexual families may not actually serve to recognise the unique shapes of such families, but may instead simply incorporate them into a stereotypical image of what constitutes a family. Furthermore, an emphasis upon familial love, whilst an important counter to depictions of non-heterosexual people as involved in 'pathological love', may present an image of non-heterosexual families within the media that all too easily ignores the struggles that such families

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face living in the context of homophobic societies, and the differing struggles of individual family members.

The emphasis upon 'love' and 'typical family arrangements' amongst those variously advocating for the 'best interests' of children may thus be seen as reiterating a particularly limited vision of what constitutes a family, and more specifically, what constitutes an adoptive family.

'Good' Adoptive Parents versus 'Bad' Birth Parents

Depictions of best interests of the child in regard to children occur not only in the language of 'loving families', but also through the comparison of supposedly 'loving' families with supposedly 'bad' families. Writings by academics who themselves were adopted continue to highlight how understandings of intercountry adoption have long been premised upon the depiction of adoptive families as generous, kind, and giving, with birth families depicted by comparison as poor, incapable and undeserving (see contributions in Trenka, Oparah & Shin, 2006). Particularly as this pertains to intercountry adoption from countries in Asia, the comparison of 'good' Western adoptive families with 'bad' Asian birth families serves to legitimate the former at the expense of the latter, and furthermore, it serves to justify the economic privilege of the former without necessarily examining the relationship between economic privilege and economic disadvantage.

In regard to the economics of intercountry adoption, Park Nelson (2006) suggests that as many adults in Western nations continue to be invested in an understanding of adult-child relations that emphasises ownership, so comes with this a drive to 'source' children available for adoption. This demand for children produces what Park Nelson terms a 'grey market' for children – one that is not necessarily illegal, but which may often be unethical in its perpetuation of economic disparities between adoptive and birth parents. I would take this further, following Eng (2003), in suggesting that there exists a version of the grey market that we may term the 'pink market' – one where (primarily white) non-heterosexual people are very

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much invested in the sourcing of children, regardless of the ethical implications of intercountry adoption (see Ross, Epstein, Goldfinger, Steele, Anderson & Strike, 2008, for more on the investments that white non-heterosexual adopters may have in securing intercountry adoptions).

One factor contributing to ignorance about the economic factors informing intercountry adoptions is the previously mentioned depiction of birth families in Asian nations as undeserving of consideration, with children placed for adoption in such nations depicted as objects of pity. Such depictions are contrasted to the 'love' offered by non-heterosexual (and non-Asian) adoptive parents. An example of this appears in the following extract from an Australian news media article on the previously mentioned bill that was intended to prevent intercountry adoption by non-heterosexual people:

> The government clearly believes children are better off in a Chinese orphanage or on the streets of Manila than in the care of a loving same-sex couple in Australia (Sydney Morning Herald, 2007).

In this example a contrast is made between 'Chinese orphanages' and 'loving same-sex couples', with the former implicitly constructed as inherently negative. The reference to the 'streets of Manila' implies that somewhere there are birth parents who are allowing children to wander the streets of Manila (or to end up in 'Chinese orphanages'). Such parents are thus constructed as undeserving or uncaring, as opposed to the 'loving same-sex couple[s] in Australia' who would happily care for children. Furthermore, children who are in 'Chinese orphanage[s]' are constructed as automatically better off in Australia – that being removed from their birth country and culture (in addition to being separated from their birth family) is a better outcome than being left 'on the streets' or in orphanages. Obviously my point here is not that children should be left in orphanages or on the streets, but rather that statements such as these ignore the reasons why children may be in orphanages or living on the street, and that one answer to this may be not to focus upon intercountry adoption per se, but rather for Asian nations and families to be supported in retaining care of their children (Williams Willing, 2005).

These contrasts between supposedly 'good' and 'bad' families serve to legitimate the rights claims of non-heterosexual Australians again through the notion of 'loving families', where non-heterosexual families are depicted as loving, and Asian families as uncaring. Being mindful of the use of these contrasts is especially important when we are talking about adoption by non-heterosexual people, as it has historically been the case that non-heterosexual parents have been depicted as 'bad' parents in comparison with supposedly 'good' heterosexual parents (Rofes, 1998). Challenging such comparisons requires the rethinking of calls for adoption on the part of non-heterosexual people that takes on a global vision of how adoption functions across contexts and through economic as well as interpersonal dynamics.

Global Economies of Adoption

Thus far I have hinted at the 'race privilege' of white non-heterosexual adoptive parents. The concept of 'privilege' is typically understood as referring to the benefits that an individual may gain simply by being the member of a particular group. Importantly, it doesn't refer to the intentional actions of an individual to discriminate against another person. Rather, it suggests that members of dominant groups stand to benefit, typically at the expense of other groups. Of course this is a tricky concept to apply to white non-heterosexual adopters, who may well feel that they are discriminated against as non-heterosexual people. Nonetheless, it is important to look at how they experience privilege as white people, and to place this in a relationship to the disadvantages that other groups of people may experience.

When we examine the relationship between privilege and disadvantage, we must be mindful of how the former can come at the expense of the latter. So if we are to recognise the fact that the economic climate of some Asian nations can result in high numbers of children being placed for adoption, this must not simply be left as a matter of concern to such nations – it must also be of concern for those nations (such as Australia) that stand to benefit from global economic inequities that are very much the product of

colonisation and the ongoing effects of it (Lehr, 1999). Understanding intercountry economic disparities in this way, and with particular regard to adoption, may help to produce an understanding of responsibility that moves away from guilt (which typically produces a benevolent response – see Riggs, 2004), and toward an understanding of responsibility that focuses on legacies of globalisation, and accountability for this in ways that prioritise the lives and voices of those who are marginalised, rather than the needs of those who stand to benefit from marginalisation.

The difference between these two understandings of responsibility is subtle but important. Guilt tends to produce a 'giving to the other', which largely serves to reiterate power imbalances wherein one group is positioned as inherently able to give, and the other positioned as always the recipient of 'gifts'. In contrast, a focus on accountability may serve to first recognise the relationship between those who experience privilege and those who experience disadvantage, and second to recognise the ways in which aid can be given that strengthens disadvantaged communities on their own terms, rather than on terms set by privileged groups. Obviously this is pertinent in regard to financial disparities, where those people in Australia who wish to access intercountry adoption might consider not simply (or even primarily) their own needs, but rather how the need for legislative change and economic reform to the benefit of other countries may be the first step in a reformed adoption agenda (Roberts, 2003). For those white non-heterosexual people seeking to secure adoption rights, this may entail redirecting both political energies and funds away from the agendas of white non-heterosexual people and towards the agendas set both within Australia and abroad for supporting families to retain custody of their children.

For those people who continue with adoption, and who seek change in adoption legislation within Australia, it is important to challenge notions of ownership within adoptive families. In her writing on raising children who come into a non-heterosexual family through intercountry adoption, Lev (2004) suggests that honouring the connection between birth parents and children must entail more than simply 'celebrating other cultures' or 'becoming other' oneself. Adopting children from a culture different to

one's own should not entail seeing another culture as 'exotic' (or the child itself as a marker of that culture), nor should it entail denying cultural differences and the detrimental impact of child removal. Whilst respect for cultural difference can easily slip into see people other than ourselves as 'exotic', Lev suggests that being respectful requires adoptive parents to refuse the expectations of others to 'exhibit' adoptive children or to make claims to 'going native'.

Situating adoption in a global context requires those adults who do undertake intercountry adoptions not only to consider their location within ongoing histories of economic disparity produced by colonisation and other forms of land theft, but also how that plays out in the practice of adoption. Acknowledging these inequities is likely to require a reorientiation of adoption practice toward the needs of children and birth families - as they define them - rather than perpetuating the image of the 'rescuing adoptive parent' who can solve the problems of the world through the act of adoption. In regards to the dangers of seeing intercountry adoptions as exotic, then, part of the answer to this problem requires a recognition of the fact that children who are adopted will bring with them a range of experiences that will almost certainly differ from those of their adoptive parents. Recognising these differences and working with children to hold onto the meaning and memory of these experiences is thus one aspect of being an adoptive parent who takes as their starting place the experiences of adoptive children, rather than presuming that adoptive children come into care as blank slates with no history.

Conclusions

I began this chapter by outlining some of the current debates over non-heterosexual adoption in Australia, and I drew attention to the ways in which notions of 'rights' are applied by those for and those against adoption by non-heterosexual people. I then moved on to examine how contrasts are made between supposedly 'good' and 'bad' families. From there I highlighted the role of race privilege in rights claims of white non-heterosexual people. These three areas of focus allowed me to suggest that

the ongoing development of agendas for adoption must be orientated toward addressing economic and social disparities in a global context as informed by the voices of adoptees and their birth parents. Such an approach, I have argued, may counter the 'disappearance' of birth parents and adoptive children in debates over rights to adoption by non-heterosexual people in Australia.

In regard to adoption by non-heterosexual people, and as a white gay parent myself, my interest in this chapter has not been to deny adoption rights, but rather to call for a more considered engagement with the law, and how it shapes the rights claims we make. A reactionary response to the actions of the political and religious right is likely to perpetuate the dominance of particular understandings of family, and to force white non-heterosexual families into complicity. Locating ourselves as not simply non-heterosexuals who experience discrimination, but more transparently as *white* non-heterosexual people who also experience privilege, is an important aspect of addressing the ways in which the category 'non-heterosexual' often represents the desires of white non-heterosexuals, yet repeatedly slips into making universal claims for all non-heterosexual people. Similarly, an ongoing examination of race privilege may help to facilitate an examination of how privilege functions within non-heterosexual communities, and how this plays out in the rights reforms that we continue to see occur across Australia. As Lehr (1999) suggests, calling for adoption reform may thus be somewhat less problematic if the focus is simultaneously upon economic disparities in a global context and the location of potential non-heterosexual adoptive parents within this context.

Acknowledgements

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