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Major changes urged in transracial adoption

The Associated Press - May 27, 2008

NEW YORK (AP) — Several leading child welfare groups Tuesday urged an overhaul of federal laws dealing with transracial adoption, arguing that black ...



The Associated
Press

Comment by Elizabeth Bartholet, Harvard Law School, Prof. of Law & Faculty Dir., Child Advocacy Program

 **Race as a Barrier to Forming Families - 41 minutes ago**

The Evan B. Donaldson Institute recently released a Report (5/27/08), presented at a briefing held 6/10/08 by the Congressional Coalition on Adoption, calling for a change in the federal Multiethnic Placement Act (MEPA) which now forbids the use of race to delay or deny adoptive placement. Congress should ignore this Report, and I assume it will have the sense to do so. The requested amendment to MEPA would return us to a regime in which social workers try to "match" foster children waiting for homes with same-race parents, delaying and denying adoptive placement as occurred pre-MEPA. By authorizing state officials to use race to decide important issues regarding family formation, this amendment would fly in the face of our nation's body of civil rights law, and almost surely be found unconstitutional by the courts.

The Donaldson Institute makes a series of false and misleading claims. First is that the Report is a "research-based" publication, and that the Institute is "the pre-eminent research" organization in the field. The Donaldson Institute is well-known in the adoption area as an advocacy organization committed to the idea that birth and racial heritage is of central importance, and this Report is an advocacy document, endorsed by organizations with well-known hostility to MEPA.

A second Donaldson claim is that MEPA is not working to enable increased numbers of black children to find adoptive homes, as it was supposed to. The fact is that transracial adoptions have increased post-MEPA, although not yet as much as we might hope. But it takes time for laws to have an impact, and it is only recently that the federal government began serious implementation efforts, issuing its first enforcement decision in 2003. There is certainly no reason to think that recreating a barrier to transracial adoption will do anything other than make it harder to find homes for waiting children, given that the overwhelming majority of the population is not color-matched for the black children that constitute a majority in foster care.

A third claim is that MEPA harms black children by preventing social workers from adequately preparing transracial adoptive parents to raise black children. However MEPA allows such preparation. What it forbids is segregating the transracial from other prospective adopters, subjecting them to a pass-fail racial attitude test and disqualifying those who don't give the state-determined "right" answer to complex issues on how to address children's racial heritage, and otherwise using race as the basis for eliminating prospective parents. History tells us what would happen if social workers were again empowered to use race in making adoptive decisions. From the 1970's until MEPA's passage the federal Constitutional rule was that race could be "a factor" but not the determinative factor in adoptive decision-making, the same rule the Donaldson Report

calls for, and in the name of that rule state agencies engaged in rigid race-matching, often locking black children into foster care for their entire childhood rather than placing them across racial lines. The federal government's MEPA enforcement decisions show how social workers implemented the kind of racial screening of prospective parents that the Report calls for, describing case after case in which black foster care children with serious disabilities were denied homes with eager transracial adoptive parents based on decisions that the parents had the wrong friends, or the wrong paintings on their walls, or went to the wrong church, or lived in the wrong neighborhood, with the children then relegated to waiting in foster care yet longer for that needed permanent home.

A fourth claim is that there is new research demonstrating, in contrast to prior research, that transracial adoptees have "problems." The fact is that the entire body of good social science still provides no evidence that children suffer in any way by being placed in a transracial rather than a same-race home, and it provides lots of evidence that children suffer by being delayed in finding permanent homes, as they are when we reduce the number of eligible homes by using race as a placement factor. The research relied on in the Report shows only that different parenting styles may have an impact on children's racial attitudes, which is hardly surprising and says nothing about whether children are better or worse off by virtue of transracial as compared to same-race parenting. Indeed despite misleading claims in the Executive Summary, the relevant section in the body of the Report concedes that the research does "not provide sufficient basis for reaching conclusions about the level of problems experienced by Black children in foster care who are adopted transracially compared to those adopted by Black families." (P. 29)

The reality is that most of the children needing permanent homes in this country and in the larger world are children of color, while most of the people in a position to step forward to adopt are white. The additional reality revealed by the research on transracial adoptive families is that love works across color lines. If we want children to have the permanent homes they desperately need, we must recognize these realities.

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