The Role of Adoption in the Market for Children
By
Allen M. Parkman, Ph.D., J.D.
Regents Professor Emeritus of Management
Anderson School of Management
University of New Mexico
Albuquerque, Nm 87131

Adoption can be an important process for increasing the welfare of some adults and children. Society has a strong interest in this process as children are highly vulnerable. Their future welfare is highly dependent on their relationships and interactions with adults, especially when they are very young. It is essential for children that adults are motivated to consider their welfare when making decisions. The most frequent interaction for children is with their birth parents. In some cases, however, adoption can serve a very important role in increasing the likelihood that they will have a quality childhood by transferring parental rights to adults who are more capable of improving their lives. This transfer is more likely to occur in a market like environment rather than a bureaucratic one.

One of the most noticeable attributes of the current adoption process is the imbalance between adoptive parents and adoptable children with an excess demand for certain children such as white infants and an excess supply of others such as black, older and special needs children. Adoption is a highly regulated activity specifying who can adopt, who can be adopted, who can consent to the adoption, and how much money can change hands due to the adoption. In almost all cases, a middleman is involved in

1 A wide range of disciplines have investigated the effect of early childhood parenting on future adjustment by individuals. They have concluded that deficient parenting increases the risk of future problems such as depressive disorders. See M. W. Enns, B. J. Cox, and I. Clara, “Parental Bonding and Adult Psychopathology: Results from the US National Comorbidity Survey,” Psychological Medicine, 32, 2002, pp. 997-1008.

2 Many people view a quality childhood as a right. This perspective has been codified into Article 27(1) of the United Nations Convention on the Rights of the Child that places a duty on State Parties to recognize the right of children to a standard of living adequate for their physical, mental, spiritual, moral and social development. For a discussion of the importance of giving parents the preferred incentives, see Allen M. Parkman, “The Application of Human Capital Theory to Article 27,” in Arlen Bowers Anderson and Natalie Hevener Kaufman, ed., Implementing the U. N. Convention on the Rights of the Child (Westport, CN: Praeger, 1999), pp. 149-55.


4 In general, any single adult or married couple can be eligible to adopt. In addition, a stepparent can adopt the birth child of his or her spouse. See “Parties to an Adoption” available at http://laws.adoption.com/statutes/parties-to-an-adoption.html.

5 All states permit the adoption of a child. Many states do not place a restriction on the age of a person being adopted. Ibid.

6 In all states, the birth parents including the father if he has properly established paternity hold the primary right to consent to an adoption of their child. See “Consent to Adoption” that is available at http://laws.adoption.com/statutes/consent-to-adoption.html.

7 Nearly all states have enacted statutes that provide some regulation of the fees and expenses that adoptive parents are expected to pay when arranging an adoption. These fees tend to include placement costs incurred by an agency or other placement service, legal and attorney expenses and some of the expenses of
these arrangements. More flexibility, especially with regard to the compensation to birth parents, can increase the welfare associated with adoption.

**Market Forces and Parenting**

There are forces that we usually associate with markets that have a strong influence on parenting. Parents usually have an incentive to be concerned about their children’s welfare as the children play a central role in their welfare. By raising them, they expect to be better off. Like any welfare enhancing activity, children require adults to make a variety of important decisions. Here we are interested in the decision to conceive, obtain, or relinquish a child and then to devote time and money to raising that child. In making those decisions, adults are forced to weigh the benefits and costs associated with alternatives. The benefits of having children encourage the demand for them, while their costs influence their supply. It has been observed that standard economic influences on demand are present when it comes to children. The higher is the cost, the fewer children that people want. As people’s incomes increase, they have an increased demand for most things including children. Last, children like most things experience diminishing returns as their value tends to decline as people have more of them. Meanwhile, the primary influence on their supply has been the expenditures on them as well as their parents’ time. Because of the presence of demand and supply, there is essentially a market for children. Balancing the forces of demand and supply, this market tends to encourage children so long as their benefits exceed the costs.

Markets in other situations have been shown to be important vehicles for increasing social welfare. One of the important attributes of markets is their ability to encourage welfare enhancing decisions often by shifting resources from lower to higher valued uses. Social welfare is usually maximized when the quantity demanded is equal to the quantity supplied. This result is usually due to adjustments in the price, but it can also due to an increase in the information available to market participants. In a voluntary market transaction, both parties are better off as a result. The seller values the price paid more than the item sold, while the buyer values the item more than the price paid. As a result, markets have been demonstrated to be an important device for increase social welfare.

the birth mother during pregnancy. Approximately 45 states have laws establishing the specific types of birth parent expenses that can be reimbursed by the adoptive parents. These expenses include maternity-related medical and hospital costs, temporary living expenses during the pregnancy, counseling fees, attorney and legal fees, travel costs, meals and lodging associated with court appearances and foster care when appropriate. Not only are there laws specifying what can be paid, there are others stating what cannot be paid. See “State Regulation of Adoption Expenses,” available at http://laws.adoption.com/statutes/state-regulation-of-adoption-expenses.html.

8 The source of adopted children can consist of public agencies, private agencies, independent adoption and inter-country adoptions. In 2001, there were 127,407 adoptions with 46 percent being private agencies, independent, kinship and tribal; 39 percent being public agencies, and 15 percent being inter-country. See U. S. Health and Human Services, *How Many Children Were Adopted in 2000 and 2001?* August 2004.


11 For a discussion of the welfare enhancing capacity of markets, see Mankiw, *Economics*, supra note 10 at 9.
The primary reason why some market transactions will not increase social welfare is externalities.\(^\text{12}\) While improving the welfare of the participants, some transactions impose costs (or potentially benefits) on third parties. Pollution is an example of negative externalities, while a neighbor with a beautiful garden is one of positive externalities. When externalities exist, there is a potential role for an external force such as government to encourage the participants to recognize the full benefits or costs of their transactions.

**The Market for Children**

Because of benefits and costs and, therefore, the forces of demand and supply there is a market for children. The market for children has both an internal and an external component. While decisions about children can be viewed as the result of a market type process, most decisions are made internal to families as couples weight the benefits and costs of conceiving and raising additional children. They would be expected to want them as long as their benefits exceed their cost.\(^\text{13}\) A market for children also exists external to birth parents with some people demanding children that they cannot or will not supply and others supplying children for which they do not have an adequate demand.\(^\text{14}\) This external market consists of adoptions and surrogate motherhood. An adoption results when one set of parents transfer their parental rights to another individual or set of individuals. Surrogate motherhood consists of a woman using someone else’s sperm and/or egg to conceive a child that she does not keep. Our interest here is in adoption and how it can improve social welfare.

The market for children has the usual attributes of markets responding to benefits and costs. A particular concern, however, is externalities as children are not involved in the decisions that resulted in their conception, birth and early nurturing. Birth parents are usually given broad discretion in their childrearing in the anticipation that they will have incentives to confer external benefits on their children.\(^\text{15}\) They will invest their time and money in their children. However, society does not hesitate to interfere when there are external costs such as abuse or neglect.\(^\text{16}\) When considering the external market for children such as for adoption, the external effects of adult decisions on children continue to be a major concern.\(^\text{17}\)

**Own Children**

Before considering the external market for children, it is worthwhile considering how market forces influence the number of children that birth parents keep. For most of history, the benefits of children were high and the costs low, so that most couples had numerous children.\(^\text{18}\) Children were a major source of domestic labor and old age

\(^{12}\) Ibid., p. 10.
\(^{13}\) Becker, “Fertility,” supra note 9.
\(^{16}\) Ibid., pp. 345-61.
\(^{17}\) While adoption statutes contain few restrictions on the persons eligible to receive children for adoption, agencies have developed rules in an attempt to protect adopted children. Ibid. at 908-12.
\(^{18}\) For example, on farms where the benefits were high and the costs low, families were larger than in urban areas. See Gary S. Becker, *A Treatise on the Family, Enl. Ed.* (Cambridge, MA: Harvard, 1991)
support, while the primary cost was raising them until they were productive. Both of these forces have changed during the last century. The benefits are no longer their productivity so much as the enjoyment that parents expects from them, while the costs have increased to reflect the parents’ sacrifices. With the increase in employment opportunities for women, the cost of either parent limiting a career to provide childcare has increased. Moreover, with more income couples have a new variety of recreational activities with which children may conflict.

Therefore, when considering the number of children that people want, we now see a variety of economic forces at work. Higher incomes suggest that people should have more children, while the higher cost of them encourages fewer. Since children were demanded because of the enjoyment that they are expected to provide their parents, diminishing returns can set in more rapidly encouraging people to have fewer children. Overall, we observe that people have reacted by having fewer of their own children, but investing more in each one of them.

The External Market

Our interest here is in the external market for children in which the forces of demand and supply also apply. An important characteristic of this external market is that it consists of numerous interrelated sub-markets. Because these markets are interrelated, the demand and supply in each is not unique but dependent on conditions in other related markets. For example, as the cost of acquiring white infants increases that creates incentives for people who would otherwise prefer them to consider lower cost alternatives such an older child or one with a different ethnicity.

With the internal market, parents have to accept the children that they conceive. In the external market, that is no longer the case. When prospective parents consider the external market for children often because they cannot conceive their own child, they have to address alternatives. Assisted reproduction can be attractive to some people when a couple is the same sex or one party is infertile. However, the primary external market for children has historically been for people to adopt a child conceived by others. While shopping in this external market, people will have preferences that influence the types of children that they prefer. There are demands for different ethnic

\[\text{\textsuperscript{19}} \text{Ibid., at 140.}\]
\[\text{\textsuperscript{20}} \text{Ibid., at 145.}\]
\[\text{\textsuperscript{21}} \text{There are a number of children and sources. The children vary based on ethnicity, age and special needs, while the sources consist of public and private agencies, independent adoptions and foreign adoptions. See Evan B. Donaldson Adoption Institute, Adoption Facts that are available at http://www.adoptioninstitute.org/research/adoptionfacts.php.}\]
\[\text{\textsuperscript{22}} \text{There have been divergent patterns in the ability of women to give birth over the past two decades. Between 1982 and 2002, the percentage of married women 15-44 who had impaired fecundity, which is the ability to become pregnant and take a child to term increased from 12 to 15 percent while the percentage who were infertile and, therefore, could not become pregnant fell from 8 to 7. See Anjani Chandra, Gladys M. Martinez, William D. Mosher, Joyce C. Abma, and Jo Jones, Fertility, Family Planning and Reproductive Health of the U. S. Women: Data From the 2002 National Survey of Family Growth, US Centers for Disease Control and Prevention, Series 23, Number 25, December 2005, p. 1.}\]
\[\text{\textsuperscript{23}} \text{In 2004, there were 36,760 live births ad 49,458 infants as a result of assisted reproduction in the United States. See U. S. Department of Health and Human Services, 2004 Assisted Reproduction Technology Success Rates, December 2006.}\]
\[\text{\textsuperscript{24}} \text{In 2001, 127,407 children were adopted in the United States. See U. S. Health and Human Services, How Many Children, supra note 8 at 2.}\]
backgrounds and ages. Meanwhile, the supply of children for adoption is not directly related to the demand complicating the matching of the quantity demanded to the quantity supplied in the submarkets.

**Changing Role of Parents**

Adoption today serves a very important function because of the changing nature of parenthood resulting in an increase in the likelihood that a child will be born to parents who are less capable or willing to make the preferred investment in their children. Many fewer children in the past were born under those circumstances. While the conceiving and nurturing roles of birth parents are instinctive, the choices made in conjunction with those roles are influenced by their costs and benefits. Being a successful parent can be costly, requiring substantial investments of time, energy and money; while being potentially the most beneficial and rewarding life experience. Social welfare is increased by activities whose benefits exceed their costs and that is also true with parenting. When parents make substantial investments of time and money in their children, it is highly likely that these children will turn into productive members of society. Society and the families are better off. Alternatively, when people produce children who are disruptive in their youth and antisocial as adults, the costs may exceed the benefits. Society would be better off if these children had never existed or had been encouraged to make different choices during their lives.

For much of history, parents had incentives to avoid producing this later type of child as the best interests of the parents coincided with those of society. Most costs and benefits of children were internalized in the family because parents could anticipate a lifelong relationship with their children, especially true among agrarian societies in which geographic mobility was limited. Being forced to live in close proximity with their children, poor parenting could impose a substantial cost on parents so they were encouraged to devote substantial time, money and effort to that activity. In addition, the children were the cornerstone of their parents’ support in their old age and poor parenting could have a devastating effect at that time. As a result of these incentives for responsible parenting, the families were better off and so was society.

An additional impetus for adults to be responsible parents was based on parenthood traditionally being a privilege rather than a right as the barriers to parenthood were substantial. The first constraint was usually marriage that normally required a couple to wait until they had accumulated ample resources to establish their own household. Marriage was especially important because premarital sex could create substantial problems for society and, therefore, strong sanctions were imposed to discourage it. Faced with limited opportunities to dissolve a marriage by divorce, adults had incentives to invest substantial time and effort choosing a mate. In summary, the

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25 There are strong preferences among adopting people with regard to age, disability status, race and number of children. Sex and religion is less of an issue.” See Anjani Chandra, Joyce Abma, Penelope Maza, and Christine Bachrach, Adoption, Adoption Seeking, and Relinquishment for Adoption in the United States, National Center for Health Statistics, Number 306, May 11, 1999, Table 4, p. 8.


requirement of minimum resources before marriage and the stability provided by the expectation of a long marriage generally worked to the advantage of children.

That pattern has changed dramatically as some parents now expect a much weaker attachment to their children. This is due in part to much greater geographic mobility, but also to society shouldering responsibilities and costs once assumed by parents. With fewer responsibilities, it is easier for parents to limit their involvement in their children’s lives. Single parenthood, for example, was seldom an option in the past. Before there was government support for children; parents, especially fathers, were expected to support their children. If the fathers were unable or unwilling to assume that role, the burden fell on the mother or her family—a role that they often did not assume happily—making it difficult for fathers to avoid their responsibilities. Not only has society assumed responsibility for the financial obligations of some fathers, it has also assumed a custodial responsibility for children. When the parents have done a poor job of raising a child, it has become more common for the child to end up in a foster home.28 Among these parents adoption provides an important vehicle for transferring parental rights from people are less capable of providing valuable services to their children to those who are more capable.

**History of Adoption**

While most parents raise the children that they conceive, there are others who either desire children that they cannot conceive or are unwilling or incapable of raising their children. One of the strongest influences on this process is the change in the benefits associated with children as they have shifting from being productive to consumptive members of households.29 In the nineteenth century, children were adopted, or the phrase at the time was “taken in,” because they would be a productive asset for the families as farm workers or household help.30 As a result, older children were valuable, but babies were difficult to place.31 With a less formal process for adoption, the adopting family was usually relatives or close friends of the birth parents. With the industrial revolution, children were no longer a productive asset and, therefore, their value became much more psychological. Children became a form of consumption for many couples. Even couples who could not conceive a child wanted one. In that environment, younger children—especially infants—became more valuable than older ones.

The process of adoption shifted from finding enough homes for homeless children to finding enough children for childless homes.32 During this period, the adoption process became more formalized through legislation.33 The external market for children also became more segmented. Since the demand for children was based on psychological factors, the preferences of childless couples influenced the children that they wanted.

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28 Between 1992 and 2001, the number of adoptions from public agencies increased dramatically from approximately 23,000 to 50,000. Most of these adoptions were from foster homes. See US Department of Health and Human Services, *How Many Children Were Adopted in 2000 and 2001?* August 2004, p. 2.
30 Adoption was not a preferred system of child placement in the early nineteenth century, because elite families often treated children placed with them as servants rather than as family members. See Carp, supra note 26 at 4.
32 Ibid., 190.
33 Carp, supra note 26 at 5.
Girls became more important than boys with a preference for those with blue eyes and golden hair. There was very little demand for African American children among non-African American families, so the available children within that community were placed informally through the middle of the 20th Century. By the end of the 20th Century, a substantial disequilibrium occurred in the external market for children. There was an increase in the demand for children due to an increase in the number of women experiencing infertility. This trend is associated with later marriage and delayed child bearing. On the other hand, there has been a significant decline in the number of newborns placed for adoption in the United States due to the availability of abortion and a reduction in the stigma associated with being an unmarried mother.

The Market for Adopted Children

A primary reason for this disequilibrium is that the market for adoptions limits price competition and information flows. The result has been some visible disequilibrium in particular submarkets: the excess demand for white babies and an excess supply of black babies, older children and those with special needs. Economics suggests that excess demand exists when the price is too low and an excess demand exists when the price is too high. In both cases, there also can be problems when there are inadequate incentives for relevant information flows. The problem of excess supply of black children is compounded by their often not being available for adoption at birth with their attraction to adoptive parents declining with age. The challenge that needs to be addressed is how most effectively to deal with these disequilibria. Our challenge would appear to be to increase the supply of children for the people who currently prefer infants and to increase the demand for black, older and special needs children. The price mechanism has attractive attributes in dealing with these concerns.

Equilibrium in the Market for Infants

When there is excess demand—as is the case in the market for infants—the normal solution suggested by economists is to increase the price or improve information flows. This helps to solve the disequilibrium by reducing the number of infants demanded while encouraging an increase in supply. There are two obvious opportunities

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34 See Zelizer, supra note 31.
35 See Chandra, et. al., Fertility, supra note 22.
36 Research has shown that the effect of abortion legalization on adoption rates is sizable as it reduced the number of children put up for adoption by white women. See Marianne Bitler and Madeline Zavodny, “Did Abortion Legalization Reduce the Number of Unwanted Children? Evidence from Adoptions,” Perspectives on Sexual and Reproductive Health, 34(1), January/February 2002, pp. 25-33.
38 At least 14 percent of children in foster care have been their five years or more and the average age of children in foster care is 10 years old. See U. S. Department of Health and Human Services, The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006.
for increasing the supply of children to those people who currently want infants: those that otherwise would be aborted and children that have a high probability of eventually ending up in foster care.\textsuperscript{39} Currently, parents have very weak incentives to put those children up for adoption. Birth parents who put their baby up for adoption are currently limited in most states to compensation for the direct costs incurred due to their pregnancy.\textsuperscript{40} This limits the incentive for placing a child up for adoption for these two groups of mothers. For women considering an abortion, it can be an attractive alternative to taking a child to term and facing the prospect of keeping it or putting it up for adoption. The price mechanism has the potential for encouraging this group of mothers to forego an abortion and put their child up for adoption. They would be compensated for other costs associated with their pregnancy.\textsuperscript{41} These costs include the inconvenience of a pregnancy as well as any psychological costs associated with putting the child up for adoption.

Another important potential source of infants for adoption are from birth parents who have children that may eventually end up in foster care and it is eventually decided that reunification with their birth parents is not possible for safety or other reasons. Regrettablly, these the children currently become available for adoption at a time when they are less attractive to adopting individuals.\textsuperscript{42} These children would be better off if they were put up for adoption at a much younger age. Again, the price mechanism could be used to encourage people who do not value their infants highly to place them up for adoption. Some birth parents may recognize that they do not value their child highly because of their lifestyle or living environment. The current limitation on compensation for permitting an adoption leaves them with the expectation that keeping the child is in their best interest. Higher compensation from adoptive parents might change their mind. Meanwhile, people who value their child highly even under trying circumstances for themselves will keep their child and it is more likely to provide the child with an acceptable nurturing environment.

\textit{Equilibrium in the Market for Special Needs Children}

The normal solution to a market experiencing an excess supply is to reduce the price with expectation that it will encourage an increase in the number demanded while reducing the number supplied. An alternative solution in some cases is to increase information available to potential demanders.\textsuperscript{43} Most of these children are placed by

\textsuperscript{39} The primary solution to the baby shortage suggest by Posner is to use the price mechanism to encourage women who would consider having an abortion to reconsider and put their child up for adoption. See Posner, “Adoption and Market Theory,” supra note 37.

\textsuperscript{40} For the allowable expenses, see “State Regulation” supra note 7.

\textsuperscript{41} Cost that are omitted with the current restriction on compensation to birth mothers include the opportunity costs of the birth mothers time during the pregnancy, any pain of other disutility of the pregnancy, any value that she attaches to keeping the child rather than putting it up for adoption and the costs of search for a middleman to find an acceptable adoptive parent. See Landes and Posner, “Baby Shortage,” supra note 37 at 337.

\textsuperscript{42} There is a strong preference for younger children among adoptive parents. Among people seeking to adopt, 57.5 percent preferred a change who was less than 2 years old and over 75 percent preferred a young who was less than five years old. See Chandra, et al., Adoption, supra note 25, Table 4 at 8.

\textsuperscript{43} Some have argued that the problem with placing special needs children is ineffective state recruiting strategies. See The Urban Institute, Foster Care Adoption in the United States: An Analysis of Interest in Adoption and a Review of State Recruitment Strategies, November 2005.
public agencies after a period of time in foster care.\textsuperscript{44} This solution has not gone unnoticed as the government provides subsidies to people willing to adopt special needs children including older, black children.\textsuperscript{45} Still, as long as larger numbers of children from foster homes continue to be available for adoption, these subsidies are too low. Since children who are adopted when they are older have more adjustment problems than those who are adopted as infants,\textsuperscript{46} an important solution to this excess supply is to reduce the supply by encouraging their parents to put them up for adoption at an earlier age.

**Concerns About Using Markets**

An initial concern about the process that I just described is that it is inappropriate to think in terms of prices when considering something as precious as a child. People may object to viewing children as a marketable commodity. Moreover, there may be a concern about a windfall for birth parents and a lack of control over the preferred adoptive parents.

**A Market Already Exists**

When considering an increase in the use of a market alternative to the current bureaucratic process by which adoptive parents are matched to children, we should not lose sight of the fact that a market already exists. People pay higher prices for preferred conditions such as rapid access to children and for those with desirable characteristics. The highest prices tend to be paid for domestic independent adoptions often of white infants where the price range is from $8,000 to 30,000.\textsuperscript{47} Next is an international adoption that can cost between $7,000 and 25,000.\textsuperscript{48} Adoption through a domestic agency usually involves a longer wait and often less desirable children, so the cost from a private agency is $4,000 and 30,000 and from foster care it can be somewhere between free and $2,500. Moreover, given the limited demand for children who are black, older

\textsuperscript{44} Many of the children in foster care have physical and psychological problems as a result of experiences including pre-natal exposure to alcohol or drugs, neglect and abuse as an infant, and multiple foster care placements. See Evan B. Donaldson Adoption Institute, *Foster Care Facts* that is available at http://www.adoptioninstitute.org/FactOverview/foster_print.html.

\textsuperscript{45} For an understanding of the subsidies available to people adopting special needs children, see U. S. Department of Health and Human Services, *Understanding Adoption Subsidies: An Analysis of AFCARS Data*, January 2005.

\textsuperscript{46} Five percent of children adopted between ages three and five are returned in comparison with 17 percent for those between ages 12 and 14. See Donaldson, *Foster Care Facts*, supra note 44.

\textsuperscript{47} This data is from the Evan B. Donaldson Adoption Institute, *Overview of Adoption in the United States* that is available at http://www.adoptioninstitute.org/FactOverview/costs.html.

\textsuperscript{48} Although logistically more complicated than a domestic independent adoption, these children tend to have attractive characteristics for adoptive parents being younger and either white or Asian. Almost 90 percent of children adopted from abroad are less than five years old. U. S. Department of Health and Human Services, *Immigrant Orphans Adopted by U. S. Citizens* that is available at http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2003/ImmTable04FY03.xls. Almost half were less than one year old. Ibid. Between 1971 and 2001, over half of children adopted from abroad came from Asia with another 20 percent coming from Europe. See U. S. Department of State, *Immediate Relative Visas Issued, FY 1971-2001* that is available at http://travel.state.gov/orphan_numbers.html. In both FY 2005 and 2006, the top four countries from which people adopted children were China, Russia, Korea and Guatemala. See Immigrant Visas Issued to Orphans Coming to the U.S. that is available at http://travel.state.gov/family/adoption/stats_451.html.
or special needs, those children often come with a public subsidy. Clearly, children in excess demand command a premium price, while those in excess supply have to be subsidized in some cases to find a demander.

**A Windfall**

Another concern may be the windfall for birth parents based on the current high prices effectively being paid for adopted children. The usually dynamics observed in markets would suggest that opportunities for a windfall will be limited if the market for adoptions was permitted to respond to prices. An increase in compensation to parents willing to put their children up for adoption would be expected to increase the supply of infants. In most markets, the price tends to fall to a level that just covers the costs of production. Otherwise, additional sellers have incentives to enter the market. The price in the market for infants should tend to also fall to that level just covering costs incurred by mothers including those that are not permitted at this time such as those for the inconvenience and psychological costs of taking a child to term that will be given up at that time.

The primary reason for the current high prices that people pay for adopted children is the limited supply in part as a response to the potential punishment costs associated with violating the statutory limits on compensation to birth mothers. The introduction of prices would encourage more women to give up their infant for adoption lowering the price. Data on people who want to adopt and, equally important to an economist, how much they are willing to pay is not very accurate. However, one of the most thorough studies concluded that in 1995, approximately 230,000 ever married women were currently seeking or planning to adopt a child and had taken concrete steps. Because of the long delay for domestic infants with preferred characteristics, this unmet demand does not have to be filled in one year.

There are two important sources of children and especially infants for these people: people who are willing to forego an abortion and those whose children will eventually end up in foster homes looking to be adopted. In the 1990s, there were about 1.5 million abortions per year in the United States. For more compensation than is currently permitted, some of these women’s would undoubtedly be willing to forego an abortion placing the child up for adoption. The number of children in foster care also reflects the number of children that could become available as infants if the compensation to the birth parents was increased. In 2005, there were over 110,000 children in foster homes waiting to be adopted. Because of their age, many find it difficult to find

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49 Nearly all children adopted from foster case received an adoption subsidy. In Fiscal year 2001, 88 percent of children adopted received an adoption subsidy. Nearly all the children adopted from foster care were identified as having special needs, such as age, that would have otherwise precluded adoption. See US Department of Health and Human Services, *Understanding Adoption Subsidies: An Analysis of AFCARS Data*, January 2005, p. ES-2.


51 The price should fall to the level of costs incurred by the typical woman going through a pregnancy be it the birth mother or an adopting mother. Ibid. at 340.


adoptive parents. Many of those children would have been better off if they had been adopted at or near birth.\textsuperscript{55}

We also need to be aware that increasing the price may actually increase the demand for adopted children as the other costs of adoption decline. There are numerous non-monetary costs associated with adoption at the present time. Domestically, there is the uncertainty associated with not knowing when you will be able to adopt and the type of child that you will be offered. A more smoothly functioning domestic market for adoption would also shift demand away from international adoptions with their higher financial costs and uncertainty. Even with the changes in supply and demand, we should not expect a windfall to birth parents.

\textit{Control over Preferred Parents}

Another concern is control over the types of people permitted to adopt. Because of the external effects of the acts of adoptive parents on their children, society continues to have an interest in encouraging preferred parents, while protecting children from the wrong type of parents. Agencies currently do a poor job of matching children with preferred parents.\textsuperscript{56} After determining the pool of applicants that are fit or eligible to adopt, they allocate available children among those people on a first-come, first served basis with no further investigation. The price mechanism can more clearly establish the preferences of adoptive parent increasing the likelihood of a better match.

When it comes to unattractive parents such as those with a history of child abuse, it is important that adoptive parents would continue to be screened as they currently are for agency adoptions. Arguing that a potential abuser would be less likely to adopt an infant than a somewhat older child, it has been suggested that a market approach to adopting should only be applied to infants.\textsuperscript{57}

\textit{Conclusion}

Adoption occurs in markets in which there is demand and supply. However, in these markets the compensation to the birth parents is set by statute with the result that frequently disequilibria occur. There is an excess demand for white infants and an excess supply of others such as black, older and special needs children. If it is recognized that this is a market and the price mechanism can be a valuable means for clearing the market, then adoption practices should adapt to accommodate the use of prices.

\textsuperscript{55} Chandra, et al, \textit{Adoption}, supra note 25 at 9.
\textsuperscript{57} For example, it is suggested that it would be inappropriate to permit a couple to sell its 13 year old daughter for immoral purposes. See Posner, “Adoption and Market Theory,” supra note 37 at 66.