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THE ECONOMICS OF THE BABY SHORTAGE*

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INTRODUCTION

Although economists have studied extensively the efforts of government to regulate the economy, public regulation of social and personal life has largely escaped economic attention. With the rapid development of the economic analysis of nonmarket behavior, the conceptual tools necessary for the economic study of social (as distinct from narrowly economic) regulation are now at hand.[1] Nor is there any basis for a presumption that government does a good job of regulating nonmarket behavior; if anything, the negative presumption created by numerous studies of economic regulation[2] should carry over to the nonmarket sphere. An example of nonmarket regulation that may be no less perverse than the widely criticized governmental efforts to regulate imports, transportation, new drugs, bank entry, and other market activities is the regulation of child adoptions—the subject of this paper.

Sometimes natural parents do not want to raise their child; the typical case is where the birth is illegitimate. And in some cases where the natural parents do raise the child initially, their custody is later terminated for one reason or another—death or other incapacity, abuse, or extreme indigence. In either case—the unwanted infant or the abused, neglected, or abandoned child—there are potential gains from trade from transferring the custody of the child to a new set of parents. Where the new parents assume full parental rights and obligations over the child, one speaks of adoption; where they obtain simply a temporary custody (usually being partially compensated for their custodial services by the state), one speaks of foster care. An alternative to foster care in a home is foster care in an institution.

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[1] Particularly relevant here is the recent economic work on marriage and the family. See, *e.g.*, Economics of the Family (Theodore W. Schultz ed. 1974) (Nat'l Bureau Econ. Res.).

[2] See, *e.g.*, William A. Jordan, Producer Protection, Prior Market Structure and the Effects of Government Regulation, 15 J. Law & Econ. 151 (1972).

Ordinarily, potential gains from trade are realized by a process of voluntary transacting—by a sale, in other words. Adoptions could in principle be handled through the market and in practice, as we shall see, there is a considerable amount of baby selling. But because public policy is opposed to the sale of babies, such sales as do occur constitute a "black market." Recent hearings before the Senate Subcommittee on Children and Youth,[3] as well as a well-publicized indictment of baby sellers,[4] have brought into renewed focus the existence of the black market in babies. The hearings in particular constitute a rich if unsystematic source of data and opinions on the adoption problem, facilitating appraisal of a major and, we shall argue, probably misguided example of public regulation of nonmarket behavior.

Part I of this paper develops a model of the supply and demand for babies for adoption under the existing pattern of regulation and shows (1) how that regulation has created a baby shortage (and, as a result, a black market) by preventing a free market from equilibrating the demand for and supply of babies for adoption, and (2) how it has contributed to a glut of unadopted children maintained in foster homes at public expense. Part II explores the objections to allowing the price system to equilibrate the adoption market and argues that the objections do not justify the existing regulations though they might justify a more limited regulation of the baby market. In Part III we consider, in the spirit of the new economic analysis of the political process,[5] some of the reasons why the government has curtailed the operation of the market in this area. Part IV proposes a method of practical experimentation with introducing a market in adoptions. Parts III and IV are highly tentative. In the course of the analysis we attempt to sketch how the world would look if a free market in babies were permitted to come into existence. We also discuss, though much more briefly, the problem of foster care.

I. Disequilibrium in the Adoption Market

A. *The Baby Shortage and the Baby Glut*

Students of adoption agree on two things. The first is that there is a shortage of white babies for adoption; the second is that there is a glut of

[3] Adoption and Foster Care, 1975: Hearings before the Subcomm. on Children & Youth of the Senate Comm. on Labor & Public Welfare, 94th Cong., 1st Sess. (1975) [hereinafter cited without cross-reference as Adoption and Foster Care]. A further round of hearings on baby selling began on March 22, 1977 before the Criminal Justice Subcommittee of the House Judiciary Committee, in connection with a bill to make the sale of babies in interstate commerce a federal crime. See Chicago Sun-Times, March 3, 1977, at 55, col. 3. At this writing, those hearings are still going on, and none of the testimony given at them has yet been published.

[4] See New York Times, September 8, 1976, at 1, col. 4.

[5] See, *e.g.*, George J. Stigler, The Theory of Economic Regulation, 2 Bell J. Econ. & Management Sci. 3 (1971); Sam Peltzman, Toward a More General Theory of Regulation, 19 J. Law & Econ. 211 (1976).

black babies, and of children who are no longer babies (particularly if they are physically or mentally handicapped), for adoption. The dimensions of the problem are suggested in Table 1. The very high ratio of illegitimate black births to black adoptions suggests why there is no shortage of black babies for adoption.

Contrary to popular impression, Table 1 indicates that the increased availability of contraception and abortion has not perceptibly diminished the number of illegitimate births. A partial explanation may be that the availability of contraception and abortion, by reducing the risk of producing an unwanted child (but not to zero), has reduced the expected cost and hence increased the incidence of sexual intercourse outside of marriage. However, while the illegitimate birth rate remains high the availability of babies for adoption has declined, apparently because a larger proportion of parents of illegitimate children are keeping them.[6] This trend may be due to inexplicable (on economic grounds) changes in moral standards; or it may be due to the fact that the increased opportunities for women in the job market have made them less dependent on the presence of a male in raising a child. An additional feature is that, given the increased availability of contraception and abortion, an illegitimate baby is more likely than formerly to be a desired baby.

Students of adoption cite factors such as the declining proportion of illegitimate children being put up for adoption as the "causes" of the baby shortage. But such factors do not create a shortage, any more than the scarcity of truffles creates a shortage; they merely affect the number of children available for adoption at any price. At a higher price for babies, the incidence of abortion, the reluctance to part with an illegitimate child, and even the incentive to use contraceptives would diminish because the costs of unwanted pregnancy would be lower while the (opportunity) costs to the natural mother of retaining her illegitimate child would rise.

[6] Some indication of this is the recent decline in the ratio of illegitimate babies put up for adoption to illegitimate births, as shown in the following table (thousands).

	Babies Born[a] Out of Wedlock	Adoption of Babies[b] Born Out of Wedlock	Ratio
1957	183	48	.26
1960	225	60	.27
1965	292	88	.30
1970	399	110	.28
1971	402	101	.25
1972	404	N.A.	—
1973	407	77[c]	.19

[a] *Source:* Time of Transition, tab. 1-L, at 198. (Heather L. Ross & Isabel Sawhill eds. 1975).

[b] *Source:* U.S. Dep't of Health, Education, & Welfare, Nat'l Center for Social Statistics, Adoptions in 1971 (1973).

[c] This number is projected by a method similar to that used in Table 1, notes e and f. Thirty-eight states reported a total of 46,763 adoptions of out-of-wedlock children in 1973. These 38 states contributed 61% of out-of-wedlock adoptions reported in 1971.

TABLE 1
BIRTHS OUT OF WEDLOCK, ADOPTIONS, AND NONRELATIVE ADOPTIONS BY RACE, 1957-1974 (thousands)

Year	Births out of Wedlock[a]		Adoptions[b]		Nonrelative Adoptions[b]	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
1957	64[c]	119[c]	82.8	8.2	44.3	3.9
1960	83	142	96.3	10.7	52.6	5.2
1965	124	168	126.4	15.6	69.8	6.9
1970	175	224	154.0	21.0	78.5	10.7
1971	164	238	147.0	22.0	70.8	12.0
1972[d]	161	243				
1973[e]	163	244	125.1	22.8	48.87	11.6
1974[f]			110.6	24.5	37.9	11.5

[a] *Source:* Time of Transition, tab 1-L, at 198 (Heather L. Ross & Isabel Sawhill eds. 1975).

[b] *Source:* U.S. Dep't of Health, Education, & Welfare, Nat'l Center for Social Statistics, Adoptions in 1971 (1973). 1973 and 1974 data are reported in *id.*, Adoptions in 1973 and *id.*, Adoptions in 1974. The data for these two years are incomplete with only 38 and 41 states reporting, respectively. Note that these figures are not limited to adoption of babies born out of wedlock as in note 6 *supra*.

[c] Data are for 1955.

[d] Adoption data for 1972 were not sufficiently complete to permit calculation.

[e] Adoptions in 1973 are projected from available information. The 38 states reporting in 1973 were responsible for 76% of total adoptions reported in 1971 and for 73% of nonrelative adoptions reported in 1971. We project adoptions by race in 1973 by multiplying total adoptions reported in 1973 by 1/.76, and nonrelative adoption reported in 1973 by 1/.73.

[f] Adoptions in 1974 are projected from available data as described in note e to this table. The 41 states reporting adoptions in 1974 were responsible for 81% of total adoptions reported in 1971 and 76% of nonrelative adoptions reported in 1971.

The principal suppliers of babies for adoption are adoption agencies. Restrictive regulations governing nonagency adoption have given agencies a monopoly (though not a complete one) of the supply of children for adoption. However, while agencies charge fees for adoption, usually based on the income of the adoptive parents, they do not charge a market-clearing (let alone a monopoly-profit-maximizing) price. This is shown by the fact that prospective adoptive parents applying to an agency face waiting periods of three to seven years.[7] And the (visible) queue understates the shortage, since by tightening their criteria of eligibility to adopt a child the agencies can shorten the apparent queue without increasing the supply of babies. Thus some demanders in this market must wait for years to obtain a baby, others never obtain one, and still others are discouraged by knowledge of the queue from even trying. Obtaining a second or third baby is increasingly difficult.

The picture is complicated, however, by the availability of independent adoptions. An independent adoption is one that does not go through an agency. Most independent adoptions are by a relative, for example a stepfather, but some involve placement with strangers and here, it would seem, is an opportunity for a true baby market to develop. However, the operation

[7] Adoption and Foster Care 6.

TABLE 2
CHILDREN RECEIVING FOSTER CARE FROM PUBLIC AND VOLUNTARY CHILD WELFARE AGENCIES, 1961-1972
(thousands)

Year	Total	Number of Children Receiving Foster Care Services		
		Public Agencies	Served by Public and Voluntary Agencies[a]	Voluntary Agencies
1961	244.5	133.3		111.2
1965	283.3	173.9		109.4
1970	326.0	226.0	57.0	42.2
1971	330.4	231.4	59.8	39.2
1972	319.8	223.4	61.4	35.0

Source: Numbers for 1961 and 1965 are derived from U.S. Dep't of Health, Education, & Welfare, Children's Bureau, Child Welfare Statistics, 1961 and 1965.
Numbers for 1970, 1971, and 1972 are derived from U.S. Dep't of Health, Education, & Welfare, Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions, for 1970, 1971, and 1972.

[a] For the great majority of these children, the public agency was purchasing foster care from the voluntary agency.

of this market is severely curtailed by a network of restrictions, varying from state to state (a few states forbid independent adoption by a nonrelative) but never so loose as to permit outright sale of a baby for adoption.[8]

Just as a buyer's queue is a symptom of a shortage, a seller's queue is a symptom of a glut. The thousands of children in foster care revealed by Table 2 are comparable to an unsold inventory stored in a warehouse. Child welfare specialists attribute this "oversupply" to such factors as the growing incidence of child abuse, which forces the state to remove children from the custody of their natural parents, and the relatively small number of prospective adoptive parents willing to adopt children of another race, children who are no longer infants, or children who have a physical or mental handicap. No doubt these factors are important. However, some children are placed in foster care as infants and remain there until they are no longer appealing to prospective adoptive parents. We believe that the large number of children in foster care is, in part, a manifestation of a regulatory pattern that (1) combines restrictions on the sale of babies with the effective monopolization of the adoption market by adoptive agencies, and (2) fails to provide effectively for the termination of the natural parents' rights.

B. *A Model of the Adoption Market*

Here we present a simple analytical model of the adoption market as it exists today in the United States. Queues for some children (mainly white

[8] The relevant state laws are described in Note: Black-Market Adoptions, 22 Catholic Lawyer 48 (1976), and in Daniel R. Grove, Independent Adoption: The Case for the Gray Market, 13 Vill. L. Rev. 116 (1967).

infants) in the legal market, overstocks of others (older, nonwhite, or physically or mentally handicapped children), and black-market activity in infants are all shown to be the result of the peculiar market structure in adoption that has been brought about by public regulation.

Whereas in 1957 only 53 percent of all nonrelative adoptions went through adoption agencies, in 1971 the proportion was almost 80 percent.[9] This would be a matter of limited significance from the economic standpoint if adoption agencies were both numerous and free from significant restrictions on their ability to operate as efficient profit-maximizing firms. The first condition is more or less satisfied but not the second. While agencies are generally not limited in the fees they may charge prospective adoptive parents, they are constrained to other inefficient restrictions. For example, they are constrained to operate as "nonprofit" organizations which presumably retards, perhaps severely, their ability to attract capital, and may have other inefficient effects as well.[10] The most significant restriction is the regulation of the price at which the agencies may transact with the natural parents. Adoption agencies that are also general child-welfare agencies must accept all children offered to them at a regulated price (but may place them in foster care rather than for adoption); and they may offer no additional compensation to suppliers (the natural parents) in order to increase the supply of babies. The regulated price is generally limited to the direct medical costs of pregnant women plus (some) maintenance expenses during the latter part of the pregnancy. To be sure, agencies have some flexibility in the kinds of services they may offer the natural parents, such as job counseling, but they cannot thereby transfer to the natural parents anything approaching the free-market value of the child.

There are rough counterparts to such regulation in many explicit markets. Banks as a group have a monopoly of banking services, though most banking markets contain several competing banks; the prices of banking services are unregulated (save for usury laws which are applicable to some bank loans); but banks are forbidden to pay a market-clearing price for an essential input, demand deposits (corresponding to babies in the adoption market). Similar regulatory patterns are found in industries as otherwise diverse as taxi service and television broadcasting. Nevertheless the regulation of adoption has several peculiar characteristics reflected in our model: collusion among agencies, including market division (often along religious lines), is permitted; there exists a very close substitute for the good supplied by the

[9] See U.S. Dep't of Health, Education, & Welfare, Nat'l Center for Social Statistics, Adoptions in 1971 (1973).

[10] In particular, it may lead the agencies to dissipate their profits in expenditures that reduce welfare—*e.g.*, unnecessarily intrusive inspections of the home of the adoptive parents.

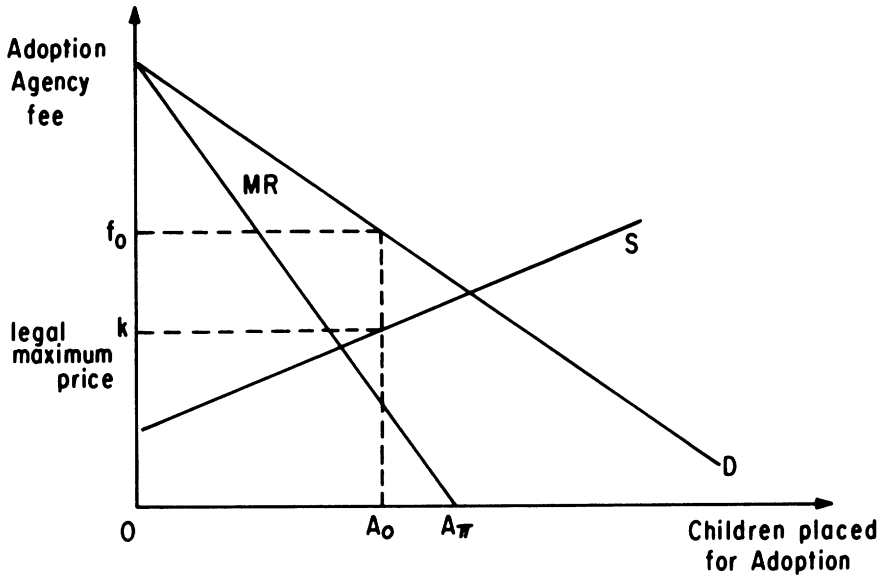

FIGURE 1

agencies—independent adoption; and the agency has, as mentioned, no power to refuse to take the children tendered to it.[11]

We begin by analyzing a monopoly model of the adoption market that would exist if agencies acted jointly as a monopolist (*i.e.*, if there were no competition among agencies or substitution in the independent-adoption markets and the agencies' only objective were to maximize economic profits). Agencies face a demand curve for children for adoption described by D in Figure 1. One can conceive of all families as being in the adoption market, with their location along the demand curve determined by the value they place on adopting a child. The supply curve of babies for adoption is described by S in Figure 1. It is assumed to be upward sloping. The supply curve reflects the transfer in wealth that natural parents would demand in exchange for giving up a child for adoption, and is determined by such things as the natural mother's direct and opportunity costs in carrying the child to term and any psychic costs she incurs by giving birth to a child she will not keep, over the direct, opportunity, and psychic costs of either having the child and keeping it or aborting it. For some women the supply price will

[11] This applies only to those agencies—the majority, however—that are general child-welfare organizations rather than solely adoption agencies.

be low, perhaps because of a strong aversion to abortion relative to giving up the child; for others the price will be high, perhaps because of high opportunity costs of bearing the child. At the legally prescribed maximum price that agencies may offer natural parents, A_0 children will be placed with the agencies for adoption.

Abstracting from the administrative costs of placing children for adoption, it is clear that there is no marginal cost of children to the agencies in this model. In each period agencies have only a fixed cost of k times the number of children they must accept under the regulation, where k is the regulated price at which they must take any child tendered to them.[12]

Under these extreme assumptions the agency-monopoly would be willing to place up to A_π children, since marginal revenue from placing children is positive up to that number. However, the actual number of children the agency has to place may exceed or fall short of A_π. When the number of children it has, denoted by A_0 in Figure 1, falls short of A_π, all the children will be placed for adoption. When A_0 exceeds A_π, as in Figure 2, some of the children will be placed in foster care. The number placed in foster care will depend upon the cost to the agency of maintaining them there. The lower that cost is, the more children the agencies will place in foster care and the fewer they will offer for adoption. Clearly, if the cost to the agency of foster care is zero, because, for example, the state reimburses it for the full cost of maintaining children in foster care,[13] all of the children in excess of A_π will be placed in foster care and the number placed for adoption will never exceed A_π.

To be sure, if adoption agencies could price discriminate perfectly, children in excess of A_π would be placed in foster care only when the number supplied to the agencies at the regulated price exceeded the demand for children at that price. There is evidence that adoption agencies do price discriminate (though not perfectly): adoption fees are usually determined by, among other things, the income of the prospective adoptive parents.

What fee will the agency charge for the children placed for adoption? In Figure 1, which depicts the case where $A_0 < A_\pi$, the profit-maximizing fee is f_0. In Figure 2, which depicts the case where $A_0 > A_\pi$, the price will be somewhere between f_π and f_1, depending on the cost to the agency of maintaining the children in excess of A_π in foster care.

[12] Actually, there is some variation in this price, depending on the particular medical or maintenance costs incurred by the natural mother. This variation is immaterial to our analysis and will be ignored.

[13] In 1965, 41.6% of state and local foster care payments were for children living in foster family homes and institutions supervised or administered by voluntary agencies. This amounted to $95 million. We do not know what fraction of expenditures on total foster care provided by voluntary agencies was offset by this $95 million. See U.S. Dep't of Health, Education, & Welfare, Children's Bureau, Child Welfare Statistics (1965).

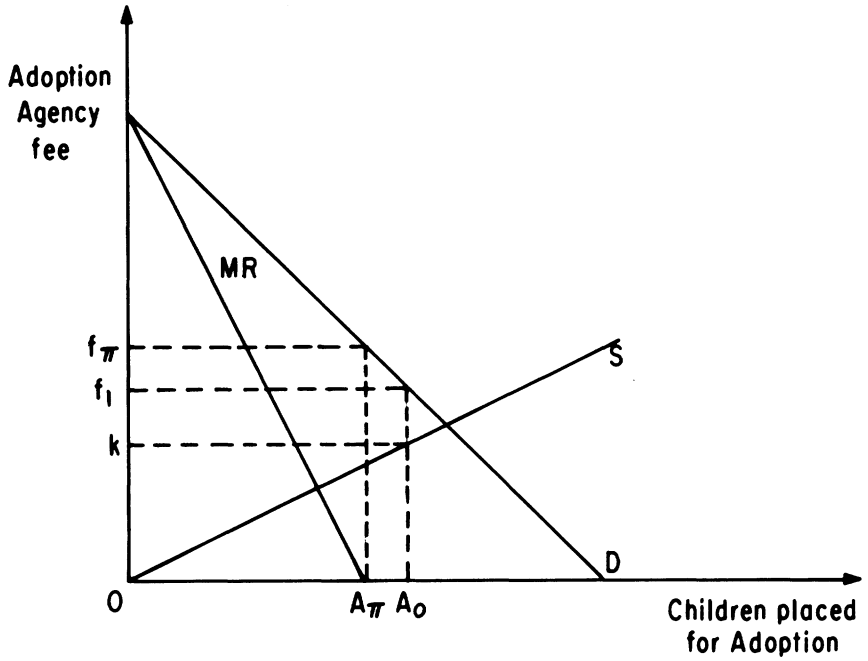

FIGURE 2

But such prices are not being charged by adoption agencies, the most telling evidence of this being the long queues that prospective adoptive parents must undergo to obtain a child through an agency even when they are willing to pay the agency fee. What constrains the agencies from charging f_0 in Figure 1? Probably not the fact that they are nominally nonprofit agencies: profits obtained in adoption activities could readily be used to support other activities in which these agencies engage. We suggest that the presence of competition from the independent adoption market may be one constraining force. This suggestion is consistent with the vigorous efforts by adoption agencies to restrict independent adoptions.

To understand how the presence of the independent market constrains the agencies, we must model the interaction between the agency and independent markets. To do this we make two assumptions: (1) Price in the independent market is determined competitively, and (2) babies available for adoption at any price are allocated in fixed proportions between the agency and the independent market depending on the costs of information in the independent market and the potential criminal and professional penalties from handling independent adoptions. Clearly, the assumption of fixed proportions is unrealistic; the proportion of babies in the agency market is presum-

ably responsive to the price that could be obtained in the independent market relative to the supply price in the agency market. However, the assumption facilitates a graphic exposition of the model at only a small sacrifice of explanatory power.

Assuming for simplicity linear demand and supply curves, the market supply of children to the adoption market is described, as in Figures 1 and 2, by

$$S_M = e + gp.$$

The supply of children to be placed through agencies is a fixed fraction, γ, of market supply at the regulated price, k, which agencies may offer for children.

$$S_A = \gamma(e + gk) = A_O.$$

The supply of children to the independent market is also a fixed fraction, $1 - \gamma$, of market supply:

$$S_I = (1 - \gamma)(e + g(p_I - C_{IS})),$$

where p_I is the transaction price for children in the independent market, and C_{IS} represents the information and expected penalty costs that are incurred by suppliers to this market. Hence C_{IS} must be netted out of the gross supply price.

Market demand for adopted children is described, as in Figures 1 and 2, by

$$D_M = a - bp.$$

Demand in the independent market is assumed to be some fraction, δ, of market demand that is not satisfied through agency adoptions:

$$D_I = \delta(a - b(p_I + C_{ID}) - A_O),$$

where C_{ID} represents the information costs that must be incurred in order to obtain a child in the independent market. Hence C_{ID} must be included in the full price of independent adoption.

To complete the model, we assume that because of political considerations the agency may not charge a fee for adoption in excess of the full price paid for children in the independent market. We assume further (for simplicity of graphical exposition) that if the agency faces excess demand for children at that price, it will allocate its available children among its prospective parents so as to maximize consumer satisfaction (*i.e.*, among the highest-value bidders).

In equilibrium,

$$D_I = S_I,$$

and

$$p_I = \frac{\delta(a - bC_{ID}) - (1 - \gamma)(e - gC_{IS}) - \delta\gamma(e + gk)}{\delta b + (1 - \gamma)g}. \quad (1)$$

Assuming that the agency adoption fee is equal to the full price of independent adoption, the agency fee is

$$p_A = p_I + C_{ID} = \frac{\delta a - (1 - \gamma)(e - g(C_{ID} + C_{IS})) - \delta\gamma(e + gk)}{\delta b + (1 - \gamma)g}. \quad (2)$$

The queue facing the agency at this adoption fee can be determined from the difference between the total number of children demanded in the market at a full price of p_A and the total number supplied:

$$Q = D_M - S_M = \frac{(1 - \gamma)(1 - \delta)[be - \gamma g(e + gk) + g\delta(a - b(C_{IS} + C_{ID}))]}{\delta b + (1 - \gamma)g}.$$

This equilibrium is depicted in Figure 3. From our assumption that the agency allocates its available children among the highest-value bidders, demand in the independent market is represented by a linear demand curve D_I (in panel (b)) that is equal to a fraction δ of market demand in excess of agency supply. (The fraction of demanders who do not receive children in the agency market but appear as demanders in the independent markets will be a function of, among other things, the information and expected penalty costs of buying in the independent market.) This demand curve is gross of information costs. Assuming that the costs of information are the same for all demanders and are proportional to the number of children demanded, we can subtract the costs of search from D_I to get the net demand curve D'_I. The number of children adopted independently is determined by the intersection of D'_I and S_I.

From equation (2) it is clear that an increase in either the expected penalty or information costs of suppliers in the independent market or the information costs of demanders in that market would increase the equilibrium fee that agencies may charge. If an expected penalty equal to $f_0 - C_{IS} - C_{ID}$ were imposed on suppliers in the independent market, that market would vanish. It would reemerge, however, whenever the supply conditions of children shifted so that the (unconstrained) profit-maximizing agency fee exceeded f_0. Hence we predict that in times of relatively short supply of babies for adoption the private market will become more active and the agencies will agitate to have the restrictions on private placement tightened.

The above analysis is consistent with observed characteristics of the adoption market. It explains why agencies charge less than market-clearing fees in the face of baby shortages and why they agitate for stringent regulation of

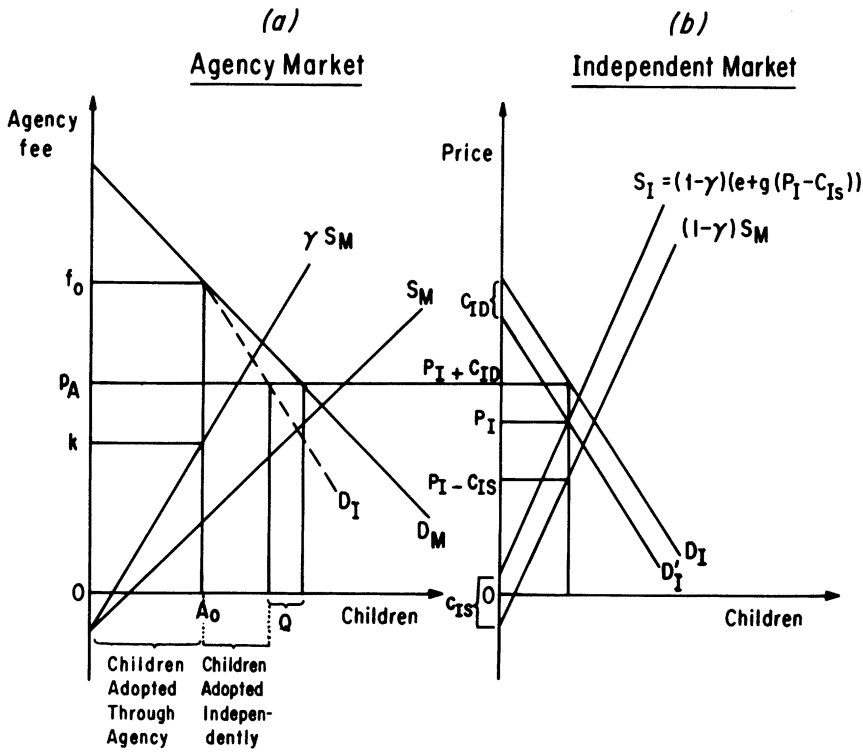

FIGURE 3

the independent market. The substantial costs of information in the independent market for both demanders and suppliers explain why there are queues at adoption agencies rather than simply a diversion of all unsatisfied demanders in the agency market to the independent market.

C. *The Effects of the Baby Shortage*

The baby shortage generates social costs in excess of the traditional welfare loss of monopoly. The counterpart to that loss would be the lost consumer surplus from sales not made at all because of the artificial unavailability of the product and is measured by triangle DBC in Figure 4. But assuming the nonprice rationing methods used by agencies to allocate children are random with respect to willingness to pay (rather than based on willingness to pay, as we assumed in Figure 3),[14] the loss in consumer surplus is the area

[14] This is a plausible assumption because length of time in the queue is presumably uncorrelated with income (it would be negatively correlated if the queue were "literal"—*i.e.*, involved real opportunity costs of time—but it does not).

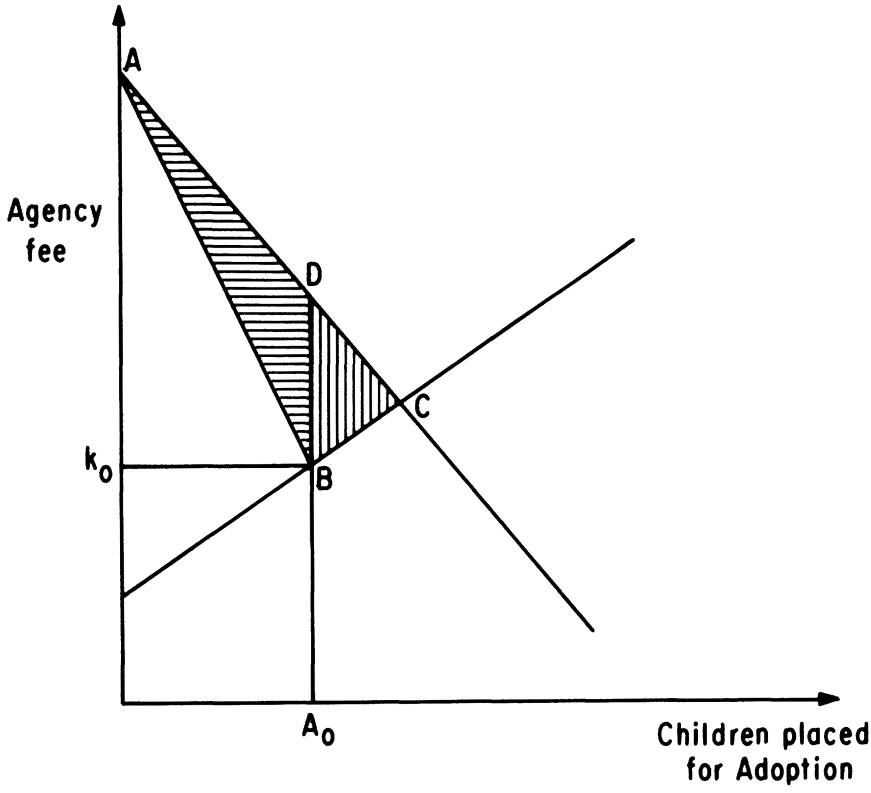

FIGURE 4

of the larger triangle ABC in Figure 4. To be sure, some of this loss is offset by the availability of children in the independent market, but the search costs in the independent market also represent a substantial social cost.

No effort will be made in this paper to quantify the social cost of the baby shortage (and hence of the governmental regulations that have generated it) or to measure its impact on the number of children adopted. However, the potential magnitude of the problem will be explored briefly.

A crude estimate of the potential size of the baby market can be obtained from a comparison of the fraction of married women who are childless throughout their married lives with the (much smaller) fraction of women who report, early in their marriage, that they do not intend to have any children. In 1975, 10.8 percent of white American women aged 50 or over who had ever been married were childless.[15] Many of these were childless by

[15] See U.S. Bureau of the Census, Statistical Abstract of the United States, 1976, tab. 75, at 56 [hereinafter cited without cross-reference as Statistical Abstract]. We limit our attention to

choice, but another statistic suggests that many were not: in 1975 only 4.4 percent of white American wives aged 18-24 *expected* to have no children.[16] The difference between these figures is some clue to the potential demand for babies that cannot be satisfied by natural means. Still another clue is the high cost (nominal, time, and risk) that childless couples incur in order to increase the probability of giving birth.

Of course, adopted children may not be a perfect substitute for natural children. The genetic characteristics of natural children are highly correlated with their parents' genetic characteristics, and this correlation could conceivably increase harmony within the family compared to what it would be with an adopted child.[17] Nevertheless, there is considerable substitutability between natural and adopted children and it might be much greater if better genetic matching of adopted children with their adoptive parents were feasible—as might occur, as we shall see, under free market conditions.

Given that the number of white marriages has averaged close to two million a year over the past decade,[18] about 130,000 married couples might be potential "buyers" in the baby market every year.[19] And this is probably an underestimate. Couples who have adopted children are not counted among the 10.8 percent of couples who are childless. More important, most natural parents want more than one child, and presumably the same is true of adoptive parents. This alone might double the 130,000 figure for potential demand. Offsetting this to some extent is the fact that some childless couples may not consider an adopted child a substitute for a natural child. But on balance it seems clear that the 37,000 white nonrelative adoptions a year (estimated in Table 1) fall far short of satisfying the potential demand.

In light of these statistics it may seem surprising that only about 17,000 nonrelative adoptions in 1971 (the last year for which adequate data are available)—a mere 21 percent—were independent rather than agency adoptions. Why do not a larger fraction of the potential demanders utilize the independent method, free from the restrictions that hamper the agency adoption process? The probable answer, already suggested, is that governmental restrictions on the fees that may be paid in an independent adoption artificially depress the net price of providing babies through this process. The result is to reduce the number of babies supplied below the free-

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whites because, as mentioned earlier, there appears to be no shortage of black babies for adoption.

[16] Statistical Abstract, tab. 78, at 57.

[17] Cf. Gary S. Becker, A Theory of Marriage, in Economics of the Family, *supra* note 1, at 299.

[18] Statistical Abstract, tab. 97, at 68.

[19] This obviously crude estimate was obtained by multiplying the difference between the childless rate for older married women and the expected childless rate of younger married women by the number of marriages per year (whites only).

market level while simultaneously restricting the use of price to ration the existing, and inadequate, supply.

In independent adoption, normally the only payments that may be made are (1) compensation to the natural mother for her medical, and some maintenance, costs plus (2) compensation to the obstetrician and the lawyer for their professional (*i.e.*, medical and legal) services, excluding any search costs they may have incurred in arranging for the adoption. The included items represent only a part of the costs of producing and selling a baby. The major omitted items are (1) the opportunity costs of the natural mother's time during the period of pregnancy or hospitalization when she is precluded from working, over and above her maintenance costs, (2) any pain or other disutility of the pregnancy and delivery to her, (3) any value which she attaches to keeping the child rather than putting it up for adoption, and (4) the costs of search of the middleman—usually an obstetrician or lawyer—in locating and bringing together the supplier and demander.

In practice the constraints on full compensation to producer and middleman are less rigid than suggested. The difficulties of monitoring the fees and activities of the attorney, obstetrician, and natural mother enable these individuals to charge somewhat more than the technically permitted amounts without running any appreciable risk of punishment. This is why independent placement of babies for adoption (other than to relatives) is often referred to as the "gray market." However, the constraints placed on independent adoption are sufficiently stringent to prevent it from approximating a free market. Women have little or no incentive to put a child up for adoption rather than retain or abort it (since abortions are relatively inexpensive, and public assistance is ordinarily available to cover their medical expenses and maintenance costs regardless of whether they keep or give up the child). At the same time, the constraints on payment discourage the emergence of an effective middleman function to match up the prospective sellers and buyers—the middleman activity *per se* cannot be compensated. This is particularly serious in a market of this sort where the sellers and buyers tend to be geographically and socially remote, are not professional businessmen, do not participate in this market on a regular basis, and are dealing in a highly individualized commodity.

In these circumstances, the economist expects a black market to emerge. Some fraction—we do not know what—of the 17,000 independent adoptions are indeed black-market adoptions in the sense that the compensation paid either the natural parents or the middlemen, or both, exceeds the lawful limits.[20] However, the potential criminal and professional sanctions for the

[20] Regardless of how obtained—whether lawfully or in the black market—most babies are formally adopted and hence most black-market activities show up in the statistics of independent adoption. In some cases, however, where an adoption is arranged prior to the birth of the

individuals involved in baby selling not only drive up the costs and hence the price of babies (and so reduce demand) but necessarily imply a clandestine mode of operation. This imposes significant information costs on both buyers and sellers in the market, which further raise the (real) price of black-market babies to buyers and reduce the net price to sellers, as demonstrated in panel (b) of Figure 3.

The legally permissible compensation to the natural parents is unlikely to exceed $3,000.[21] However, prices for babies in the black market are alleged to range between $9,000 and $40,000.[22] To some extent these prices reflect search costs and other middleman expenses that would be found in a free market, but they may to a greater extent reflect the expected penalties suppliers face and the additional costs of search entailed by operating in a clandestine market.

A further consideration is that there will be more fraud in a black market for babies than in a lawful market, so fear of being defrauded will further deter potential demanders. In lawful markets the incidence of fraud is limited not only by the existence of legal remedies against the seller but also by his desire to build a reputation for fair dealing. Both the clandestine mode of operation of current baby sellers and the lack of a continuing business relationship between seller and buyer reduce the seller's market incentives to behave reputably. To summarize, we cannot, simply by observing the black market, estimate the market-clearing prices and quantities of babies in a lawful baby market.

The constraints on the baby market may also be responsible in part for the glut of children in foster care—and this quite apart from the possible incentives of adoption agencies to place children in foster care rather than for adoption. Since the natural parents have no financial incentive to place a child for adoption, often they will decide to place it in foster care instead. This is proper so long as they seriously intend to reacquire custody of the child at some later date. But when they do not the consequence of their decision to place the child in foster care may be to render the child unadoptable, for by the time the parents relinquish their parental rights the child may be too old to be placed for adoption. This would happen less often if parents had a financial incentive to relinquish their rights at a time when the child was still young enough to be adoptable.

The *total* effect of the baby-market constraints on the number of foster children is, to be sure, a complicated question. In particular, the limited

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adopted child, the adoptive parents' name may simply be entered directly on the birth certificate, thus obviating any formal adoptive procedure.

[21] See Adoption and Foster Care 132, 139.

[22] See Adoption and Foster Care 160, 165-166, 175, 182; Chicago Tribune, March 22, 1977, sec. 1, at 3.

supply of desirable babies for adoption may lead some prospective adoptive parents to substitute children who would otherwise be placed in foster care. We suspect that this substitution effect is small, but in any event it is partly controlled by the agencies; they can manipulate the relative "prices" of infants and children residing in foster care by modifying the criteria for eligibility that must be satisfied by prospective adoptive parents.

II. Objections to a Free Baby Market

The foregoing analysis suggests that the baby shortage and black market are the result of legal restrictions that prevent the market from operating freely in the sale of babies as of other goods. This suggests as a possible reform simply eliminating these restrictions. However, many people believe that a free market in babies would be undesirable. Representative of this point of view is the conclusion of a recent law-review note on baby selling:

> The black market in adoptions is a thriving business. Destructive of the best interests of parents, children, and society, such dealings in human flesh should be thwarted by strong, strictly enforced state laws and equally stringent barriers to interstate trade. . . . If state and federal governments show a determination to discover and punish black-market activities, this taint on civilized society can be removed.[23]

The objections to baby selling must be considered carefully before any conclusion with regard to the desirability of changing the law can be reached.

A. *Criticisms Properly Limited to the Black Market*

We begin with a set of criticisms that in reality are applicable not to the market as such, but only, we believe, to the *black* market. The first such criticism is of the high price of babies and the bad effects that are alleged to flow from a high price, such as favoring the wealthy.[24] This criticism of the use of the price system is based on the current prices in the black market. There is no reason to believe that prices would be so high were the sale of babies legalized. On the contrary, prices for children of *equivalent quality* would be much lower.[25]

The current black-market price is swollen by expected punishment costs which would not be a feature of a legalized baby market. In a legal and competitive baby market, price would be equated to the marginal costs of producing and selling for adoption babies of a given quality. These marginal

[23] Note, Black-Market Adoptions, *supra* note 8, at 69.

[24] See, *e.g.*, Adoption and Foster Care 11, 27.

[25] The importance of this qualification is emphasized at p. 341 *infra*.

costs include certain well-known items, such as the natural mother's medical expenses and maintenance during pregnancy and the attorney's fee for handling the legal details of the adoption proceeding, that are unlikely to exceed $3,000 in the aggregate. The question marks are the additional fees that would be necessary (1) to compensate a woman either for becoming pregnant or, if she was pregnant already, for inducing her to put the baby up for adoption rather than abort or retain it, and (2) to cover the search costs necessary to match baby and adoptive parents.

With regard to the first item (the natural mother's opportunity costs of adoption), the most important point to be noted is that these costs may be no greater than the cost savings to the adoptive mother of not undergoing pregnancy and childbirth herself. Adoption is a process by which the adoptive mother in effect contracts out one of the steps in the process of child production and rearing, namely the actual pregnancy and childbirth. The anxieties and inconveniences of pregnancy are a cost to the biological mother but a cost saving to the adoptive mother. Equally, all or most of the out-of-pocket expenses of the natural mother, including the obstetrician's fee, represent a cost saving to the adoptive mother. Therefore, at least as a first approximation, the only *net* cost of purchasing a baby in a free and competitive market should be the cost of the search, which would presumably be low.

Also, because the adoption agencies give substantial emphasis to the employment and financial situation of adoptive parents, a baby market might actually provide more opportunities for the poor to adopt than nonprice rationing does. If we are correct that the (acquisition) costs of babies in a lawful and competitive market would often be small, perhaps no more than the cost of an automobile, low-income families who would normally be considered financially ineligible by adoption agencies would be able in a free market to obtain a child.

Another prevalent criticism of the market, and again one that pertains primarily to the operations of the black market, is that fraud and related forms of dishonesty and overreaching pervade the market method of providing children for adoption. It is contended, for example, that the health of the child or of the child's mother is regularly misrepresented and that frequently after the sale is completed the seller will attempt to blackmail the adoptive parents.[26] Such abuses are probably largely the result of the fact that the market is an illegal one. Sellers cannot give legally enforceable guarantees of genealogy, health, or anything else to the prospective parents, and even the seller's adherence to the negotiated price is uncertain given the buyer's ina-

[26] Adoption and Foster Care 20-21.

bility to enforce the contract of sale by the usual legal procedures. Any market involving a complex and durable good (*i.e.*, one that yields services over a substantial period of time) would probably operate suboptimally in the absence of legally enforceable contracts or, at a minimum, regular, repetitive business relations between (the same) sellers and (the same) buyers. Both conditions are absent from the illegal baby market and this is the likeliest explanation for the number of complaints about the honesty of the sellers in that market.

To be sure, there are probably inherent limitations on the use of legal remedies to protect purchasers even in a legal baby market. For example, consideration of the welfare of the child might lead courts to refuse to grant rescission to a buyer as a remedy for breach of warranty (*i.e.*, allow him to return the child). And courts might be reluctant to order specific performance of a contract to put up a child for adoption. However, similar limitations are a traditional feature of remedies for personal-service contracts, yet do not appear to prevent effective enforcement of those contracts. Why should they do so in the case of baby sale contracts?

The foregoing analysis also enables us to place in perspective allegations that the sellers in the baby black market include a number of ex-convicts and other unsavory types and that the market reveals commercial "trafficking" at its ugliest.[27] An illegal market will naturally attract people who are less sensitive to the threat of criminal punishment than is normal and this group may include a large proportion of ex-convicts. But these characteristics of the market are an artifact of its illegality.

This analysis suggests a qualification to our earlier conclusion that legalizing the baby market would result in a reduction in the price of babies below the current black market level: the conclusion refers to a *quality-adjusted* price. The current illegality of baby selling reduces the benefits of transacting to the buyer by depriving him of the contractual protections that buyers in legal markets normally receive. Prospective adoptive parents would presumably be willing to pay more for a child whose health and genealogy were warranted in a legally enforceable instrument than they are willing to pay under the present system where the entire risk of any deviation from expected quality falls on them. Thus the effect of legalizing the baby market would be not only to shift the marginal cost of baby production and sale downward but to move the demand curve for adoptive children upward. Conceivably these movements could cancel each other out, resulting in no change from the current black-market prices, but even if they did consumer satisfaction would be increased. The same price would buy a higher-quality package of rights.

[27] Adoption and Foster Care 11, 159, 173.

B. *Criticisms of a Legal Market*

We now consider criticisms of baby selling that are applicable to a legal market rather than just to the present illegal market. The first is that the rationing of the supply of babies to would-be adoptive parents by price is not calculated to promote the best interests of the children, the objective of the adoption process.[28] This criticism cannot be dismissed as foolish. The ordinary presumption of free-enterprise economics is no stronger than that free exchange will maximize the satisfaction of the people trading, who in this case are the natural and adoptive parents. There is no presumption that the satisfactions of the thing traded, in most instances a meaningless concept, are also maximized. If we treat the child as a member of the community whose aggregate welfare we are interested in maximizing, there is no justification for ignoring how the child's satisfactions may be affected by alternative methods of adoption.

Very simply, the question is whether the price system would do as good a job as, or a better job than, adoption agencies in finding homes for children that would maximize their satisfactions in life. While there is no direct evidence on this point, some weak indirect evidence is provided in a follow-up study of independent adoptions which suggest that children adopted privately do as well as natural children. Witmer and her coauthors find that the distribution of I.Q. and a measure of school achievement, both at age 11, between children adopted privately and natural children of comparable socioeconomic backgrounds are virtually identical, although they also find that the adopted children did not perform as well on certain psychological tests as did the natural children.[29] It is true that some, perhaps most, independent adoptions do not involve price rationing, but the most important thing is that independent adoption involves a minimum of the sort of screening of prospective parents that the adoption agencies do. If children adopted without the screening seem nevertheless to do about as well as natural children, then one is entitled to be skeptical of the need for or value of the screening.

This conclusion is reinforced by the way in which adoption agencies screen. Agencies attempt to allocate children only to "fit" or caring parents. But after determining the pool of fit, or eligible-to-adopt, couples, they allocate available children among them on a first-come, first-served basis. The "fittest" parents are not placed at the head of the queue.

Further, and perhaps most important, agencies have no real information on the needs of a particular child they place for adoption beyond its need for

[28] Adoption and Foster Care 7.

[29] Helen L. Witmer, Elizabeth Herzog, Eugene A. Weinstein, & Mary E. Sullivan, Independent Adoptions: A Followup Study (1963).

love, warmth, food, and shelter. One cannot read from the face of a newborn whether he or she will be of above or below normal intelligence, or be naturally athletic, musical, or artistic. Hence agencies cannot be presumed to match these very real, if inaccessible, qualities of infants with the qualities of the adoptive parents any more effectively than a market would.

One valuable function agencies may perform is screening out people whose interest in having children is improper in an uncontroversial sense—people who wish to have children in order to abuse or make slaves of them. The criminal statutes punishing child abuse and neglect would remain applicable to babies adopted in a free market, but the extreme difficulty of detecting such crimes makes it unlikely, at least given current levels of punishment, that the criminal statutes alone are adequate. This may make some prescreening a more effective method of prevention than after-the-fact punishment. But the logical approach, then, is to require every prospective baby buyer to undergo some minimal background investigation. This approach would be analogous to licensing automobile drivers and seems as superior to the agency monopoly as licensing is to allocating automobiles on a nonprice basis.

Moreover, concern with child abuse should not be allowed to obscure the fact that abuse is not the normal motive for adopting a child. And once we put abuse aside, willingness to pay money for a baby would seem on the whole a reassuring factor from the standpoint of child welfare. Few people buy a car or a television set in order to smash it. In general, the more costly a purchase, the more care the purchaser will lavish on it. Recent studies suggest that the more costly it is for parents to obtain a child, the greater will be their investment in the child's quality attributes, such as health and education.[30]

A further point is that today some fetuses are probably aborted because the cost to the mother of carrying them to term and placing them for adoption exceeds the permissible return. In a free adoption market, some of the 900,000 fetuses aborted in 1974[31] would have been born and placed for adoption. If the welfare of these (potential) children is included in the calculation of the welfare of adopted children, both actual and potential, the heavy costs imposed on the market by adoption regulation may actually decrease child welfare.

Another objection to the market for babies is the alleged vulnerability of both natural and adoptive parents to overreaching by middlemen. Par-

[30] Gary S. Becker & H. Gregg Lewis, Interaction between Quality and Quantity of Children, in Economics of the Family, *supra* note 1, at 81; Gary S. Becker & Nigel Tomes, Child Endowments and the Quantity and Quality of Children, 84 J. Pol. Econ. S143-S162 (August 1976). Even critics of baby selling seem generally satisfied with the quality of the families who obtain children in the black market. See Adoption and Foster Care 13.

[31] Statistical Abstract, tab. 83, at 59.

enthood is thought to be so emotional a phenomenon that people cannot reason about it in the same way they reason about the goods and services normally traded in the market.[32] But many of those goods and services, such as medical care, also involve a strong emotional component, yet it has rarely been thought appropriate to exclude such goods from market exchange. And studies of marriage and procreation have shown that people in fact calculate in family matters, whether implicitly or explicitly, in the same way they do when purchasing ordinary goods and services.[33]

Other objections to legalizing the market in babies are more symbolic than pragmatic. For example, to accord a property right in the newborn child to the natural parents seems to some observers to smack of slavery.[34] But allowing a market in adoptions does not entail giving property rights to natural parents for all purposes. Laws forbidding child abuse and neglect would continue to be fully applicable to adoptive parents even if baby sales were permitted. Further, we are speaking only of sales of newborn infants, and do not suggest that parents should have a right to sell older children. The creation of such a right would require identification of the point at which the child is sufficiently mature to be entitled to a voice in his placement. However, the question is largely academic given the lack of any significant market for adopting older children.

Moreover, it is incorrect to equate the possession of property rights with the abuse of the property, even if the property is a human being. For example, a serious problem with foster care is the foster parents' lack of any property rights in the foster child. The better the job the foster parents do in raising the child, the more likely are the natural parents to reclaim the child and thereby prevent the foster parents from reaping the full fruits of their (emotional as well as financial) investment. This possibility in turn reduces the incentive of foster parents to invest in foster children, to the detriment of those children's welfare.

The antipathy to an explicit market in babies may be part of a broader wish to disguise facts that might be acutely uncomfortable if widely known. Were baby prices quoted as prices of soybean futures are quoted, a racial ranking of these prices would be evident, with white baby prices higher than nonwhite baby prices. One is reminded of Professor Tribe's objection to instructing the jury on the numerical probability implicit in the concept of proof beyond a reasonable doubt.[35] He argues that while the system of criminal justice would be unworkable if subjective certainty of guilt were re-

[32] See Adoption and Foster Care 12, 44.

[33] See studies in Economics of the Family, *supra* note 1.

[34] See Adoption and Foster Care 2-3.

[35] Laurence H. Tribe, Trial by Mathematics: Precision and Ritual in the Legal Process, 84 Harv. L. Rev. 1329 (1971).

quired, to acknowledge explicitly that people are convicted on less than such certainty might tear the social fabric. Similarly, anyone who thinks about the question will realize that prices for babies are racially stratified as a result of different supply and demand conditions in the different racial groups,[36] but perhaps bringing this fact out into the open would exacerbate racial tensions in our society.

Some people are also upset by the implications for the eugenic alteration of the human race that are presented by baby selling. Baby selling may seem logically and inevitably to lead to baby breeding,[37] for any market will generate incentives to improve the product as well as to optimize the price and quantity of the current quality level of the product. In a regime of free baby production and sale there might be efforts to breed children having desirable characteristics and, more broadly, to breed children with a *known* set of characteristics that could be matched up with those desired by prospective adoptive parents. Indeed, one can imagine, though with some difficulty, a growing separation between the production and rearing of children. No longer would a woman who wanted a child but who had a genetic trait that might jeopardize the child's health have to take her chances on a natural birth. She could find a very close genetic match-up to her and her husband's (healthy) genetic endowment in the baby market. However, so long as the market for eugenically bred babies did not extend beyond infertile couples and those with serious genetic disorders, the impact of a free baby market on the genetic composition and distribution of the human race at large would be small.

The emphasis placed by critics on the social costs of a free market in babies blurs what would probably be the greatest long-run effect of legalizing the baby market: inducing women who have unintentionally become pregnant to put up the child for adoption rather than raise it themselves or have an abortion. Some of the moral outrage directed against the idea of "trafficking" in babies bespeaks a failure to consider the implications of contemporary moral standards. At a time when illegitimacy was heavily stigmatized and abortion was illegal, to permit the sale of babies would have opened a breach in an otherwise solid wall of social disapproval of procreative activity outside of marriage. At the same time, the stigma of illegitimacy, coupled with the illegality of abortion, assured a reasonable flow of babies to the adoption market. Now that the stigma has diminished[38] and abortion has become a constitutional right, not only has the flow of babies to the (lawful) adoption market contracted but the practical alternatives to selling an unwanted baby have increasingly become either to retain it and raise

[36] See Table 1 *supra*.

[37] See Adoption and Foster Care 22-23.

[38] An economic reason for the diminution is suggested at p. 325 *supra*.

it as an illegitimate child, ordinarily with no father present, or to have an abortion. What social purposes are served by encouraging these alternatives to baby sale?[39]

The symbolic objections to baby sale must also be compared with the substantial costs that the present system imposes on childless couples, aborted fetuses (if they can be said to incur costs), and children who end up in foster care. In particular, many childless couples undergo extensive, costly, and often futile methods of fertility treatment in order to increase their chances of bearing a child. Some people produce unhealthy offspring (due to various genetic disorders) because of their strong desire to have children. And no doubt many people settle for childlessness because of the difficulties of obtaining an adopted child.

III. The Sources of Opposition to Baby Selling

Even though the benefits of free baby selling might well outweigh the costs, still it will come as no surprise to students of government regulation to find that there are well-organized interests opposed to an improvement in social welfare. The most vocal and organized opponents of the baby market are the adoption agencies. This is logical: we showed in Part I that both the supply of babies to agencies and agency revenues from adoption would be greater if the private market were regulated out of existence. Assuming that agencies would have no cost or efficiency advantage over private firms in an unregulated market, they would be reduced to operating at the competitive margin if such a market were permitted. They might even be competed out of the market.

To be sure, adoption agencies are generally not specialized in adoptions but engage in a variety of child welfare services—the primary one being foster care. Children placed in foster care are maintained at agency expense, although some fraction of the maintenance expenditures may be offset by government reimbursement. Today some 350,000 children are in foster care at an annual expense to the U.S. government alone of some $700 million.[40] Clearly, healthy infants and older, perhaps less healthy, children are substitutes in adoption, albeit imperfect substitutes. By obtaining exclusive control over the supply of both "first-quality" adoptive children and "second-quality" children residing in foster care but available for adoption, agencies are able to internalize the substitution possibilities between them. Agencies

[39] Cf. Raymond M. Herbenich, Remarks on Abortion, Abandonment, and Adoption Opportunities, 5 Philo. & Pub. Affairs 98, 103 (1975), proposing a tax credit for the natural parents to encourage carrying a fetus to term and placing the baby for adoption rather than aborting it.

[40] Opportunities for Adoption Act of 1977, S. Rep. No. 95-167, 95th Cong., 1st Sess. 17 (1977).

can charge a higher price for the children they place for adoption, thus increasing not only their revenues from adoption but also the demand for children who would otherwise be placed or remain in foster care at the agency's expense. Conversely, if agency revenues derive primarily from foster care, the agencies can manipulate the relative price of adopting "first-quality" children over "second-quality" children to reduce the net flow of children out of foster care.

The group that has the largest stake in the adoption agencies' net revenues is their professional personnel. If the principal effect of eliminating the agency monopoly in adoptions was to force agencies to operate at the competitive margin, it would surely reduce any rents now being received by agency personnel. Nor can it be argued that if baby selling were legalized the agency personnel would simply become the middlemen of the legal market; if the Securities and Exchange Commission were abolished, few of its personnel would become stockbrokers. One is not surprised that professional social workers' organizations have been strong proponents of governmental restrictions on nonagency adoptions.

Potentially allied to the agencies and the social welfare professionals who staff them in opposition to baby selling are those prospective adoptive parents who by virtue of their contacts and general sophistication are able to jump to the head of the queue or procure a baby easily in the (lawful) independent market, either way paying less than they would have to pay in a free market. The analogy is to the effect of usury laws in reducing the interest rate paid by the most credit-worthy borrowers.

The potential supporters of baby selling are difficult to organize in an effective political coalition. They consist of unborn babies, children in foster care, taxpayers (each only trivially burdened by the costs of foster care), and people who have only a low probability of ever wanting to adopt a baby, as well as couples currently wanting to adopt one. The members of this last group have the most concentrated interest in a free baby market, but they are relatively few and widely scattered at any given time.

IV. Interim Steps Toward a Full-Fledged Baby Market

We close by speculating briefly on the possibility of taking some tentative and reversible steps toward a free baby market in order to determine experimentally the social costs and benefits of using the market in this area. Important characteristics of a market could be simulated if one or more adoption agencies, which typically already vary their fees for adoption according to the income of the prospective parents, would simply use the surplus income generated by the higher fees to make side payments to preg-

nant women contemplating abortion to induce them instead to have the child and put it up for adoption.

This experiment would yield evidence with respect to both the demand and supply conditions in the adoption market and would provide information both on the value that prospective adoptive parents attach to being able to obtain a baby and on the price necessary to induce pregnant women to substitute birth for abortion. Follow-up studies of the adopted children, comparing them with children that had been adopted by parents paying lower fees, would help answer the question whether the payment of a stiff fee has adverse consequences on the welfare of the child.

Some states appear not to limit the fees that adoption agencies pay to natural parents. The experiment we propose could be implemented in such states without new legislation.