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THE RIGHT TO FAMILY LIFE: *MOORE V. CITY OF EAST CLEVELAND*

Black families are more the creatures of their society than its creators . . . . They are victimized by a careless and malignant society. The policies which govern their lives are determined by others, and they are determined by those who are largely under the influence of a government which is itself largely under the influence of industry. And for at least the last two generations the public social policies of government and industry have been more connected to the destruction of life than to its enhancement.

*Andrew Billingsley**

I. INTRODUCTION

In *Moore v. City of East Cleveland*,[1] the Supreme Court granted constitutional protection to the extended family[2] by invalidating a zoning ordinance which prohibited certain combinations of blood relatives from living together as a family. Section 1341.08 of the East Cleveland ordinance limited occupancy of single dwelling units to one family and it recognized only a few combinations of related individuals as a family.[3] Under the ordinance a family was limited to one dependent married child of the household head, and that child's dependent children. However, no grandchild of the household head was permitted in the household without his/her parent.[4]

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* A. Billingsley, *Foreward* to R. HILL, THE STRENGTHS OF BLACK FAMILIES xvii (1972).

1. 431 U.S. 494 (1977).

2. For purposes of this note the term *family* is defined as any combination of individuals related by blood, adoption or marriage living together as a single housekeeping unit. The *nuclear family* consists of a father and/or mother, and children. There also may be an *extended family* consisting of relatives from generations or degrees of kinship other than the parent's and children's. Such a family usually is composed of a grandparent, or aunt or uncle, or cousins, as well as the nuclear family members.

3. Section 1341.08 of the Codified Ordinances of East Cleveland, Ohio provided:

> 'Family' means a number of individuals related to the nominal head of the household or to the spouse of the nominal head of the household living as a single housekeeping unit in a single dwelling unit, but limited to the following:
> (a) husband or wife of the nominal head of the household.
> (b) Unmarried children of the nominal head of the household or of the spouse of the nominal head of the household, provided, however, that such unmarried children have no children residing with them.
> (c) Father or mother of the nominal head of the household or of the spouse of the nominal head of the household.
> (d) Notwithstanding the provisions of subsection (b) hereof, a family may include not more than one dependent married or unmarried child of the nominal head of the household or of the spouse of the nominal head of the household and the spouse and dependent children of such dependent child. For the purpose of this subsection, a dependent person is one who has more than fifty percent of his total support furnished for him by the nominal head of the household and the spouse of the nominal head of the household.
> (e) A family may consist of one individual.

431 U.S. at 496, n.2.

4. *Id.* Subsection (b) of the ordinance permitted an unlimited number of unmarried children of the household head, as long as they had no children of their own residing in the dwelling. However, subsection (d) limited a household to only one dependent child (married or unmarried) if that child's offspring were residing in the same dwelling. Since that subsection also required the

Mrs. Inez Moore, a black woman, was the head of an East Cleveland, Ohio household. She owned a 2 1/2 story frame house which contained two single dwelling units and she resided in one unit with her son, Dale Moore, Sr. and his child, Dale Jr. Also present in the household was another grandchild, John Jr., whose father, John Moore, Sr., lived elsewhere.[5] This family arrangement was not permitted, and in 1973 Mrs. Moore was directed to remove John Jr. from her home. When Mrs. Moore refused to do so she was convicted of violating the ordinance, sentenced to five days in jail, and ordered to pay a $25 fine. Upon appeal to the Ohio Court of Appeals, the conviction was upheld.[6] Thereafter, the Ohio Supreme Court denied review.[7] On May 31, 1977, the United States Supreme Court reversed Mrs. Moore's conviction by a five to four vote.[8]

Mrs. Moore claimed that the East Cleveland zoning ordinance was constitutionally invalid under the due process and equal protection clauses of the fourteenth amendment. The Supreme Court majority considered only the due process claim, determined the constitutional limitations of zoning ordinances affecting the occupancy of a household and set forth the constitutional principles which justify the limitations imposed.

Moore stands for the proposition that local zoning ordinances may not prohibit any combination of relatives from living together in a single family dwelling. It also established the extended family as a fundamental liberty interest protected under the due process clause. This Note will examine the issues addressed and reasoning used by the Supreme Court in *Moore*. The decision will be compared with other cases involving the freedom of personal choice in matters of family life, and the Supreme Court's prior treatment of zoning legislation. Finally, *Moore's* significance will be assessed.

II. MOORE AND DUE PROCESS STANDARDS OF REVIEW

When a state regulation is challenged under the due process clause of the fourteenth amendment, the challenger must show that he has an interest in life, liberty, or property which is being infringed upon. In such a case, the Supreme Court will invoke its basic test to determine the constitutionality of the alleged infringing legislation. That test requires that the legislation bear a rational relationship to a legitimate state objective.[9]

In *Euclid v. Ambler Realty Co.*[10] the Supreme Court established that zoning legislation is a constitutionally permissible exercise of the police

presence of the parent of a household head's grandchildren, the ordinance effectively limited the family unit to only one set of grandchildren.

5. 431 U.S. 496, n.2. The Supreme Court noted that even if John Jr.'s father had been in the household, there probably would have been a violation of the ordinance. *Id.* at 497, n.4.

6. Moore v. City of East Cleveland, No. 163-307 (Ohio Ct. App. July 18, 1975).

7. Moore v. City of East Cleveland, No. 75-896 (Ohio S.Ct. Nov. 28, 1975).

8. The *Moore* case provoked five separate opinions from the Supreme Court. Justices Powell, Brennan, Marshall, Stevens and Blackmun formed the majority. Justices Marshall and Brennan adopted the majority opinion, but also wrote separate concurrences. Using a different line of reasoning, in a separate opinion, Mr. Justice Stevens concurred in the result. Chief Justice Burger and Justice White wrote separate dissenting opinions, while Justices Stewart and Rehnquist joined in a single dissent.

9. United States v. Carolene Products, 304 U.S. 144 (1938); Williamson v. Lee Optical Co., 348 U.S. 483 (1955).

10. 272 U.S. 365 (1926).

power. Zoning regulations which are not arbitrary and unreasonable, *i.e.*, rationally related to the legitimate state objectives of protecting the public health, safety, morals and general welfare, are thus permissible under the due process clause. So long as they are reasonably related to such objectives, zoning ordinances are presumed to be valid impositions on the life, liberty and property interests protected by the due process clause.

When a challenge to state legislation involves a claim of infringement of a specific interest, and that interest is fundamental, the infringing legislation is not only subject to the test of reasonableness, but the state's interest in regulation must be substantial. The Court will then weigh the importance of the governmental interest advanced against the fundamental interest alleged to have been invaded.[11]

In *Moore v. City of East Cleveland* the Supreme Court was faced with a claimed infringement on Mrs. Moore's interest in living with her son and two grandsons. Writing for the Court, Justice Powell noted that on its face, the East Cleveland housing ordinance imposed limitations on the interests of related individuals in selecting family living arrangements.[12]In defending against Mrs. Moore's challenge, the City of East Cleveland relied upon *Village of Belle Terre v. Boraas*[13] for the proposition that its ordinance did not infringe upon any constitutionally protected fundamental personal interest. The City argued that the "constitutional right to live together as a family extended only to the nuclear family—essentially a couple and its dependent children."[14]

In *Boraas*, the Court upheld a zoning ordinance which restricted the occupancy of single-family dwellings to individuals related by blood, marriage or adoption, or to no more than two unrelated individuals living together as a family. In *Moore*, the defendant city argued that the cases were indistinguishable, and that *Boraas* was controlling because both ordinances restricted occupancy of the household to certain groups. The Court found, however, that in contrast to the East Cleveland ordinance, the *Boraas* ordinance affected only unrelated individuals and expressly allowed all who were related by blood, adoption or marriage to live together. Thus, it did not intrude upon personal choices concerning family living arrangements.

In *Moore*, household occupancy was regulated by "slicing deeply into the family itself."[15] Only certain combinations of related individuals were permitted to live together as a family. The majority concluded that Mrs. Moore's extended family living arrangement was a fundamental personal interest included among the fundamental personal freedoms in matters of marriage and family life, under the due process clause.[16] Hence, the Court had to closely examine the importance of the zoning objectives and the extent to which they were served by the challenged regulation.

The majority concluded that "[w]hen thus examined, the ordinance

11. Griswold v. Connecticut, 381 U.S. 479 (1965). *See also*, Skinner v. Oklahoma, 316 U.S. 535 (1942).

12. 431 U.S. at 498-499.

13. 416 U.S. 1 (1974). *Noted in* 60 CORNELL L. REV. 138 (1974).

14. 431 U.S. at 500.

15. *Id.* at 498.

16. See notes 27-32 *infra* and accompanying text.

cannot survive."[17] Justice Powell pointed out that the narrow definition of family had only a "tenuous relation" to objectives such as alleviating overcrowding, minimizing traffic and parking congestion, and avoiding an undue financial burden on the school system. Indeed, Justice Powell hinted that the East Cleveland ordinance was arbitrary and unreasonable because of the marginal degree to which the regulation served the latter two purposes, and because another East Cleveland ordinance specifically addressed the problem of overcrowding in the single-family dwelling.[18]

Concurring Justices Brennan and Marshall reasoned that because the extended family tradition is a vital aspect of American society and because it is prominent among Black citizens and other ethnic minorities, it is to be deemed a fundamental interest. In addition, they noted that a decision to protect only the nuclear family would conflict with prior cases which protected extended family relationships.[19] Mr. Justice Stevens joined with the majority because he felt that the East Cleveland zoning ordinance was an impermissible infringement upon Mrs. Moore's property right to use her dwelling as she saw fit.[20]

Justices Stewart and Rehnquist, dissenting, urged that the decision in *Boraas* was controlling. In their view, the biological ties between Mrs. Moore and her grandsons did not elevate either her claim of associational freedom or her claim of privacy to a level invoking constitutional protection.[21] Justice White argued in dissent that although Mrs. Moore's interest in living with both her grandsons is a liberty protected by the due process clause, it did not warrant application of the higher test of due process review.[22] Finally, Chief Justice Burger's dissent did not address the merits of the case. Rather, Burger argued that because Mrs. Moore deliberately bypassed the variance procedures of the zoning ordinance, she should not be permitted to raise her constitutional claims before the Supreme Court.[23]

III. Fundamental Personal Rights Associated with Marriage and Family Life

Under the due process clause of the fourteenth amendment the Supreme Court has undertaken to strike a balance between the liberty of the individual and the demands of organized society.[24] This balance has been

17. 431 U.S. at 499.

18. *Id.* at 500, n 7. Section 1351.03 sought to prevent overcrowding by restricting the occupancy of a dwelling according to the amount of habitable floor area.

19. 431 U.S. at 506-513 (Brennan, J. concurring).

20. *Id.* at 513-521 (Stevens, J. concurring).

21. *Id.* at 531-541 (Stewart, J. dissenting).

22. *Id.* at 541-552 (White, J. dissenting).

23. *Id.* at 521-531 (Burger, C.J. dissenting). Burger acknowledged that this would be a departure from the principal of exhausting administrative remedies because it requires forbearance on valid constitutional claims whenever an administrative remedy is available, and because it would work retroactively against Mrs. Moore. *Id.* at 527. The majority rejected Burger's theory of foreclosure of review for failure to exhaust administrative remedies on the grounds that the East Cleveland zoning board did not have the authority to hear and resolve Mrs. Moore's constitutional claims, and because both the Ohio Court of Appeals and the Ohio Supreme Court chose to hear her claims. *Id.* at 497 n.5.

24. *See* Ratner, *The Function of the Due Process Clause*, 116 Univ. Of Pa. L. Rev. 1048 (1968).

achieved by recognizing that a right of personal privacy does exist under the Constitution, and that those personal rights that can be deemed "fundamental" or "implicit in the concept of ordered liberty" are included therein.[25]

How, then did the majority in *Moore* determine that Mrs. Moore's choice of an extended family living arrangement involved a fundamental interest? They believed that personal choices concerning family living arrangements were analogous to other family choices already afforded substantial protection from state regulation. According to Justice Powell, the precedents of personal choices concerning matters of marriage and family life serve to protect the sanctity of the family because "the institution of the family is deeply rooted in the nation's history and tradition."[26] Likewise, the majority deemed the choice of an extended family living arrangement to be part of the American tradition and basic to its social values. To be consistent with precedent, and to further promote the sanctity of family life, the choice of living arrangements involved in *Moore* had to be deemed a fundamental personal interest.

What are some of these personal rights? The Supreme Court has given qualified protection to the right to an abortion[27] and to the right to beget a child.[28] Constitutional shelter also has been afforded to the personal interest of parents to direct the rearing and education of their children,[29] to the right to the custody and companionship of children,[30] to the right to private family life, including marital privacy,[31] and to the right to marry.[32] These personal rights are part of the freedom of choice in matters of marriage and family life which has been recognized by the Court as a fundamental liberty.

Although the authorities recognize this freedom of personal choice in matters of marriage and family life, there remains the question of how the Supreme Court determines which choices deserve constitutional protection. Justice Powell used the opportunity presented by *Moore* to clarify the Supreme Court's role in defining substantive due process. He noted that "[a]ppropriate limits on substantive due process come not from drawing arbitrary lines but rather from careful 'respect for the teachings of history [and] solid recognition of the basic values that underlie our society."[33] In making the due process review in *Moore*, Powell concluded that:

> [E]ven if conditions of modern society have brought about a decline in extended family households, they have not erased the accumulated wis-

25. Roe v. Wade, 410 U.S. 113, 152, *rehearing denied*, 410 U.S. 959 (1973).

26. 431 U.S. at 503.

27. Roe v. Wade, 410 U.S. 113, 154-165 (1973), *rehearing denied*, 410 U.S. 959 (1973).

28. Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974) (State's mandatory maternity leave rules an unwarranted burden on the constitutionally protected right to beget a child).

29. Meyer v. Nebraska, 262 U.S. 393 (1923) (Parents have right to provide their children foreign language training); Pierce v. Society of Sisters, 268 U.S. 510 (1925) (Parents have right to provide children with private, secular and religious education).

30. Stanley v. Illinois, 405 U.S. 645 (1972) (Unwed man cannot be denied child custody simply by presuming he is an unfit parent).

31. Prince v. Massachusetts, 321 U.S. 158 (1944) ("Private realm of family life which the State cannot enter"); Griswold v. Connecticut, 381 U.S. 479 (1965) (anti-contraception law an unconstitutional intrusion on private marital concerns).

32. Loving v. Virginia, 388 U.S. 1 (1967) ("Freedom to marry, or not marry, a person of another race cannot be infringed by the State"); Zablocki v. Redhail, 434 U.S. 374 (1978) (Right to marry is a fundamental freedom).

33. 431 U.S. at 503.

> dom of civilization, gained over the centuries and honored throughout our history, that supports a larger conception of family. . . . Whether or not such a household is established because of personal tragedy, the choice of relatives in this degree of kinship to live together may not lightly be denied by the State.[34]

Three of the dissenting justices vigorously disapproved of the majority's expansion of personal rights. Justices Stewart and Rehnquist argued that only in those rare cases in which the personal interests at issue have been deemed "implicit in the concept of ordered liberty" has the Court placed a substantive limitation on a State's power to regulate.[35] In Stewart's view an interest in sharing living quarters did not equate with the fundamental decisions to marry and to bear and raise children. Justice White, in turn, opposed the majority's interpretation of its duty of review because of its dependence on the history and tradition of society to determine the dictates of the due process clause. White reasoned that what the deeply rooted traditions are and which of them deserves the protection of the due process clause would be open to constant argument and debate.[36] He further stated:

> [The] suggested view would broaden enormously the horizons of the Clause; and, if the interest involved here is any measure of what the states would be forbidden to regulate, the courts would be substantively weighing and very likely invalidating a wide range of measures that Congress and state legislatures think appropriate to respond to changing economic and social order.[37]

In White's view not all liberty interests within the meaning of the due process clause are entitled to such substantive protection as to invalidate infringing legislation. According to White, the family choice in *Moore* was not of the same quality of interests protected under the Clause, notwithstanding its popular history in American society.

Notwithstanding the dissenting viewpoints, the majority's historical approach is flexible enough to grant constitutional recognition to cherished social practices which develop over time. It also would not recognize social customs that do not reflect basic social values and tradition. These two functions are the foundation of this approach, and are what make it a superior principle of substantive due process of law. The former function provides a good guarantee that personal interests recognized by the Court would be "implicit in the concept of ordered liberty", while the latter function provides a formula to determine the personal practices deserving constitutional protection. A personal practice must have not only a popular history, it must reflect a basic social value. Without pervasive value support, a popular tradition would not warrant constitutional shelter. In addition, the majority's historical approach facilitates the comparison of the quality of interests protected under the due process clause.

IV. The Right to Family Life And Zoning Legislation

Two aspects of zoning legislation which have generated substantial liti-

34. *Id.* at 505-506.

35. *Id.* at 537 (Stewart, J. dissenting).

36. *Id.* at 549 (White, J. dissenting). *See also*, Comment, *Implying Constitutional Rights*, *supra* at pp. —.

37. *Id.* at 549-550.

gation are provisions restricting prime residential land to single-family units[38] and provisions restricting the families that may reside in those units to groups of individuals related by blood, adoption or marriage.[39] These provisions have long been popular regulatory techniques,[40] and by the 1970s, many zoning ordinances limited the occupancy of a single dwelling to the members of one family, and employed narrow definitions of the term family as a means of limiting the number of household occupants.[41]

In its *Boraas* decision, the Supreme Court reaffirmed the broad discretion to enact zoning laws which it granted local governments in *Euclid* and summarily dismissed the claimed violation of rights of privacy and association.[42] The *Boraas* ordinance imposed upon the occupancy of the home by prohibiting households consisting of more than two unrelated individuals, but it expressly preserved the right of relatives to live together and emphasized the need of a family for a quiet, clean and safe community. The Court established that the local government's invasion of the privacy of the home to exclude from the household unrelated occupants living together as a family bore a rational relationship to its legitimate zoning goals. The factual setting of *Moore* served to clarify the discretion of the state to regulate the occupancy of the household. The East Cleveland ordinance also sought to achieve its legitimate zoning goals by restricting the occupancy of its housing but it excluded from the household related as well as unrelated individuals.

It is reasonable to conclude that *Moore* stands for the principle that a state may not, without a compelling interest, prohibit any group of related individuals from living together as a family. Of course, it might be argued that *Moore* must be limited to its facts, *i.e.*, that grandmothers may choose to live with more than one set of grandchildren. Yet, such an argument overlooks the fact that all aspects of the East Cleveland ordinance which

38. *See* authorities collected in *Moore*, 431 U.S. at 516-17 nn.8, 9 & 10; 518-19 nn. 11-15 (Stevens, J. concurring); 58 CORNELL L. REV. 138, 140 nn. 9-10 & 16; 60 CORNELL L. REV. 299 n.5, 306 n. 55.

39. *Id.*

40. In *Moore*, Justice Stevens pointed out the three principal types of zoning restrictions: definitions of the kind of structure that may be erected, the requirement that a single-family home be occupied only by a single housekeeping unit, and the requirement that the housekeeping unit be made up of persons related by blood, adoption or marriage, with certain exceptions. 431 U.S. at 515-16 (Stevens, J. concurring).

41. *See generally*, Note, *Burning the House to Roast the Pig: Unrelated Individuals and Single Family Zoning's Blood Relation*, 58 CORNELL L. REV. 138 (1974). In *Moore*, Justice Stevens summarized the position of state courts on zoning ordinances which regulated " the right of a property owner to determine the internal composition of his household."

> The intrusion of that basic property right has not previously gone beyond the point where the ordinance defines a family to include only persons related by blood, marriage or adoption. Indeed, . . . state courts have not always allowed the intrusion to penetrate that far. The state decisions have upheld zoning ordinances which regulated the identity as opposed to the number of persons who may comprise a household only to the extent that the ordinances require such households to remain nontransient, single-housekeeping units.

431 U.S. at 518-519 (Stevens, J. concurring).

42. In Euclid v. Ambler Realty Co., 272 U.S. 365 (1926), the Court upheld the restriction of residential zones to single family dwellings. With the exception of Nectow v. City of Cambridge, 277 U.S. 183 (1928), the Court did not consider the constitutional dimensions of zoning ordinances until the 1974 decision in *Boraas*. For a review of zoning legislation prior to *Boraas*, see Note, *Zoning-Equal Protection-Right of Privacy-Supreme Court Upholds Restrictive Definitions of Family in Zoning Ordinance*, 60 CORNELL L. REV. 299, 307-312 (1975).

intruded on the choice of related individuals to live together were found unconstitutional. Although the majority failed to specify the outer parameters of the freedom of choice in family living arrangements, the Court's language is broad enough to strike down any ordinance which attempts to interfere with the extended family, regardless of the combination of relatives residing in the household. The majority concluded:

> Ours is by no means a tradition limited to respect for the bonds uniting the members of the nuclear family. The tradition of uncles, aunts, cousins and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition.[43]

Indeed, all degrees of kinship were represented in the relationship among the four occupants of the Moore household: mother-son; grandmother-grandchild; uncle-nephew, and first cousins. When *Moore* is placed alongside the cases discussed above which protect other personal liberties affecting the family, there appears to be a substantial constitutional right to family life.

V. Summary and Conclusion

By removing a barrier to obtaining single family housing for those who follow the extended family tradition, the Supreme Court's decision in *Moore* is an important development in the right to family life. As Justices Marshall and Brennan pointed out in their concurring opinion, it is particularly significant for Black Americans because "black citizens, like generations of white immigrants before them, have been victims of economic and other disadvantages that would worsen if they were compelled to abandon extended, for nuclear, living patterns."[44]

On the other hand, the *Moore* decision does not protect other continuing customs in black family life, such as informal incorporation into the household of "Cousin" Alexander, who has no blood or marital affiliation with other occupants. Then too, the practice of black couples to informally adopt children, rather than proceeding through formal legal channels, would not receive protection.[45]

A plausible argument for applying *Moore* to protect "Cousin" Alexander is that this practice, like the extended family, is a historical custom reflecting a basic social value of helping thy neighbor. Such an application of the rule in *Moore* would extend the right to family life beyond the precise holding of the case, and arguably contravenes the *Boraas* precedent which gives the state authority to zone unrelated individuals out of the household. The rule in *Boraas*, though, upheld an ordinance designed to protect the family character of the residential zone and to eliminate deleterious transient occupancy of family dwelling units. Hence, a majority of the court may be receptive to such expansion, provided it does not impair the state's legitimate zoning goals.[46]

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43. 431 U.S. at 504.

44. *Id.* at 509.

45. *See* R. Hill, Informal Adoption Among Black Families (1977) (Report of the Natl. Urban League). *Cf.* Miller v. Youakim, — S.Ct.— (1979)(statute requires foster children living in relative's home to be eligible for AFDC payments).

46. *Cf.* Dep't of Agriculture v. Moreno, 413 U.S. 528 (1973) where the Court held that a provi-

Indeed, the Supreme Court's failure to define the limits of personal choices concerning family living arrangements does not preclude an even "larger conception of the family" that would include "Cousin" Alexander. To permit the informally adopted member of the household, the Court would have to limit the state's zoning authority to regulation of the number of occupants in a household rather than their status or relationship within the house or recognize and apply the concept of equitable adoption.[47] Such action would be an appropriate accommodation to both the state's interests and those of Black families.

The Brennan-Marshall concurring opinion was written for the express purpose of "underscor[ing] the cultural myopia of the arbitrary boundary drawn by the East Cleveland ordinance...."[48] They recognized that the nuclear family is predominant in white suburbia, but cautioned that "The Constitution cannot be interpreted, however, to tolerate the imposition by government upon the rest of us of white suburbia's preference in patterns of family living."[49] In their dissent, Justices Stewart and Rehnquist implied that the preferences of "white suburbia" are also a black pattern by observing that "In point of fact, East Cleveland is a predominantly Negro (sic) community, with Negro (sic) City Manager and City Commission."[50]

Of course, it is true that Black families desire clean, quiet and safe communities just as white families do, but that need not be achieved at the expense of breaking kinship bonds and interfering with an open door tradition which provides a family to those who might otherwise have none. As suggested, state objectives can be achieved with zoning regulations limiting the number of occupants in a dwelling, at the same time that the right to family life is preserved.

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sion of the federal food stamp program denying benefits to households containing unrelated persons was an unconstitutional violation of the Equal Protection Clause of the Fifth Amendment.

47. Equitable adoption is a doctrine that has gained acceptance in several States, and, for limited purposes, in the federal system. The doctrine holds that informal adoption may be viewed as a legal adoption in some instances. The concept is most widely used in succession cases to allow a child who was not adopted by the lawfully prescribed procedure to inherit from intestate decedents. *Hall v. Richardson*, 362 F. Supp. 662 (S.D. Tex. 1973); *Habecker v. Young*, 474 F.2d 1229 (5th Cir. 1973). Equitable adoption has also been accepted as a basis for determining eligibility for social security benefits. *Williams v. Richardson*, 523 F.2d 999 (2d Cir. 1975). If the Supreme Court applied the concept, it could extend constitutional coverage to the practice of informal adoption of unrelated individuals, thereby protecting the integrity of the family, without overruling or limiting the rule in *Boraas*.

48. 431 U.S. at 507.

49. *Id.* at 508.

50. *Id.* at 537.