

Adoption News and Views

April 2007

This is the first issue of a newsletter which aims to provide information about adoption of children and any new legal and policy developments affecting adoptees, birth parents, and adoptive parents. Future newsletters will be sent out at three monthly intervals or more frequently if important issues arise.

The main purpose of the newsletter is to provide up to date and accurate information on actual and proposed law and policy changes for New Zealanders with an interest in adoption but it hoped that it will also provide a forum for people to discuss adoption issues which are being debated both in New Zealand and overseas. Reviews of books and other publications touching on adoption and are invited.

A copy of this first issue has been sent to you because you are known to be a person interested in adoption. If you do not want to receive further issues you should reply to this email indicating this. If you know of others who would like to receive future issues or you or others wish to submit information or views for inclusion in the next issue you can reply to this email or ask interested others to do so.

While the aim of this newsletter is to provide an open forum for people interested in adoption issues the editors reserve the right to decline or abridge any contributions offered.

Robert Ludbrook
Susan Marks
Newsletter editors
adoption_news@hotmail.com

1. LEGAL UPDATE

Proposed new law will restrict access to birth, marriage, civil union and death certificates

The Births, Deaths, Marriages and Relationships Registration Amendment Bill was introduced by the government in November 2006. An important aspect of the Bill is that if it becomes law it will no longer be possible for members of the general public to obtain copies of birth, death, marriage or civil union certificates. Individuals will be able to access their own records and the records of members of their immediate family and they will be able to authorise another person or person to obtain copies of the records. 'Immediate family' is defined to include parents, children, siblings, spouses (or de facto or civil union partners) grandparents and grandchildren. It also includes step-parents, step-children and others in a step-relationship the person whose records are sought as well as former spouses, de facto or civil union partners. The definition of 'immediate family' fails to take any account of other cultural family patterns unlike other family law statutes which recognise members of a child's whanau, hapu, iwi, aiga or other cultural family group as family members.

Birth, marriage, civil union and death certificates are currently a matter of public record and anyone who can obtain a copy provided they give the name of the individual concerned and pay the required fee. The effect of the Bill will be that these registers will no longer be public registers. Birth parents who are seeking to trace their child will no longer be able to access birth, death and marriage certificates because by reason of the Adoption Act 1955 the adoption order severed the relationship between parent and child. Adoptees will still be able to obtain a copy of their original birth certificate under the Adult Adoption Information Act but will not be able to search the registers or obtain copies of the birth, marriage and death certificates of their birth parents to ascertain whether their birth parents are alive or to find out their current whereabouts.

The reason for these changes is to ensure the privacy of personal information about people whose birth, marriage, civil union or death is recorded in records held in the registers of births, deaths and marriages and to lessen the risk of identity fraud. This proposed amendment to the law has attracted little public attention although the *Dominion Post* in an editorial on April 11th this year was strongly critical of the Bill

No account has been taken in drafting the Bill of the interests of birth parents and adoptees who are seeking information about their biological parents or biological children after the legal relationship has been severed by adoption.

The Bill is currently under consideration by the Government Administration Select Committee of Parliament and submissions on the Bill can be sent to the Secretary of the Committee at Parliament House until 4th May 2007. A copy of the Bill and information on making a submission can be accessed through the internet on www.parliament.nz under Select Committees/Government Administration Committee.

HAVE YOUR SAY!

A submission isn't hard to do nor does it necessarily have to take long. It may make the world of difference for a family not yet reunited. Obviously the more submissions the more weight to the argument that this law shouldn't go ahead or, at least, the definition of 'immediate family' should be broadened to include family relationships which have been severed by an adoption order and family relationships recognised by Maori, Pacific and other cultural groups within NZ society. .Anyone interested in making a submission can contact us via email at: adoption_news@hotmail.com

Robert Ludbrook
Susan Marks

2 POLICY UPDATE

Reform of the Adoption Act 1955

After pressure was exerted on the Minister of Justice in July last year to give priority to reform of adoption law, the issue of adoption law reform has been placed back on the Ministry's work programme. The Ministry of Justice has advised that 'proposals for reform have been provided to the Minister of Justice for his consideration'. No details as to the nature and extent of the proposals for reforms have been given. An earlier media statement indicated that reforms being looked at include (a) who is eligible to adopt a child (b) counselling available to people affected by adoption (c) recognition of overseas adoptions.

The need for adoption reform

The Adoption Act 1955 is now 52 years old. Amendments have been made to adoption law in respect of access to adoption information and intercountry adoption, but there have been only minor amendments to the Adoption Act 1955 despite a number of reviews and calls for major reform. The Law Commission in its 2000 report *Adoption and its Alternatives* undertook a careful review of the Act and provided an excellent blueprint for adoption reform which places strong emphasis of the rights and interests of children. Problems with the Adoption Act 1955 include:

- The Act contains no reference to the child's rights – its focus is predominantly on the rights of the child's birth parents and adoptive parents;
- The consent of the proposed adoptee is not necessary before an adoption order is made, even where the child is aged 16 to 19 years and is or has been married;
- The names of a child of any age can be changed by an adoption order. The name the child may have used for years may be changed without the child's knowledge or consent;

- The welfare and interests of the child are not the paramount consideration in adoption (as required by the UN Convention on the Rights of the Child). They only one of the matters to be taken into consideration when an interim adoption order is made;
- Children have no power to appeal against an adoption order even though an adoption order severs their relationship with their birth parents and birth relatives and will usually change their names. Under the Care of Children Act 2004 and the Children, Young Peoples and their Families Act 1989 children have a right of appeal against court orders;
- There is a risk that children can be adopted overseas and brought to New Zealand for the purposes of sexual exploitation or prostitution, the overseas adoption being recognised in New Zealand under s17 Adoption Act;
- New Zealand's adoption laws have been criticised by the NZ Law Commission, the NZ Human Rights Commission and the UN Committee on the Rights of the Child. Some provisions of the Adoption Act are not consistent with the Hague Convention on Intercountry Adoption.

Adoption Act reflects attitudes and values of a bygone era

The Adoption Act 1955 reflects attitudes towards families and children that prevailed in the 1950s, and the social values and beliefs of the immediate post-war period. Social values in 1955 were very different from those of today:

- Maori were expected to fit into western notions of children and families with no recognition of different cultural values and kin groupings in relation to children and child-rearing;
- Marriage was seen as the only acceptable basis for cohabitation and children born to unmarried parents were until 1969 characterised as "illegitimate" and in some respects treated as second class citizens;
- There was a widespread belief that women who became pregnant outside of marriage were promiscuous or deviant and that their infants would be saved by placing them with married couples who were presumed to be able to offer better care for the child;
- Pregnant single women had to leave school or employment. They were often rejected by their parents and some were left to fend for themselves. No benefit was available to unmarried parents caring for a child until the mid-1960s. Some young women had their child in Australia and the child was adopted there. Others took jobs doing domestic work for families and a number were hidden away in charitable homes for pregnant single women (which sometimes also acted as adoption agencies);
- Women's place was seen to be in the home caring for the children;
- There were great pressures on unmarried mothers to consent to adoption of their baby and mothers who demurred were labelled selfish and uncaring;
- Because adopted children were regarded as belonging wholly to their new parents, it was strongly impressed on birth mothers that they had no right to any further knowledge of or contact with their child. Birth mothers were sometimes made to swear on the Bible that they would never try to find out about or contact their child;
- Children were sometimes not told that they were adopted and grew up in the belief that their adoptive parents were their natural parents. The new birth certificate issued after adoption shows the adoptive parents as the child's birth parents.
- Contraception was not available to single women through family doctors or organisations like Family Planning. It was a criminal offence to sell contraceptives or give contraceptive information or advice to under 16s;
- Abortion was illegal and backstreet abortionists faced heavy criminal penalties;

- The government did not accept responsibility for the support of unmarried mothers and there was little subsidised day-care available;
- From the later 1960s, there were more babies available for adoption than there were couples willing to care for them, and lower standards were required of proposed adoptive parents than are required today;
- Although women considering placing their child for adoption were in most cases told of the legal consequences of an adoption order, they were not informed of the emotional consequences for mother and child nor were the alternatives to adoption explained to them. Adoption counselling was not available;
- The consent provisions, providing for the birth mother to sign consent ten days after the birth, did not contain any effective protection to ensure that a consenting mother fully understood the effect of an adoption order and the alternatives to adoption. It was (and remains) almost impossible for a birth mother to withdraw her consent once given.

Official reviews of adoption law

Since 1979, there have been six reviews of adoption law:

- *A Review of the Law on Adoption: Webb Report*, Justice Department 1979.
- *Puao-te-ata-tu (Day Break)* Report of Ministerial Advisory Committee on a Maori Perspective, Department of Social Welfare (1988).
- *Report of Adoption Practices Review Committee* Department of Social Welfare (1990).
- *Review of Adoption Law – Maori Adoption*: Social Policy Agency (1993).
- *Interim Report of Inquiry into Reform of Adoption Law*, Government Administration Select Committee (1996).
- *Adoption and its Alternatives: A different approach and a new framework*: New Zealand Law Commission (2000).

Each of these reviews has recommended significant reforms to adoption law. The Law Commission report proposed a series of reforms which built on recommendations of earlier reports and which proposed a new framework for adoption law. No action has been taken to implement the recommendations of these committees.

UN Convention on the Rights of the Child

The United Nations Committee recommended in its 2003 report on New Zealand that, in considering any reform of adoption legislation, particular attention should be paid to Art 12 (the right of children to express their views and have their views given due weight) and that its adoption laws should

- require that children of a certain age give their consent to their adoption;
- ensure the right of adopted children to access information about their biological parents;
- ensure the right of children to maintain one of their original first names.

Human Rights Commission Action Plan for Human Rights 2005

The *New Zealand Action Plan for Human Rights* released in February 2005 by the Human Rights Commission commented that opportunities for children to have genuine involvement in decision-making processes are limited in many settings. The Commission identified as a key area for action the need to amend the Adoption Act 1955 so that the consent of every child aged 12 or over should be required to an adoption order. Such consent is required in all Australian States and Territories.

Robert Ludbrook

3 GENERAL

Book Review

Bright Star: Beatrice Hill Tinsley Astronomer
Author Christine Cole Catley
Cape Catley Ltd

This excellent biography of a New Zealander who won international acclaim for her work as an astronomer and in particular for her work on the galaxies and the origins of the universe. Beatrice married young and having been told she would be unable to have children was able to put her formidable intellect and energy into her work on astro-physics. In 1966 when Beatrice was 25 a member of her husband's family had become pregnant outside marriage and Beatrice, with considerable hesitation, agreed to adopt the child even though this meant travelling to New Zealand to complete the adoption arrangements and considerably limiting her pioneering work in order to care for her adopted son. Christine Cole Catley deals with the decision to adopt and its consequences sensitively and Beatrice's story is a poignant reminder of the pressures women were under to abandon their careers and devote themselves to caring for their husband and children.

Robert Ludbrook

Sharing your stories

There are many stories out there and if anyone wants to share a story, or poetry, we will be glad to publish. People have a choice now which is more than we had all those years ago so feel free to write your submission uninhibited by past doctrines and morals. Let the government know the difference it made in your life finding that truth buried in the microfiche of the past. Also your views on official birth records that show that a child was born twice on the same day to two different sets of parents.

Susan Marks