



## ADOPTION NEWS AND VIEWS

**MAY 2011**

**2011/1**

*Adoption News and Views* is a quarterly newsletter which aims to provide information about adoption of children and about any legal and policy developments affecting adopted children, parents who surrender a child for adoption, and people who adopt a child. It will also provide progress reports on efforts by individuals and groups pressing the government to give a higher priority to enacting new legislation to replace the out of date Adoption Act 1955 and other adoption laws to bring them into line with the Convention on the Rights of the Child and the anti-discrimination provisions in Human Rights Act 1993 and NZ Bill of Rights Act. 1990.

Newsletters will be sent out four times a year. Back issues can be sent by email on request. The main purpose of the newsletter is to provide up-to-date information on current NZ adoption laws, policies and practices and on any proposed changes. Adoption reform developments overseas will also be covered. It is hoped that the Newsletter will also provide a forum for people to discuss adoption issues. Contributions including reviews of books, films etc touching on adoption are invited.

*Adoption News and Views* is sent to you because you are believed 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 would like to submit news or views for inclusion in the next newsletter you can reply to this email or ask interested others to do so. The editors apologise for the lateness of this issue, The next issue will be sent in July 2011

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 Editors**

## EDITORIAL

The November election is just six months away. There has been absolutely no progress with adoption reform since the previous election. Information obtained under the Official Information Act (see below) shows that the former Labour-led government on three occasions dropped adoption reform from its political agenda without ever giving reasons. It had advised the United Nations Committee on the Rights of the Child in 2003 that it was planning to introduce new adoption laws and the UN Committee welcomed this move pointing out that current adoption law was in important respects inconsistent with NZ's Convention obligations.

In February this year the UN Committee again considered progress made by New Zealand in implementing children's Convention rights. The only reason given for failing to make changes and failing to follow through with the assurances given eight years earlier was that the government had other priorities. Our Human Rights Commission late last year again flagged adoption reform as a priority area.

There is general agreement that New Zealand's adoption laws are out of touch with modern social realities and that in many respects they compromise the rights of children and relinquishing mothers. They perpetuate institutional abuses which have been identified and remedied in Australia and other English-speaking countries. Sometimes apologies have been given to the many people damaged by past adoption practices. The actions of those responsible for these harsh and discriminatory practices may be excused on the basis that these were different times when other community values operated. Cruelty is cruelty and while heaping blame on the individuals involved may be counter-productive we owe it to those who have suffered to show them that our laws have been changed to ensure that such things could not happen today. The failure of successive governments to engage with the task of updating and humanising our adoption laws is inexcusable. Information provided recently to Adoption Action through an Official Information request shows that in 2007 a detailed paper was prepared for Cabinet proposing major reform consolidating all three adoption statutes in a new Adoption Act. The Cabinet paper provides a blueprint of the changes needed to bring adoption laws into the 21<sup>st</sup> century. If the will was there, the Minister could instruct the Ministry to prepare drafting instructions for a Bill to make the substantial changes necessary.

**It is time for action. We urge anyone concerned about our adoption laws to:**

- **write to the Minister of Justice expressing your concerns reminding him that he said in May 2009 that he would review adoption legislation when the work programme allowed. He, of course, decides what is included in the work programme**
- **speak or write to political parties asking them to include adoption reform in their pre-election policies and manifestos**
- **emphasise that NZ's Human Rights Commission, the United Nations Committee on the Rights of the Child and members of our judiciary have all recently criticised the current state of our adoption laws**
- **become a member of Adoption Action (see attached membership application).**

**Robert Ludbrook**

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## ADOPTION NEWS NZ

### FIRST ANNUAL GENERAL MEETING OF ADOPTION ACTION

The 1<sup>st</sup> annual general meeting of Adoption Action Inc is to be held on **Thursday 26<sup>th</sup> May 2011 at 12-30pm in the Kowhai Room** at the offices of the **Children's Commissioner, Public Trust Building Level 6, 117 – 125 Lambton Quay Wellington Central (along from the new Supreme Court Building).**

This will be an opportunity to discuss plans and strategies for promoting adoption reform in this election year including the option of applying for a declaration from the Human Rights Review Tribunal that the Adoption Act 1955 breaches the New Zealand Bill of Rights Act.

**Members and non-members are welcome to attend and take part in the discussion,**

## UN Committee on Rights of the Child Report on NZ

The United Nations Committee on the Rights of the Child reviews New Zealand's progress towards full implementation of the Convention on the Rights of the Child (CROC) every five years. Because of delays in the reporting process, the Committee asked New Zealand to submit a combined 3<sup>rd</sup> and 4<sup>th</sup> report which was considered by the Committee on 4<sup>th</sup> February 2011. Adoption laws and practices are the subject of a separate article of the Convention and sections 32 and 33 of the Committee's report contains observations and recommendations on New Zealand's compliance with CROC.

### Adoption

32. The Committee regrets that a child's consent is not required for domestic adoptions and that the review of adoption legislation is currently on hold. The Committee notes with regret that in cases of adoption that are not "open adoptions", the adopted child does not have access to his/her file, with the name of its biological parents, until the age of 20.

33. The Committee recommends that the [New Zealand] take steps to ensure that a child's consent is required, as appropriate, for domestic adoptions. The Committee also recommends that [New Zealand] resume its review of adoption legislation and revise it, as appropriate, in order to bring it in line with the Convention as well as with the 1993 Hague Convention [on] Intercountry Adoption. The Committee further recommends that [New Zealand] lower to at least 18 years the age at which adopted children have the right to have access to their files.

## Comment

In the Committee's previous report on New Zealand released in October 2003 it

- welcomed the NZ government's statement that it intended to review adoption laws;
- expressed concern that the planned amendments would not bring New Zealand fully into conformity with the Convention;
- recommended that NZ, in reforming the law, pay particular attention to art 12 - the right of children to express their views and their views given weight according to their age and maturity. It added that children should at a certain age have to give their consent to their adoption;
- recommended that children should maintain one of their original first names
- recommended that adopted children have access to information about their biological parents.

The embarrassing reality is that no changes have made to adoption law in response to the Committee's recommendations made more than seven years earlier. Successive governments have failed to bring our adoption laws into line with fundamental rights conferred on children by UNCROC and the rights in the New Zealand Bill of Rights. Equally shameful is the failure of governments to implement the assurance given to the United Nations Committee eight years ago that it was reviewing adoption laws.

When New Zealand government representatives appears before the Committee they emphasise that this country takes its obligations under the Convention seriously. This claim is unconvincing because of NZ's failure 18 years after ratification to remove any of its three reservations to CROC, its failure to develop a National Plan of Action for Children and its failure to review all laws and policies to identify any areas on inconsistency with the Convention.

## Human Rights Commission Report and Action Plan 2010 - 2015

Late last year the Human Rights Commission released its second five-yearly report and action plan *Human Rights in New Zealand 2010*. This intention is to map how well human rights are promoted, protected, and implemented in New Zealand and to assess where we fall short of international human rights standards. It identifies 30 priority areas where action is needed to strengthen NZ's human rights protections and ensure the dignity, equality and security of New Zealanders. One of the designated priority areas is that government should ensure that New Zealand laws reflect its obligations under UNCROC referring specifically to adoption laws and procedures: see p9.

The full report elaborates on this at p243 commenting that:

“New Zealand's adoption legislation has been criticised as out of date and in urgent need of reform. Changes are required to bring the law into line with modern adoption practices and with UNCROC, as noted in the Committee on the Rights of the Child's previous recommendations regarding adoption and the application of Article 12.

Current shortcomings include:

- Children do not have the opportunity to be heard and have their views given due weight.
- Adopted children have no right to information about, or access to, their biological parents.
- The best interests of the child are not a paramount consideration.
- There is no power for adopted children to preserve at least one of their original names.
- Consent of birth parents is often given without independent advice or counselling.

The Adoption Act 1955 is also discussed in Chapter 19 of the full report which raises the issue that gay and lesbian couples are unable jointly to adopt a child.

## **Review of the Family Court**

The Minister of Justice in April 2011 announced a review of the Family Court and its processes and spiraling costs. A consultation paper is expected to be circulated by the Ministry in September 2011. The proposal signed off by Cabinet sets out eight terms of reference for the review. The focus of the review is clearly on the Care of Children Act and especially on the role of professionals and the escalating costs. There is no reference to adoption law or procedures being part of the review.

The Cabinet paper does make the point that the Acts under which the Family Court operates were passed at different times in response to different social needs and so operate differently. It also stresses that any proposed reforms must be consistent with the UN Convention on the Rights of the Child.

The consultation will be an opportunity for those pressing for adoption reform to renew their demands that such reform be given a high priority. *Adoption Action* will certainly be making submissions and encouraging others to do so. Realistically, the consultation paper will not go out until September 2011 at the earliest and with the election in November, the need to appoint a new Minister and the Christmas New Year break it is most unlikely that government proposals for reform will be released until well into 2012 and any major amendments to adoption law will be unlikely before 2013.

## **Comment**

It is clear from the Minister's comments that the main focus of the consultation will be on reducing overlapping professional services and cutting costs. Adoption is currently the cheapskate option in terms of government family law spending. Care of Children Act cases routinely involve counselling services, mediation services, lawyer for the child, psychologists' reports (and sometimes cultural reports) all funded largely out of government funds. There are also legal aid costs for the parties (means tested) and sometimes the cost of counsel to assist the court. In contrast, in adoption cases there are none of these professional services except, very occasionally, appointment of a lawyer to assist the Court. Legal aid is rarely granted to adoptive parents who have to prove they have the financial means to bring up the child and so are not likely to be eligible for legal aid. There is no lawyer for child, no counselling or mediation provisions, no power to order a psychologist's or cultural report. If the Adoption Act is amended along the lines proposed by the Law Commission many of the professional

services will be extended to adoption cases. There may be a danger that adoption reform will be further delayed as a “cost-reduction” measure. The Cinderella of family law will remain neglected in a dark back room.

### **Information obtained under Official Information Act**

Information obtained this year under the Official Information Act by *Adoption Action* shows that adoption reform has on four occasions been dropped from the Ministry of Justice work programme. A 2009 Briefing Paper prepared for the current Minister shows that “substantive reforms to adoption law were initiated but discontinued in 1979, 1987, 1988 and 1990. Other documents show that in June 2007 the Ministry at the request of the then Minister, Hon Mark Burton prepared a paper for the Cabinet Policy Committee with detailed proposals for the replacement of the Adoption Act 1955, the Adult Adoption Information Act 1985 with a new Adoption Act. Cabinet was asked to agree to a large number of changes to current adoption law but for reasons that have never been explained the Cabinet paper was never sent to Cabinet and immediately afterwards adoption reform was taken off the Labour government’s work programme. A copy of the schedule setting out the proposed changes is included at the end of this Newsletter. These changes will be further discussed in the July 2011 issue of Adoption News and Views.

### **RECENT NZ CASES Adoption and surrogacy**

Two recent Family Court cases deal with the adoption of children born as a result of surrogacy arrangements where the surrogate mother lives overseas and the child is born in an overseas country. In each case adoption orders were granted but the cases raised quite complex issues’

In *Adoption applications by S and S* Judge Walker, North Shore Family Court 15 February 2010 each partner of a gay male couple had applied to adopt as a sole applicant a different child with the intention of bringing up the two children together as a family unit. The children had been born overseas through implantation in two different surrogate mothers of embryos created from eggs of the same egg donor and the sperm of each of the applicants. The arrangements were made through a clinic in Oregon in the United States, and both the children were gestated and born in that country and brought to New Zealand shortly after birth.

Questions arose whether the Hague Convention on International Adoption applied (the children being born overseas and adopted in New Zealand), whether the consent of the egg donor was required to the adoption, and whether s25 Adoption Act 1955 (which prohibits payment or reward being made for in consideration of adoption) had been breached. One of the two children was a girl and the Court was also required to decide whether there were special circumstances which justified the making of an order for the adoption of a female child by an unpartnered male applicant which is otherwise not permitted under the 1955 Act.

The applications were heard together and adoption orders were granted the Court answering all three questions in the negative and finding that there were special circumstances justifying making an order in favour of a male adopting a female child. The Court accepted that, had the surrogacy arrangements been entered into in New Zealand, a criminal offence would have been committed because the Human Assisted Reproductive Technology Act makes it an offence to pay a woman as a surrogate. It also found that the arrangement would not have been approved by New Zealand's Ethics Committee on Reproductive Technology because its criteria had not been met.

The facts of the other case were similar except that the applicants were a married couple, the wife being unable to carry a child to term. Through a clinic in Thailand an egg donor was found and an embryo created in vitro with the father's sperm. The clinic was paid \$24, 500 from which the egg donor and the gestational mother were paid as well as the clinic's costs. The consent to adoption of the surrogate mother was obtained and the consent of the egg donor was not necessary. The child was uplifted shortly after birth and brought to New Zealand.

A feature common to both these and other surrogacy cases is that the children entered New Zealand on a visitors visa and the Ministry of Internal Affairs had declined to grant the child New Zealand citizenship unless and until an adoption order was made.

International surrogacy is becoming more common and is largely unregulated under New Zealand law. If the law continues to prevent gay and lesbian couples from jointly adopting a child they may resort to international gestational surrogacy which will give them a birth certificate from the overseas country showing them as the parents. One of the partners will have to obtain a New Zealand adoption order to give the child New Zealand citizenship and it is open to the other partner to obtain a guardianship order.

## **ADOPTION VIEWS**

### **Experiences of a New Zealand relinquishing mother now living in Australia**

I am a mother who lost a son to adoption in New Zealand in 1973. Like many mothers our baby was taken from us by those who had a systematic agenda to separate Mother and Child.

I have lived in Australia since 1989 and was not aware of the existence of groups who supported people affected from separation by adoption until my son found me in 2004. Like many woman I lived with my grief silently until my awaking.

I discovered that adoption support was out there and became a member of the Victoria and later New South Wales *Origins* an organisation which supports people affected by separation as a result of adoption. This self- funded organisation of very dedicated women has fought over many years to gain a public voice and adoption issues into the public arena.

We have recently witnessed the Western Australian State Government acknowledging the crimes against Mothers and their children. Western Australia is the first state in Australia to publicly apologise for the taking of babies by “forced adoption” and for the trauma suffered to Mothers and their children.

On 29<sup>th</sup> April 2011 I witnessed the public hearing at NSW Parliament building of the inquiry into the Commonwealth involvement in former ‘forced adoption’ policies and practices. Over the past few months the government has been calling for submissions into these past wrongs and some of these submissions were personally tabled at this hearing.

For me personally it is not my victory as I long to see the New Zealand government take responsibility for the part it played in this dark chapter of New Zealand history. My question is are there Mothers still in New Zealand willing to lobby the government to get our voice heard?

I believe that with the interest generated by the move in Australia the timing is right to have a united public face to lobby for acknowledgment of the past wrongs into ‘forced adoption’ and to remove the guilt and shame from those who carry this lifelong burden and put it back on those who played a knowing role in systematically taking our children. The evidence is clearly out there on public record showing the physical and mental health effects on Mothers and their children.

### **Can we Mothers of New Zealand unite to have our voice heard?**

Christine Hamilton  
Email: sha19931@bigpond.net.au

### **Why have successive governments shunned adoption reform?**

Many people are puzzled that both Labour-led governments and the current National-led government have turned their backs on adoption reform in the face of criticism from the judiciary and both international and domestic human rights organisations. The mantra “other priorities” is not an explanation. Is it the fear of a homophobic reaction from sections of the New Zealand public if gay and lesbian couples are permitted to adopt children? If so governments are perpetuating homophobia. They are also overlooking that there is no barrier to a man or woman in a same-sex relationship adopting a child as a sole applicant (or caring for a child under a Family Court guardianship or parenting order or under the child protection provisions of the Children, Young Persons and their Families Act). It is open to each partner of a gay couple to adopt a different child and for them to bring up both children as part of a family (see case discussed above)

No government has stated publicly its reasons for not moving forward with adoption reform and documentation obtained under the Official Information Act is silent on the issue.

**Robert Ludbrook**

## Comment on need for adoption reform

Conrad Reyners, a Victoria University law student wrote for the Victoria University Student magazine *Salient* in February 2011 a humorous piece about the law regulating people's love lives. In it he makes some cogent points about adoption law.

"Everyone always derides lawyers for being heartless creatures. But the reality couldn't be further from the truth. While some tax lawyers are undoubtedly drier than the Sahara, the law can't seem to get enough of love.

Legislation is used to regulate almost every facet of our love life. It states the age at which you can have sex for the first time; it protects you against unwanted advances in the workplace; it protects you if you're selling your body in the workplace; and it figures out how property is to be divided up, if your partner turns out to be a massive douche.

When it comes to love, the law's got your back. But there are areas where things have gone and got terribly confused. Misguided attempts at protecting love have led to injustice, mystification, and a whole lot of heartache.

The law not keeping pace with social mores was demonstrated last year in the High Court of Wellington. The case of *Re AMM & KJO*, involved a de facto heterosexual couple who wished to adopt a child. By all accounts they were excellent candidates for parenthood. But according to the New Zealand's draconian Adoption Act 1955, only married couples can adopt. And thanks to the existence of both the Civil Unions Act 2004 and the Marriage Act 1950 only heterosexual couples are allowed to be married.

This created a tricky legal issue. In 1955 the term "spouse" was intended by Parliament to mean a partner in marriage. But today, spouse can be used in a variety of different relationships.

But the couple had an ace up their sleeve. They argued that "spouse" should be interpreted consistently with the Bill of Rights Act 1990, which enables judges to give preference to meanings that are consistent with fundamental rights—as long as the meaning is reasonably possible on the statutory text.

It was a long shot. The text was definite, the Act was written in 1955, when relationships outside of Marriage were treated with scorn. But the judge unexpectedly accepted the couple's argument. To restrict adoption to married couples was discriminatory. Justice won out on the day, right?

Well no, not entirely.

The judge went out of his way to limit the scope of his ruling only to heterosexual de facto couples. Gays and lesbians (who can currently not adopt) were once again denied the same basic legal rights afforded to straight society.

But it was worse than that. The ruling confused an area of law already marred by inconsistency. The circumstances in which a couple may adopt now bear no connection with reality. Married heterosexual couples may adopt. Civil Unioned heterosexual couples may not. Heterosexual de-facto couples can adopt, homosexual couples in a Civil Union can't – and it's too early to say if gay or lesbian couples in a de facto relationship can. What a truly absurd mess.

Unfortunately the solution is not quick or simple. Amending the Act could solve things in a flash, but that would miss an opportunity for wide-ranging reform.

The Act is badly out of step with modern values. It was written during a time when the majority of adopted children were unwanted or unplanned. Legal relationships between birth mothers and adoptive parents were severed. The best interests of the child were not a consideration, and international principles regarding the care of children were conspicuously absent.

New Zealand has already led the way in reforming other laws relating to youth and children.

Now it's time to go back to the drawing board and imagine new legislation that drags adoption kicking and screaming into the 21st century.

True reform would result in a law that puts children's interests first, allowing for a rainbow of families to give them the love, support and care that they deserve. And thankfully, it will be those love-obsessed lawyers resolutely campaigning to make it happen.

**Published with the consent of Conrad and *Salient*.**

## **INTERNATIONAL ADOPTION NEWS**

### **Europe: Intercountry adoption by American adoptive parents**

The Commissioner for Human Rights at the Council of Europe, Thomas Hammarberg, has commented on an intercountry adoption: where a Russian child was returned to the Russia as if he was "faulty goods".

"What happened to Artyom Savelev was unacceptable. The boy, now eight years old, had been adopted from Russia. His new mother, in Tennessee in the United States, had found his behaviour difficult and put him, alone, on a plane to Moscow. With him she had sent a note asking the Russian Authorities to take him back. She complained that no one had informed her about the extent of his psychological problems, and that she quite simply could not cope with what proved to be the reality. Artyom's case caused wide publicity in Russia and the functioning of the rules on inter-country adoptions are now being reviewed at the highest level. The result will have to be firmer protection of the principle that adoption is a

child protection measure and that children's rights have to be fully protected and promoted throughout the adoption process."

## **Australia: Apologies to relinquishing mothers – for and against**

### *Our Dirty Adoption Secret*

The Australian Federal Government wants to give forced adoption victims an apology, but seems very keen to prevent the public finding out exactly what the apology is for, writes Emily Wolfinger

During a meeting at Minister for Families Jenny Macklin's Canberra office on 27 August 2010, the offer of an apology to an estimated 150,000 women and their children who were "unethically" and "unlawfully" separated between 1950 and 2000 was declined by *Origins*, the official body representing these women.

Macklin's advisor Tracey Mackey phoned *Origins* NSW coordinator Lily Arthur the next day, asking whether *Origins* would reconsider accepting their offer of an apology. They declined a second time. But get this: the apology may still go ahead in November. As if it were an afterthought, the Government plans to tack this apology onto the apology to the "Forgotten Australians", those half-million Australians abused as children in institutions. The Forgotten Australians are also upset about this, as they want their apology to be their own — and fair enough. However, it seems the Government is determined to kill two birds with one stone.

Far from being a well-meaning gesture, the offer of an apology is an insulting and deeply disappointing outcome for *Origins*, who have waited nearly 10 years for a Government response on this issue. They have been campaigning for a national inquiry for even longer, and not once have they asked for an apology. According to the group, it is only through a national inquiry that Australians will learn of the nationwide extent of the crimes acknowledged as "kidnapping" by Family Court Justice Richard Chisholm in evidence he gave at the NSW Parliamentary Inquiry into past adoption practices in 1999.

That inquiry only served to reveal the extent of criminal and unethical adoption practices committed in NSW. *Origins* fears that until all states are held accountable in a national inquiry, Australians forcibly removed from their unmarried mothers in other states will remain in the dark about the circumstances surrounding their adoption. A national inquiry will also provide an opportunity for mothers from all states to tell their stories. *Origins* says it is very unlikely that any of this will happen if the Government goes ahead with the apology, because such a move would look to many as if some degree of recompense had been made.

It makes no sense at all for the Government to insist on making an apology before Australians even know of the nationwide extent of the crimes to which such an apology would correspond. The Indigenous Stolen Generations had their national inquiry first, and it demonstrated very clearly just what was being apologised for. Why not use the same process for mothers forcibly separated from their children through adoption? Is this offer of an apology an attempt at an easy way out of actually doing something to address the damage caused by

Australia's adoption practices? Perhaps, worse still, it is an attempt at a cover-up of the extent of the crimes perpetrated against these women and their babies.

An apology would be an irresponsibly premature step on an issue already so marked by institutional culpability. *Origins* want full acknowledgement and accountability first — which they believe a national inquiry would ensure — then suitable redress, and then perhaps an apology.

Next year will mark 10 years since the Final Report into past adoption practices in NSW, titled *Releasing the Past*, labelled those practices “unethical” and “unlawful”. It will also mark 15 years since *Origins* was founded and first started campaigning for a national inquiry. It is time that the Federal Government allowed the country to face the reality of this part of Australian history and set up a national inquiry. National inquiries have been instigated for much less serious reasons than the theft of over 100,000 children.

These mothers want their children to know the full truth. They are not asking for much.

Source: *Origins* Newsletter 2010

### **Australian Commonwealth government sets up inquiry into past adoption practices**

The federal senate has agreed to an inquiry into the practice of forcible adoption in Australia between the 1940s and '80s, supporting a motion by Greens Senator Rachel Siewert on November 15 2010

“Today's vote starts to recognise the suffering that so many people have endured as a result of forced adoption policies,” Siewert said. “There is no doubt that many women were treated very badly as a result of these policies. Young and vulnerable mothers were pressured into adoptions, and often had to surrender their newborn children without being allowed to see them. For many mothers and children, the emotional and psychological damage of these policies continues, and will be felt for the rest of their lives. We must do all we can to address this.”

Calls for an inquiry into, and apology to the victims of forced adoption have been mounting on the wake of campaigns for justice for the Stolen Generations of Aboriginal and Torres Strait Islander people. Many of the pretexts used for stealing babies from Aboriginal people were also used to steal babies from non-Aboriginal people, particularly those who were economically or socially marginalised.

Typically, the victims of forced adoption were young, unmarried women and their babies. Reactionary ideologies that cast women who had premarital sex as having sinned justified both a cruel official policy and unsympathetic treatment by medical staff and bureaucrats. Submissions to the inquiry must be sent to or Senate Community Affairs Committee, Department of the Senate, PO Box 6100, Canberra 2600, before February 28 2011. Notes to

help prepare a submission are available at  
[www.aph.gov.au/senate/committee/wit\\_sub/index.htm](http://www.aph.gov.au/senate/committee/wit_sub/index.htm)

### **Huge interest in past adoption practices in Australia**

Having lived in Australia for two months earlier this year I was astonished and the liveliness of debates about adoption past and present. There was regular news coverage in the print media, on radio and on television. ABC radio national ran two programmes with in-depth exploration of historical and contemporary issues affecting birth mothers and adoptees: *The Tangled Web: the silence of consent* tracked the development of adoption in Australia until the early 1970s when adoption peaked at nearly 10,000 babies a year adopted nationally. The second programme *The Sound of Dissent* looks at the subsequent decline (there were only 412 adoptions in Australia in 2009/10) and the increasing willingness for those damaged by adoption to speak out. These discussions are fascinating and can be viewed on [www.abc.net.au/rn/hindsight/stories/2011/3164428.html#transcript](http://www.abc.net.au/rn/hindsight/stories/2011/3164428.html#transcript)

Some comments from the programme that continue to resonate include:

“Adoption, the legal refashioning of a child’s identity, is an extraordinary 20<sup>th</sup> century phenomenon. In its heyday it wasn’t just supported by an infrastructure, a bureaucracy, a legal framework. It was believed in.”

“Adoption, once it was established, seemed unstoppable. There were so many reasons at the time for accepting it, and there were at the time so few opposing voices to be heard. Understanding the history of adoption has repercussions for the present and the future”

“In 1970 the case for adoption seemed unassailable. Law makers, psychologists, child welfare authorities, adoptive parents and churches all supported it.” Jennifer Bowen: presenter.

“Hundreds of thousands of children all over the world, never mind Australia, grew up either not knowing that they had been adopted or finding out accidentally that they were adopted”  
Cliff Picton

One is left to wonder why adoption past and present has such a low profile in New Zealand despite the courageous work of Josh Sawyer who founded a support group *Jigsaw* in the 1970s and published *Death by Adoption* in 1979.

**Adoption Action would be interested to hear from readers their views for the low level of public interest in adoption past and present in this country,**

**Robert Ludbrook**

**The editors would like to thank Chrissie Hamilton for providing them with a wealth of information about adoption in Australian and worldwide.**

## TRIBUTES TO THE LATE KEITH GRIFFITH MBE

Keith Griffith, a member of the management committee of Adoption Action and a tireless advocate for adoption reform, died in Wellington on 12 January 2011. His funeral was a moving occasion with a strong involvement of the Porirua and Cannon's Creek Pasifika community, a reminder of the love and respect engendered by Keith's work with the Methodist church and the local community. Set out below is a tribute from Professor Mark Henaghan of Otago University Law School which was read at his funeral and an excerpt from Keith's life story published in the Dominion Post on 29 January 2011 under the heading "Adoptee spurred battle for law reform to enable people to access birth information".

Keith Griffith has been speaking out about adoption since 1960. He was the first person in 1962 to organise a public meeting on adoption in New Plymouth and speak out as an adopted person. One hundred and fifty people attended the meeting. This was the first time in New Zealand that an adopted person spoke at a public meeting on their experiences as an adopted person. Half the audience was very positive and the other half thought that adoption should be a deep and dark secret. What Keith did not know was that his birth mother was at that meeting. Neither realised that they were related in this way.

In 1976 Keith formed the first adoption support group in New Zealand and was the group leader for five years. Support groups grew up in other centres from Keith's pioneering work.

In the late 1970s Keith was involved in 2 television documentaries about why adoptees search to find out about their past. This began the process of raising awareness of the importance for adoptees of knowing their origins.

In 1978 Keith initiated the first successful court case to access court adoption records. Keith was granted expert status by the court and appeared in over 20 cases to help access adoption records – all were successful.

In 1981 Keith produced his first book on adoption statistics from 1881 to 1981. This was the first of a body of outstanding publications on adoption. Keith published his work on adoption in New Zealand and Canada. He wrote an adoption support group handbook. But most importantly of all his work on the history of adoption, the psychological consequences of adoption, both social and legal, as well as his work on children born from IVF, otherwise known as "test tube babies", has been simply outstanding. It is used throughout the universities and the courts in New Zealand and around the world. Nothing is left unsaid – every stone has been turned and on every page Keith's strong passion and desire to make the world a better place for those who have been adopted shines through.

Keith's work eventually led to a change in the law so that nowadays those who have been adopted are able to have access to their birth records. This was the first legislation in the world to secure this right for adoptees. As Keith was quoted as saying at the time, "The only way to be successful is if you fail then try again. It took at least three private member's bills and years of slogging before we succeeded. Make sure politicians are left in no doubt that the problem will not go away without resolve." What drove Keith on throughout all of his work

was that the truth will set you free. People have the right to know where they have come from and who they are connected to.

Keith has been a guest lecturer to many different groups throughout New Zealand. For the last ten years he has lectured to my family law class in the Law Faculty at Otago University on adoption and test tube babies. The lectures are the highlight of the course for the students. Keith's openness, understanding, wonderful sense of humour, clarity of delivery and vast knowledge has had a deep impact on the students.

Keith will be greatly missed but he can rest in peace knowing that he has made huge contribution to adopted people, not only in New Zealand but throughout the world. I salute you Dr/Professor Keith Griffith.

### **Mark Henaghan**

While at primary school Mr Griffith began making inquiries. He asked his mother, "Where did you get me from?" "Out of a newspaper", she replied. He listened to the answer in shocked silence.

"All I could think of was fish and chips wrapped in newspaper. I eventually asked Jack, the fish and chip man, whether he knew anything about babies left wrapped in newspaper. He was shocked and said "That would be horrible". I said "I don't fell horrible". He did not have a clue what I was on about.

Mr Griffith let the matter rest for two years before querying his mother once again. "Where did you find me wrapped in that newspaper?" She replied "Oh no. We got you out of the newspaper but you were not wrapped in it. You were advertised in it".

At the age of 15 Mr Griffith made his first attempt to obtain his "real" birth certificate from officials in Levin. He was unsuccessful because the law said he was not allowed to see it. This episode fuelled his desire to change the law.

In middle age he began the search for this biirth parents in earnest. He found his birth mother in New Plymouth and his birth father who was, ironically, living in the same Karori street as himself.

In 1988 Mr Griffith was awarded an MBE for services to adoption research, his publications and his formation of adoption support networks.

**Tim Donoghue with information from his widow Helen Griffith and son David Griffith.**

## BOOK REVIEWS

*Adoption Separation: Then and Now*  
*Adoption Reunion: Ecstasy or Agony?*  
 Author: Evelyn Robinson  
 Clove Publications PO Box328  
 Christies Beach, South Australia 5165  
[www.clovapublications.com](http://www.clovapublications.com)

Evelyn Robinson is a birth mother who has had both personal and professional experience of adoption separation and reunion. She has worked as a social worker, counsellor and educator specialising in the post-adoption field. She is a member of the advisory group to the Commonwealth Attorney-General on intercountry adoption policy and practice.

These two books are largely made up of first hand accounts by people who have experienced adoption separation and reunion and who tell their stories without editorial comment. *Adoption Separation* has stories from women and men in Australia, Canada, England, Ireland, Scotland and New Zealand. It is fascinating to learn about experiences which are common to people affected by adoption in all of these countries and also to find out about local differences. There is little comparative literature about adoption in English-speaking countries and its effect on those involved. There is a brief introduction and also a final section which surveys changes in the law in each of these countries.

*Adoption Reunion* is quite different. It sets out the author's conclusions about adoption loss, grief, personal recovery and the positive and negative effects (the ecstasv and agony) of adoption reunions. Her views are based on her experiences in working in the post-adoption area. There is useful advice on managing reunions and their aftermath.

These books are available for purchase on-line from:  
 BookPOD <http://www.bookstore.bookpod.com.au/>  
 Amazon <http://www.amazon.com/>

### *Delinquent Angel*

Author: Diana Georgeff Random House Australia 1997

A biography of the Melbourne poet, Shelton Lea, who was adopted by a wealthy family at the age of 13 months to join a family with two other adopted children and four natural children. His mother loathed him and he was cared for by a succession of paid carers. At age 9, Shelton ran away and ended up in a juvenile detention centre, a boy's home and later in Melbourne's notorious Pentridge Prison (the last resting place of Ned Kelly). His mother would not help him to trace his birth mother and when he did get hold of information she had died. He later discovered that he was descended from a family of Welsh poets. He said he found poetry while in the putrid cells of an institution.

**End**