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ADOPTION ACTION SEEKS RULING FROM HUMAN RIGHTS TRIBUNAL THAT ADOPTION LAWS DISCRIMINATE ON 10 DIFFERENT GROUNDS

Adoption Action has brought a claim that New Zealand's adoption laws discriminate in ten different respects in which discrimination is unlawful under the Human Rights Act and the New Zealand Bill of Rights Act. The claim is being heard by the Human Rights Tribunal starting Monday 18 November 2013 at the Tribunal Hearing Room 1, 85 Customhouse Quay, Wellington.

The claim against the Attorney-General contends that New Zealand's Adoption Act 1955 and the Adult Adoption Information Act 1985 discriminate against certain classes of person on the grounds of their:

- **Sex:** (i) a man on his own cannot adopt a female child, and (ii) the consent of some fathers to the adoption of their child is not required
- **Marital Status:** eg couples in a civil union and opposite-sex de facto couples cannot jointly adopt a child while married couples and opposite-sex couples in a de facto relationship can;
- **Race or Ethnic Origin:** Adoption is alien to deeply held Maori cultural values as it cuts off child's relationship with members of the whanau, hapu and iwi;
- **Disability:** The consent of a parent to the adoption of his or her child can be dispensed with on the grounds of that parent's physical or mental incapacity;
- **Age:** Anyone under 25 years is debarred from adopting a child unless the child is a relative or there are other special circumstances. Adopted persons under 18 years cannot access their original birth certificate with information about their biological parents;
- **Sexual orientation.** Same- sex couples cannot jointly adopt a child unless they are married to each other.

Adoption Action is seeking a declaration under Part 1A Human Rights Act that provisions in these Acts are inconsistent with fundamental rights and freedoms of the persons affected. The claim is being defended by the Crown but has received support in submissions filed by the Human Rights Commission and the Children's Commissioner.

Robert Ludbrook, a spokesperson for Adoption Action explains that:

“The Adoption Act was passed 58 years ago and reflects the attitudes and values that prevailed at that time. Successive governments have failed to amend or replace the many archaic provisions of the 1955 Act, despite more than 100 recommendations made by the Law Commission in a wide-ranging report in 2000.

Five Ministers of Justice have accepted that there is a need for reform and various assurances have been given, but new legislation has never been drafted. The Ministry of Justice has commenced work on reform on at least five different occasions but it has never been followed through.

Our adoption laws have been criticised by the United Nations Committee on the Rights of the Child in 2003 and 2011, and by at least five Family Court judges. The Ministry and Cabinet have at different times accepted that our adoption laws are discriminatory, but have not progressed reform. An assurance was given by NZ to the UN Committee on the Rights of the Child in 2003 that major reform of adoption law was planned, but it had to admit to the Committee eight years later that reform was on hold.

The failure to reform adoption laws that are discriminatory and out of touch with current attitudes and values is not just a theoretical issue but has negatively impacted on many persons who have experienced adoption.

Adoption Action Inc is committed to enhancing the rights of children and other persons affected by outdated adoption laws. Its members include lawyers, social workers, academics and individuals who have suffered as a result of laws that are out of touch with current realities.

Attached to this media release is a chronology detailing the failure over decades to bring our adoption laws into line with contemporary attitudes and values.

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