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Adoption News and Views March 2016 ANV16 1

Adoption News and Views is a quarterly e-newsletter produced on behalf of Adoption Action Inc. It aims to provide information about adoption of children and about any legal and policy developments affecting adopted children, parents whose children have been adopted, and people who have adopted children. Adoption developments overseas are also covered.

The newsletter also provides progress reports on any proposed changes to adoption law, and on efforts by individuals and groups pressing the government to give a higher priority to enacting new legislation. Reform of adoption law is urgently needed to replace the out-of-date Adoption Act 1955 and other adoption laws, so as to bring them into line with other New Zealand legislation where children's best interests are **paramount**, the Convention on the Rights of the Child, the Hague Convention, the Human Rights Act 1993 and the NZ Bill of Rights Act 1990.

It is hoped the newsletter will provide a forum for people to discuss adoption issues. Contributions are invited, including reviews of books, films, and so on touching on adoption. While the aim is to provide an open forum, the editors reserve the right to decline or abridge any contributions offered. Back issues can be viewed on the Adoption Action website: www.adoptionaction.co.nz

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Annual General Meeting 2016

The Annual General Meeting of Adoption Action Inc will be held on

Thursday, 14 April at 12:30 pm

State Insurance Tower, Level 17, 1 Willis Street, Wellington

Members and prospective members are invited to attend. Light refreshments will be served

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ADOPTION ACTION NEWS

Human Rights Tribunal decision update – Part 1A claim

This Newsletter features an important development – the handing down by the Human Rights Tribunal, on 7 March 2016, of a decision in the case brought by Adoption Action Inc against the New Zealand government. Adoption Action claimed that in eight different respects, our adoption laws discriminate on grounds on which it is unlawful to discriminate under the Human Rights Act 1993 and NZ Bill of Rights Act 1990.

The Tribunal rejected most of the arguments relied on by the Crown lawyers and upheld seven of the eight points of claim. It made declarations of inconsistency on each of those seven matters.

The Crown may appeal the Tribunal’s decision. If the Crown does not appeal, or if the decision is not overturned on appeal, the responsible Minister (in this case the Minister for Justice) must present to the House of Representatives:

- (a) a report bringing the declaration to the attention of the House; and
- (b) a report containing advice on the Government’s response to the declaration.

This decision will require the Minister of Justice to report to Parliament on what action it intends to take to remedy the discriminatory provisions.

Adoption Action has always made it clear that the proceedings were initiated to put pressure on government, and, in particular, on the Ministry of Justice (the Ministry responsible for adoption legislation) to draft new laws that reflect attitudes and values prevailing in the 21st century. Below is a copy of our Media Release on the Human Rights Tribunal decision.

Adoption Action media release following decision of the Human Rights Review Tribunal

8 March 2016: Major victory for those seeking adoption reform

A decision released yesterday by the Human Rights Review Tribunal on a 2013 claim by Adoption Action Inc. has found that New Zealand's outdated adoption law is discriminatory.

The decision finds that the Adoption Act 1955 (in six respects) and the Adult Adoption Information Act 1985 (in one respect) discriminate on grounds on which discrimination is unlawful under the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.

The decision finds that provisions in the Adoption Act discriminate on the grounds of sex, marital status (2x), disability, and age, and that a section of the Adult Adoption Information Act discriminates on the ground of age.

New Zealand's adoption law is mainly based on an Adoption Act that is 61 years old and is widely seen as being out of touch with current social attitudes and values. It has been described by Family Court judges as "outdated", "anachronistic" and "based on white Anglo-Saxon values which prevailed in 1955".

The 1955 Act has been criticised by New Zealand's Human Rights Commission, the Law Commission and the Children's Commissioner. Six separate government committees and two Parliamentary Committees have recommended comprehensive reform.

The law is inconsistent in many respects with New Zealand's obligations under the United Nations Convention on the Rights of the Child and the Convention on the Rights of Persons with a Disability.

When the UN Committee on the Rights of the Child raised concerns about adoption law in 2002, New Zealand advised that it was about to instigate major reforms to the Adoption Act to address those concerns.

Fourteen years later the promised reforms have not been implemented.

Since the National-led government came to power in 2008, there has been no attempt to progress adoption reform. It has been shoved into a dark corner and concerns have been dismissed with the response that reform is "not a priority".

In 2011, Adoption Action Inc. took action under Part 1A of the Human Rights Act. It sought a declaration from the Human Rights Tribunal that our adoption laws were in many respects inconsistent with the anti-discrimination provisions in the Human Rights Act and the New Zealand Bill of Rights Act.

The hearing began in December 2013 and was completed in January 2014. The claim was disputed by legal counsel for Crown Law.

Adoption Action is heartened that the Tribunal rejected nearly all of the Crown's arguments. It found in our favour on every ground except racial discrimination (where it was found there was insufficient evidence put forward).

The Tribunal made seven declarations of inconsistency. The Minister of Justice is now required to advise Parliament of the declaration so that Parliament may consider what steps should be taken to remedy these discriminatory provisions.

While Adoption Action is delighted with the outcome, several unanswered questions remain:

- Why did the Minister of Justice and the government deploy massive resources in defending the Part 1A claim when these could have been used instead to draft and introduce new adoption laws?

- Why has adoption reform been treated as a poisoned chalice by all three Ministers of Justice in the National-led government, each of whom has stated that it is not a priority?
- Why is the Human Rights Tribunal so under-resourced that it took nearly two years and two months for the Tribunal to give its decision? The reason given for this delay is that Tribunal members are all part-timers and the Tribunal lacks the funding to deal with matters more promptly. It is funded from Vote Courts, which is the responsibility of the Minister of Justice.

Link to the full decision of Human Rights Tribunal on Adoption Action's Part 1A claim

The full decision can be downloaded from the Ministry of Justice website using the following link:

<http://www.justice.govt.nz/tribunals/human-rights-review-tribunal/decisions-of-the-human-rights-review-tribunal/decisions-under-the-human-rights-act-1993/2016/adoption-action-inc-v-attorney-general-2016-nzhrrt-9>

If you experience difficulty with Adobe when clicking on the link, copy and paste the above address to your browser.

Adoption News and Views is sent out several times each year. It is sent to you because you are believed to be a person interested in adoption. If you do not wish to receive further issues, please email r_ludbrook@hotmail.com

A membership application form for Adoption Action is below.



**APPLICATION FOR MEMBERSHIP OF
ADOPTION ACTION INCORPORATED**

Please post the completed form and fee to: **Adoption Action Inc, PO Box 30-397, Lower Hutt**

I wish to apply for membership / renew membership of Adoption Action Incorporated

I have enclosed a cheque made out to Adoption Action Inc (or cash) for the membership fee of \$10 for the period ending 31 March 2017

OR

I have made a direct credit to the Adoption Action Inc bank account
12 3140 00410806 00
for the membership fee of \$10 for the period ending 31 March 2017

NAME: _____

ADDRESS: _____

EMAIL: _____

PHONE OR MOBILE: _____

SIGNATURE: _____

DATE: _____

OPTIONAL:

My interest in adoption is as an adopted person / natural parent / adoptive parent / academic / other professional / other (please specify): _____

**PLEASE NOTE: Members receive, by email, the quarterly newsletter
ADOPTION NEWS AND VIEWS
If you do NOT wish to receive this newsletter, please tick the box below.**

PLEASE DO NOT EMAIL THE NEWSLETTER TO ME