



38 Derwent Street
Island Bay
Wellington 6023
Aotearoa New Zealand

Annual General Meeting Thursday 14 April 2016

Convenor's Report

It is now approaching six years since our incorporation in September 2010. During this time we have endeavoured to lobby government in line with our aims and objectives.

I believe it is timely to restate our position:

- Adoption Action Inc strongly supports the spirit of openness and believes New Zealand adoption legislation should provide a framework based on openness and transparency with the best interests of the child paramount.
- We would like to see New Zealand adoption legislation that is consistent with both the Law Commission's recommendations for legislative reform of the Adoption Act 1955 and the Convention on the Rights of the Child.
- The Adoption Act 1955 is an outdated piece of legislation. There have been many attempts to reform the Act and there have been no significant changes to adoption law since the Adult Adoption Information Act in 1985.

PART 1A CLAIM

We took this case to the Human Rights Tribunal after many years of unsuccessfully lobbying government for adoption law reform. We are looking for a complete overhaul of the Adoption Act and because of the inaction of successive governments, we were left with little alternative but to use this Part 1A mechanism as a lever to bring about change. We were open about our motives during the Tribunal hearing.

After more than two years since the end of the Tribunal hearing, and four and a half years since the original proceedings were filed in July 2011, the Tribunal released its findings in favour of Adoption Action on 7 March 2016, and we are delighted with its decision.

What were the Tribunal's findings?

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

What does it mean?

It is now in the hands of the Minister of Justice, Amy Adams, who is required to make a report to Parliament by 15 August 2016 advising that our adoption laws have been found to be discriminatory in seven different respects and advising Parliament on what steps are necessary to amend or repeal the offending provisions.

We are hopeful that the government will now move with providing new child-focused adoption legislation based on openness and honesty using the Law Commission's recommendations from its 2000 report.

Media

There was good media interest after the decision was made public. The media enquiries were handled by Dr Anne Else, Robert Ludbrook, Mark Henaghan and myself. On behalf of the committee, I would like to thank Anne, Robert and Mark for their time and efforts in this regard. Retired Family Court Judge, Paul von Dadelszen and Dr Anne Else have prepared detailed reports for professional journals. Their efforts are much appreciated.

UNCROC SUBMISSION

Action for Children and Youth Aotearoa (ACYA) is the non-government agency that has traditionally filed an independent report with the United Nations Committee on the Rights of the Child. Due to a muddle, their original report did not cover the numerous breaches of UNCROC in our adoption laws that have been the subject of strong criticisms and recommendations by the UN Committee in 2003 and 2011. When Adoption Action learned of this, we made a strong submission on the issues. We have been assured that this will be included in a supplementary report to be submitted before New Zealand next appears before the Committee later this year. The New Zealand Law Society also filed a report with the UN Committee. The New Zealand Law Society (representing 12,000 lawyers) had earlier taken the unprecedented step of submitting a "shadow" report to the UN Committee in which described the Adoption Act 1955 as being "overdue for reform" and stated that the Act does not comply with UNCROC in a number of significant respects, referring to inconsistencies with articles 3, 8, 9(1), 9(2), 9(3), 12, 20, 21, 21(a), 24(1) and 30.

GENERAL

As in previous years, in my roles as contact person for Adoption New Zealand, Adoption Support for Adopted People and Adoption Action, the correspondence and phone calls from people affected by this legislation has continued to include contact from natural families of adopted people, adopted people themselves and adoptive families. This year with the outcome of our Part 1A claim, we have had an increase in contact from birth mothers in support of reform. The feedback from them has been that they highly value the work the Adoption Action committee is doing. Their common theme of concerns with the legislation (amongst many) were:

- the legal severing of their relationship with their child and the legal fiction that the child was born to the adoptive parents
- the provision that the mother can give an irrevocable consent ten days after giving birth
- the complete lack of independent legal advice or counselling

- the reality that “open adoption agreements” now encouraged by Child, Youth and Family cannot be enforced

We continue to work with the Wellington Community Justice Project students and thank them for their support. Robert is working with two students Fady Girgis and Vivian Tan who are currently working on comparing Green MP Kevin Hague’s Adoption and Surrogacy Bill with the Ministry of Justice’s draft 2006 Adoption Bill.

There have been renewed calls for an apology from the government. I believe that an apology to those who have been affected by the discriminatory legislation would be meaningful – especially for those of us who have been, and the children who will continue to be, denied knowledge of who they are under the Adoption Act and the Adult Adoption Information Act.

We are again very grateful to Charlotte von Dadelszen of Buddle Findlay for hosting Adoption Action’s meetings. I would also like to express my gratitude to our deeply committed Committee members and to loyal members of Adoption Action Inc who have supported us with financial and hands–on assistance.

Fiona Donoghue
Convenor
14 April 2016