

Adoption History and Reform in New Zealand – Keith Griffith 1996

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ADOPTION HISTORY AND REFORM IN NEW ZEALAND – Keith Griffith

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WHERE HAVE WE COME FROM?

New Zealand adoption has a fascinating history. Māori adoption – Tamaiti Whangai – has been a custom for hundreds of years. Europeans also practiced informal adoption from the earliest days of settlement. Legal adoption was introduced in 1881, the first in the British Empire.

George Waterhouse adoption law founder

The life of this man was pivotal in our adoption history. He was well educated and had a deep social concern that drove his social reforms. He also introduced a Women's Rights Protection Bill in 1881. The reasons Waterhouse gave for his adoption Bill were:

Adoption was to benefit children deprived of their natural parents, that would otherwise be exposed to want and privation.

Adoption would confer full parent child status at a time when illegitimate children were "nullis fillis" the child of no one.

Waterhouse studied adoption law, in Parliament he referred to Roman, American, German and French legislation. Waterhouse had no personal experience of adoption "He could not sit down without saying that he was moved in this matter in a great measure from his knowledge as an individual of the advantage of adoption." NZPD Vol. 40 p4.

ADOPTION OF CHILDREN ACT 1881

[Note the openness of adoption over 100 years ago.]

The introduction of adoption was not a Government policy, but a hard fought private members Bill, just as with the Adult Adoption Information Act of 1985.

- The main thrust of the Adoption Act was a concern for the adoptee
- Adoptee birth certificates had birth names, and birth parents names
- Adoptive parents and birth parents had access to each other's identity
- The adoptees birth surname was retained and hyphenated to the adoptive surname

The 1881 Adoption Act was replaced by the Adoption of Children Act 1895 with little change. The Infants Act was a consolidation of the existing law.

SOCIAL BACKGROUND TO ADOPTION

Our adoption law came into being during the Victorian period. That strongly influenced our society and law for a hundred years. The notion of children as parental possessions, power rests with the parents, children should be silent and obey, and birthmothers of bastards should be punished and banished were part of Victorian society.

Baby farming 1880-1920

Provided quick confidential disposal of illegitimate children and hid family shame. Illegitimate babies were hard to place. Many mothers were simply too poor to maintain the child. For a down payment the baby was taken off their hands with no questions asked and adopted out. The sooner a baby farmer got rid of the child the greater the profit. Some infants suffered an early demise. The hanging of baby farmer Minnie Dean in 1895 served to satisfy public anger and help expiate the guilt of society.

Humiliation of unmarried mothers

Before 1900, illegitimacy was seen as a major threat to public morality. It was unthinkable for Charitable Aid Boards to assist unmarried mothers to keep their babies. Many children ended up in orphanages or industrial schools, others died. The 1907 death rate of illegitimate children was 2.5 times higher than legitimate children. Unmarried mothers faced humiliation in 'Homes for Fallen Women'. Even in 1930 unmarried mothers were often denied pain relieve as a punishment and deterrent.

Economic deprivation

The Government stressed education was the answer to the high death rate of illegitimate children, but ignored the major cause of economic and nutritional deprivation.

Keeping an illegitimate child was a punishment for sin

Up until the 1940s, many believed that keeping an illegitimate child was a fitting punishment for the mother's sin and a warning to others.

ADOPTION ACT 1955

Major changes were made. The Adoption Act 1955 sought to reform adoption and implement the complete break ideology. Some positive changes took place. There was greater State supervision of adoption procedures and protection of the welfare of the child. However, the complete break and the walls of secrecy imposed proved not to be in the best interests of the child.

COMPLETE BREAK ADOPTION 1950-1980

By 1955, environmental supremacy was an ideology, it had reached the level of unquestionable acceptance. Only a complete break would allow the adoptive environment full reign to shape the adoptee's life. Thus a wall of secrecy was placed between the adoptee and their origins. The complete break and secrecy shaped our adoption policy for 30 years.

- Environmentalism believed environment would overcome heredity. The adopted child, transplanted into an adoptive family, should grow up 'as if' born to them
- Adoptive parents real parents. The adoptee's dual origins were suppressed. A child cannot have two mothers.
- Unmarried women were unfit to raise children. They proved themselves irresponsible by having an illegitimate child and children brought up in solo families were deprived.
- Good adoptees don't need origins. If adoptive parents really do their task, adoptees will not need to know their origins. As good birth mothers put their past behind them and forget, so will good adoptees!
- Bonding theory, adoptive parents to bond to the child.
- Psychodynamic theory provided a pseudo psychological justification. It held, unmarried mothers were immature, unstable, the babies were conceived to fulfil neurotic needs and now unwanted. To heal their dysfunctional personality birth mothers needed a complete break.
- Legal fiction became general fiction. The whole focus was on the new relationship created 'as if' born to.....The genetic birth relationship was 'as if' dead and destroyed.

DEMISE OF COMPLETE BREAK 1970-1985

While professionals continued to defend complete break practice, its foundations were collapsing.

- Existentialism – stressed personal experience and responsibility. Promoted importance of knowing oneself, freedom of choice and personal responsibility for actions
- New psychological theory - Erickson's identity formation explained why adoptees need to know their origins
- Civil rights movement – political activists learnt their skills from the civil rights movement and used them to promote adoption law reform

- Empowerment of women
- Adoptees and birth mothers spoke out. They rejected assertions that searching adoptees and birthmothers were pathologically dysfunctional or needed counselling
- Research exposed some key foundations of complete break were myths. Found most adoptees had a profound need to know the truth. Birthmothers suffered severe emotional trauma, and continued unresolved grief

Fall in adoptions was caused by social changes

- Decreased stigma of illegitimacy reduced social pressure to give up the child
- Financial benefits enabled mothers to keep their children
- Child care options gave solo mothers access to crèches. They could retain their child and work
- Economic independence through labour force participation gave financial independence.
- “de Facto” marriages became more acceptable
- Less professional pressure, from medical, social and legal persons on the birth mother to adopt
- The Status of Children Act 1969 removed all legal discrimination
- Since 1976 abortion was a more available option.
- Parents became less hostile and more supportive of young mothers keeping a baby
- ‘Closed stranger’ adoption can now be seen for what it was. A social experiment with unknown and un-investigated outcomes, conducted on a massive scale. Anne Else (1991). A Question of Adoption: Closed Stranger Adoption in New Zealand, 1944-1974 (Wellington: Bridget Williams Books) p197

OPENING UP OF ADOPTION 1980-1987

The opening up of adoption was done not by the professionals but by members of the adoption circle speaking out and lifting the lid off. Adoptees broke silence first, then birth parents and more recently adoptive parents.

At first the authorities strongly resisted the opening up of adoption. When in 1979 I was involved in the first successful access to adoptee court records I was labelled ‘a law breaker’ and social workers were told not to read my 1981 book. The opening up of adoption exposed myths that required critical re-examination of policy.

Formation of support groups

In 1976 Jigsaw Inc and the Adoption Support Groups were formed. These groups provided mutual support and a base for political action.

Political action

In 1976 Questions were asked in Parliament. In 1977 Jigsaw petitioned Parliament. From 1978 to 1985 the Hon J Hunt lodged his private members Bills in Parliament until the law was changed.

THE ADULT ADOPTION INFORMATION ACT 1985

After a 10-year campaign, the Adult Adoption Information Act was passed. The passing of this Act was a milestone in opening up adoption and consolidating change.

DEMYTHOLOGISING OF ADOPTION IN NEW ZEALAND

From 1955-1985 the closed secret nature of adoption, and legal fiction and pretence encouraged myths to grow and flourish. The myths were sustained by secrecy that prevented any critical analysis. The adoption myths became so pervasive in our society that many adoptees, birth and adoptive parents believed them.

What were these myths?

- It was asserted that only a small number of adoptees, the misfits, would ever want to know their origins
- Most birth mothers would have forgotten the past and would not want old wounds re-opened
- Birth mothers needed to be protected from searching adoptees
- Lifting secrecy would increase abortion
- Opening up adoption would break up adoptive families
- Adoptive parents would lose their child

The acceptance of untruths did much harm by creating false hope, false stereotypes and a potentially destructive zealotry that denied the truth.

WHERE ARE WE NOW?

Adoptees since the Adult Adoption Information Act 1985

- 22,927 adult adoptees have applied for identifying birth information by Dec. 1996
- The majority of adult adoptees in stranger adoptions have now asked for and received their birth information
- Most have found the search and reunion a positive therapeutic journey
- Support groups have helped in working through joys and sorrows, as adoptees integrate the new knowledge and experience into their self-identity. Knowing the whole story increases the sense of wholeness and belonging.

Birth parents since 1985

- 6,163 birth parents have applied for identifying information on their now adult adoptee by December 1996
- The formation of support groups has helped them work through grief, anger and joys
- Birth fathers are now showing increasing interest in obtaining information and reunion

Adoptive parents

The 1985 submissions on the Adult Adoption Information Bill indicated adoptive parents were split, half in favour and half against. That has changed. Most now support the move. The significant differences between biological and adoptive parenthood are increasingly acknowledged. Likewise the need for most adoptees to search their origins. Most have found that reunion has strengthened the relationship between adoptees and adoptive parents. There has been a marked swing to openness, and open adoption.

Vetoes

The number of active vetoes placed by birth parents reached a peak of 3,350 but fell to 993 by the end of 1996. Vetoes placed by adoptees reached a peak in 1,240 but fell to 357. The need for vetoes has greatly receded.

Reunions

With over 20,000 reunions the story of adoption is now pouring out and the picture is clearer. Most searching adoptees want to know who their birth parents are and want a reunion. Reunions are not an end in themselves. They are the beginning of a new phase of completing the adoption circle. Some reunions just exchange information others form on-going relationships.

Research indicates

- There is little change in existing relationships between the adoptee and adoptive parents. In most cases the quality of the relationship improved. Adoptive and birth parents need not be in a conflict, it is unique opportunity for both
- Adopted people can successfully integrate two or more families into their lives. Finding birth relatives does not mean they relinquish their adoptive ones
- Regardless of what they learn, most adopted people don't regret searching

Adoption circle

The adoption triangle has now been replaced by the adoption circle – inclusive of siblings and relatives. Search and reunions are becoming a normal expected part of adoptive relationships.

Open adoption is now a normal practice. The frequency of contact ranges from exchange of information to regular visits or in some cases an extended family with all siblings and relatives in open contact.

- Adoptees as they grow up can naturally relate to their birth families, they have not been abandoned
- Adoptee self-identity is helped by seeing and relating to people of similar origins
- Adoptees can obtain direct answers as to why they were adopted
- Adoptive parents can obtain important health and background information
- Birth parents know what has happened to the child

Open adoption is not a panacea, but it is a major improvement.

Adoptive healing movement

Adoption is a lifetime experience with consequences flowing through all relationships. Both search and reunion can be powerful therapeutic value in adoption healing. There is often a need to work through the complex issues. Like AA, we have found that healing requires a series of steps. Support is most effectively provided by persons directly involved.

We have to accept what cannot be changed, but have the courage to change what can be changed, and the wisdom to know the difference. The National Conference on Adoption Healing at Wellington in 1997 was evidence of the growing need for healing of traumas, and reintegration of self-identity. Healing needs to be more than running an ambulance at the bottom of the cliff. It must also demand the removal of factors that push people over the top.

Law reform

After 15 years of unfilled political promises, the review of the Adoption Act is a stalled process.

Māori issues

The issue of Māori adoption and Treaty rights has been placed before the Waitangi Tribunal. The main issues of contention are, the rightful place of Māori custom, the cultural deprivation and loss of whakapapa, and rights of Whanau in mixed Māori/Pakeha adoptions.

Other issues we are facing now

- Assisted Reproductive Technology repeating the same mistakes of adoption secrecy
- Intercountry adoption and interracial adoption
- Reintroduction of premium payments for adoption. Privatisation of adoption and exposure to market forces. Should we move out of adoption? Adoption v Guardianship.

WHERE ARE WE GOING?

Law reform

We need a Commission along the lines of NSW Review of adoption, to undertake a wide spread consultation open to public submissions. It would need to address special issues such as Māori adoption and the Treaty, intercountry and interracial adoption, the Hague Convention, artificial birth technology, prohibited marriage relationships, legislative provisions for open adoption, guardianship alternatives, provisions for state and private adoption agencies, accountability, support and regulation. New legislation would be drafted on the basis of the Commission report.

Suggested amendments to adoption law

- Birth parents consents may be withdrawn with 26 days of the birth. Birth parents have a right to appear at adoption hearings

- Open adoption legislative provisions be made for open adoption agreements, to be changed only by mutual consent of the parties or by order of the Family Court
- Adoption orders may be discharged by the Family Court in the cases of irretrievable breakdown of the adoption
- Prohibited marriages: Adoption creates complex relationships. The Family Court may grant dispensation to marry within the prohibited degrees in special cases
- Māori adoption: Provide alternative adoption procedures in accord with Māori custom and the Treaty
- Guardianship in an amended form to be made available as an alternative to adoption

Adult Adoption Information Act

- **Applications:** Similar conditions apply to adoptees and birth parents. If there is no active veto the information be supplied as of right
- **Access to information:** relatives and siblings: The Family Court may grant access to information
- **Access to information under 20s:** where special needs exist any party to an adoption may apply to the Family Court for access to, or passing on of information.
- **Veto:** the veto system be abolished. All existing vetoes terminate on their expiry
- **Counselling:** that all counselling be optional

CONCLUSION

New Zealand has led the way in opening up adoption. We have ten years of experience and thousands of reunions. We have lifted the lid off adoption and opened it to research in a way never before possible. These results will form part of the basis for a full review.

Keith Griffith
