



Submission to Victorian Law Reform Commission's  
Review of the Adoption Act 1984 (Vic)

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## Principles in adoption:

The following principles are to be taken into account by the person formalising the adoption however is there an instrument to put into practice and maintain them post adoption.

### GENERAL PRINCIPLES

- The Interest of the Child is the Paramount consideration and the Child's fundamental right as stated in the U.N.C.R.O.C. are to be safeguarded
  - The best interest of the child both in childhood and adulthood must be paramount consideration.
  
  - Adoption is a help line for a child not a service for adults wishing to create a family no adult has a right to adopt a child, nor should adoption be used as a supply chain for family formation.
  
  - The child's given name including family name, identity, and language, cultural and religious ties should always be recognized and preserved if known.
  
  - Every effort should be made for family preservation therefore consents should not be finalized until the adoption.
  
  - The court must take into account the adopters sincerity and commitment to carrying out, maintaining and supporting an open adoption regime of contact with the natural family including siblings and extended family as agreed upon.
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- i) Agencies should recognise the lifelong negative effects of adoption on The Mother and her child and provide appropriate counselling to all parties
  
  - ii) Family reunification should become first  
A child has the right to be brought up within their natural family, wherever possible
  
  - iii) Adoption must be regarded as final option for the child and only implemented after all possibilities to be raised in their family of Origin have been exhausted and all other forms of care have been considered first.



- iv) Children who cannot be raised within their family of origin have the right to be brought up in a secure loving environment
- v) Kinship should be first and foremost and only when all efforts have been explored and exhausted then a stranger adoption should be considered A child has the right to be placed in its extended family before strangers are considered
- vi) The Child and its natural parents have the right to legal representation at the taking of consent and on the day of the adoption being formalised
- vii) Commensurate with the child age and maturity the Childs views or consent are to be sought and freely given to the adoption arrangement If the child is able to form (at an appropriate age) his /her own views about its adoption there must be proven evidence that the child has received appropriate counselling to determine whether or not the child has been influenced or coerced to choose adoption. The counselling should clearly define the ramifications of adoption ie the legal severing of brothers and sisters and heritage.
- viii) The placement of the child should recognise the value and need for cultural and ethnic continuity for the child and respect the mothers wishes in placing the child
- ix) Central authorities should ensure the provision of accessible services to family of origin parties to support them to raise their own child
- x) Prior to adoption of a child, the informed consent of each person who is legally a parent of guardian should be sought to the adoption
- xi) No consent to an adoption should be taken prior to the birth of the child concerned.
- xii) Natural parents should be given open and regular access to their child until the adoption is formalised. If it is safe to do so



- xiii) Natural parents should be allowed to revoke consent until the court formalises the adoption without pressure at any time and have their child returned to them as soon as is possible.
- xiv) In the event of a mother being unable to care for the child and if the father is known and judged as a fit person to care for the child he should be the first person to take custody of the child
- xv) Applicants for adoption should be of an age where they are able to provide for the care, welfare and development of a child to adulthood Suitability and capacity of each proposed adoptive parent, to provide for the needs of the child including the intellectual and emotional needs of the child
- xvi) An Applicant must be of good Mental and physical health to care for a child
- xvii) **Criminal Abusive History**  
Applicants should be excluded
- xviii) **Welfare Checks** should be maintained throughout the child's life whilst in the care of outsiders.
- xix) **Children with special needs:** No child should be disadvantaged because of the lack of support and resources.
- xx) **Adoption Language**

The court should consider language that is respectful to all parties. The term "birthmother", "birthfather" etc., implies the family of origin are only there as producers therefore adopted children are the produce or commodities.

Further to this "surrendered" or removed could replace the term "relinquish" because it suggests to the child they were not wanted.



## I. Introduction

*“Adoption is grief. When grief goes unacknowledged or ignored it brews and builds. Grief lives in the foundation of adoption. At its core, adoption is traumatic, event in the best scenarios and certainly in the worst. Adoptees carry the weight of loss, rejection, worry, lack of self-value, insecurity, and pain every day of their lives. Some days it bubbles closer to the surface than others, but it is ever present and ever burdensome. It manifests emotionally and physically” (Reshma McCintock 2016)*

Adoption Origins Victoria is an incorporated association comprised of Mothers who lost babies to forced adoption and adults who have been adopted. Adoption Origins Victoria undertakes support to people affected by adoption and advocacy in relation to the abolition of adoption and in the alternative, the significant amendment to current adoption practice in Victoria.

Adoption Origins Victoria welcomes the review of operation of the Adoption Act 1984 (Vic) by the Victorian Law Reform Commission. However, in the first instance, Adoption Origins Victoria seeks that adoption as a legal practice should be immediately phased out and ultimately adoption should be abolished altogether in Victoria. Adoption Origins proposes a continuity model such as a Stewardship model that could be a possible alternative to adoption in the future ordered by the Children’s Court of Victoria to be the principal pathway in which persons other than a child’s parents can hold custody and guardianship of a child. Adoption Origins Victoria believes that the Stewardship model ensures that a child is not stripped of his or her legal identity and that a child’s heritage can be lawfully protected rather than permanently severed. However, Adoption Origins Victoria acknowledge that the scope of the Commission’s Terms of Reference (TOR) does not include considering whether or not adoption should be abolished and so Adoption Origins Victoria seeks in the alternative, substantive amendment to the Adoption Act 1984 (Vic) and to the practice of adoption, in the main following respects: ....

See Attachment 1. 2. See Attachment 9

- a) **That only one initial birth certificate for any child be issued in Victoria but a Certificate of Adoption be issued additionally upon the alteration of parental rights for the child;**
- b) **That there be change in the language of adoption, namely the utilisation only of ‘mother’ or ‘father’ or ‘natural mother’ or ‘natural father’ not ‘birth mother’ or ‘birth father’;**



- c) That pre-consent counselling be expanded significantly to ensure fully informed consent is given by the parent/s of the child to any adoption;
- d) That comprehensive analysis of how best contact can be managed for adopted children occur in Victoria by the establishment of an independent body to inform the court
- e) That there be expanded and legally aided legal representation of all children and parents involved in the adoption process;
- f) That there be significant amendment to section 43 of Adoption Act 1984 (Vic), that is to the circumstances in which the court can dispense with the need for parental consent;
- g) That there be amendment to section 19 of the Adoption Act 1984 (Vic) to include an 'no fault' discharge ground for adoptees over 18 years;
- h) That there be amendment to the Adoption Act 1984 (Vic) to provide that all children ten (10) years and older must consent to the adoption;
- i) That there be amendment to section 120 of the Adoption Act 1984 (Vic) so as to prohibit any and all advertising of children for adoption, even when approved by the Secretary etc.;
- j) That there be amendment to section 89 of the Adoption Act 1984 (Vic) to permit and prioritise an adoptee's access to medical or psychiatric information.

## II. General Comments

In the opening of the Terms of Reference, the Commission sets out that:

*"The government recognizes that adoption is complex, and past adoption practices have resulted in significant trauma for people affected by those practices. The government also acknowledges the positive experience of adoption for many Victorian children, adult adopted people and their families."*



Adoption Origins Victoria commends the government for acknowledging the effects of the past adoption practices during the closed adoption era. However, we question how the government knows objectively that there has been *“positive experience of adoption for many Victorian children, adult adopted people...”* given that, save for several doctorates, that covered natural mothers and adoptive parents only however there are no Victorian or Australian studies which examine the short or long-term effects of open adoption practices and the outcomes experienced by adopted people children who are now Adults themselves over the last thirty years.

Adoption Origins Victoria is concerned that many decision-makers in Victoria assume that a child is born as a blank slate and that open adoption resolves the issues of separation and identity for the child and their parent or parents. However, we believe this is an ignorant approach and one not based on research on a psychodynamic basis; that is of understanding what a parent means to a child. We object to the way in which the Adoption Act 1984 (Vic) and its related regulations create not an adopted baby but a ‘void baby’; the void-baby, on the other hand, is a perfect family fit; an empty vessel, with no residue left from a previous owner." We believe that children are not empty vessels; rather they have than have inherent rights and characteristics.

Adoption Origins Victoria believe that the central manner in which the Adoption Act 1984 (Vic) and its related regulations create a ‘void baby’ or ‘void child’ is through the issuance of a post-adoption birth certificate, removing any reference to a child’s original parentage. Adoptions Origins Victoria is fundamentally opposed to this practice and calls for the immediate abolition of this practice. We believe that the issuance of a post-adoption birth certificate with no reference to a child’s original and natural parentage amounts to a profound denial of the child’s identity. Adoptions Origins Victoria calls for the maintenance of a child’s identity through the retention of the child’s original birth certificate and the issuing of an Adoption Certificate indicating the transfer of parentage. Adoption Origins Victoria is are opposed to the creation of yet another generation of adoptees who have to spend a life-time searching and fighting for the legal right to be who they are.



Adoption Origins Victoria is also concerned that in Victoria and Australia more widely there is widespread advertising of children for adoption on the internet. Glossy photographs are posted on public websites along with names and stories (models and pseudonyms are used) to promote adoption. We believe it is entirely inappropriate for children to be advertised as if they were stray puppies seeking a 'good' home appealing to sentiment or to justify advertising as long as an adoption is achieved.

That the commoditisation of children breaches Articles 2 (protection from discrimination), 8 (protecting identity) and 16 (privacy) of the CRC Convention on the Rights of the child

Finally, Adoption Origins Victoria is concerned that there is a new emphasis on adoption within the Victorian child protection system given the creation of new permanency objectives in the Children, Youth & Families Act 2005 (Vic) as of 1 March, 2016, ranking adoption above permanent care and long-term out of home care with kinship placement being explicitly preferred. Adoption Origins Victoria believes that the new emphasis on and push towards adoption serves to transfer to the adoptive parents the problem of the government's failure to provide effective remedial input and parenting services to vulnerable children and their parents. Finally, we believe that the cost and burden of vulnerable and often traumatised children comes to lie with adoptive parents, saving the government money along with shifting the long-term responsibility for the outcomes of those children to the adoptive parents with no welfare checks done on adopted children in private homes.

See Attachment 3.4.5.





## SECTION 1: BIRTH CERTIFICATES

*"Those who are not adopted but have spent time researching their own families should be able to understand this simple and basic plea..." as a 'not adopted' person this sounds perfectly reasonable."*

*(1 Personal response on Facebook - Douglas Haynes Victoria 15<sup>th</sup> March 2016 )*

### i) The Preservation of Rights and Identity

#### **Article 7 - UNCROC**

- (1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
- (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### **Article 8 - UNCROC**

- (1) States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
- (2) Where a child is illegally deprived of some or all of the elements of his or her identity, Article 8 states parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

In her thesis *Adopted Persons Access to and Use of their Original Birth Certificates: An Analysis of Australian Policy and legislation*, Miriam Mandryk considered Article 8 of part 2 of the United Nations Convention on the Rights of the Child was relevant to the issue. The section in question states;

*Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance protection, with a view to establishing speedily his or her identity*

*101.2.13 The Commonwealth Contribution to Former Forced Adoption Policies and Practices (2012)*



Adoption Origins Victoria draws the Commission's attention to Article 7 and Article 8 of the *United Nations Convention on the Rights of the Child*, ratified by Australia in 1999. Article 7 provides that *inter alia*, it is the human right of a child to have from birth a name and as far as possible to know his or her parents. Further, Article 8 provides that, *inter alia*, it is the human right of a child to preserve his or her identity. Adoption Origins Victoria believe that currently Sections 52, 56, 70 of the Adoption Act 1984 (Vic) and Regulation 38 of the Adoption Regulations 2008 (Vic), breach these fundamental human rights.

A child's right to a true and correct identity is protected by the issuance and retention of their original birth certificate from birth until death. Adoption Origins Victoria believes that every child has a basic human right to use as their primary form of identification being an unaltered, original birth certificate recording all the true details of their birth. A birth certificate is issued to legally register every birth. It is a vital record, documenting the facts of a birth. It memorializes the arrival of each and every human being, setting the date, time, and location of that auspicious and unique event. Birth, death and marriage certificates are vital documents to help genealogists establish relationships of family members historically. Such certificates are used to build the basic structure of a family tree but also more widely, of the interconnection of our community. The majority of people have one original birth certificate which serves to verify their age and citizenship as the basis for all of one's identification such as driver license, passport, and social security. Birth certificates connect the child to its ancestral line and as such serve a critical role in genealogy.

Adoption Origins Victoria believes that the practice of adoption has historically been manipulated by many who have held the adoptive parents interest as paramount to those of a child's. The historical secrecy of adoption still remains alive in the Adoption Act 1984 (Vic) in so far as a child's identity is artificially recreated by the provision of the new birth certificate. Adoption Origins Victoria believes adoption will only be truly and completely transparent in Victoria when there is legislation amendment to enable adoptees to retain the original birth certificate. Currently the adopted child/person is issued with an indistinguishable post adoption birth certificate. Adoption Origins Victoria believes that indistinguishable post adoption birth certificates create a veritable possibility of 'black market' adoptions going undetected.



Birth certificates are not parenting certificates. Infertile couples and other people who seek to adopt had nothing to do with the child's conception and birth therefore have no right to be on the adopted child's birth certificate. The creation of such false birth certificates by the Adoption Act 1984 (Vic) effectively cuts a child off from their entire family of origin, commoditise the child and transfer ownership of the child to genetic strangers. The issuance of the false birth certificate, post adoption birth certificate creates new owners of the property/child which has nothing to do with the child's birth. Adoption Origins Victoria believes that birth certificates should always be an accurate reflection of genealogy and birth certificates should not be seen as a certificate of parenting.

Adoption Origins Victoria believes it is possible to protect the roles and rights of non-biological adoptive parents without the need to remove a natural parent on from the birth certificate. Adoption Origins Victoria therefore recommends to the Commission:

- a) That the current post adoption birth certificate that is created for an adopted child be immediately discontinued;
- b) That the adopted child maintains its original unaltered birth certificate as its primary form of identification and of evidence of their family of origin;
- c) That the certificate of Adoption that is currently issued in the adoption act 1984 sect 52 to establish only the new legal parenting arrangements;
- d) That the Certificate of Adoption be further modified to include a clause setting out continued responsibility and obligation after the child is over 18 years of age and any other clauses that would be deemed necessary for the adoptive parents to use as their primary form of identification document establishing their role as the adopted child's guardians/ legal parents.

See Attachment 10 precedants

## ii) **Response to Proposal of Integrated Birth Certificates**

Adoption Origins Victoria opposes the introduction of a post adoption integrated birth certificate which includes adopters as parents. Adoption Origins Victoria opposes such integrated birth certificates on the basis that such a birth certificate would name the adoptee as having been adopted and set out that the adopters had nothing to do with the birth. The integrated birth certificate does not go far enough to respect the adoptees right to his or her true identity. The *Commonwealth Contribution to Former Forced Adoption Policies and Practices (2012)* (the Senate Inquiry) Ch. 12. 12.32 recommended all states introduce an



integrated birth certificates the same as the one employed by Western Australia.. SENATE INQUIRY FORCED ADOPTION BIRTH CERTIFICATES 12.32 The committee understands that, under its current adoption laws, Western Australia now uses an integrated birth certificate that records all details in one record: original parents, adoptive parents, and the adoption.[25] Mandryk suggests that a certificate of this nature be made available to all adopted people who apply for it.[26] The committee notes that this would avoid fraud and identity theft issues, and agrees that such a certificate could be made available in all jurisdictions. However, Adoption Origins Victoria believes that the integrated birth certificate may be relevant to past adoptions especially from the closed adoption era for those who wish to have one but Adoptions Origins Victoria does not believe such a proposal will resolve the issue of true identity for future adoptees especially now that open adoption is the preferred option and there is no need for secrecy as was in the closed adoption era.

Furthermore, Adoption Origins Victoria's investigations have revealed that Western Australia does not have a post adoption integrated birth certificate that is used as the primary document for identification. We have approached Isabel Andrews in Western Australia about this issue and received the following correspondence from her on the 28 / 4 / 2016

*"We do not have an integrated birth certificate in WA. I've just contacted our Post Adoption Government Worker and below is his response:*

*I think there may be a misconception that post adoption birth certificates in WA are integrated and include the details of both birth and adoptive parents which is not the case. The post adoption certificate has the adoptive parents only and does not mention that the person was subject to an adoption the integrated birth certificate often referred to in relation to WA is the original birth certificate which is issued to eligible parties with the adoption amendment. This certificate is issued to an entitled person only if they provide an authority letter from this Department to the Registry of Birth, Deaths and Marriages. At this time it is provided to the person as a two sided document with the original birth details on one side of the document (which is stamped 'Superseded certificate- Subject of an Adoption) the adoption details are printed on the other side of the document. This document cannot be used for legal purposes.*

*Attached is a 'dummy' example of an original birth certificate with the adoption amendments. This document has changed over the years depending on how BDM are issuing the document at the time. The more recent certificates have included more details about the adoptive family.*

*The authority letter is only required to obtain the original birth certificate; a post adoption birth certificate can be obtained directly from BDM by eligible parties without any involvement with the Department. As I said the post adoption certificate does not make any reference to the adoption.*



*If any person applies to the Registry of BDM where there has been an adoption they are referred to this Department to obtain the authority letter. Additionally, persons adopted in WA but born in another State also generally require an authority from this department to access the birth certificate in the relevant State”.*

*Regards  
Isabel Andrews*

*2 - Isabel Andrews isabel@jigsaw.org.au*

*See Attachment LR 7*

Overall, Adoption Origins Victoria contends that integrated birth certificates do not serve to address the issues of legal severance of a child from their ancestry and heritage. Adoption Origins Victoria adopts the position of Joan Wheeler:

*“Creating a new document recording both birth and adoption on one certificate, as some people suggest, is ridiculous because birth and adoption are two separate events with adoptions finalized anywhere from a few months after birth to several years later (No One Should Place False Facts on Birth Certificates -October 20th, 2015).*

Adoption Origins Victoria advocates for the retention of one original birth certificate in addition to a Certificate of Adoption, so that reality and truth are retained and consequently identity is protected.

The following are comments from adoptees on why they seek a true unaltered original Birth Certificate:

To ensure the privacy of the following adoptive people Adoption Origins have withheld names

*I have a false identity. I cannot use my (more) truthful birth certificate for legal purposes. DNA will show I have not originated from my legal family, but the law will not show where I did come from.*

*Adoptive person Australia*

*It is an attack on my personhood and an insult to womanhood to have people fraudulently declared to have given birth to me. My mother contains my DNA and I contain hers. That happens through birth and it lasts forever. I don't want falsified documents making a mockery of my life and my ancestry.*

*Adoptive person Australia*



*People have the human right to have their original birth certificate (warts and all) to know who they are and their biological history. Not lies and pretending. People have and continue to be hurt by the adoption system as it is and it needs to be changed.*

*Adoptive person Australia*

*I am an adopted person who fully supports original and truthful birth certificates.*

*Adoptive person Australia*

*I'm adopted. My original birth certificate is sacred. It's MY IDENTITY.*

*Adoptive person Australia*

*As an adoptee I have a false birth cert. I have no family tree, my greatest wish is to have my adoption annulled before I die and have my true birth cert as my own just like any non-adopted Australian.*

*Adoptive person Australia*

*Adoptees have every right to have their original and true birth certificates. their true identity and family tree is very important to them. For God's sake its 2015 what are they playing at.*

*Adoptive person Australia*

*I am an adoptee and I demand my birth certificate show the truth and recognise my mother who gave birth to me!!!!*

*Adoptive person Australia*

*Adoption is genocide, adoption removes families heritages, as a name change has it pasted on for ever... Christian crimes indorsed by Anglo governments (shameful practices)*

*Adoptive person Australia*

*I am an adoptee, who is affected by this unjust law. My whole life has been a complete lie and not only affects me but my children and theirs. I want this to change. I no longer have anything to do with my adoptive parents due to childhood abuse, why should I be forced to belong to a family that abused me and does not see me as their biological child anyway. I have made contact with my biological family and want my birth certificate to correct. No more lies for any child and being forced to tell it over and over again.*

*Adoptive person Australia*

*I am adopted and my original birth certificate should be the legal certificate. My second b certificate is a legal fiction.*

*Adoptive person Australia*

*I can't use the certificate that comes in the adoption set; have to pay again for same certificate Stinks.*



*Adoptive person Australia*

*I am outraged that my official records deny my identity.*

*Adoptive person Australia*

*I would like my identity, I was robbed when they forced my mother to give me up for adoption*

*Adoptive person Australia*

*It a natural & normal entitlement*

*Adoptive person Australia*

*I've seen the negative impact this has had on a close friend of mine and hope that not many others suffer similar problems.*

*Kevin Australia*

*I am an adoptee and I want to be acknowledged as who I am on my original birth certificate. My identity that was taken away from me should have been my legal certificate not the one that replaced it which is a lie which was hidden from me for 46yrs.No other person is denied their right to who they are as adoptees are.*

*Adoptive person Australia*

*This means so very much to so very many adopted people.*

*Adoptive person Australia*

*It is essential that all people be given the right to know their true biological identity from birth. Changing a child's birth certificate is about meeting the needs of adoptive parents at the expensive of the child and needs to stop*

*Adoptive person Australia*

*My mum is one of these adopted children who needs her rights fulfilled.*

*Adoptive person Australia*

*My human right to my birth heritage has been violated. My current birth certificate was issued for me by the Australian Government and I did not and still do not have a say in the changes that were made on my behalf as a minor to my birth records. As an adult I feel it is my human right to decide if I want the original true record amended on my birth record. As an adult adoptee, why can't I have the same human right afforded to everyone else in Australia who were not adopted and gave their original birth records?*

*Adoptive person Australia*

*I am very thankful for the gift of life, and I am very thankful for the goodness of people who help us through life. However, I live in the shadow lands of being forever banished from my bloodlines and acknowledgement of my true identity. I only found out I had been adopted when I was an adult. My first instinct was to find my original parents. Two things became very clear in that moment- I did indeed belong- I belonged to the people who gave*



*me life. I also owed a debt of gratitude to the people who cared for me in their home. Yet the two issues must not and should not be confused. My identity was taken from me when I was adopted. I will forever live with the pain of genetic bewilderment. I am and always will be the daughter of my original parents. Wherever life takes me I will always be an Adoptee Activist. I look forward to one day having my original identity and birth records restored. It does not negate the care given to me by others, and sadly it will not give me the experiences of knowing kin that many take for granted. However, it will give me peace of mind, a sense of wrongs being made right, and most of all, hope that no one else will have to endure the existential pain of being banished forever from the very essence of their being. Both the petition and my comment are very long. So, even if for no other reason, I ask for your support into the restoration of the one and only accurate record of birth everyone is entitled to. RESTORE OUR TRUE AND LIFE AFFIRMING IDENTITY.*

*Adoptive person Australia*

*Because I want to be ME and future care for children should not be about changing Identity's of children it should be about unconditional care why is there a waiting list for people to adopt a child and change its identity and a shortage of long term carers*

*Adoptive person Australia*

*I believe every child born in Australia has the right to a true birth certificate listing birth parents as parents on birth certificate.*

*Adoptive person Australia*

*I'm adopted & want to use my true birth certificate as my identification but can't. It's not fair!*

*Adoptive person Australia*

*Every baby has an inalienable entitlement to its biology. They are entitled to demand their own identity, not a simulation of a birth certificate.*

*Adoptive person Australia*

*It should be a basic human right to be able to call oneself as per your identity when you were born, if that is ones choice as an adult. It's enough not having a choice to be adopted and having to live all your live with that.*

*Adoptive person Australia*

*As an adopted person, I have 2 birth certificates - both of which are incomplete and neither of which 'speak' to the other. It's time to connect them up.*

*Adoptive person Australia*

*I believe that all children should have true original birth certificate as part of their self identity*

*Adoptive person Australia*

*I agree that adoption is an outmoded model of care for children unable to live within their own families, and i support the Child-First Stewardship model as a sound 21st century*





*replacement.*

*Everyone should have a correct original birth certificate and these should never be rendered legally void*

*Adoptive person Australia*

*The only other people who have their identity destroyed without their consent are slaves.*

*Adoptive person Australia*

*This issue needs instant action*

*Adoptive person Australia*

*Although I love my adoptive family, as an adoptee myself these basic rights should now be our choice!*

*Adoptive person Australia*

*I'm adopted and I want to be who I am meant to be*

*Adoptive person Australia*

*Would like original birth certificates to have both mother and fathers full name, christian and surname, date of birth, occupation, place of birth etc.*

*Adoptive person Australia*

*I want my son's true birth certificate with his real names and his father's name on it, not the false one that I later had to pay big \$s for containing strangers names and a pseudonym for him*

*Adoptive person Australia*

*Adoption violates universally accepted children's rights, as enshrined in the UN Convention on the Rights of the Child (1989) to which Australia is party.*

*Adoption treats children as commodities - chattels to be procured, owned and re-labelled. Adoption is touted in wealthy Western countries as an act of altruism and humanitarianism to rescue children, but it is really a disguise for an ethically dubious third-party family formation method.*

*I've had enough of the deception of adoption and the inherent betrayals which continue to be inflicted upon adopted children and the adults we become.*

*There is no need to continue doing adoptions. There is no need to continue the legal falsification of birth certificates and identities.*

See Attachment 9



## SECTION 2: THE LANGUAGE OF ADOPTION

**Mothers who gave birth to an infant placed for adoption are not to be assumed breeders or reduced to bodily function similarly adoptive adults are not children and the title child is offensive**

Adoption Origins Victoria implores the Commission to recommend altering the language of adoption in Victoria. This subject was specifically examined by the Commonwealth Senate Inquiry of 2012 and this Inquiry concluded that it was inappropriate to use the qualifier of 'birth' in relation to parents. We are disappointed that Victoria has not abandoned this language. Adoption Origins Victoria rejects the use of 'birth' as a qualifier of Mother or Father and prefers either that there be no qualifier accorded to the parent or the word 'natural' be used. We believe that the term 'birth mother' is linked to the practice of forced adoption and as such is a traumatising phrase and should be abandoned. Adoption Origins Victoria understands that the term 'birth mother' was originally used by social workers in the USA to distance the child from its mother of origin and we seek the immediate abolition of the use of that term. Adoption Origins Victoria refers the Commission to Chapter 1 of the Senate Inquiry's findings:

### **"The Language of Adoption**

....

- 1.9 Adoption is a difficult subject to write about in a manner acceptable to everyone affected by it, forced adoption even more so. Mothers who were forced to give up children for adoption generally reject the terms 'birth mother' or 'biological mother', and some reject 'natural mother'. The preferred term is often simply 'mother'. However, this may be unacceptable to an adoptive mother who has raised a child. The same applies to fathers. In a similar way that many submitters to the inquiry find the term 'relinquishing mother' insulting and inaccurate.
- 1.10 Some people who did not grow up with their natural mothers and fathers also raised the issue of language with the committee. People who were born in 1950s–70s, and are now middle aged, do not appreciate being referred to as 'adopted children'.
- 1.11 The committee sought to write in an unbiased way that clearly differentiates between the parties to adoption. In doing so, the committee needed to balance its awareness of the sensitivities of language with its need to communicate to a wide audience that includes people who have no prior knowledge of the issues discussed in this report.



- 1.12 Wherever possible in this report, the committee has used the term 'mother' to refer to a person who has given birth to a child. However, in situations where further clarity is needed, it has used the terms 'natural mother' and 'adoptive mother' to make a distinction between these parties. Similar distinctions are drawn between 'natural fathers' and 'adoptive fathers', and 'natural parents' and 'adoptive parents' where necessary.
- 1.13 The committee has used the terms 'baby' and 'child' when describing adoption processes concerning babies and children. However, when referring to people who were adopted and are now adults, the committee has used the term 'adopted person'.
- 1.14 The committee appreciates that there may be some people who will remain dissatisfied with the language of its report, but has identified this approach as the best possible balance between sensitivity for individuals and clarity for a wider audience.”

([http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Completed\\_inquiries/2010-13/commcontribformerforcedadoption/report/c01](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2010-13/commcontribformerforcedadoption/report/c01))

*See Attachment LR 6*



## **SECTION 3: COUNSELLING & CONSENTS**

Adoption Origins Victoria is concerned that the requirements of consent to adoption be strengthened in a variety of respects. Adoption Origins Victoria experience is that surrendering one's own child has far more devastating consequences than is first realized and the parent/s making a decision to place their child for adoption should be fully informed of the ramifications of their decision not only for them but also for the adopted person.

### **i) Counselling**

Adoption Origins Victoria believe that the current information provided by a counselor pursuant to Regulation 17 of the Adoption Regulations 2008 (Vic) does not fully prepare the parent/s nor equip them with sufficient information to be able to make an informed decision. Therefore, Adoption Origins Victoria recommends the following in addition to the current information in Schedule 6 of the Adoption Regulations 2008:

- a) A parent considering placing their child up for adoption must be properly advised of the likely negative lifelong psychological effects of the adoption. The negative outcomes of adoption can include a lifetime of inconsolable grief and loss. The impact of adoption on the emotional and psychological health of a child have not been adequately researched in Victoria and more widely in Australia and the vast majority of anecdotal evidence suggests that at least, adoption creates difficult emotional issues for any adopted child. Adoption Origins Victoria believes that even if the adopted child has a happy stable life the child will have feelings of abandonment and the cataclysmic consequence of separation creates a loss of identity and the mother will also suffer the loss of her identity as the mother of her child. Adoption Origins Victoria believes that even when an explicit trauma is not part of the child's history the maternal separation event is experienced as a relational or developmental trauma. This experience often occurs during a precognitive stage of development. Historically, the adoption and therapeutic community have misjudged the severe impact this can have on development and behaviour later in life. The resulting acquired sense of mistrust and preverbal memories can inhibit or prevent the establishment of future attachments. In therapy, such experience can also obstruct the creation of a therapeutic relationship. The loss of the mother is experienced as a virtual death and a grief



process begins but is difficult to resolve. It is common for adoptees to be, unconsciously, trapped in the early stages of grief for years, even decades. Adoption Origins Victoria believes that all parents considering adoption should be counselled in relation to these likely outcomes;

- b) That the parent be warned that adopted persons are overrepresented in suicide, addiction, substance abuse and mental health statistics. For example, in a study of 692 adopted and 540 non-adopted persons in the USA, looking at the potential link between adoption status and suicide attempts, the authors found that the odds of a reported suicide attempt were 3.7 times greater in adoptees
- c) compared to non-adoptees See Attachment 2, 3 and 10
- d) (<http://pediatrics.aappublications.org/content/early/2013/09/04/peds.2012-3251>).
- e) Adoption Origins Victoria believes that the government has a duty to acknowledge and provide advice of the likely life-time consequences of adoption;
- f) That counsellors need to be appointed who have a clear knowledge of the likely trauma of adoption for children and for the parents. Currently, Adoption Origins Victoria is concerned at the qualifications of the Counsellors and the lack of requirement for substantive and robust advice about the impact of adoption. Adoption Origins Victoria considers that the prescribed information in Regulation 17 is cursory and allows for Counsellors to refer to other services. However, those services may have insufficient experience in adoption matters and so no specialist counselling is effectively received by parents in Victoria;
- g) That counselling of the parent/s not be hurried and a minimum period of one (1) month of counselling be required by the Adoption Act before the Court can entertain the parent/s consents, rather than the minimum seven (7) day or shorter period prescribed in section 35 of the Adoption Act 1984 (Vic);
- h) That counsellors advise parents that their child will most likely want to reconnect at a later stage and that they should be prepared for that outcome. If they are prepared to reconnect with the child at a later date their contact details should be recorded in the information booklet issued to the adoptive parents and child. This issue should be explored in the first interview in relation to the adoption to ensure the parent has plenty of time to consider it well before a decision about future contact of their child is seriously considered;
- i) That counselling specifically advise parent/s that private arrangements for contact are not enforceable and that court sanctioned contact is the only formal way to



protect the child's right to have contact with his or her parent/s and extended family.

## **ii) Mothers under 18 years**

Adoption Origins Victoria believes that in the case of mothers under eighteen years, their consent should not be able to be dispensed with by the Court. Presently the prescribed Consent Form is the one of the only significant legal documents in so far as Adoption Origins Victoria are aware, which can be signed by a minor without independent legal representation. Adoption Origins Victoria draws the Commission's attention to section 42(1)(e) of the Adoption Act 1984 (Vic) which demands that the Court not make an adoption order in reliance of the parental consent if: *"the person giving or purporting to give the consent was not, when the instrument of consent was signed, in a fit condition to give the consent or did not understand the nature of the consent"*. Adoption Origins Victoria queries the capacity of a young teenage mother of say, sixteen years of age, to be able to provide informed consent due to the developmental processes. A sixteen year old has not reached the cognitive or emotional maturity necessary to make decisions in the best interests of her child or herself. At the very least, Adoption Origins Victoria recommends that an independent legal representative ought to be appointed for any mother or father under eighteen years who are considering putting their child up for adoption.

## **iii) Dispensation of Consents**

Adoption Origins Victoria acknowledges that in certain extraordinary cases, the Court should dispense with the requirement of parental consent. However, Adoption Origins Victoria is concerned that section 43 of the Adoption Act 1984 (Vic) does not set a high enough threshold for dispensation of consent. Adoption Origins Victoria calls for the repeal of sections 43(1)(c), (d), (e), (f), (g) and (h) of the Adoption Act 1984 (Vic). Adoption Origins Victoria considers that such sections provide extremely low evidential thresholds to permit dispensation and that too easily, many more children, particularly from the child protection system, could be put up for adoption and the requirement for consent of their parents dispensed by the Court.

Adoption Origins Victoria is concerned that recent amendment to the Children, Youth & Families Act 2005 (Vic) brought about the Children Youth & Families (Permanent Care & Other Matters) Act 2014 (Vic) which came into effect on 1 March, 2016, creates new



permanency objectives in decision making of the Victoria child protection agency; that is, section 168 of the aforementioned principal Act now lists adoption as the next objective if family reunification has failed rather than permanent care or long term out of home care. Adoption Origins Victoria is profoundly concerned that this new emphasis on adoption in the Children, Youth & Families Act and within the Victorian child protection system particularly given the weak evidential thresholds of section 43 of the Adoption Act 1984 (Vic).

Pursuant to s.173 of the Children, Youth & Families Act 2005 (Vic), the Secretary may deal with a child, for whom it has sole parental responsibility, being those children who are the subjects of a Care by Secretary Order or a Long-Term Care Order. In the Children, Youth & Families Act 2005 (Vic), the Children's Court can only make a such an order if it finds that the child was in need of protection and that proof of the protection application was made out in accordance with section 162; that is a finding that the child was at risk of, or suffered, significant emotional or physical harm, sexual abuse, neglect or abandonment. Any such finding could easily satisfy sub-sections 43(c)(d)(e)(f)(g) or (h) of the Adoption Act 1984 (Vic). However, Adoption Origins Victoria believe that such civil findings on the balance of probabilities by the Children's Court should not automatically mean that a parent cannot in the future care for their child and that their legal rights to the child and the child's legal rights to the parent should be severed without their consent.

Adoption Origins Victoria is concerned that there is likely frequent utilisation by the Victorian child protection agency of section 43 of the Adoption Act 1984 (Vic). Adoption Origins Victoria notes that the Department of Health & Human Services and the current Minister have dismissed these concerns on the basis that the policy and practice of the current Department is not to invoke these powers. These statements are completely inadequate in the opinion of Adoption Origins Victoria, rather we seek proper legal protections in the Adoption Act 1984 (Vic) to ensure that save for exceptional cases such as profound impairment, adoption is only granted with the consent of the parent/s.

#### **iv) Revocation of Consent**



Adoption Origins Victoria draws the Commission's attention to the French Plenary Adoption Act which stipulates a waiting period of a minimum of six months in which the child is placed with the applicant for adoption before the application for adoption is dealt with by the court

<http://www.adoptionpolicy.org/pdf/eu-france.pdf>).

Adoption Origins Victoria is concerned that the Adoption Act 1984 (Vic) only allows a twenty-eight (28) day cooling off period from the date the initial consent was signed by the parent/s. needs to be extended run until the day the adoption is finalised through the Court or alternatively, the cooling off period should extend to six (6) months at a minimum because the primary aim of adoption should not be certainty for the adoptive parents rather adoption which is in the child's best interests, and the child already has a family. The family of origin and that includes the child needs the complete protection of their community to ensure that their family, wherever possible, is kept intact.

Phillipa Castle of Victoria University in 2010 conducted her doctorate in relation to the A Unique Loss: Experience of Mothers in Open Adoption. Ultimately, in order to maximise the likelihood of informed consent or informed refusal, her study recommends and Adoptions Origins Victoria endorses:

1. The development of a tool that requires an exploration of the arguments for keeping the baby so that the options are spoken about and considered.
2. Challenges to the assumptions informing the decision.
3. Exploration of the family/support network, directly if permissible.
4. The development of evidence-based literature stating the known long-term consequences of relinquishment. In terms of the contact, in order to maximise the positive conditions for ongoing contact the study recommends:
  - (a) An increased emphasis on the realities of openness in the training of adoptive parents.
  - (b) The study of attachment theory, and training in responsive, attuned parenting for adoptive parents, to promote secure attachment.
  - (c) Facilitation of the development of empathic relationships which de-silence the natural mother.





- (d) Open acknowledgement of the long-term consequences of adoption.
- (e) Recognition of the inevitability of change within relationships and support in negotiating this.

5 Post relinquishment services for all placements, including psychological services to process the grief over time”

[http://vuir.vu.edu.au/15982/1/Phillipa\\_Castle\\_thesis.pdf](http://vuir.vu.edu.au/15982/1/Phillipa_Castle_thesis.pdf)

#### **v) Legal Representation**

Adoption Origins Victoria considers that all children and parents should be availed independent legal representation at all stages of the adoption process.

Adoptions Origins Victoria believes this is particularly important that all children be appointed a legal representative, either on a direct instructions model if they are 10 or over, or on a best interest’s basis, if they are below 10 years of old.

Adoptions Origins Victoria further recommends that all parents have access to a lawyer at the following stages:

- a) when a parent is considering and/or executing a consent;
- b) when arrangements are being negotiated as to contact on the adoption order;
- c) when the cooling off period is running;
- d) On the day of finalisation of the adoption.

Adoption Origins Victoria seeks that the Commission consider recommending Victoria Legal Aid fund for representation in the above circumstances for those parents who are unable to afford legal costs and for all children so that the court can be assured that the child has an independent voice in all proceedings. ... See *Attachment LR 8*



## SECTION 4: OPEN ADOPTION & CONTACT

### i) Open Adoption – the need for comprehensive analysis

In the preceding years and months to the implementation of the Adoption Act Vic (1984) and hence open adoption in Victoria, theorists, researchers, adoption organizations and individuals put forward a wide range of views about how open adoption might affect the individuals involved, forceful arguments were made for the potential benefits of open adoption which were opposed by equally forceful arguments about the potential risks, rarely were the arguments supported by evidence from empirical research, rather they tended to be abstract and value-laden. Adoption Origins Victoria believes that knowledge about the impacts of open adoption has been limited, with **no major studies conducted on the effects of open adoption on the adoptees who are now adults who have lived the experience over the last thirty two years in Victoria**. Adoption Origins Victoria draws the Commission's attention to an Issues Paper authored by the Australian Institute of Family Studies (AIFS) in 2015:

*“One of the very clear message’s that has emerged from AIFS research around past adoption practices is that for many who are affected (not just mothers, but also fathers, other family members and adult adoptees themselves), there is a common view that,*



within those practices of forced adoption and other family separation practices, there has in fact been a strong focus on the needs of prospective parents at the expense of the needs of the vulnerable natural parents (there are parallels that might be able to be drawn with people who have involvement with current child protection systems in terms of vulnerability).

There has also been less focus on the identity and connection needs of children who grow up under such conditions of family formation or family creation. AIFS would therefore argue that the issue that requires further consideration is actually about how a long-term view can be taken of what might be in the best interests of the child, and the regulatory and policy framework that sits around what will drive or shape the behaviour of potential adoptive parents” **Issues Paper: Establishing an Institute of Open Adoption RFT ID FACS.15.58 notice Response by the Australian Institute of Family Studies Prepared by: Pauline Kenny, Research Fellow Daryl Higgins, Deputy Director (Research) July 2015 Authorised by: Sue Tait, Acting Director 2 AIFS knowledge and experience)**

Adoption Origins Victoria believes that overall decision making authorities in Victoria in relation to adoption need to take care to ensure that dialogue and policy is not driven by the desire of adoptive “parents to have “ownership” of such children, rather than to create safe and supportive care environments that their connection to their family and community” **(Issues Paper: Establishing an Institute of Open Adoption RFT ID FACS.15.58 notice Response by the Australian Institute of Family Studies Prepared by: Pauline Kenny, Research Fellow Daryl Higgins, Deputy Director (Research) July 2015 Authorised by: Sue Tait, Acting Director 2 AIFS knowledge and experience).**

AIFS also provides an important comment from an adoptive mother in this regard:

*"I think that in future it will also change the nature of the type of person who adopts. Prospective adopters will have to be prepared to be even more open with their adopted children and to take an empathetic view of the parents; otherwise they are not going to make it when the crap hits the fan when the child is 15. We don't always know what will be dished up to us. But the important thing to remember is that we are caring adoptive parents and have responsibilities and duties to our children, but we don't own them. And quite often this feeling of ownership really trips us up."*

*(Issues Paper: Establishing an Institute of Open Adoption RFT ID FACS.15.58 notice Response by the Australian Institute of Family Studies Prepared by: Pauline Kenny, Research Fellow Daryl Higgins, Deputy Director (Research) July 2015 Authorised by: Sue Tait, Acting Director 2 AIFS knowledge and experience)*



Adoption Origins Victoria calls for comprehensive analysis and properly constituted, independent studies of the experiences of adopted People who have been adopted in an open adoption system over the past 32 years since open adoption was first introduced in the adoption act 1984. Past studies have gone some way toward listening to the experience of natural mothers and Adoptive mothers in open adoption. The field would be further enriched from information from the Adopted people who have lived this unique form of family formation in Victoria

Adoption Origins Victoria draws the attention of the Commission to the thesis of Robyn Ball from Victoria University of 2005; Open Adoption in Victoria, Australia: Adoptive Parents' Reports of Children's Experience of natural Family Contact in Relation to Child Wellbeing:

[http://vuir.vu.edu.au/15561/1/Ball\\_2005compressed.pdf](http://vuir.vu.edu.au/15561/1/Ball_2005compressed.pdf)

This thesis goes some way to examining the experience of contact however only examines contact from an adoptive parents' perspective and not from the adopted person's perspective. Adoption Origins Victoria recommends that a government funded research project be carried out urgently to ascertain the facts of the effects of open adoption from the adoptee's perspective in Victoria and in particular the adult adopted people who have experienced open adoption since 1984

## ii) **Contact**

Adoption Origins Victoria endorses the Commission's acknowledgment that contact is a difficult issue, relying on, in practice, the goodwill of the parties involved. However, Adoption Origins Victoria believes that parent/s should be counselled that any private agreement with the adoptive parents can be reneged upon by the adoptive parents at any time and that a contact regime can only be legally protected and enforceable if the Court has made the contact regime part of the adoption order.

Current practice and section 59A of the adoption act 1984 (Vic) permits mothers to nominate a preferred frequency of contact in the form of face-to-face meetings and information exchange, which, with the agreement of the adoptive parents, is written into the adoption order by the Court. Contact is generally set at between one to four times per year but this is usually a minimum frequency with contact beyond the nominated frequency at the discretion of the adopting parents. How contact is to be conducted is not prescribed beyond the requirement that the adoption service manage the arrangements for the year between the placement of the baby and the order being ratified in the Court. After the adoption order is made, there is no professional support for the ongoing contact ordered by the Court.

One of the most important concerns when open adoption was first introduced was that it might interfere with the attachment between children and adoptive parents (Kraft 1985) and



it was feared that children might be confused about whom their primary carer was, and therefore who their primary attachment figure was, and they might develop divided loyalties between the two sets of parents. There were also concerns that the involvement of the parents might make adoptive parents feel less secure and entitled to a parental relationship with the child, which could impair their ability to engender the child's secure attachment. Research evidence to date has suggested that in fact the opposite is the case. The consistent finding of several studies conducted with adoptive parents has been that contact with family either does not affect adoptive parents' feelings of security and entitlement and/or it actually enhances these feelings.

Further, some researchers have found that parents in open adoption felt that contact either did not interfere with attachment with their child or it helped to strengthen attachment or feelings of closeness. Given that attachment is important for children's psychological wellbeing, on the basis of this research, it would be predicted, therefore, that children with more open adoptions would have higher levels of wellbeing than those with less open adoptions

(Bowlby J. Attachment and Loss Vol 111 *Loss, Sadness and Depression Depression*).

Furthermore, Robyn Ball's work indicates that regular contact is best where possible for adopted children:

*"The present findings, based on adoptive parents' report 2005 suggest that some children do indeed suffer from some of the adverse consequences of open adoption that were originally proposed by its opponents. For instance, it appears that some children can be very confused about their relationships, while feelings associated with grief may be exacerbated for some children who have only intermittent contact with family members.*

*However, according to adoptive parents' reports, it seemed that these adverse consequences were largely confined to children who did not have ongoing, regular contact with the family. Where there was such contact, children seemed mostly to benefit from openness".*

**(Robyn Ball, Victoria University, 2005; *Open Adoption in Victoria, Australia: Adoptive Parents' Reports of Children's Experience of Birth Family Contact in Relation to Child Wellbeing*: [http://vuir.vu.edu.au/15561/1/Ball\\_2005compressed.pdf](http://vuir.vu.edu.au/15561/1/Ball_2005compressed.pdf))**



If the introduction of open adoption is to be expanded greatly to those children in the Victorian child protection system then research will be needed to be able to meet the needs of those children and young people at different stages of need and development. Toddlers and older children will have established relationships with their parent/s immediate and extended family and will have different needs to those babies and infants who will most likely suffer separation trauma and may have suffered medical and psychological damage in the uterus. Standard practice of a minimum of four times per year will not likely be helpful for such children. Judicial education may need to occur further for those judges who decide adoption matters.

In this excerpted article, adoption expert Mary Martin Mason proposes how she thinks open adoption should work. Some of her suggestions may make some adoptive parents and social workers uncomfortable, but all of them are interesting.

Open adoption is designed to be a child-centered arrangement based upon the premise that humans need genetic continuity to attain a healthy identity. Open adoption benefits children by providing a lifelong, authentic relationship and a genuine connection to their lineal heritage, ongoing answers to questions, and healing for the losses that permeate adoption. Open adoption benefits parents because the grieving process that follows all adoption need not be complicated by having to live with the ambiguity of not knowing what happened to their children. Adoptive parents feel parental entitlement in open adoption and have access to the continuing genetic, medical and family information needed to raise the child.

Open adoption is a standard, common practice today as revealed by the November, 2006 White Paper written by the Evan B. Donaldson Adoption Institute, "*Safeguarding the Rights and Well-being of Birthparents in the Adoption Process.*" Researchers found that 90 percent or more of contemporary mothers have met the adoptive parents of their children, and almost all of the remaining mothers helped to choose the new parents through profiles.

Mary Martin Mason, suggests, and Adoption Origins Victoria endorses that the top 10 ethical considerations in Open Adoption Practice, should be:

1. "To fulfil in the goal of benefiting the child, an open adoption should be a fully disclosed adoption and should move beyond the practice called mediated or semi-open adoption in which an agency serves as an intermediary to exchange information between parties.
2. The child should be given the option to be a full participant in the open adoption rather than the adoptive parents maintaining contact with birth family members without the child's knowledge.
3. Agency workers need to be educated and overcome fears about allowing clients to be in contact without agency control. An agency that simultaneously practices semi-open adoption and fully disclosed adoption communicates its distrust of the foundation of openness, often communicated as, "We let clients make that choice." Professional standards require that agencies provide guidance and education to clients, including



the few parents who insist on confidential adoption. Ethical standards require that agencies refuse to do a confidential adoption even if it means losing a client.

4. Systemic change must take place in agencies that practice open adoption, requiring a shift in policies, in job descriptions for workers and ultimately, in post adoption services that will eschew secrecy as the foundation for adoption.
5. Fathers, as in other forms of adoption, need to be identified, notified and invited to participate in open adoptions. Father-friendly inclusion should be the mission of those practicing and participating in open adoption. Professionals frequently need training in revamping services to be father-friendly before successfully engaging fathers.
6. Services such as pre-adoptive education, legal representation and post-adoption mediation or counselling should be equalized for birth and adoptive parents.
7. Open adoption should never be used to entice, pressure or coerce any one experiencing a crisis pregnancy to choose adoption.
8. Post adoption contact agreements should be standard and fully enforceable in Victoria
9. Legal counsel should not be shared between parents considering adoption and prospective adoptive parents because they have conflicting interest.”
10. Agencies that practice open adoption while opposing the right of adoptees to have access to their original birth certificates “serve two masters.” If a foundation of truth is solid, then it should serve adoptions moving forward as well as adoptions that took place in the past. Mary Mason’s tenth principle is not relevant to Australia.

**American Adoption Congress 2016 “*The top 10 ethical considerations in Open Adoption Practice,*” by Mary Martin Masoiii)      **Strengthening the Court’s oversight of Adoption Practice****

- Adoption Origins Victoria believes that the County Court ought to be further empowered to scrutinise the adoption process including whether appropriate counselling has been received and consent given consent and most importantly, be able to penalise any adoptive parent who does not allow contact in accordance with the contact regime on the adoption order.
- Adoption Origins Victoria recommends to assist the County Court that an Independent/Ethics Committee not connected to the NGO or DoHHS is established to report to the court. This body oversee, monitor, and report



to the court on all aspects of the adoption process, including counselling, taking of consent, post adoption welfare checks on adopted children, and the open adoption contact regime

- Welfare checks must be carried out on adopted children in private homes, because at present government and NGOs have no duty of care once a child is adopted which possibly leaves the child at risk
- Contact agreements should be set based on each individual case recognising one size does not fit all, along with the ongoing monitoring, implementation of those agreements with the full weight of the law for the execution of such until the child comes of age.
- Contact Agreements should be decided upon between the independent ethics committee, parents, and adopting parents before the parents sign the instalment of consent to consider adoption
- If the family of origin do not keep their commitments, it would be part of the role of an ethics committee to consult and counsel all parties, if the ethics committee's efforts fail, there is little that can be done to enforce the natural parent's to uphold their agreement. However if the break down is due to the natural parents and or other family members a report from the ethics committee as to why the contact regime failed should be added to the adopted persons file that becomes available when the child turn 18.

**NB. Natural parents must have the option to re-establish contact at a later date pending their circumstances.**

Adoption Origins Recommends if adoptive parents are found by the ethics committee to make it difficult or uncomfortable for families of origin to stay in contact the adoptive parents should be held responsible by the court.





If the ethics committee has failed to resolve the issues coursing the brakedown, they should refer the adoptive parents to the court to deal with this. We also recommend the court documentation of such a breech and also an Ethics Committee report be added to the adopted persons file that becomes available when the child turn 18.

Note: The fact that a report is going to be available to the adopted person may act as a deterrent from such actions from happening.

**It is in the adopted person's best interest that the truth be known and not hidden.  
Open Adoption should mean honest, open, and transparent.**

*See Attachment LR 8*



## SECTION 5: NO FAULT DISCHARGE

*There are these two young fish swimming along and they happen to meet an older fish swimming the other way, who nods at them and says “Morning, boys. How’s the water?” And the two young fish swim on for a bit, and then eventually one of them looks over at the other and says “What the hell is water?”*

***This is Water some thoughts delivered on a significant occasion about living a compassionate life*** (David Foster Wallace 20/11/ 2014 Quotes Published in “**Good Reads**”

In our society, the importance of kin and ancestry is so deeply embedded that often it’s unrecognisable to those with the privilege of the unique combination of recognised social and genetic connections with their family group. This is the ‘water’ most are in, but adopted people are swimming in a very different substance. It’s partly why some of the concepts are so difficult to get across to non-adopted people, and from the adoptee point of view, our voices have certainly not been heard in the area of discharge.

### **i) No fault discharges**

An adopted person can apply to the Victorian County Court for a discharge of an adoption order made under section 19(1) of the Adoption Act 1984. There are two grounds under which an application can be made, these are:

- (a) That the adoption order or consent for the purposes of the adoption order was obtained by fraud, duress or other improper means: or
- (b) That special circumstances exist why the adoption order should be discharged (this includes a reference to an irretrievable breakdown of the relationship between the adoptive parents and the adopted person).

Adoption Origins Victoria believes what is needed is the option for adopted adults to be able to apply for the reverse of the adoption with a straightforward discharge that carries no determination of fault. Adoption Origins Victoria proposes that this is a discharge where the adopted person over the age of 18 years applies to the court and obtains the discharge with very little interrogation, if any, by the court as to the reasons why that person seeks a discharge. Adoption Origins Victoria believes that the only legislative precondition to the granting of the no fault discharge should be service on the adopted parents and that legal



advice has been given as to the impact of the discharge at law. Some adopted adults will not ever consider a discharge but Adoption Origins Victoria believes that many adopted adults would benefit from the right to seek a no fault discharge.

Adoption Origins Victoria believes that all adopted adults should have available to them to the ability to apply to discharge the adoption order without having to prove fraud, duress or that the adoption was improperly obtained or that special circumstances exist, and that the Adoption Act 1984 (Vic) should be immediately amended to reflect this.

As set out in section 19, there is a discharge available under 'special circumstances'. This of course is analysed on a case by case basis but usually requires 'irreconcilable differences' between the adoptee and the adopters and almost always requires that the adoptee has suffered abuse that they may not wish to share with a case manager and the court. To many adopted adults who would seek a discharge, the relationship with the adopters is irrelevant to their right to live as the person they were when they were born and have the ancestry they had when they were born. Technically, no fault discharges are available on the 'special circumstances' ground. However, Adoption Origins Victoria believes it would be more appropriate to create an explicit no fault ground under section 19 of the Adoption Act 1984 (Vic). Adoption Origins Victoria believes that currently section 19 ignores the rights of adopted adults to extract themselves rather than be bound beyond death to a contract they did not consent to in the name of their 'welfare' and section 19 ignores the rights of adopted adults to their initial identity at birth and ancestry.

Adoption Origins Victoria does not believe that the intent of a 'Special Circumstances' discharge which relies on an 'irretrievable breakdown' of the relationship with the adopters, allows the Court to give equitable consideration with regards to wider, rights-based discharges, where the quality of the relationship with the adopters is irrelevant. The imposition by the Court of an investigation and case manager is an invasion of privacy which equates to pathologizing something which is not abnormal; that is the right of the adopted child then adult, to resume their original legal identity.

Adoption Origins Victoria believes that no matter what good intentions there are regarding the 'paramountcy of the welfare of the child', there are long-term consequences for the child now an adult which arise from the obliteration of their natural family ties by law. A common thread of experienced among adopted people when advocating for their need for annulment, discharge, termination of the adoption, a true birth certificate and reinstatement of their



identity is the absolute lack of choice – the fact that they are subject to a contract for life and beyond death to which they did not agree. For some adopted adults, having the choice to reclaim their identity and the ancestry they lost (whether or not they have a social relationship with those of their family who are living) is of extreme importance to them and their children and their children’s children and generations to follow.

*“The prevailing legal belief is that adoptees are not a party to their own adoption, only the parties who originally brought the petition to court are. An analogy would be that a consumer may return an item they bought back to the store if they are displeased with it for some reason, but the object may never return itself, no matter how displeased the object may be with the arrangement. Therefore, adoptees are but legal chattel with no say in what happens regarding their own adoptions. This needs to be challenged. Nowhere else in law are competent, adult citizens permanently legally bound to contracts they did not sign and do not agree with.”*

**Julie Kelly 2014. Choosing Adoption. Or not Available at:**

<http://www.thelostdaughters.com/2014/12/choosing-adoption-or-not.html>

Furthermore, Adoption Origins Victoria draws the Commission’s attention to the comments of Julie Kelly:

*“Once an individual is no longer in need of the courts or their parents to make decisions on their behalf, by virtue of being no longer incompetent by reason of minority, they should, by all rights, be entitled to take over making decisions for themselves.*

**Julie Kelly 2014. Choosing Adoption. Or not Available at:**

<http://www.thelostdaughters.com/2014/12/choosing-adoption-or-not.html>

Adoption Origins Victoria believes that Victoria has been a leader in Australia and the world in adoption reform at times. The opening of records which occurred here in Victoria during the 1980’s is what is still being fought for in most states of the USA. The majority of adoption rights advocates in the USA still believe that getting access to see their original birth certificates is the pinnacle of equal rights.



In Victoria, Adoption Origins Victoria believes that access to no fault discharges for adults is the logical next step in adoption if adoption is truly about the paramountcy of the welfare of the child (then adult). If this no fault discharge pathway is created some will take this up, but some will not. However, Adoption Origins Victoria believes that the very option will be significant and beneficial to all adoptees because of the respect afforded to them as adult human beings to have *the equal right* to agency over their lives in the same way non-adopted adults have, rather than being bound beyond death to a contract they did not consent to in the name of their 'welfare'.

## **ii) Inheritance**

In the experience of Adoption Origins Victoria inheritance is often a major point of interest for the Court but usually a minor concern over all the others for the adopted person. Default formulas for property division are only used when a legal will is not left. If a legal will is left the deceased can leave an inheritance to whoever they like, and a common adoptee experience has been that they often receive less or no inheritance from the adopters anyway. As above, there should be a requirement that the person have received professional advice and be aware of the legal implications of being discharged from the adoption. The professional advice will presumably include that they are also terminating any of their adoptive claims on their adopted parents' possessions and estate, and also include information on authority for medical decisions and next of kin rights. Adoption Origins Victoria believes whatever inheritance rights should not dictate the right to identity and be part of a child's natural family.

## **iii) Discrimination**

Adoption Origins Victoria believes that currently, adoptees are discriminated against and not being treated equally to non-adoptees, in breach of section 8 of the Victorian Charter of Human Rights & Responsibilities 2006 (Vic). Adoption Origins Victoria is concerned that adoptees are not equal before the law and that adoptees are discriminated against because they cannot use their original birth certificates like everyone else, and adoptees are legally prevented from identifying as the person they were when they were born as is the right of every non adopted person.

For example, X was adopted as an infant in the 1950's. X's deepest and longest held dream since finding out her real parentage has been to explore and connect with her ancestry in



New Zealand. The time has finally come, and first she needs a passport to travel to New Zealand. To get the passport to connect with her ancestry she is forced to lie. The form requires that she answer the question: mother's name. If she lies, she gets her passport and can go to New Zealand. If she tells the truth she is treated as having lied and the passport is withheld. The distress and pain of this has previously prevented even the thought of doing it, and has immobilised the passport application for eight months, to date.

See Attachment 9

### **To prevent the 're-homing**

- Transparent process and criteria for straightforward 'no-fault divorce' type Discharges of Adoption for adult *adoptees only* to be written into the Adoption Act.
- To prevent the 're-homing' situation prevalent in the US – that adopters should only be able to apply for a Discharge of Adoption under no wider grounds than *“that the adoption order or a consent for the purposes of the adoption order was obtained by fraud, duress or other improper means”*
- Recognition in the Act that 'consent' for the Adoption Order has already ceased to have effect when the Adopted Person has reached 18.

RE- HOMEING You would say this could never happen in Australia

However our current State Adoption Act 1984 has a loophole that leaves the possibility WIDE OPEN, as the changes to the adoption act will remain in place for many years as time rolls on this clause could be taken advantage of .

### **VICTORIAN ADOPTION ACT 1984 - SECT 19**

#### **Discharge of adoption orders**

(1) An eligible person may apply to the Court for an order discharging an order for the adoption of a child made under this Act

(a) "eligible person" means the adopted child to whom the adoption order relates, a natural parent of the adopted child, an adoptive parent of the adopted child, the Secretary or the principal officer of the approved agency by which the adoption was arranged;



Changes are necessary we completely oppose adopters having rights to discharge an adoption other than fraud. That the adoption order or consent for the purposes of the adoption order was obtained by fraud, duress or other improper means”  
So- if the adoption order was obtained by fraud (i.e. the adopters were misled)

- If not it will almost always be in the best interests of the adoptee to be unadapted by people who don't want them. It gives the adopters too much of an out. What happens to the child then?

We argue giving adopters greater rights commodifies children because it means they can be "returned" if the adopters can make an argument that it's in the child's best interests

The Governments who have this legislation are trying to keep the adoptees, natural parents and adopters THE SAME but because it involves children they are NOT THE SAME.

<https://twitter.com/60Mins/status/761132653269520384>



## SECTION 6: WISHES AND CONSENT OF THE CHILD

Adoption Origins Victoria is concerned that only the wishes of the child is ascertained in adoption proceedings in Victoria pursuant to section 14 of the Adoption Act 1984 (Vic). Adoption Origins Victoria believes that any children ten (10) years and over should have to consent to the adoption order before the order can be made. Ten (10) years is the current age of criminal responsibility and the age at which direct instructions are taken from children in Children's Court (Family Division) proceedings. Adoption Origins Victoria therefore seeks amendment be made to section 14 of the Adoption Act 1984 (Vic) to provide that not only the wishes of the child be ascertained for children under ten (10) years verified through a best interests lawyer or independent children's lawyer but also that the express consent of a child ten (10) years and older be given before an adoption order can be made. Further, pursuant to previous recommendations of Adoption Origins Victoria as to all children having a legal representation (see above section 2) if a child ten (10) years or older does not have the capacity to instruct a lawyer, that a best interests or independent children's lawyer must be appointed for that child and that lawyer must consent to the adoption.

Adoption Origins Victoria provides the Commission with the following quotes from adopted People, now adults:

*"I am very thankful for the gift of life, and I am very thankful for the goodness of people who help us through life. However, I live in the shadow lands of being forever banished from my bloodlines and acknowledgement of my true identity.*

*I only found out I had been adopted when I was an adult. My first instinct was to find my original parents. Two things became very clear in that moment- I did indeed belong- I belonged to the people who gave me life. I also owed a debt of gratitude to the people who cared for me in their home. Yet the two issues must not and should not be confused. My identity was taken from me when I was adopted. I will forever live with the pain of genetic bewilderment. I am and always will be the daughter of my original parents.*

*Wherever life takes me I will always be an Adoptee Activist..... I look forward to one day having my original identity and birth records restored. It does not negate the care given to me by others, and sadly it will not give me the experiences of knowing kin that many take for granted. However, it will give me peace of mind, a sense of wrongs being made right,*





*and most of all, hope that no one else will have to endure the existential pain of being banished forever from the very essence of their being...*

*So, even if for no other reason, I ask for your support into the restoration of the one and only accurate record of birth everyone is entitled to. Restore our true and life affirming identity. "Adopted person Face book*

*"I'm 42 years old and the reality that I was a piece of property negotiated on a contract that I could not understand or consent to hit me last week. It has really triggered all the bad emotions and feelings of uselessness. I feel so much loss. Not just loss of my original families- but just loss of myself. It's hell." Attached is a 'dummy' example of an original birth certificate Adopted person face-book*

*"It is an attack on my personhood and an insult to womanhood to have people fraudulently declared to have given birth to me. My mother contains my DNA and I contain hers. That happens through birth and it lasts forever. I don't want falsified documents making a mockery of my life and my ancestry Adopted person face-book*



## SECTION 7: ADVERTISING CHILDREN FOR ADOPTION



Owen, five years

***Owen, five years old urgently needs a forever family in the Central Coast region.***

***He is an endearing and gentle boy with brown hair and eyes. He can be a little chatterbox and has a delightful sense of humour, but unfortunately he is no longer able to live with his birth parents.***

**Owen needs parents who can provide a relaxed and nurturing environment.**

Simply, Adoptions Origins Victoria calls amendment of section 120 of the Adoption Act 1984 (Vic) to abolish completely any advertising of children for adoption even if authorised by the Secretary or a principal officer of an approved agency.

Adoption Origins Victoria draws the Commission's attention to the UNICEF Australian Child Rights Taskforce Progress Report of 2016 which, *inter alia*, calls for the abolition of all advertising of children for adoption:

### **AUSTRALIAN CHILD RIGHTS TASKFORCE progress report page 21**

<http://www.unicef.org.au/Upload/UNICEF/Media/Documents/CRC25-Australian-Progress-Report.pdf>.

**Adoption Origins Victoria also refers the AUSTRALIAN CHILD RIGHTS TASKFORCE The Commission's attention to the work of Chou & Browne (2008) Page 21 the CRC Convention on the Rights of the Child** conclude that the co modification and advertising of children breaches Article 2 (protection from discrimination), Article 8 (protecting identity) and Article 16 (privacy) of UNCROC. Adoption Origins Victoria also believes that advertising of children for adoption breaches Article 8 and Article 13 of the Victorian Charter of Human Rights and Responsibilities Vic (2006).



Adoption Origins Victoria draws the Commission's attention to the advertising for example, of Barnardo's; <http://www.barnardos.org.au/adoption>. Barnardo's Australia is advertising children for adoption, using glossy and attractive photographs along with names and stories albeit models and pseudonyms are used, however some personal information is provided. Adoption Origins Victoria believes it is not ethical to advertise children as if they were commodities or chattels, appealing to sentiment. Adoption Origins Victoria believes that advertising children at any time as needing adoption is problematic particularly when the children cannot give informed consent to publicity in a digital age where text and images are never erased fully, notwithstanding the use models and pseudonyms.

Adoption Origins Victoria also draws the Commission's attention to the following statement by Dr. Catherine Lynch:

*"I am an adoptee and lawyer who represents a group of over 200 adult Australian adoptees.*

*For quite a while we have watched as a group the advertising online of children for adoption in the UK and the US. We have observed the lengths some organisations go to offer the children in their care for adoption, even holding "adoption parties" where prospective parents browse folders of children being offered for placement. It has recently come to our attention that adoption agencies in Australia have mimicked these overseas systems and there have been an online page listing children available for adoption. The children are described by phrases such as "he is a textbook baby, he eats sleeps and plays!" "Joshua has brown hair and brown eyes" and "loves dress-ups." We are aware of the use of models and not photographs of the actual children being offered but we do not consider this much different to any other kind of online sale. The heading of an advert on Facebook was not "Vulnerable children in need of families" but "We'll help you create a family." We are absolutely sickened that certain agencies especially with their participation in past forced adoption practices, should stoop to the online advertising of children, where descriptions of children will remain online permanently. The service provided is the provision of a child and in our view this is not much different from a sale. This violation of the rights of children is setting a precedent by this commodification by advertising children online for adoption."*

*Dr. Catherine Lynch, Australian Adoptee Rights Action group*

### **Advertising children is step too far**

<https://socialworksocialwork.com/2016/03/30/advertising-children-is-step-too-far/>

Adopt with Barnardo's.

<http://barnardos.org.au/adoption>



## Adoption Photo listing

<https://adoption.com/photolisting/>

**Outrage over child models used to 'sell' adoptee children from broken homes NSW the Age**

**news** Read more: <http://www.theage.com.au/nsw/outrage-over-child-models-used-to-sell-adoptee-children-from-broken-homes-20160327-gnrr6c.html#ixzz4CTX8epED>

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<http://www.theage.com.au/nsw/outrage-over-child-models-used-to-sell-adoptee-children-from-broken-homes-20160327-gnrr6c.html>



## SECTION 8: ACCESS TO INFORMATION

### HEALTH

Adoption Origins Victoria calls for amendment to section 89 of the Adoption Act 1984 (Vic) in so far as it allows the relevant authority to disclose to a medical practitioner information of a medical or psychiatric but which may then be denied to an adult adopted person child or parent. We are concerned that this section prioritises a professional's knowledge over an adopted persons child's fundamental right to their medical history. Adoption Origins Victoria believes that this provision is a paternalistic hang-over from the closed adoption era, is therefore out-dated and ought to be immediately and substantially amended.

Adoption Origins Victoria believes that an adopted person absolutely must have legal access to genetic information to ensure their ongoing health and safety. Adopted people are often unable to disclose to their treating medical practitioners their medical history in terms of their parents or grand-parents illnesses or ailments.

Adoption Origins Victoria believes that genetic testing and Genetic searches such as Ancestry.com organisations who offered medical genetic history reports should be free of charge for all adoptees so that all adoptees have basic medical information about themselves that would have usually been basically available to them if they were with their natural family. For example, if father and uncle both have and had cancers that tend to be passed on knowledge of such cancer by the adoptee may mean that they can take action and practice preventative care and regular testing for early detection. Adoption Origins Victoria is concerned that when an adoptive person has no idea of their medical history and nothing to go by, this provides a dangerous set of life circumstances for adoptees:

*“While information and access to medical records may be easier for those in the open adoption system, the reality is that the closed adoption system contains more people affected than the open system. Those of us working in the post adoption services are seeing numbers of late discovery adopted (LDA's) persons from all decades past. For all adopted persons, if a reunion occurs and it goes well and there is open and honest sharing of history, medical history may not be an issue. Where there may be no reunion or a reunion that falters and fades with non-disclosure of vital information to the adopted person, they can be left in limbo about their family medical history. For me personally, this issue is one of human rights that adopted persons should have the same knowledge and access to family medical history. Of course, there are many impediments to that occurring for many people as stated above. I was fortunate enough to have a reunion with my mother who had some serious medical issues. I was later diagnosed with a similar condition”. Adult adoptee*



Adoption Origins Victoria believes that when there is respectful sharing of information at a time of contact or reunion between an adopted person and a parent, a formal application for medical information may not be necessary. However not all 'reunions' involve a respectful sharing of information. In Victoria, Family Information Networks and Discovery (FIND) is a government department that will assist people who do not have a positive outcome and will act as a mediator to try and gain any needed information but even this has its limitations. FIND and its work provides some assistance but Adoption Origins Victoria believes that amendment to section 89 of the Adoption Act 1985 (Vic) is necessary to ensure that the adoptive person has complete legal access to their medical information rather than all records being gained by the medical professional only. For those adoptees of the closed adoption era, many have to undergo at their own expense, genetic and other testing to try and ascertain their medical history.

The following conversation was taken from the adult adoptee face book page of Adopted people Origins Victoria. However, Origins Victoria has changed the names of these people for privacy reasons:

I had bowel cancer last year. Two operations. Okay now but if I'd only known 40 years or more ago that cancer and heart disease runs through both sides of my family; I could have been more vigilant with prevention strategies.

Adult adoptee face-book

My adoptive father (a retired GP) recommended I get routine colonoscopies every few years now that I'm over 40 but how many other tests can I do?! Not easy or cheap to run around doing testing for everything, if only I knew my risk factors.

Adult adoptee face-book

Ok fair enough if parents tell the kids Dr but when you get older and take yourself to the various Drs etc you don't get asked and they wouldn't know unless you tell.

Adult adoptee face-book

Yes, they will ask if you have a family history of "whatever" only if they suspect or are trying to diagnose something in particular and it's frustrating to not have that knowledge, it creates a sense of anxiety and fear. I guess my point is that we should have a right to the info but I certainly don't. The record keeping at the time wasn't really focused on the rights of the baby - just get them into an adoptive family and have "a fresh start" with little or no info for the future.

Adult adoptee face-book

Yes, I agree. It's hard work having all the tests, aside from the cost to you and/or the government. It's your right to know, so keep up the fight that shouldn't be, as hard as it can be sometimes. This is a good group. A lot of people supporting you

Adult adoptee face-book

Considering the CDC even states that a knowledge of a family health history is vital, then conducting genetic testing to determine this in place of an unknown familial history is the logical step. From a governmental position it should be funded as the knowledge gained aids in taking preventative measures as well as assisting diagnosis therefore reducing the



health care burden to the State.

Centres for Disease Control and Prevention. Awareness of family health history as a risk factor for disease — United States, 2004. *MMWR Morb Mortal Wkly Rep* 2004; 53: 1044-1047.

Adult adoptee face-book

I'm tired of all the pseudo experts and lobby groups in Canberra who now set and pursue agendas on public health and start talking about extra taxes on certain items as a way of 'curing' Australia's child obesity problem. I grew up with that problem and it was blamed solely on my diet, which was exactly as my adopted family ate but I was the only one who suffered obesity from it. Obviously part of my problem was related to my genes (and I can say that now given my birth sisters had similar problems).

In 1982, when I appeared on a 60 Minutes adoption segment, the reporter asked the head of Adoptions in Sydney, as to why I should not be provided with medical information about my birth family, given I had suffered years of bullying and concern about my weight problem. The reporter was told obesity was not a serious health problem and it could be cured by a simple diet!

I think this is half the problem: too many people have simplistic set ideas on how to solve other people's problems and often they do not listen or want to know views that are in contrary to their own, even when those views come from a person trying to live with the problem.

Adult adoptee face-book

in addition to genetics there is also a strong link between your neonatal birth characteristics and obesity in life. That is that babies that are born prematurely as well as being born small for gestation age are more likely to have altered health trajectories with increased levels of obesity, type 2 diabetes and heart disease. This occurs through epigenetics. Preventative measures are more cost effective than dealing with these outcomes when they manifest so it makes economical sense to pay less now.

Adult adoptee face-book

I agree with the economic sense,. Thanks for highlighting epigenetics. I'd not heard of that before. What you described certainly fits my adopted brother who was premature and who is 55 now with all those health problems.

I don't know my birth weight or any of those sorts of facts. I do know what my elder sister, who stayed with our mother, remembers of our mother's pregnancies; my conclusion is they were far from ideal. She was 40 when she gave birth to me and I was no.13 of 14 children. She smoked and drank regularly throughout the pregnancy and our father abused her physically in every way.

I'm going to research the epigenetics'!

## **FIO**

Adoption Origins is aware that open adoption as carried out today is vastly different to the policies used in past and often forced adoption practices. Freedom of information is a respected right however there is no point in saying sorry if the wrongs of the past are not



remedied and here in Victoria in 1998 the Minister reduced the time limit a Mother could apply for her records relating to the child very often stolen from her in the delivery suite.

NSW legislated for an Adoption Information Act in 1992 to address the blocks to practical support and respecting the individual needs of mothers and their adopted children

Origins have recorded below the oral tradition of what brought about the introduction of the Adoption Information Act 1990 no. 63.

In 1990 as a result of Mothers seeking treatment for loss of memory of giving birth to a child and having it removed against her will and in order to exist many mothers had disassociated from the painful and traumatic experience.

It was a NSW psychiatrist Dr Geoffrey A. Rickarby FRANZCP whose life time of treating adopted children and who in semiretirement who was approached by Mothers who after losing their baby to adoption practices developed the complex survival mechanism. Many of these mothers never had another baby, in desperate need to regain a true memory of the birth of their baby and the experience post natal anecdotally they successfully lobbied for an adoption information act.

When they received their hospital records with social worker records attached they recorded the Mother to have instructed the hospital she was going to keep her baby. Further to this recorded was the drugs sheets that revealed the medical staff had administered the Chelmsford deep sleep therapy in order to gain a consent Mother and baby being separated from the instant of delivery. The entitlement to this information began the healing progress at one level and as Mothers regained and more importantly reclaimed their memory they were better able to deal with a meeting with the child (now adult) they had lost many years previously.

It is Important to note that A mother in NSW is permitted unrestricted information regarding the death of her child, in Victoria Adoption Origins can cite a case of a baby who died before an order was formalised was buried by the adoptive parents with the assistance of the social worker from CFWB without any knowledge by the mother who found the truth after she made application to meet her child If Victoria had legislation that addressed this issue there would have been a different outcome with the Mothers rights respected

Adoption Origins Vic Inc firmly believes that the information provided as a result of the NSW Adoption Act had a heavy numbers of mothers who lost babies in NSW and in comparison to the fewer Victorian adoptions who placed submissions before the Senate Inquiry.

Mothers from the forced adoption era in Victoria do not have the right to her medical records, including post natal, drug sheets, nursery notes in relation to the birth of her child Origins recommends that unrestricted who had not been adopted time limits be legislated to assist a healing process

50 years on Elizabeth Edwards does not know the exact time she deliver her baby the length or weight of her first born baby surely she has a right to know these basic details





## ADOPTED PEOPLES RIGHTS TO ALL INFORMATION

All adopted persons should be provided with full access to all relevant information in relation to their adoption details so that in the case where an adoption that take place past and future.

For example:

An adopted person applies for their papers and their mother had married, divorced, registered a birth or past-away, these documents in Victoria are not supplied in the adopted persons file, causing great stress and financial hardship for the adopted person to get the documents that should have been supplied in the first place.

Therefore we recommend that a full search of all documentation from Births deaths and marriages relevant to the adopted person's natural family be supplied at the time this information is collected by the adopted person, from FIND thus eliminating unnecessary costs and trauma experienced in the past by people affected by adoption.

*It's about entering a family that doesn't genetically fit with an impossible job description.*

*A job description of having to be some body that they can never actually be.*

*We are talking about adaption not adoption.*

*We are talking about trauma that can't be recalled but can be remembered, that repeats itself later in life, there is a compulsion to repeat.*

*We are talking about a trauma that has no pre-trauma personality so that the sufferer believes that actually the person they have adapted to become is actually who they are and that's not the case that is not the case.*

*I do not think it will be long until adoption or relinquishment is seen as and will be seen as developmental Post-Traumatic Stress Disorder"*

(Paul Sunderland, 2011 Lecture on Adoption and Addiction at. <https>

See Attachment 10

We ask that the Commission, in making their recommendations consider at all times the profound life-altering path which is adoption. Adoption Origins Victoria believes that the Adoption Act 1984 (Vic) needs significant amendment to ensure that a balance is struck between the preservation of identity and rights of the adopted person and the assistance afforded to them by the adoption, namely through the creation of an *additional* family.

**Submission By: Elizabeth Edwards & William Hammersley**



Attachment LR 1

### **Stewardships/ Adoption**

We agree that some children can't be raised with their parents for many reasons and that they might feel positive about the experiences they've had in the care of others - even in some cases building relationships with these people that are ongoing, strong and positive.

But severing ties and creating a false birth certificate isn't a necessary part of that. It doesn't logically follow that to protect and care for a child their identity must be changed or invented.

Basing care of a child on changing the child's identity and denying a previous existence and origins (whether known or not) is not a sound basis for child protection and child development.



Definitely, there will always be a need to remove children from unfit parents. No contest. But changing the child's birth certificate (adoption) is not about what the child needs at all.

In adoption, child protection becomes inextricably linked with child ownership and becomes - disturbingly often - about those who 'need' a child.

Wherever an adoption has 'worked', what should be examined is whether great caring with well-balanced, good people lucky enough to have the means to offer care has 'worked' instead.

Sharyn White Adult adopted person

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## Attachment LR 2

### **A proposed Alternative model**

Adoption is the legal severing of that child/adult and their future generations from their family tree. It is the issuing of another birth certificate to say that genetic strangers are their mother and father", "As if born to". "The way to get it right is to fundamentally rethink how to provide safe homes to all children." NOT permanent removal by means of adoption by people fulfilling their need for a child and governments looking to save money.

Adoption is a past option for today's children who need care. There are many reasons why families can't care for their children for one reason or another, for the child to be outside of the natural parent family unit for part or all of their lives. The way to get it right is to fundamentally rethink how to provide safe homes to all children."

We believe the ideal approach to a stranger care non biological model is one of Stewardship where the child's welfare is paramount and the personal history transparent.

***"Stewardship is the responsible overseeing and protection of someone considered worth caring for and preserving".***

As a concept we believe Stewardship to be a modern, realistic framework for moderating the lasting impact of detachment and grief while providing the child with an honest, happy and fulfilling life. We believe adoption is one of the most damaging forms of care, to cut and traumatise a child from their flesh and blood parents, siblings, grandparents, cousins, it's heritage and Identity.

With current Australian States and Territories' law there are a number of care options available ranging from kinship care permanent care to adoption.

Overall we believe that the arrangements under a Stewardship model are preferable to adoption because of the greater transparency and optimum involvement of the natural family and because psychologically, over a lifetime, the possibility of harm to all involved is greatly reduced. We believe this to be the least harmful alternative to adoption, which respects the child's right to their origins and identity

This form of Long term care can currently be initiated when a State Court issues a guardianship Care Order granting custody to a nominated family. Children covered by this type of Order can come to the attention of the Court via Child Protection Services agents or, in extreme cases, voluntary placement by agreement of the parent(s).

The Stewardship family take the role of UNCLE and AUNT'S NOT MUM and DAD like adoption the child grows up with the security of knowing that everyone is looking out for them. Not with a substitute family that tries to replace the child's family but with a family that is a supportive, loving, safe and nurturing one that supports and includes the child in their family for a lifetime without the child being legally severed from its heritage bloodline, sisters, brothers, grandparents and extended family and without creating a new legal but fraudulent birth certificate that names the non biological couple as the



natural parents (AS IF BORN TO) but maintains the child's birth right to their identity. Stewardship is a model just like kinship Care is a Model and both are placed and monitored under a guardianship order by the courts. After it has been determined that there has been no coercion, a guardianship order is legally established. In the case of siblings, a stewardship family is chosen that can keep them together.

The guardians are responsible for all day-to-day care of the child and for decisions about matters such as education, employment, health and wellbeing. The guardianship order expires when the child reaches age 18/21 and it is assumed that the close relationship established between the guardians/family and the child would last a lifetime. The child is able to be involved in both the guardians/family and their own parents/family lives by choice. Without the added pressure from a replacement family that wants the child to be "As if Born To" them that often exists in adoption..

"In a natural family the parents no longer have the legal responsibilities for their child when the child reaches age 18/21 the child becomes legally responsible for themselves, however the relationship between the child and its family does not finish, this is the same with a stewardship model"

Also the court's involvement is to construct a contact regime for each particular child with immediate family, siblings, grandparents and extended family depending on his or her needs and circumstances, (you can't say 'one size fits all') that is legally binding and the guardians are legally bound to support its implementation through until the child reaches the end of the guardianship order and if this is not appropriate the court shall set out and monitor what is appropriate.

Like adoption (Not Foster-care) Stewardship guardians have financial responsibility "AS IF THE CHILD WERE A DEPENDANT" and are supported and resourced by the responsible department or NGO (another school of thought is that guardians are fully paid and professionally trained). The Order would not automatically affect the child's inheritance rights and the adult child would have the same rights as the Guardians other children in any Probate/Succession matters.

Unlike adoption, this child-first Stewardship model of care and protection treats the rights and care of the child as paramount and should not be used until all other options have been exhausted. Family preservation should always be the first option, however when there is no other option it should not be adoption

1. Family Preservation (or reunification) first, or, if not possible,
2. A Kinship care model guardianship to relatives or close family friends should be the preferred out of home care option
3. A Stewardship child-first model; stranger care and support through to a lifetime, safe, secure, stable, support family under a Guardianship Order by the court.

Authors Dr Brian Littlechild ,William Hammersley, Lizo'Keefe, kerri Small



Attachment LR 3

## ADOPTION FACT SHEET

### **Written by Adoptees.**

*The facts supplied in this Fact Sheet are taken from media reports, academic and medical studies, government publications and testimonial blogs and websites, accessed, generally easily, by Google searches of terms and phrases used herein.*

**Adoption ideology** is a set of ideas delivered to the general public to convince the public that adoption is a social good.

Adoption ideology consists of five main tenets which you may be familiar with:

1. "Adoption saves children from abortion;"
2. "Adoption provides orphans with a forever family;"
3. "Adoption saves children from a bad foster care system that supplies them with too many multiple carers and homes;"
4. "Adoption is a way to build your family."
5. "Adoption is only bad for some adoptees but it works for others."

All of these assertions are lies.

**1. Adoption does not save children from abortion.** Adoption ideology counsels women that to continue with an unwanted pregnancy, give birth to a child and abandon that child to strangers, or semi-strangers, is the moral solution to an unexpected pregnancy. Women are not informed about the suffering that premature maternal separation inflicts on newborn babies, damaging their emotional and psychological makeup, and causing long-term trauma. Nor are they informed about the mental health consequences to themselves of rupturing the post-partum relationship with their new-born baby and the long-term trauma of living with the knowledge of having abandoned their own baby to a system that disinherits their child and strips them of their true identity by forcing them to use a second falsified birth certificate. Both mother and child suffer the trauma of the destruction of the closest most intimate relationship they will ever have before the infant has developed enough to understand him or herself as a separate being to the mother and can safely leave the mother and explore the world. Medical studies back up the testimony of victims that the stress caused to the baby in removal impacts babies' brain chemistry and their emotional and psychological wellbeing. Adoptions ideology fails to inform women that in the large majority of cases by far the best person to care for their baby is themselves.



**2. Adoption does not provide orphans with a forever family.** At the risk of being flippant, there is no such thing as a “forever family” as we all die and if there is an afterlife it is more than likely the person’s soul will end up hanging out with his or her own ancestors. To create a true orphan that has nobody you need to get rid of not just the mother but also the father, the aunts and uncles, the extended family and social network. The large majority of inter-country adoptees do not come from warzones where this extreme hypothetical scenario might take place. Rather, they have mothers and fathers and relatives that may be conditioned by a culture which stigmatises single motherhood or are afflicted by poverty and left in orphanages as a child-minding service while the parents work. Inter-country adoptees may be kidnapped, tricked or coerced by shaming from their families because of the money that is made in providing children for adoption to Western countries. If your child is kidnapped and adopted it is almost impossible to get them back and there is a legal matter currently underway in Australia proving the case. The global trafficking of children feeds straight into “legitimate” adoption markets. Inter-country adoptees are known as “paper orphans” because they are only orphans on paper for the purposes of adoption.

**3. Adoption does not save children from a bad foster care system that supplies them with too many multiple carers and homes.** The proportion of children in the foster care system that get adopted is very small because these children usually are psychologically and emotionally damaged and can be difficult to care for. Industry professionals such as social workers rightly perceive that people who want to adopt are looking for babies that are not “damaged” in this way. (Industry professionals do not appear to accept that the separation from the mother at birth causes damage with comparable impacts on the child). The reason adoption of children in the foster care system is promoted is because it saves the State a lot of money – compare the cost of caring for and monitoring the care of a person from childhood to the age of 18 with the cost of adoption where you no longer have to pay a carer and you do not have to monitor the care. The money that is spent on the promotion of adoption – such as the new almost 3 million dollar per year Institute of Open Adoption Studies at the University of Sydney run by Barnardos - should be put back into improving and ensuring that the foster-care system is a well-run professional care sector that does not shunt children from home to home. However the government and pro-adoption advocates would rather waste money promoting adoption of the few than to actually help the children who must of necessity be cared for in the foster care system by overhauling that system and making it work.

**4. Adoption is not a way to build your family.** That is because families are not buildings and typically a child is born from the sexual union between a man and a woman or, more rarely, between the in vitro fertilisation of a woman’s egg with the sperm of a man. Of all the adoption ideas promulgated by adoption ideology this one is the most insidious. The insidiousness of this tenet can be seen in the extension of this concept of “building families” into assumptions of a “right to adopt” which in essence a “right to somebody else’s child.” It is part of human rights law that you cannot have a human right over another human being because then you are infringing on their human rights by making them obligated to you. There are human rights to food and shelter but not to children. There can



be no right to parent, nor a right to adopt. Nor are “adoption equality” campaigns anything to do with the equality of adoptees in society as one of the only demographics in Australia disinherited by the state without access to Family Provision legislation, provided with falsified birth certificates and essentially under contract to strangers for life, all without their consent.

Adoption violates the rights of children to remain and be brought up by their own mother and family. It violates the child’s rights to know and be connected to their own ancestral heritage and also to inherit anything – including family memorabilia and things intrinsic to our sense of connection and identity - off their families. It violates the child’s rights to retain their true identity. It causes offence and problems for our descendants when our parents die and we are not named on their death certificates. It continues to cause problems with identity during overseas travel. It is almost impossible to annul your own adoption even though you did not choose your adoptive family and you usually have to prove abuse to escape the contract to which you never consented. Most of all it removes the rights of children to be considered part of their own family.

**5. Adoption does not “work for some” adoptees.** All babies suffer when removed from their mothers at birth, in fact, all mammals suffer when removed from their mothers at birth. All babies suffer similar impacts on their biological systems: their brains, neurological, psychological and emotional systems, on their DNA (epigenetics). The babies of mammals are entirely geared to seek the breast or teat of their mother after birth. Differences in the attitude of adoptees toward adoption cannot be attributed to the timing and speed of the removal and adoption. The compliant or seemingly well-adjusted adoptee is the adoptee who has successfully repressed their infant trauma and learnt the skills by which they negotiate and secure their relationships within their adoptive families, fearful as they are of having their initiating experience of abandonment repeated. They are adoptees who choose not to explore their negative feelings about their lives and concentrate their energies on fitting in and feeling that they are “normal” and not different. To admit that this is not really the case is to admit to personal trauma traced back to birth, the rediscovery of which causes emotional and psychological upheaval in that persons’ life. Furthermore, because adoptees live in a society that denies their trauma en masse, any disturbing emotional or psychological problems that arise are often attributed solely to themselves, or perhaps at a later date, to their adoptive parents. In fact, *all* adoptees attributed the cause of their emotional and psychological symptoms to themselves, convinced that something was wrong with them but not knowing what it was, until the invention of the internet where we all connected for the very first time and discovered – in millions of “Geronimo” moments - that we all shared the same symptoms and feelings despite having radically varied experiences – from “model” loving parents to abusive ones. The “happy” adoptee does not have an education as to their production in history and this was the successful aim of the creation of the closed-records system under which adult adoptees were raised. Today, “open adoption” does very, very little to redress the total loss of rights of the child to their natural family and very quickly the “access” of meetings or letters can dwindle under the adoptive parents’ control. Open adoption continues the socialisation of the infant adoptee into the adult adoptee accepting of their use in the adoption market. The



compliant adoptee – merely struggling to survive - is further exploited by society by being paraded by pro-adoption advocates as “proof” that adoption is good for you.

## **Notes**

Some of us adoptees were provided with loving adoptive parents. This does not make us pro-adoption in any way and here is why.

Adoption is a global trade in children. It plays lottery with our lives. It cuts our legal ties with our families and provides new false birth certificates so that we become part of a new family made up of strangers. It gets us off the State books and into private homes where our welfare does not have to be monitored. Governments let professional welfare systems such as foster care run down and then argue that is why we need adoption.

Some of us have abusive adoptive families who beat us and sexually molest us and use us as unpaid labourers. Some of us are murdered by our adoptive families. For example there is a US website that has been dedicated to all the young adoptees who have been murdered in the US. Pro-adoption lobbyists praise this US adoption system in which children are advertised and “rehomed” (traded) online. The people who do this are often religious and believe they are doing God’s work. The others use the language of religion such as “miracles”, “angels” and “forever families,” for example, Deborah Lee-Furness the Australian pro-adoption campaigner claims that “the universe” told her that the child she was going to adopt was her child. A few years after the child referred was taken from her mother by Deborah in a so-called “open” adoption the mother committed suicide after contact had dwindled.

Many adoptees appear to be well cared for but are let known in many subtle ways by our adoptive families, or especially our extended adoptive families, that we are not really “one of them” and are inferior and that upon the death of our adoptive parents we will be ostracised, sometimes disowned and disinherited a second time. We are let known by society that we haven’t suffered trauma and that we are lucky.

We campaign with adoptees around the world against rich and powerful pro-adoption advocates who promulgate adoption ideology.

Pro-adoption advocates are powerful people and extend to the top of “A-listing” Hollywood celebrities who promote adoption as part of their careers. Along with governments who promote adoption because it saves them lots and lots of money not having to care for and monitor the welfare of children in foster care, and a media that uses adoption stories to sell their product, pro-adoption ideology is disseminated through popular media. NGOs, often driven by religious conviction, accept money from government to place children on welfare into private homes and get \$60,000.00 per placement. At the other end of the market, children are kidnapped from homes or from off the streets, or are whisked away from orphanages where their families have placed them out of poverty.

Governments save money by letting foster care systems run down and not providing opportunities for young mothers to learn to provide and care for their own babies (i.e.





housing, education and rehabilitation opportunities). Organisations like AdoptChange and the Australian Women's Forum infiltrate schools with talks and education packs to convince young women that the best way to deal with an unexpected pregnancy is to go through nine months of gestation, painful labour, and then abandon their child to a better life.

The voices of adoptees, on the other hand, are continually repressed in popular media and we exist as an oppressed portion of your society without a voice which is why what we have to say sometimes comes as a surprise. Anywhere we use personal testimony and medical and scientific studies to show that the post partum mother/infant relationship is a profoundly interrelated dyad of all possible biological systems we are shut down because of the extreme prominence and power of the fertility industry whose business has led them to deliberately conceive of children via IVF for the purposed of removing them at birth in the practice of surrogacy.

The voices of adoptees are repressed on many sides one of which is the legacy of the closed records era, still functioning in some other countries such as the US. There are adoptees in your community today that still do not know they are adopted, at least on a conscious level. Oftentimes lots of people around them know, when they do not. The late discovery of one's adoptive status is usually profoundly disorientating and can be the catalyst for emotional breakdown as the individual's entire life is re-examined in the light of this new knowledge that confirms a lived experience that something was not right. Many LDA's are still learning of their adoptions in their 5th- 8th decade of their lives, often too late to find relatives and history. There are genetic tests that can be done for diseases, for example, Huntington's Disease which is a terrible, debilitating neurological disease and LDSs have had children with significant disabilities and serious medical conditions before learning they were adopted and that their family carry that medical history.

**ADOPT CHANGE!** We agree it is time to change adoption! It is time we dismantle adoption and smash adoption ideology. It is time to stop the disinheritance, name changing and falsified identity documents of adoptees.

It is time we tell the truth to vulnerable mothers that if they abandon their child before their child is ready to separate from the mother they are inflicting a life-long trauma on both their own baby and upon themselves, regardless of the life-long socialisation that adoptees get by their adoptive families and society to "be a good adoptee" and do everything right and say that adoption worked for them and they are lucky.

We – adoptees and mothers who have been traumatised by the loss of their children – are exhausted, demoralised, and disempowered. Please listen to us and not to the rich and powerful pro-adoption lobby groups and "pregnancy counselling services" that steer women down this path of emotional and psychological devastation. Most of all do not succumb to the cult of celebrity that worships people who have so much power and money that they cannot accept the fact that nature will not provide them with their own child, or the best ratio of male to female children, or who simply have so much money that they don't know what to do with it and want everyone to praise them for their goodness. People



adopt more than anything because they want to be perceived by the world to be a good person thinking that that makes them one.

To be in love with your own benevolence can act like a drug. It needs to be understood that there is a multi-billion dollar global industry that functions to traffic children around the globe and that upon this rests many, many institutions run by well-meaning people who truly believe they are doing something good. To be “anti-adoption” is to threaten these people’s jobs – their livelihoods and ideological and religious beliefs. But we will not stop fighting to educate the public about the truth of adoption.

Adoption is a violence based in inequality. It is a treating of symptoms and not of disease inscribing the adoptive culture’s bias in race and class. It is candy-coated, marketed, and packaged to appear as if it is concerned with the welfare of families and children. The reality is it is an economically and politically incentivized crime. It stems culturally and historically from the peculiar institution of Anglo-Saxon indentured servitude and not a history of “family creation.” It is not universal and is not considered valid by most communal cultures but was “invented” by adoption legislation in the 1920s and 30s. Adoption negates family and destroys community.

Our voices are suppressed but there are millions of us worldwide and more and more of us are being created each day. We are a global community of adoptees, mothers, adoptive parents, people who have been devastated by surrogacy, the children of surrogacy arrangements, academics, professionals and individual members of the general public. We want to end the commodification of children, end the commodification of the next generation of adults. We aim for the eventually extinction of adoptees and the destruction of the quasi-religious ideology that creates a market in misery. We want to know why Australians and people around the world are not working toward creating societies that nurture vulnerable mothers and rally around the post-partum mother/child dyad with emotional and material support for its future so that no child need ever be separated from his or her own mother, kin, culture, country, language and identity for the purposes of adoption

*The Australian Adoptee Rights Action Group. 23 March 2016*

Attachment LR 4 Dr Geoff Rickarby

<http://www.originsnsw.com/nswinquiry2/id12.html>

ATTACHMENT LR 5 Florience Clothier

<http://pages.uoregon.edu/adoption/archive/ClothierPAC.htm>

<http://originsvic.tripod.com/mentalhealth/whatttheyknew.html>

ATTACHMENT LR 6 Dian Turski



Attachment LR 7

61, 9/5

**Western Australia**  
**BIRTH CERTIFICATE**  
Births, Deaths and Marriages Registration Act

Registration Number  
**100461C/1926**

<b>CHILD</b>	Surname: Jones Given Names: Josephine Date of Birth: 15 February 1926 Place of Birth: King Edward Memorial Hospital, Subiaco, Western Australia, Australia Sex: Female
<b>MOTHER</b>	Surname: Jones Given Names: Josie Maiden Surname: Jones Usual Occupation: -- Age or Date of Birth: 21 years Place of Birth: Perth, Western Australia, Australia Address: --
<b>FATHER</b>	Name: -- Usual Occupation: -- Age or Date of Birth: -- Place of Birth: -- Address: --
<b>PARENTS' MARRIAGE</b>	Date of Marriage: -- Place of Marriage: --
<b>PREVIOUS CHILDREN OF THE SAME PARENTS</b>	--
<b>INFORMANT</b>	Name(s): Josie Jones Address: 2 Smith Street, Perth Western Australia, Australia Description: Mother
Registered on 8 March 2007 by	
Name, if added after Registration of Birth	--

EXAMPLE ONLY

I certify that this is a true copy of particulars kept in the Registry of Births, Deaths and Marriages, Perth, Western Australia.

1

DATE 20 March 2015 Registrar of Births, Deaths and Marriages (Acting)



Adoption Information	
Adopted Name	Maria May Smith
Adopting Parent/s details	
Father's Name	Joseph Smith
Mother's Name	May Smith
Adoption Order Number	29/1927
Date of Adoption Order	23 March 1927
Adoption Act	Adoption of Children Act 1896
Date Adoption Registered	8 March 2007

\*\*\* END OF RECORD \*\*\*



## Attachment LR 8

We cite these court cases as part of Origins argument in support of the

- establishment of an independent body to oversee the taking of consent with legal representation
- removal of thirty day revocation
- ensuring parents are present in court with legal representation on day of adoption formalization.

During the 1950s, there were two court cases that identified the reasons why the 30 day revocation period was introduced it was to reassure the adopters, and was in their best interest not the child's best interest; Because of these cases in particular the Anderson V Cole-Sinclair a Supreme court Judge Mr. Justice Scholl recommended that a Guardian (Independent body) be appointed. This has not occurred since. The 30 day revocation period was introduced and is still in place, so parents are still not present in court when the final judgment to have the child adopted, or are they given sufficient time and counseling in order to be able to be protected or given adequate time to change their mind to keep their child

Because of the possible revocation of the consent as a result of the Mace versus Murray (case in 1954) and following the Anderson versus Cole- Sinclair case, gave rise to the introduction of the thirty day cooling off period to reassure adoptive parents.

Daphne Anderson was admitted to a psychiatric hospital in 1953, her 3yr old daughter Susan was placed in the care of the Cole- Sinclair's who adopted her without consent however Daphne Anderson was not present in court. Mr. Justice Dean had dispensed with the need for consent for this adoption. He had been advised by a psychologist (Peter Whyte) that 'mother love was nonsense and that the mother/child relationship was simply one between adult and child.' On her discharge, Mrs. Anderson found out where Susan was, and with the help of the Attorney General, applied to have the adoption rescinded, as she had not consented to the adoption at any stage. This application was rejected. An appeal was then made to the State Full Court. This appeal was upheld.

Mr. Justice Scholl was concerned about the previous proceedings. He believed that courts should appoint an independent guardian for the child. The guardian should investigate the circumstances of the natural parents, the genuineness of their consent, and any circumstances dealing with dispensation of required consent. The guardian should make a written report to the court.

Because the Justice Scholl recommended role of a guardian overlapped with the role of the previously legislated Guardian ad Litem, the recommendation of an independent body failed to come about.



Unfortunately the guardian ad Litem only reported on adopter's suitability and because he was recommended by the adopters this created a conflict of interest and once again placed the needs of adopters above the needs of the child.

If people whose consent was needed were unable to appear in court, the Public trustee should be served with notice of proceedings and represent them. No consent should be signed under six weeks after the birth of the child.

*The chief Justice Sir Edmund Herring expressed the hope that adoption procedures would be changed if that were necessary to prevent such a terrible thing happening again (The Age June 1955)*

To-date this has not happened and this is one of the reasons we are arguing for an independent body to be present to ensure a proper consent is taken.

*Children were often placed out as foster children and later adopted. The thirty day period gave the adopting couple some certainty and overcame problems such as that revealed by the Murray v Mace case, especially as fostering could occur for sometime before the administrative work was completed to formalize an adoption (Dr Brian Littlechild Williams Story National achieved forced adoption project)*

Justice Scholl cited the British policy and proposed that a mother be in court to give final consent akin to Britain and to prevent a similar tragedy occurring or if a mother was unable to attend, that the public trustee be served with notice of proceedings and represent the Mother and thus ensure the genuineness that a proper consent. When it was proposed that any consent was dispensed with, a summons and a written statement of the grounds should be served on the attorney General for investigation.

*see Murray V Mace case and Anderson versus Cole- Sinclair)*

*Mace V Murray Case*



DAY, MARCH 12, 1955

# "MOTHER LOVE NOT NONSENSE" — JUDGE Grave Injustice Found; New Trial Ordered

Three Supreme Court judges yesterday strongly criticised a psychologist who had said "mother love is nonsense."

In the State Full Court the three judges upset a decision in which Mr. Justice Dean had refused to rescind an adoption order after hearing evidence which included that of the psychologist.

A rehearing before another judge next month was ordered.

Declaring that a grave injustice had occurred, the Chief Justice (Sir Edmund Herring) expressed the hope that adoption procedures would be changed if that were necessary to prevent such a "terrible thing" happening again.

Revision of the law was also advocated by Mr. Justice Sholl, who said the consequences of the case were startling.

In the case, Mrs. Daphne Lillian May Anderson, 38, of Sudan Street, Footscray, is seeking rescission of the adoption of her child Susan, 5.

Mr. and Mrs. Ronald Thomas Cole-Sinclair, of Moore Street, South Yarra, obtained an order to adopt Susan in December 1953 while Mrs. Anderson was in Sunbury Mental Hospital.

After her discharge in June last year, she found

where Susan was and obtained the help of the Attorney-General in taking legal action to rescind the adoption order. She did not consent to the adoption at any time.

Judge Dethridge, in the County Court, granted the adoption and dispensed with the need for consent as he was told Mrs. Anderson was likely to remain in the mental hospital for an indefinite period and her chance of recovery was slight.

Mr. Justice Dean, after a hearing last December, rejected the Attorney-General's application for rescission on Mrs. Anderson's behalf.

Mrs. Anderson appealed from that decision to the State Full Court, which yesterday gave a reserved judgment.

Sir Edmund Herring said Mrs. Anderson had always been a devoted mother who had cared for Susan for the child's first three years and a half and only ceased to

do so when she was taken to a mental hospital.

When Judge Dethridge made the adoption order the need to bring the application to Mrs. Anderson's attention or to appoint some suitable person to take care of her interests did not seem to have occurred to anyone.

Judge Dethridge had never been told the history of Mrs. Anderson's mental trouble or that she was devoted to Susan and had cared for her until only five months before the adoption application.

After he had read the affidavit of Mrs. Anderson's former husband, who was interested in having the child adopted, he might well have assumed that the child had from birth been in the care of relatives other than her mother.

[George Arthur Anderson married Mrs. Anderson in 1938 and divorced her in 1951 on the ground of adultery. Mrs. Anderson, in evidence during the case, said he was not Susan's father.]



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## 'Terrible Thing to Happen'

Sir Edmund Herring said there had been grave injustice because the adoption proceedings went on without Mrs. Anderson or someone on her behalf having the opportunity to be heard.

"It is terrible to think such a thing could happen in our community," he said.

"I only hope nothing of that sort will ever occur again.

"If some change of procedure is needed to stop such a thing happening again, I hope that change will be made without delay."

His Honor said the discretion given to the Supreme Court to vary or discharge an adoption order was limited by a provision that the court must be satisfied that such action would be for the welfare of the infant.

When Mr. Justice Dean heard the case he treated the limitation as if it reduced to nothing his discretion and dealt with the case as though it were a contest between parties.

By this he put a substantial onus on Mrs. Anderson to show the child would be

in a better situation if it were returned to her than if left with the Cole-Sinclair.

"In adoptions, courts do not think of mere custody or a child's immediate future, but of whether it is for the child's welfare that it cease forever to be the child of its natural parents," His Honor said.

"The love of a mother for her child has been recognised at least from the days of Solomon as one of the strongest of all human instincts."

"Ordinarily it can be relied on to endure throughout, whatever happens.

"The policy of Parliament in its laws on adoption seems to follow this view.

"The whole foundation on which the adoption order was made in this case disappeared as circumstances developed, and it became apparent it should never have been made.

"I can find no compelling reason for deciding the welfare of Susan will not be best served by re-establishing her relationship with her mother.

"Mrs. Anderson's adultery

with Susan's father happened six years ago, and there is no suggestion she has not behaved with complete propriety since.

"Mr. Justice Dean treated the relationship of a natural mother and child as of no importance and as having no bearing on the welfare of the child.

In his evidence to Mr. Justice Dean, the psychologist, Peter Montgomery Whyte, of Devon Strat, Heidelberg, said mother-love was nonsense and the mother-child relationship was simply one between adult and child.

"With these conclusions I am unable to agree.

"Whyte's statement that mother-love is nonsense is so much at variance with the universal experience of mankind and the views expressed in the courts for many years that I consider it no more worthy of acting on than a statement that two and two make five."

Mr. Justice Martin said he found it surprising that Whyte had given evidence that mother-love was nonsense.

## Child Law Needs Revision

Mr. Justice Sholl said he had misgivings about the secrecy with which courts generally surrounded adoption proceedings. He did not know whether these were necessary or wise.

To prevent the possibility of such startling conse-

The guardian should investigate the circumstances of natural parents, the genuineness of their consent and any circumstances dealing with any dispensation of required consent.

The guardian should make a written report to the court,

Criticising the evidence of Whyte, Mr. Justice Sholl said: "It simply cannot be correct to assert that a child, least of all a girl, when it reaches an age where it understands human reproductive processes, can regard in an identical way its natural





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To prevent the possibility of such startling consequences as had occurred in the present case both the Adoption of Children Act and the court rules about adoption needed careful revision.

He suggested courts or authorities should appoint an independent guardian for a child it was proposed to adopt.

The guardian should investigate the circumstances of natural parents, the genuineness of their consent and any circumstances dealing with any dispensation of required consent.

The guardian should make a written report to the court, and natural parents or anybody else whose consent was required should either have to appear in court to give it or give a properly attested consent in writing.

If people whose consent was needed were unable to appear in court the Public Trustee should be served with notice of the proceedings and represent them.

When it was proposed that any consent be dispensed with, the summons and a written statement of the grounds should be served on the Attorney-General for investigation.

Mr. Justice Sholl said that in England the mother of an infant had to attend court in person to give consent or give consent in writing signed not less than six weeks after the birth of her child.

"Such a wise provision might well be adopted here, and if it had been in operation would have prevented such painful and unfortunate litigation as has been a good deal before Australian courts in recent years," he said.

Mr. Justice Sholl said the unfortunate pressure of work which often required a judge to deal with a dozen adoption cases in an hour before starting his ordinary court was against full and careful investigation.

Criticising the evidence of Whyte, Mr. Justice Sholl said: "It simply cannot be correct to assert that a child, least of all a girl, when it reaches an age where it understands human reproductive processes, can regard in an identical way its natural mother or a foster mother."

Mr. H. D. Wiseman (by the Public Solicitors) for Mrs. Anderson; Mr. W. O. Harris (by Lawrence and Warne), for the Cole-Sinclair; the Solicitor-General (Mr. H. A. Winneke, Q.C.), and Mr. M. Bradshaw (by the Crown Solicitor) for the Attorney-General.

## MAIL TIMES

**OVERSEAS.** — Mail closes at Elizabeth Street at the following times (Spencer Street 15 minutes later).

### BY SEA.

United Kingdom.—Himalaya, 22, 1.45 p.m.  
 India and America.—Orion, 23, 1.45 p.m.  
 F. Malaya.—Maetsuycker, 16, 1.45 p.m.  
 Malta.—Su., 3 p.m.; noon.

### BY AIR.

and O.A.) M., F., (parcels) M., F.,  
 — (South Is.) 8 a.m., 8 p.m.;  
 a.m. (North Auck.); M., W., F., 8 a.m., 3 a.m.  
 week, 7th, 9 p.m.;  
 Sa., 11

## 'Retail Prices Won't Spiral'

The secretary of the Victorian Retail Trades' Association (Mr. W. Johnson) is of the opinion that retail prices will remain stable in the future although port restrictions and an inflationary

Mr. Johnson said that inflationary tendencies were not present in British prices. He pointed out that the United States had effectively controlled inflation and would have similar repercussions on Australian retail prices.

"We do not expect a major rise in prices next year," Mr. Johnson said. "Any rise made by these firms will be the cost of the



CHILDREN NEED MORE PROTECTION

CLOSING LOOPHOLES IN STATE ADOPTION LAWS

MANY homeless children in Victoria are spending unnecessary years in institutions while married couples anxiously and despairingly seek children to adopt.

This is the considered view of many social workers engaged on the problem of adoption. They believe that improvements in the law could help to remedy this social ill.

RECENT law suits have shown the legal pitfalls awaiting people who seek to give a new life to an unwanted child. But they have not scared childless couples away. Babies are still enjoying a "seller's market."

There are waiting lists today at hospitals, orphanages and babies' homes. Some of the names on them have been there for years. And more than 1000 children are being legally adopted in Victoria annually.

The worst weaknesses in the law were remedied by the amendment of the Adoption of Children Act which was passed by the last State Parliament. Under the new legislation it is unlikely that there will ever in Victoria be another protracted legal battle like the Mace-Murray case.

This is because the new act gives a mother 30 days to retract her consent to

not appear until March 23.

Adopting parents have felt alarm about one anomaly which cropped up under the new act and threatened the validity of many adoptions—probably more than 100.

Adoptions between these two dates are valid unless they are challenged. Whether they could be upheld is a matter for the jurists.

It may be possible for the State Government to put them beyond doubt by a validating act.



THE new law has made other changes in the practice of adoption, mostly to protect the child. But there are a few points it has overlooked.

One of these was mentioned by Mr. Justice Martin in his judgment in the case of Anderson v. Cole-Sinclair.

In the Victorian act, he pointed out, there is no

but a difficult attempt to find a compromise in a situation which presents an innate conflict.

When the mother is unmarried and has no secure future, she is often willing to pass her child over to married people who can guarantee it a good home.

But she seldom does so with an unmixt feeling of relief, and the courts have paid much attention to the natural feelings of the mother for her child.

The law is clear enough: that the court must be satisfied that its decision shall be for the welfare of the child.

In cases of infants of a few days or weeks, social workers who have seen thousands of these cases do not seem to be so deeply impressed as judges by the bond between mother and child. They think first of the infant's security.



THERE is another flaw in our adoption practice, and it is a difficult one to eradicate.

Before a child is legally adopted, the court must be satisfied that it is going to a good home, and a guardian is appointed to satisfy himself and the judge that there is no mistake about it.

But many children are not legally adopted. They are boarded out, or they are simply left with neighbors.

The law requires people who accept children as boarders for profit to register them so that their conditions of living can be inspected. They usually do.

But children "parked" on a neighbor, and then abandoned there, often escape notice for years. There is a provision about notifying the Children's Welfare department of children left in "entire custody," but it is often overlooked through sheer ignorance.

Nobody knows what happens to many of these children. I have heard of one case where a child was left with neighbors while his mother went to work.

One day she did not return, and the neighbors are happy to look after the child. But, before they could adopt him they would have to work their way through complicated legal proceedings. One day the mother might come back and claim him.

There are worse cases than this, cases where the



THE BOY in the bubble bath is one of in a Melbourne home which has a long list of people wanting to adopt him. . . . adoption could be made easier and certain by amendment of the law.

child may well be neglected and suffering.

The situation might be improved by tightening up the law, but this cannot be effective unless the child's foster-parents know the law. Many of them do not.

A hospital almoner with wide experience of these cases put it to me simply. "This is a case which should concern us all," she said. "I cannot tell you the answer to the problem, but laws are only as good as the people who police them."

"These cases must be light sooner or when the children are sent to school. If the Children's Welfare department had enough staff they would all be out sooner or later."

This is one of the Government's staffed and undermanned departments.

It has been a criticism of the State service long. We need to cover every case, and also need officers that they are enfor

By GEOFFREY HUTTON

the adoption of her child.

It is a risk the adopting parents must take, and if at the end of a month the mother has not changed her mind, she will have little chance of regaining her child if her consent was freely given in the first place.

There were good reasons for this amendment. Many unmarried mothers agree to the adoption of their children within a week of birth—before they leave the maternity hospital.

It would be hard, and perhaps unreasonable, to expect a mother to be in a balanced and calculating frame of mind at such a time.

Two or three weeks later she may feel differently; under the act today she has the opportunity to say no.



WHEN the new form of consent was made law the act required that the mother's consent should be made in a "prescribed form." The act became law on February 1, but through an oversight the form did

provision, as there is in the United Kingdom act, enabling the court to make an adoption order when the consent of the parent is "unreasonably withheld."

This means, in his words, that "if an unnatural mother is cruel to, or neglectful of the child there is no remedy under this act, if she refuses her consent to the child being adopted."

This failure has gravely worried many social bodies which work in the field, and not only help the State to carry out its duties, but also advise it on improvements in the law.

It is possible to seek a court order of adoption for a child which has been abandoned by its parents, but there are many cases in which the child's well-being is not properly safeguarded by the law.

Welfare workers tell me that this weakness in the law does in fact mean that many children of irresponsible parents who still contribute to their children's upkeep are being deprived of the benefits of good homes and a fair chance in life.

We must not blame too much on the law, because adoption is seldom a simple matter of right and wrong.

● The official opening of the new B... place tomorrow and first trams in day. In other countries, too . . . .

BETTER TRAM WORLD C...

IT is thought because tramways in exist, so it must be all over the world

APART FROM THE FACT...



#### Attachment LR 9

Australian Adoptee Rights Action Group Petition

[https://www.change.org/p/australian-adoptee-rights-action-group-we-demand-our-original-and-true-birth-certificates-as-our-identities-not-false-ones?recruiter=55889326&utm\\_source=share\\_petition&utm\\_medium=twitter&utm\\_campaign=share\\_twitter\\_responsive&rp\\_sharecordion\\_checklist=control](https://www.change.org/p/australian-adoptee-rights-action-group-we-demand-our-original-and-true-birth-certificates-as-our-identities-not-false-ones?recruiter=55889326&utm_source=share_petition&utm_medium=twitter&utm_campaign=share_twitter_responsive&rp_sharecordion_checklist=control)

#### Attachment LR 10

Paul Sunderland Adoption and addiction

<https://vimeo.com/18744320>

#### Attachment 11

Precedents that show other countries do not sever the legal rights of the child from connection to their natural family

**Islamic rules emphasize to the adoptive family that they are not taking the place of the biological family — they are trustees and caretakers of someone else’s child. Their role is very clearly defined, but nevertheless very valued and important.**

**An adopted child retains his or her own biological family name (surname) and does not change his or her name to match that of the adoptive family.**

Sauce <https://adoptionland.org/p/adopting-a-child-in-islam/>

Thailand

France

Ethiopia

All which have adoption legislation that enables retaining the legal recognition of the family of origin whilst creating a new relationship with adoptive family. Such adoptions are called simple adoptions. Ethiopian adoption legislation states,

Addis Ababa 4th Day of July, 2000 Chapter 10

Article.181. — (2) Effects.

Without prejudice to the provisions of Article 182, an adopted child shall, for all purposes, be deemed to be the child of the adopter.



Article. 183. — Relationship of the Adopted Child with the Family of Origin.

- 1) The adopted child shall retain his bonds with the family of origin.
  - 2) The same shall apply to the spouse and the descendants of the adopted child
- Federal. Negarit Gazette of the Federal Democratic Republic of Ethiopia The Revised Family Code

. <http://www.refworld.org/pdfid/4c0ccc052.pdf>

Simple adoption (French: adoption simple) is a type of adoption which allows some of the legal bonds between an adopted child and his or her family to remain. It is formalized under articles 343 and following of the French Civil Code.

Simple adoption is less restrictive in its requirements and less radical in effects than plenary adoption.

**Adoption Origins Victoria Inc is not suggesting that the Victorian Adoption act become a mimic of the above policies but to recognise that there are precedents where the child's rights to maintain its identity along with legal connection to its birthright not merely knowledge of family extended family and heritage**





You never change things  
by fighting the existing reality,  
to change something,  
build a new model that makes  
the existing model obsolete.  
R. Buckminster Fuller