

## *Adoption in Australia*

### *Introduction*

Arrangements for the care of children which are similar to what we now know as adoption have existed in many countries for hundreds of years. In the twentieth century, in countries like Australia, adoption was formalised into a legal and permanent transfer of a child from one family to another. In the twenty-first century, however, many Australians are proud of the fact that Australia now has significantly lower rates of adoption, both local and international, than countries such as the United States and the United Kingdom. We see this as an important indicator of social progress.

Until the third quarter of the twentieth century, single parenthood in Australia was socially shameful for both parents and children. Vulnerable parents, who were usually unmarried mothers, were not considered to be competent enough to raise their children. Those children were often transferred, through adoption, to the care of supposedly more competent parents, who were usually childless, infertile and relatively affluent couples, who had society's approval, because they were married.

Unsupported mothers were rendered powerless owing to the shame and blame inflicted on them by the rigid social expectations of the times. Government financial support was practically non-existent, as was childcare. Adoption was encouraged as being in the best interests of everyone, especially the children. At that time, adoption in Australia was about affluence versus poverty, competence versus incompetence and power versus powerlessness.

The number of adoptions in the twentieth century in Australia rose steadily and were at their highest in the 1960s and early 1970s. Numbers began to reduce in 1972. In 1973, two important events occurred. The National Council for the Single Mother and Her Child was established and the Federal Government made a Widow's Pension available to single mothers, regardless of whether or not they had ever been married. From that time forward, the number of adoptions taking place in Australia reduced rapidly and this type of discrimination against unmarried mothers came to an end. Now all parents in Australia are treated equally in terms of entitlement to federal government payments.

In 1971, in the state of South Australia, there were almost one thousand local adoptions. By 2010, only two Australian-born children were adopted in South Australia by strangers. Those children were adopted only after all efforts to keep them with their mothers and/or fathers had failed. This trend is evident throughout the country.

### *The Adoption Act, 1988*

When so many adoptions took place in Australia in the 1960s, there was no reliable research available to indicate the long term negative outcomes on parents and children of adoption separation. Mothers who lost children to adoption were told to put the experience behind them and pretend that it had never happened, while those who were adopted were encouraged to be grateful for their adoption, because it had rescued them from a life of disadvantage. However, in the 1980s, the children adopted in the 1960s were reaching adulthood and certain academics began to show an interest in researching the long term outcomes of adoption separation. It became apparent from this research that the emotional impact of being separated from family members by adoption could, in fact, be deep and long-lasting.

In 1982, in Adelaide, South Australia, a conference was organised by the National Council for the Single Mother and Her Child. Many mothers who had lost children through adoption attended this conference and subsequently formed support organisations. As a result of pressure from adoption support groups, adopted people in Australia first gained access to

their original birth certificates in the state of Victoria in 1984. After this took place, adoption support groups in South Australia worked together to persuade the government to change adoption legislation there.

The South Australian *Adoption Act, 1988* addressed two main aspects of adoption. It dealt with the policies and practices around the adoption of children and the way in which the release of adoption information should be managed, once adopted children reach adulthood. Politicians were persuaded by the powerful combination of both the academic research which had been conducted and the personal submissions they had received, often via support groups. By passing this act, they acknowledged that the previous arrangements were not in the best interests of those involved and that change was needed.

One of the aims of the *Adoption Act 1988* is to protect parents from being coerced, in the way that many were in the past, into agreeing to the adoption of their children, or having their children illegally taken from them. It is also designed to protect the children from being unnecessarily removed from their families in the way that many were in the middle of the twentieth century. By allowing access to adoption information, the act also assists those already separated by adoption to repair the emotional damage that they have experienced. Similar policies and practices apply in other states in Australia.

### ***Managing the adoption of children***

Under current policy and practice in South Australia, a mother and a child constitute a family and children are no longer classified as either 'legitimate' or 'illegitimate'. Expectant mothers, therefore, regardless of their circumstances, are generally encouraged and supported to prepare for raising their children. After the birth, a Parenting Payment is available from the Federal Government to any parent who is a permanent resident of Australia and who has custody of their child, regardless of their gender or marital status. This payment, which is means-tested, has been available since 1973 and represents an acknowledgement by the Australian government that children are the basis of a country's future. The government, therefore, makes financial support available to parents to assist them to provide for their children. If a child is being raised by one parent, then the other parent, whether male or female, is expected to make an appropriate financial contribution.

A mother who is considering adoption will always be asked to name the child's father and attempts will be made to include him in the decision-making process. If the father is named on the birth certificate, or if a man is recognised by the court as being the father of a child, then his consent is necessary before that child can be adopted. The father will be allowed time to establish paternity. If the father wishes to raise the child, he has the right to do so. If the mother and father do not agree with regard to the child's future, the matter may be decided by the Family Court. This would happen before any consent to adoption had been completed.

There are no commercially-based or religiously-based adoption agencies in South Australia. Private adoptions are illegal and all domestic adoptions are enacted by the appropriate State Government department. Legislation exists in all states and territories of Australia to ensure that vulnerable families are protected from exploitation. Such legislation is, of course, designed to address the best interests of children. In South Australia, for example, consent to adoption cannot be given until the child is at least fourteen days old, counselling after the birth is compulsory and it must be completed at least three days prior to consent being given. At that time, the mother of the child must also be given information in writing regarding the consequences of the adoption. After the consent has been signed, there is a minimum period of twenty-five days during which the consent may be revoked. This period can be extended by up to fourteen days, but it cannot be shortened.

In practice, the consent to adoption is sometimes not finalised until several months after the birth, as it is felt to be of prime importance that children have every opportunity to be raised within their families of origin. This can prevent the long term complexities in the lives of those children and their parents, which could occur if an adoption took place. During this period the child may remain with the mother and/or father. Situations in which children are adopted without the consent of their parents are extremely rare.

In South Australia there is no contact of any kind between expectant mothers and prospective adopters. It is not until the revocation period has expired that the government department involved selects adopters for the child. Prospective adopters, therefore, do not have any contact at all with the child until that time. After this decision has been made, a meeting may take place between the prospective adopters who have been selected and the mother, but only if the mother requests such a meeting.

If the adopters are willing and the original parents agree, they can have their names added to the child's original birth certificate instead of having a new one issued. This means that, after the adoption, the names of both the original parents and the adoptive parents appear on the same document, which is the child's legal birth certificate. The mother of the child has access to the original birth certificate from the time that the birth is registered. The father also has access if his name appears on the birth certificate.

Over the last forty years in Australia, mothers have been given more opportunities, whether they are married or not, to raise their children. At the same time, adoption has gradually been replaced by other, more honest and child-centred means of providing appropriate care for children who are genuinely at risk.

### ***Access to adoption information***

With the passing of the *Adoption Act 1988*, South Australia became the first state in Australia and, I believe, in the world, to grant equal rights to access identifying information to adults who were adopted as children and to their mothers and, in certain circumstances, other family members. Most other states in Australia have since followed the example of South Australia.

Prior to the passing of this act, identifying information about those involved in adoptions was not readily available, as it was considered to be appropriate to keep that information locked away, so that both the child and the original mother were able to make a 'fresh start'. In this way, it was felt that everyone involved could be protected from any social stigma associated with adoption.

Since 1988, adults who were adopted as children in South Australia have had a legal right to obtain their original birth certificates and other documentation pertaining to their adoption, when they are eighteen years old. The original birth certificate has details of their original parents, including their names and addresses at the time of the adoption. They may have access prior to the age of eighteen with the consent of both their adoptive parents and their original parents.

The original mother of the adopted child also has a legal right to obtain the replacement birth certificate when the adopted child becomes an adult, at the age of eighteen years. This document has details of the child's adopted name, the names of the adoptive parents and their address at the time of the adoption.

These documents are also available to any other children of the original mother, either if the mother gives permission or after her death and to the children of an adopted adult, if the adopted adult gives permission or after their death. Fathers also have the right to access information about their children under certain circumstances.

With the passing of the *Adoption Act 1988* in South Australia, it was clear that the government acknowledged that mothers and children who had experienced adoption

separation could benefit from having access to information about each other. This information can be used to achieve a reunion of family members, which can play a vital part in the post-adoption grieving process.

### ***Disenfranchised grief and adoption***

I believe that the grief which follows adoption separation is disenfranchised ie it is connected to a loss which is not socially supported, publicly mourned or openly acknowledged. When a bereavement takes place, for example, the community gathers around the bereaved to comfort and support them, there are rituals to assist them through the grieving process and it is expected that they will mourn.

When a child is taken from a mother to be adopted, there is often an element of shame involved and so the experience may take place in secret. Because of this, there is seldom any public acknowledgement or social support for the mother and so there may be no opportunity for her to express her grief. Instead, there may be efforts to convince her that the loss of her child is a positive experience and in the child's best interests. Her grief at that loss, therefore, may be suppressed, as she may be convinced by others that mourning is not appropriate.

In many cases, adopted children are expected to feel grateful for the life that has been provided for them in the adoptive family. This means that their grief at the loss of their mothers, fathers and extended family members is also not acknowledged or supported. For those who have been adopted into a different culture or country from the one to which they are connected by birth, there are the additional losses of language and cultural connections.

In other loss situations in life, grieving is seen as a positive, productive process, which allows those who have suffered a loss to accommodate that loss into their lives and find a place for it. Because the grief following adoption separation is often suppressed and denied, however, it frequently has long term negative outcomes for those affected.

It is my view that it is always beneficial to acknowledge and confront that buried grief, even though this may occur many years after the adoption took place. Post-adoption grief counselling can assist in addressing this grief and accommodating it into one's life. The grief can then be experienced, which allows the griever to move forward with more confidence and inner peace. I believe that the desire for reunion is a desire to experience the grieving process which was denied earlier in life, because the losses associated with adoption separation have not been recognised or addressed.

Few people have recognised the connection between grieving and reunion. This has meant that the grief which so often accompanies reunion between family members separated by adoption has been an unwelcome and mysterious component of the reunion experience in many cases. Anger and sadness are common emotions at the time of reunion, for example, but they may not be recognised as part of a grieving process. Those who have already explored and experienced their grief, however, will be better prepared, if a reunion does occur, to deal with the issues that arise. Even if a reunion does not occur, there are still benefits in taking steps to manage adoption separation grief.

The loss and grief associated with adoption separation have been acknowledged in Australia by changes in legislation to allow access to information and also by the fact that state governments have provided funding for services specifically designed to address these issues. In South Australia there is a state-funded Post Adoption Support Service, which provides specific counselling, support and education around post-adoption issues. There are similar services in other states. These services also provide support around the reunion process and assistance in managing adoption loss. This is an acknowledgement on the part of the state governments that the grief associated with adoption loss is unlike other grieving

experiences and requires specialised assistance. Those who experience adoption separation may find themselves accessing these services at various points throughout their lives.

### ***The Children's Protection Act, 1993***

The period between 1973 and the current time is one of considerable social change with regard to women in Australia. Access to contraception, abortion and federal government financial support, as well as access to equal pay and employment opportunities, have empowered women and given them more freedom of choice. We have also come to realise that motherhood is to be respected and that women should not be discriminated against because of their marital status. Legally there is no difference between an unmarried and a married mother in Australia, with regard to access to assistance with raising children. There is also no distinction between a child born to married parents and a child born to unmarried parents. All children are treated equally.

These social changes have had an enormous impact on attitudes to adoption and have created a society which supports family preservation. Adoption is now seen as an extreme form of family disruption, involving not only physical but also legal separation from one's family of origin. As the number of adoptions has reduced so markedly, it is clear that, given a genuine choice, the vast majority of mothers will choose to raise their children and not to be separated from them.

Because of the social changes which had occurred and the changed attitudes to the place of women in contemporary society, those in authority were more open to re-examining whether or not adoption was, in fact, an appropriate outcome for families in difficulties. With the passing of the *Children's Protection Act 1993*, the South Australian government made it clear that they were willing to put resources into family preservation and into creating alternative options for children at risk, which would be genuinely child-centred. Through this piece of legislation, the government has made it clear that children should not be treated as a commodity to be exchanged arbitrarily; they have rights which must be protected by law. Because children are vulnerable, the policies which provide care and protection for them must be honest, ethical and truly child-centred.

Since that time, much progress has been made in this area and the number of adoptions in South Australia has reduced steadily. Child protection, however, will always be a complex issue and is an area that requires constant scrutiny to ensure that children's best interests are being served.

### ***Alternative care for children at risk***

Children for whom it is considered to be unsafe to live with their families of origin are cared for in Australia and not sent to live in other countries. Children at risk of neglect or abuse can be removed from their families and cared for in a different environment, under a permanent guardianship order. This is an arrangement which accepts and honours the reality of the child's identity and their existing relationships, allowing them to heal and recover without involving them in the pretence and denial associated with adoption.

Under a permanent guardianship order, the guardians have all the rights and responsibilities of parents, but the children retain their original identities and their original birth certificates. They also maintain all their legal relationships within their families of origin. This means that there is no need for the creation of a new, false identity and no need for the children to sever relationships with all members of their original families such as siblings, cousins and grandparents. There are significant advantages to children who are considered to be unsafe living in their families of origin to be cared for in this way. It is truly

a child-focussed option and respects the importance of heritage and genealogical continuity and the intrinsic value of identity and family membership.

### *Apologies*

In the early part of the twentieth century and especially after the Second World War, children who had been in institutional care in Britain were brought out to Australia to live, under Child Migrant Schemes. Some of those children were placed with families and some were placed in institutions. This occurred because those children had been separated from their parents and were therefore vulnerable and unprotected. Child Migrant Schemes ended in 1967.

Under government assimilation policies, many Aboriginal Australian children were removed from their families, especially in the earlier part of the twentieth century. Some were raised in institutions and some were adopted or fostered into non-Aboriginal families. Those children were vulnerable because they were Aboriginal. This practice continued until approximately 1970, creating what became known as the Stolen Generations.

Some children in Australia who were removed from their families because of child protection issues were cared for in institutions. This occurred because they were considered to be at risk if they remained with their parents. Many of those children were mistreated and unnecessarily separated from family members and are now known as the Forgotten Australians. This practice also ceased towards the end of the twentieth century. We have since created more child-centred options for children at risk and more support for families experiencing difficulties.

The outcome of all of these major family separation experiences has been long term grief and loss. These losses have been acknowledged by Federal Government apologies in the twenty-first century to the British Child Migrants, the Forgotten Australians and to the Stolen Generations. Apologies have been considered to be appropriate, because these practices were considered not to have been in the best interests of the children and families involved. The fact that government apologies have been made is an indication that the values which underpinned the actions of those responsible for these family separations, which occurred in the last century, are not considered to be acceptable today.

Loss and grief are both personal and communal. For each of the children involved in these family separations, many others are also affected and these events have had a significant impact on Australia as a nation. The outcomes of these past policies have been documented and made public, through government enquiries, leading to the Federal Government apologies.

Nothing that is said now can change what happened in the past, but these apologies have not only drawn the attention of both the nation and the world to the issues involved, but are also an acknowledgement on the part of the government that past policies and practices were harmful and inappropriate.

### *The adoption apology*

On the 19<sup>th</sup> of October, 2010, the Premier of Western Australia presented a motion to the Western Australian parliament to apologise sincerely and unequivocally to those who had been adversely affected by past adoption policies and practices, which had not struck a balance between caring for the well-being of the mother and the well-being of the child. He acknowledged that some of the processes involved in past adoptions, especially between the 1940s and the 1980s, such as removing babies from their mothers after birth, had caused long term anguish and suffering and that the government was responsible for allowing this to

happen. He mentioned the fact that many unmarried mothers were pressured into agreeing to adoption, at a time when they were emotionally vulnerable and that the events surrounding the births of their children had lasting consequences for them and their families. The Premier said that for some mothers this had resulted in a deep and profound sadness and that some had been severely scarred for decades to come. He apologised unreservedly on behalf of the government to the mothers, the children and their respective extended families, whose interests were not best served by such policies and practices.

The Premier pointed out that these policies and practices occurred under past governments and that they were wrong. He applauded mothers who had lost children through adoption for being survivors and for having the courage to persist with their cause until this apology took place. He acknowledged that an apology cannot repair the damage, but hoped that it would assist in the healing process and offered the compassion and recognition of the Parliament.

The Premier also talked about those who were adopted and explained that their mothers did not cast them aside thoughtlessly, but cared deeply about their well-being. He acknowledged that many unmarried mothers in the twentieth century acted in ignorance of the consequences and so did not give informed consents to adoption. The motion was passed unanimously.

I believe that this was the first apology of its kind anywhere in the world and that it is the start of a widespread acknowledgement of the emotional impact of past adoption policies and practices. Although attitudes to motherhood and adoption have changed enormously in Australia since the period referred to by the Premier, they still persist in some countries, where adoption separation is continuing to cause long term grief and loss to parents and children.

### ***Intercountry adoption***

In the middle of the 20<sup>th</sup> century, unmarried mothers were commonly mistreated and shamed, which resulted for many of them in the loss of their children to adoption. Over time, changes in attitude combined with government financial support meant that, in Australia and some other countries, more children were able to be raised by their parents. In social welfare terms, this was seen as a very positive change.

However, it soon became obvious that there was a noticeable increase in the number of children being adopted into Australia from other countries. This suggests that intercountry adoption, with its inherent risks of cultural colonialism and exploitation and the uneasy relationship between financial donations and adoption arrangements, grew to meet an increasing demand for children on behalf of those who wished to adopt.

Through intercountry adoption, children are being removed from their family, their language, their culture, their community, their homeland and their heritage and scattered throughout the world. This causes pain and suffering to the mothers whose children are being taken from them, to those communities and countries, who are losing their future generations, not to mention the loss and grief experienced by the children themselves. The lifelong issues for those mothers and children who are being separated in this way are of enormous concern.

According to the Hague Convention, intercountry adoption is supposed to be about providing care for children in need. There are, of course, needy children in almost every country in the world. However, children are adopted between poverty-stricken countries and affluent countries, almost exclusively in one direction. On a global scale, it appears that intercountry adoption, in the twenty-first century, is still largely about affluence versus poverty, competence versus incompetence and power versus powerlessness.

In some countries, adoptions take place, not because of poverty, but because pregnancies occur in socially unacceptable situations; for example when children are born to unmarried

mothers. Social attitudes in Australia and other English-speaking countries have changed enormously in the last half-century and they are beginning to change in other countries. By accepting those children for adoption, Australia and other countries are supporting the disempowerment of mothers and colluding in the unnecessary separation of mothers and children.

The time has come for Australia to take a stand and set an example to other nations. There are many Australians who would like to see immediate plans put in place by Australia to end intercountry adoption. By doing so we will be assisting in preserving cultural traditions, encouraging equity and dignity and supporting family preservation. Many Australians would be proud to see Australia deliver an apology for the children who have been adopted into Australia from other countries.

As a society, in which we care about children at risk, we must now insist that our government stop repeating the mistakes of the past. If adoption is now considered not to have been in the best interests of those who are affected by past policies, then there is no justification for continuing to remove children from their parents, families, heritage, culture, language and homeland and allowing them to be adopted into a family, a culture, a language and a country which are all foreign to them, to live with people with whom they share no heritage.

The number of children adopted into Australia from other countries has fallen over the last ten years and it is likely that numbers will continue to fall. No doubt countries such as Australia will eventually abandon the practice of intercountry adoption and replace it with more ethical, child-centred alternatives.

### ***Conclusion***

At the time that the number of adoptions in Australia was at its highest, there was no reliable evidence available of the long term effects on both parents and their children of adoption separation. The legislation which allowed these adoptions to take place, therefore, was necessarily experimental. These policies and practices have changed over time, because we came to understand that they created long term, complex emotional issues for those affected.

It is clear from books written by and about mothers who have lost their children to adoption that many of them have carried their grief buried deeply for many years and that it has had a negative impact on their feelings of self-worth and their relationships with others. It is also clear from those who were adopted that, although many of them were well cared for and loved in their adoptive families and built close relationships there, they have also suffered long term grief and loss issues because they have been separated from their families of origin.

It took many years for the long term impact of adoption to be felt and even longer for those affected to feel comfortable speaking out. When this did occur in Australia, however, appropriate steps were taken to support family preservation and to create more child-focussed outcomes for children who were unable to live safely with their families. Family preservation policies, which encourage and assist parents to raise their children, are taking the place of adoption policies, which have created many family breakdowns. Steps were also taken to assist and support those who were suffering as a result of the loss of family members through adoption.

In Australia we no longer remove Aboriginal children from their families and communities and place them in non-Aboriginal homes and we have apologised for the fact that that did happen on a large scale. We no longer routinely remove new-born babies from unmarried mothers. In South Australia adoptions of locally-born children have reduced in the last forty years from almost one thousand per year to one or two per year.



In twenty-first century Australia, domestic adoption is almost a thing of the past. It is being replaced by truly child-centred alternatives. The Australian community has learned that identity and heritage are important and that we are all, in a sense, 'guardians' of our children until they reach adulthood. If parents feel insecure about their parenting skills or are deemed incompetent in some way, supports are available to assist them to address these issues and overcome the barriers to successful parenting. Only if it is deemed that these barriers to parenting are insurmountable will the child be placed under a guardianship order, which, unlike an adoption, is not based on deceit and fabrication and does not involve a permanent legal separation of a child from his or her family.

I believe that one day we will have progressed to the point where adoption will be completely replaced by more child-focussed outcomes. My aim is to see Australia set an example to the world and put a stop to both local and international adoptions, thereby being part of the solution instead of continuing to contribute to the problem.

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