

**Adopted Persons' Access to and Use of  
their Original Birth Certificates:  
An Analysis of Australian Policy and Legislation.**

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## DECLARATION

I, Miriam Kathleen Mandryk, hereby declare that this thesis hereto presented is my work alone, except where due acknowledgement has been made. In addition, I declare that it has not been submitted previously, in whole or part, to qualify for any other award.

Signed \_\_\_\_\_

dated \_\_\_\_\_

## **ABSTRACT**

This study examines policy and practice in Australia in relation to the access to and use of the original birth certificates of adopted people. The analysis of policies are placed within the historical context of closed adoption practices in Australia and internationally. The framework used for my analysis is that of Bacchi (2009) which worked well to highlight the ways that ‘illegitimacy’ (sic) was a ‘problem’ and the best way to ‘solve’ the said ‘problem’ was to remove children from their mothers to be raised by strangers and then issue the children with new birth certificates. The past was covered up and society pretended that all children were born to married parents. In more recent years adopted people have been able to access their original birth certificates with the opening of adoption registers.

My research consisted of a detailed analysis of Australian policy and legislation. I obtained documents from all States and Territories and then examined them to see how adopted people accessed their original birth certificates and what they could then do with them. I found that the process was complex, costly and time-consuming and they are unable to use their original birth certificates as a legal identity document.

Thus, despite the opening of adoption and birth registers, in my research I found that there is still the need for policy and practice changes. These are discussed and suggestions for improvements are made, including the presentation of two revised versions of birth certificates for adopted people.

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accompanied you to the Registrar General's Office in Sydney, where you made application for your original (pre-adoption) birth certificate. The staff refused to issue you a copy and I remember how hurt you were. It was a few more years before the law in New South Wales would change. We lost contact years ago, but I'm sure by now you have your original birth certificate. I've thought of you often as I worked on my study. Teresa-Roslyn this study is for your and adopted people everywhere. I wish you all the best with your search for your origins.

## LIST OF ABBREVIATIONS

<b>ABS</b>	Australian Bureau of Statistics
<b>ACT</b>	Australian Capital Territory
<b>AFAV</b>	Adoptive Families Association of Victoria
<b>AFIS</b>	Adoption and Family Information Service
<b>AFRS</b>	Adoption and Family Records Service
<b>AIHW</b>	Australian Institute of Health and Welfare
<b>AIS</b>	Adoption Information Service
<b>AMFOR</b>	Americans for Open Records
<b>Arts-Monash</b>	Faculty of Arts, Monash University, Victoria.
<b>BAAF</b>	British Association for Adoption and Fostering
<b>BDM</b>	Registry of Births, Deaths and Marriages
<b>DC</b>	Department of Communities
<b>DCD</b>	Department for Community Development
<b>DDHCS</b>	Department of Disability, Housing and Community Services
<b>DF</b>	Department of Families
<b>DFC</b>	Department of Families and Communities
<b>DHCS</b>	Department of Health and Community Services
<b>DHHS</b>	Department of Health and Human Services
<b>DHS</b>	Department of Human Services
<b>DOCS</b>	Department of Community Services
<b>FIND</b>	Family Information Networks and Discovery
<b>HREOC</b>	Human Rights and Equal Opportunity Commission
<b>IFRS</b>	Information and Family Records Service
<b>LRC</b>	Law Reform Commission

<b>NSW</b>	New South Wales
<b>NT</b>	Northern Territory
<b>RGO</b>	Registrar General's Office
<b>QLD</b>	Queensland
<b>SA</b>	South Australia
<b>TAS</b>	Tasmania
<b>US</b>	United States of America
<b>VIC</b>	Victoria
<b>WA</b>	Western Australia
<b>YACS</b>	Department of Youth and Community Services

## **CHAPTER 1: INTRODUCTION**

### **Background to the Study**

My research is concerned with adoption policy and legislation in Australia specifically in relation to the birth certificates of adopted people. There have been some changes in recent years in all Australian States and Territories allowing adopted people to obtain a copy of their original pre-adoption birth certificate, containing the names of their natural parents. However, when adopted people obtain their original birth certificates, the certificates are marked by the Registrar's Office that they are not to be used for the purposes of identification. The certificates are not a valid legal document. The post-adoption birth certificate (with the names of their adopters) is the one that adopted people must use for identification. Anecdotally, I am aware that some adopted people are upset that they can not 'use' their original birth certificates and declare their natural parents to be their parents. When they get married, for example, they must record their adopters as their parents. Therefore the focus of my research is the changes to legislation and policy in relation to adopted persons' birth certificates in Australia. My research question is how does Australian policy deal with adopted people's access to and use of their original birth certificate?

In this study, I use the term 'adopted people' rather than 'adoptees'. I refer to adoptive parents as 'adopters' since this is the term used in much of the adoption legislation. Finally I have made use of the terms 'natural parents', 'natural mothers' and 'natural fathers', in contrast to the commonly used 'birth' and 'biological' parents. I have done so because as Daryl Higgins (2010) states in his review of the literature the term 'birth mother' has been found to cause much hurt to natural mothers. Also Evelyn Burns-Robinson (2004) (herself a mother who lost her son to adoption) says 'birth mother' makes them sound as though they

are but ‘breeders’ and ‘biological parents’ suggests the child was conceived in a laboratory. I am aware that some adopters may not be happy with the terms I have used. Yet, the focus of my study is adopted people and their access to legal birth certificates that reflects their natural origins.

For the purposes of this study, I suggest that there are four groups of adopted people reflecting the different things that they may want in regards to their birth certificates:

- 1) Some people do not even know they have been adopted (although their adopters ought to have told them, to avoid the shock of learning by accident).
- 2) There are those who are adopted and are satisfied with their birth certificate and their adopters.
- 3) There are those people who are adopted and would want an integrated certificate with the names of both their natural parents and their adopters, feeling that they are part of both families.
- 4) There are adopted people who insist on nothing less than the reinstatement of their original birth registration with the names of their natural parents.

In this study I am concerned with groups 3 and 4.

Despite the fact that relatively few adoptions occur nowadays, there are still thousands of people who have already been adopted and whose lives have been affected. As Higgins (2010) contends in his review of the literature, it is difficult to ascertain precise figures of adoptions as many different figures are quoted by different people. However I provide some figures here to give an idea of the substantial numbers of people whose lives have been affected by adoption and, in particular, by closed-secretive adoptions. The highest number of

adoptions (in fact thousands) occurred during the so called ‘boom years’ of adoption in the 1960s and early 1970s when closed adoptions were practised. For example, in Victoria, there were 2,000 per year during this time (Marburg 1998). Since the beginnings of adoption in Queensland there have been 50,000 adoption orders made, many of which were closed adoptions made between 1968 and 1994 (Gair 2009). There were nearly 10,000 adoptions in 1971-72 in New South Wales (Kelly 2000).

There are many well-documented and unintended consequences of adoption for adopted people. Not being able to use their original pre-adoption birth certificate, is yet another of the ongoing effects of former adoption practices. The United Nations Convention on the Rights of the Child (article 8: part 2) states that ‘Where a child has been illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity’. Because so many of the adoptions that occurred in the 1960s and 1970s were procured by invalid consents and are therefore illegal (Cole 2009; Wellfare 2009), it could be said that adopted people have been illegally deprived of their identities. This therefore lends considerable argument to reinstating their original birth registrations, for those who wish to.

It can be difficult for non-adopted people to understand why adopted people are so obsessed with their genetic origins, since this has never been an issue for them (non-adopted people) and they often take the knowledge of their origins for granted (Ferguson in Burns-Robinson 2004; Samuels 2001; Triseliotis 1973). Forming one’s identity, particularly in the teenage years, is necessary for cultivation of personality. Therefore, it is vital during these years, for a person to know about their past and this includes knowledge of their natural lineage. If one does not know of their family background and ancestry, then an ‘identity crisis’ may well develop. Adopted people can sometimes become preoccupied with their origins, longing to

know where they belong and feeling that part of them is missing (Burns-Robinson 2000 & 2004; First Mothers' Action 2003; Kraus 1982; Latimer 1996; MacRoy & Grotevant 1996; March 1995; Marshall & MacDonald 2001; Müller & Perry 2001; Riley 2009; Sachdev 1984; Samuels 2001; Triseliotis 1984 & 1991; Vickers 2009; Wellbourne 2003; Westwood 1995).

Adopted people may feel the need to search for their 'true' or 'natural' identity, wondering where they came from. One's genetic ancestors are an extension of oneself and many adopted people believe that any sense of belonging and security is based on such genealogical information. Adopted people may lack genealogical continuity and so feel they do not have any heritage to pass on to their own children. Indeed, for countless numbers of adopted people their search for their natural parents and other blood relations is prompted by the birth of their own natural children (Burns-Robinson 2000 & 2004; Ferguson in Burns-Robinson 2000; LRC (NSW) 1999; Marshall & MacDonald 2001; Triseliotis 1973). Adopted people are often said to be suffering from 'genealogical bewilderment'. This term was first used by Wellish in 1952 and was further developed by H.J. Sants in 1964 and refers to the deep anguish felt by people with little or no knowledge of their origins and forebears (Burns-Robinson 2000; Marshall & MacDonald 2001; Riley 2009; Schechter 1960 & Sants 1964 cited in Triseliotis, Feast & Kyle 2005; Sants 1965 cited in Sachdev 1984; Triseliotis 1991).

Substantial numbers of adopted people are receiving psychiatric treatment for depression and anxiety. Some have also had nervous breakdowns and are taking medication (Ferguson in Burns-Robinson 2004; Triseliotis 1973). It is said that many of the people who commit suicide have been adopted (Bellamy 1993 cited in Burns-Robinson 2000; Triseliotis 1973). Many adopted people also experienced feelings of shame, insecurity, isolation, confusion, emptiness, self-hatred and inferiority. Adopted people frequently report how they felt they were 'not real people', that no one could really like them and often wished they had never

been born. They felt they had ‘no true identity’ or ‘no identity at all’, that they were a ‘nobody’ or that they were ‘living a lie’ (Triseliotis 1973). They find it difficult to make friends and mix with people; they have unsatisfactory relationships and feel they could not relate emotionally to people. In addition to this they feel they have never fitted in with their adoptive family and feel they did not really belong anywhere (Marshall & Mac Donald 2001; Triseliotis 1973). They feel rejected and abandoned because they were not raised by their natural parents and were separated from their extended family (Burns-Robinson 2000; Cole 2009; Cuthbert & Spark 2009; Gair 2008 cited in Higgins 2010; MacRoy & Grotevant 1996; March 1995; Riley 2009; Sachdev 1984; Vickers 2009; Wellfare 2009; Westwood 1995).

The majority of identity problems and genealogical bewilderment are solved once adopted people gain access to their original birth certificates and meet with their natural parents and other blood relatives. Meeting with natural family members has helped many people fill in the gaps regarding their identity, and personal and family histories. Most people surveyed as reported here from the literature have had positive experiences of reunion and studies show that natural mothers very much want to meet with their children to see that they are well and to know how they are getting on in life (Burns-Robinson 2004; Cuthbert & Spark 2009; Higgins 2010; Kraus 1982; March 1995; Marshall & MacDonald 2001; Müller & Perry 2001; O’Neill, Ban & Swain 2009; Sachdev 1991; Sachdev 1992 cited in March 1995; Triseliotis 1973, 1984 & 1991; Triseliotis, Feast & Kyle 2005; Wellfare 2009; Westwood 1995).

Adopted people often surmise that they were abandoned and rejected by mothers who did not care about them. However it was the mothers who were rejected because they were not married, as we shall see. Reunion can help their adult child to understand that they were not abandoned and that their mothers did love them and desperately wanted to keep them (Higgins 2010). Learning of the treatment that natural mothers received at the adopted

person's birth and how they were coerced into giving them up, helps the adult child to have a better reunion experience and understand that the adoption was not a slight against them (Higgins 2010).

## **Research Process**

I carried out my research by way of an international literature review, including biographical accounts and existing research that has sought the views of adopted people. I also sourced information and articles from the internet such as that from adopted persons' advocacy websites. I then analysed adoption legislation and policies in all Australian States and Territories to determine what the current situation is in relation to adopted persons' access to and use of their original pre-adoption birth certificates. I obtained these documents from the various child welfare departments and Registrars' offices in all States and Territories, such as the Department of Human Services in Victoria and the Department of Community Services in New South Wales.

My analysis was informed by the writings of Carol Bacchi (2009) and to a lesser extent by the writings of Colebatch (2006) and of MacClelland and Marston (2010). Bacchi's approach to policy is one that is concerned with policy 'problems', how these 'problems' are defined by governments and what effects the policy has on various groups of people. In addition she is concerned as to why governments did not do something different and what aspects of the issue were not considered problematic and so not given any consideration in the policy (Bacchi 2009).

In contrast Colebatch is interested with the professional nature of policy. Many policy-makers are professional people, who are considered to possess the knowledge and expertise necessary to make policy, although many of them actually know very little about the particular issues on which they write their policies. Similarly to Bacchi, Colebatch speaks of how policy makers define problems and how these ‘problems’ are thought of and spoken about. Policies and their description of problems are often used as a form of social control (Colebatch 2006). MacClelland and Marston (2010) employ an eclectic approach to policy by drawing on several different models of policy analysis. However, they are in accord with both Bacchi and Colebatch in relation to the way governments define social problems and implement policy as a form of social control and the potentially harmful impacts it has on people. They agree with Colebatch regarding his concerns with policy and its increasing professionalism.

Each of these theorists concur with the way in which, governments and policy-makers who claim to possess ‘expert knowledge’ use such knowledge to control and direct debates surrounding issues contained in various policies. Therefore, in analysing any policy, all these theorists stress the importance of looking at a particular policy in context. This involves looking at the history of the policy, the issues and any programmes or services that are part of the said policy (Bacchi 2009; Colebatch 2006; MacClelland & Marston 2010).

Using Bacchi’s ‘what’s the problem represented to be’ approach, I can see various ‘problems’ such as: ‘illegitimate children’ (sic); ‘promiscuous single mothers’; and childless married couples. Policies concerned with adoption assisted in enforcing the moral order by punishing so called ‘bad’ single mothers and ‘legitimising’ children, all around the notions of ‘proper’ families and the ‘perfect’ society. Fathers of ex-nuptial children were not considered to be problems. Alternative ways of handling the ‘problem(s)’ (which were not considered by State

Governments at the time), might have included encouraging couples of ex-nuptial children to marry, or providing assistance and other supports to unmarried mothers and/or fathers to help them raise their children. Or alternatively, States could have required single fathers to pay maintenance for their children (many of which have occurred since the 'boom years' of adoption in Australia).

Forms of harm created by the policy include stigmatisation of mothers and children, silencing and exclusion of fathers and long term psychological problems for children and their parents. Adopters have been particularly vigilant to defend the discourse surrounding adoption and the policy itself, due to the stigmatisation the policy also created of their infertility. The so called 'solution' to these 'problems' was to remove the children from their mothers and place them in the care of infertile couples who were unrelated to them. Legal guardianship was bestowed upon the child's adopters and the child was issued with a new birth certificate declaring the adopters to be their parents. In this way others would not know that the adopters were not the child's natural parents. Using Bacchi's analytical method we can see that there were a wide range of strategies to maintain the illusion that children were the natural children of their adopters.

Before proceeding to discuss the international literature concerned with the topic of adopted persons' birth certificates (in chapter 2) and then the analysis of the relevant Australian legislation and policy (in chapter 3), I will briefly provide some background to the concept of adoption.

## **The Concept of Adoption**

I am focusing my study on adoptions of Australian born children of European descent, who were adopted prior to the introduction of open adoption in Australia and during the period from the 1950s to the 1980s. Some of these children have been referred to as the ‘White Stolen Generations’ (Cole 2009; Wellfare 2009). I exclude Indigenous and intercountry adoptions from my study, as well as people born of sperm and egg donors although much of my findings would be relevant to these groups of people also.

For the purpose of my study, when I talk of ‘adoption’, I am referring to the secretive and closed model of adoption, unless otherwise stated. It is the effects of secretive adoption practices on people that I am concerned with. Secretive adoption involves the severing of legal and other relationships between a child and their natural parents. All legal and parental responsibilities for care of the child are transferred to a couple who are often times unrelated to the child. The child’s original birth registration is cancelled and they are issued with a new birth certificate declaring the adopters to be the child’s parents. This is to maintain the illusion that the child was born to the adopters. The natural parents then have no legal right to any contact with or information about the child. The transfer of parentage is permanent and the child’s adoptive status is life long (AIHW 1999; Boss & Edwards 1992; Burns-Robinson 2000; Cuthbert & Spark 2009; Fopp 1979; Gair 2009; Kadushin 1984; MacDonald 1984; Swain 2000; Triseliotis, Shireman & Hundlebury 1997).

The secretive form of adoption, as practised in Australia from the 1950s to 1980s, is known as closed adoption. As I have noted, it was used to cover up illegitimacy and to punish single mothers, by pressuring them to relinquish their children in order to provide children for infertile married couples (Cole 2009; Wellfare 2009). In addition to covering up illegitimate

births, closed adoption also served to protect adopters from being stigmatised by their infertility as well as making them socially acceptable by providing them with a more appropriate family structure (Riley 2009). Closed adoptions assume that, once adopted, a person can no longer inherit from their natural parents, have contact with their natural parents, or obtain their original birth certificate or any other information about their adoption. In some instances people did not even know they had been had adopted. Closed adoptions were practised for much of the twentieth century in many western countries (AIHW 1999; Boss & Edwards 1992; Burns-Robinson 2000; Fopp 1979; Kadushin 1984; Swain 2000).

There are alternatives to closed adoptions, collectively known as open adoptions, in the following forms:

- 1) The same as closed adoption except when the adopted person reaches adulthood they can obtain their original birth certificate and information about their adoption (Burns-Robinson 2000).
- 2) The same as the above, except in addition, the natural parents are able to choose their child's adopters and the child can obtain identifying information upon reaching adulthood. In an Open Adoption Order the natural parents can insist that the adopters be of a particular religion and from a specific ethnic background (Boss & Edwards 1992; Fopp 1979; Triseliotis, Shireman & Hundlebury 1997).
- 3) The same as number 2 except, in addition, the natural parents receive photographs from the adopters and occasional letters and other updates about the child's progress. This can include that the child has a book they keep with them containing information about their original identity, with family trees, photographs and information about their natural parents and why they were adopted (Triseliotis, Shireman & Hundlebury 1997).

- 4) The same as number 3 except, in addition, the natural parents have ongoing contact with the child, such as access visits (Boss & Edwards 1992; O'Neill Ban & Swain 2009; Triseliotis, Shireman & Hundlebury 1997).

Open adoption has some benefits for the child. They can ask questions about their origins and why they were adopted, directly of their natural parents and their adopters. The child is therefore able to gain a clear sense of self and of their identity (Marshall & MacDonald 2001; Triseliotis, Shireman & Hundlebury 1997). According to many people open adoption is still not good enough as the child's name and parentage are changed and they are still issued with a false birth certificate (Burns-Robinson 2000). Other problems include some adopters not allowing natural parents to see the child, or adopters not passing on letters and gifts to the child from their natural parents, when this had been agreed upon as a condition of the adoption. Some adopters will also cease to send photographs and other updates on the child's progress to the natural parents after a period of time (Triseliotis, Shireman & Hundlebury 1997).

There are some alternatives to adoption. Such alternatives consist mostly of Guardianship Orders and these are now used in the majority of Australian States and Territories in place of an Adoption Order (ABS 1999). Guardianship Orders, Permanent Care Orders or Custody Orders, are similar to the fourth type of open adoption, previously mentioned. However the difference is that in this instance the child's name, identity and birth registration remain intact. When the child marries, they record the names of their natural parents as their parents and not those of their adopters. The child also retains the right to inherit from their natural parents. These types of orders are frequently used in Victoria and are becoming more widely used in other States as well (Marburg 1998; O'Neill, Ban & Swain 2009; Triseliotis, Feast & Kyle 2005). Permanent Care Orders are recommended particularly for step-parents and relatives

who wish to adopt (Boss & Edwards 1992; Fopp 1979; O'Neill, Ban & Swain 2009; Swain 2000). Previously when a step-parent adopted their new spouse's child, the couple had to adopt jointly. A Guardianship Order removes the absurd situation of a natural parent adopting their own child (Boss & Edwards 1992).

Kinship adoptions have also been called 'known child adoptions' and 'family adoption'. This provides care for children within their own extended family. This care can be provided by relatives, tribal or clan members (Burdnell-Wilson 1996), although most of the situations involve care by step-parents (Kelly 2000). Guardianship orders and Permanent Care Orders are often used for these types of 'adoptions' or care situations (Boss & Edwards 1992; Kelly 2000; O'Neill, Ban & Swain 2009).

In the past (during the era of closed adoption) grandparents wanted to adopt their daughter's ex-nuptial children, but judges were opposed (Marshall & MacDonald 2001). It was thought it would be confusing for a child if adopted by their maternal grandparents, as this would mean (legally) that the child's mother would become their sister. The concern was that this would distort family relationships, although it did not seem to occur to adoption and legal professionals that adoption by strangers would be the ultimate distortion of family relationships. The 'clean break philosophy' was dominant in the past, but now natural family is recognised as being important to the child. For this reason, Guardianship Orders are mostly used now, so that natural family relationships and the child's identity will be maintained (Boss & Edwards 1992; Kelly 2000; Marshall & MacDonald 2001).

## **Attitudes to Adoptions Cross-Culturally**

Adoption (closed or otherwise) is not practised universally (Asche in Boss & Edwards 1992; Boss & Edwards; 1992; Burns-Robinson 2000). In some societies (such as Australian Aboriginal, Muslim and traditional Irish societies) people would be appalled to think anyone would wish to alter (through legal means) the lineage and parentage of others (Asche in Boss & Edwards 1992; Burns-Robinson 2000; O'Halloran 2004). In these societies any adoption-like arrangements are restricted to blood relatives and children retain their name and knowledge of their parentage (March 1995; Triseliotis, Feast & Kyle 2005).

In traditional Australian Aboriginal societies the child belongs to their tribe and an extended family of aunts and uncles. All members of the tribe and extended family are responsible for one another. If the parents are unable to care for the child because of death or some other reason, then the extended family will care for the child (Asche in Boss & Edwards 1992; HREOC 1999). Traditional Aboriginal law considers western adoption to be completely repugnant to their values and alien to their way of life (Boss & Edwards 1992; HREOC 1999; LRC (NSW) 1999).

In traditional Irish society a child was given their father's name and belonged to their father's clan, whether or not the parents were married to one another. Women also kept their surnames after marriage. If the parents died or were otherwise unable to care for the child, then the child would be taken in and raised by relatives on the father's side (with the same surname as the child and their father) and the child's name would remain the same. The clan was very important and family history continues to be highly valued amongst the Irish people (Curren-Briggs 1982). Any 'adoptions' practised by the ancient Irish were done so in conjunction with the clan system and the traditional Brehon (or ancient Irish laws)

(O'Halloran 1994 & 2009). Modern adoption practices, however, are similar to those of England and Wales, except that adoptions are still of the closed variety and adoption registers remain inaccessible. In recent years mothers have only been able to relinquish children for adoption to a relative, which is a partial return to traditional Irish values (O'Halloran 1994 & 2009).

Islam looks upon the Western concept of adoption as a falsification of a person's identity. Adoption is against the values of Islam as it distorts blood lines and undermines the natural order of society. Islam does not permit parents to renounce responsibilities and ties to their natural child. In the event that a child's parents die or they are unable to live with them, the child will be raised by relatives. Muslims will only assume the guardianship of other Muslims, usually their brothers' or sisters' children. Any child raised apart from their family for whatever reason must retain their full name and respect for their family's surname (O'Halloran 2009). It is important in Muslim society that a child raised apart from their parents must retain respect for their lineage, which can be traced back many generations. Muslim families take great pride in their family history and many of them claim to trace their lineage back to Ishmael or the Prophet Mohammed (Curren-Briggs 1982; O'Halloran 2009).

What this discussion of the concept of adoption illustrates is that adoption, or indeed the care of children who are not raised by their own parents, can be done in a range of ways. The secrecy that typified closed adoptions has caused many problems for adopted people and their natural families. This is particularly the case with the altering of birth certificates which imply that the adopters gave birth to the child and does not acknowledge the natural parents. I now turn to look at the history of adoption and the altering of birth certificates in closed adoptions.

## **CHAPTER 2: LITERATURE REVIEW**

In this chapter I provide a review of the international literature pertaining to adopted people's access to and use of their original birth certificates. First, though, I provide a history of adoption in Australia to provide some context to the current policy situation.

### **History of Adoption in Australia**

Adoption has existed in some form since Greek and Roman times, or even earlier. Adoption in this sense was employed to provide male heirs to inherit a family's property and title. Under such laws however, a child still retained links to their family of origin and were expected to support their natural family if and when called upon to do so (Boss & Edwards 1992; MacDonald 1984). The earliest adoption laws (in an English speaking country) were introduced in the United States (US) in the State of Massachusetts in 1851 (Boss & Edwards 1992; Marshall & MacDonald 2001; Morgan 1998; Samuels 2001). Adoption began in New Zealand in 1881 much earlier than in England, which did not introduce adoption legislation until 1926 (Boss & Edwards 1992; Fokert 2009; MacDonald 1984; Marshall & MacDonald 2001; Morgan 1998; O'Halloran 1994; Triseliotis, Feast & Kyle 2005).

Australia's first adoption laws were based on their American and New Zealand counterparts. Prior to the enactment of adoption legislation in Australia alternative care was provided for children who could not be cared for by their parents, either because of death or poverty (Morgan 1998). Such alternative care was provided within institutions and this was the practice around the country in the nineteenth century. By the 1860s, social reformers became increasingly concerned about the plight of children in these institutions, as they were living

amongst criminals and people with mental illness. A 'boarding out' system was commenced in many States, where children were placed with foster families. These families provided the necessary care and received payment from the State. In addition to fostering, farmers and other families would take children to work as labourers (Fokert 2009; Morgan 1998). The government preferred that children were placed for work, as it meant the State was not required to provide the foster carers with any compensation. These children were referred to as 'adopted' children (although no legal adoption existed at this point in time) and they were only taken in to provide services. In Western Australia in the 1890s, with the discovery of gold at Coolgardie and Kalgoorlie, there was a growing demand for such child labourers. This increased the value of the child's work and foster carers feared possible reclamation of the children by their natural parents. Adoption legislation was introduced at this time in Western Australia because the boarding out system did not provide foster carers with legal custody of the child (Boss & Edwards 1992; Fokert 2009; Marshall & MacDonald 2001).

Legal adoption commenced in Australia in 1896, with Western Australia being the first State to pass such laws with their *Adoption of Children Act 1896* (Boss & Edwards 1992; Fokert 2009; Higgins 2010; Marburg 1998; Marshall & MacDonald 2001; O'Neill, Ban & Swain 2009). It was not until the 1920s that the other Australian States introduced adoption laws, as follows: Tasmania, *Adoption of Children Act 1920*; New South Wales, *Child Welfare Act 1923*; South Australia, *Adoption of Children Act 1925*; Victoria, *Adoption of Children Act 1928*, Queensland, *Adoption of Children Act 1935*, with the adoption acts for the two territories being introduced in the 1930s and 1940s. By the 1920s alternative care for children (as expressed in adoption acts of this period) had come to be regarded as being for sentimental reasons (rather than to provide a family with extra labourers) (Boss & Edwards 1992; Cuthbert & Spark 2009; Fokert 2009; Fopp 1979; Gair 2009; Marshall & MacDonald 2001; O'Neill, Ban & Swain 2009).

When adoption first began in Western Australia in 1896 there was no secrecy or sealing of birth records. Children kept their names and then added the surnames of their adopters and in so doing had doubled-barrelled surnames. Change of name to the adopters' surname first commenced (in Australia) in 1921 in Western Australia and in other States with the introduction of their adoption acts (*Adoption of Children Act 1896*, with 1921 amendments (WA), cited in Arts-Monash 2011; *Adoption of Children Act 1925* (SA) cited in Arts-Monash; *Adoption of Children Act 1928* (VIC)).

In 1926 in Western Australia adopted people were prevented from obtaining their original birth certificate (*Adoption of Children Act 1896*, with 1921 & 1926 amendments (WA), cited in Arts-Monash 2011). This was also the case in Victoria and South Australia (with the commencement of adoption in those States). In South Australia an adopted person could obtain a copy of their original birth certificate once they turned 17 years old, but in Victoria an adopted person required a court order to do so. When a child was adopted their original birth registration in the Register of Births was cancelled and marked 'Adopted'. A new registration was made in the Adopted Children Register. The child was then issued with a new birth certificate in their adopted name, with their adopters listed as the parents. Details to be recorded on the new birth certificate were extracted from the Adopted Children Register (and not the Register of Births), (*Adoption of Children Act 1928* (VIC); *Adoption of Children Act 1925* with Amendment Act no. 2011 of 1931 (SA), cited in Arts-Monash 2011).

Adoption was less popular prior to World War II, as no one particularly wished to raise another couple's 'illegitimate child' (sic). There was concern about the child's 'bad blood' (Kornitzer 1952; Morgan; 1998; Samuels 2002; Triseliotis, Feast & Kyle 2005) and that the child would grow to be as immoral and criminal as their parents were believed to be.

Adoption was also viewed with much suspicion and was seen as an abandonment of parental responsibilities. From the 1940s women's magazines were advocating the desirability of adoption and other discourses at the time led many people to believe that the natural parents did not want their own child. In the 1950s the 'bad blood' theory was discredited, by using various psychological theories to convince potential adopters that the child would copy their values and behaviours, rather than those of the natural parents. The discourse at this time held that blood ties were unimportant (Cole 2009; Higgins 2010; Sachdev 1884; Samuels 2001 & 2002; Triseliotis, Feast & Kyle 2005 Vickers 2009; Wellfare 2009).

Model uniform adoption laws were enacted across Australia in the mid 1960s to bring all States into line with regards to various amendments. These amendments ruled out private adoptions, such as those made by physicians. All adoptions from then on had to be carried out by either a government department or a private, State-registered adoption agency. This provision was relaxed in the case of relative and step-parent adoptions. An adoption valid in one State would now be valid in every other State in the country. It allowed for children born in one State to be adopted in another. There was at this time the introduction of provisions with concern for the welfare and best interests of the child to be given paramount consideration. These amendments also included the secrecy provision of providing children with a new birth certificate (upon adoption) as well as the cancellation and sealing of their original birth registration (Boss & Edwards 1992; Cuthbert & Spark 2009; Fokert 2009; Fopp 1979; Gair 2009; Marburg 1998).

Very few adoptions are happening now and this is for several reasons some of which are: a change in attitudes (both social and legal) with regards to ex-nuptial children and sexual relationships outside of marriage; the recognition of the rights of single mothers, single fathers and ex-nuptial children; provision of financial assistance from the State thus allowing

single parents to raise their children; increased employment opportunities for women and the availability of child care; more access to birth control and sex education thus reducing the incidence of unplanned pregnancies, as well as the increasing use of Guardianship Orders instead of Adoption Orders. Any adoptions that occur now are more 'open' in nature, with varying degrees of openness practised. Because of these reasons there has been a marked fall in the number of adoptions since the early 1970s (Boss & Edwards 1992; Cuthbert & Spark 2009; Gair 2009; Kelly 2000; Marburg 1998; Marshall & MacDonald 2001; Swain 2000; Vickers 2009).

The status of illegitimacy was removed from the legal record in the early 1970s with the passing of the *Status of Children Act* 1974 in both Victoria and Tasmania; *Family Relationships Act* 1975 in South Australia and the *Children's Equality of Status Act* 1976 in New South Wales. Before the introduction of such legislation, children of unmarried parents were considered to be 'illegitimate' and therefore 'fillias nullias', the child of 'no one'. With the passing of these acts, such children were now referred to as 'ex-nuptial' (Fopp 1979; Gair 2009; Higgins 2010; Marshall & MacDonald 2001).

The adoption registers were opened in the 1980s and 1990s in all States and Territories around the country. Adopted people over the age of 18 years were permitted access to their original birth certificates as blood ties once again came to be seen as important. This reflects a wider shift in discourse which placed increasing recognition on the importance of identity (Boss & Edwards 1992; Cuthbert & Spark 2009; Gair 2009; Marburg 1998; Marshall & MacDonald 2001).

## **Past Adoption Practices in Australia**

The majority of adoptions occurred in the 1960s and 1970s and were mostly of ex-nuptial children. Thousands of children in Australia were separated from their natural parents and extended families as a result and had their identities changed. Some mothers relinquished their children due to poverty or because she was abandoned by her partner. Sometimes it was due to pressure from her parents who refused to support her with the child, whilst considering the shame that their coming 'illegitimate' grandchild would supposedly bring on the family. There were also societal attitudes that only married couples should have children and that single women should be punished by having their children taken away, indeed it was assumed that such mothers were 'immoral' and 'not very bright' (Burns-Robinson 2000 & 2004; Cole 2009; Cuthbert & Spark 2009; Gair 2009; Higgins 2010; Marshall & MacDonald 2001; Wellfare 2009).

In many cases, however, mothers were coerced by social workers into relinquishing their children. The mothers were often bullied to sign 'consents' to adoption (Bernoth 1999; Cole 2009; Gair 2009; Higgins 2010; Marshall & MacDonald 2001; Wellfare 2009). They were also deceived by not being informed of their legal rights and nor were they told of the psychological harm that could befall them by giving up their babies (Cole 2009; Wellfare 2009). Social workers deliberately kept information from single mothers about financial and other assistance available to them to help raise their child. According to Dian Wellfare (2009), a mother who lost her son to adoption, financial assistance was available before 1973 and the Whitlam Government simply advertised an already available benefit. In addition, since many of the unmarried mothers were under the age of 21 years and the 'consents' had been signed under duress or whilst drugged (by hospital staff), they were therefore neither

legally valid nor enforceable (Boss & Edwards 1992; Cole 2009; Gair 2009; Higgins 2010; Marshall & MacDonald 2001; Vickers 2009; Wellfare 2009).

Single mothers were not allowed to see or hold their babies, in order to prevent bonding. In some cases the mother was even told her child had died, when the child had instead been taken for adoption (Wellfare 2009). Many young mothers strongly feel that their babies were stolen from them and that they were exploited for the benefit of infertile middle-class couples. These past practices by social workers and hospital staff were illegal; they constitute an abuse of human rights and contravened states' adoption acts (Bernoth 1999; Burns-Robinson 2000 & 2004; Cole 2009; Gair 2009; Higgins 2010; Marshall & MacDonald 2001; Vickers 2009; Wellfare 2009).

Single fathers were typically not consulted with regards to their child's adoption. Often these men did not even know they had fathered a child (Marshall & MacDonald 2001). They were not allowed to acknowledge their paternity by having their name recorded on the child's birth certificate. In most instances, fathers were simply considered to be irrelevant (Boss & Edwards 1992; Burns-Robinson 2004; LRC (NSW) 2002; Marshall & MacDonald 2001; Vickers 2009). The prevailing assumption at the time was that the fathers were all 'fly by nights' who took advantage of teenage girls, got them pregnant and then abandoned them (Gair 2009). In actual fact, many fathers wanted to marry the child's mother and provide a home for them (Marshall & MacDonald 2001). Higgins (2010) found similarly, that many fathers actually did care about their child and their child's mother and felt a sense of responsibility for both of them.

Dian Wellfare speaks of how teenage mothers were told in many cases not to tell their partner about the baby, saying that he would feel compelled by guilt to marry her and that in time he

would come to hate both her and the child (Wellfare 2009). Rohan MacEnor is one such father who lost his daughter to adoption. He wanted to marry his daughter's mother, so that they could raise the child together. He tried to prevent the adoption from going ahead (pressure was placed on the mother to relinquish the child) but his efforts proved futile. Since he was not married to his daughter's mother, he was not considered (legally) to be the child's father and so he was given no say in the matter. In recent years, however, he and his former partner have been reunited with their daughter (MacEnor 1995). This concurs with the findings of other authors, that many other fathers also felt aggrieved that they were left out of the planning for the future care of their child and partner (Higgins 2010; Marshall & MacDonald 2001).

### **Secrecy in Adoption**

There was much secrecy surrounding adoption in years gone by and this involved issuing the adopted person with a new birth certificate (listing their adopters as their parents) as a way to maintain this secrecy (Müller & Perry 2001). In Australia the period of secrecy in adoption lasted for over twenty years from the late 1950s to the early 1980s when adoption registers were opened (Marburg 1998). The reason put forward for such secrecy was to cover up illegitimacy which, it was thought, would cause great suffering for the child and the natural parents. Many adopted children were born to unmarried couples (AIHW 1999; Boss & Edwards 1992; Burns-Robinson 2004; Cuthbert & Spark 2009; Fokert 2009; Higgins 2010; LRC (NSW) 1999; Kadushin 1984; Marburg 1998; March 1995; Morgan 1998; O'Neill, Ban & Swain 2009; Sachdev 1984; Samuels 2001, 2002 & 2004; Triseliotis 1973, 1984 & 1991; Triseliotis, Shireman & Hundlebury 1997; Triseliotis, Feast & Kyle 2005; Yttri 1996). However, the real reason for secrecy was in response to adopters who did not want the issue

of their (in)fertility or the fact that they were raising another couple's child to become public knowledge. Adopters also feared future intrusion by natural parents into the lives of the adoptive family (First Mothers' Action 2003; Higgins 2010; Latimer 1996; Marburg 1998; Morgan 1998; Müller & Perry 2001; Riley 2009; Sachdev 1984; Samuels 2002 & 2003; Triseliotis, Feast & Kyle 2005; Vickers 2009;). As noted, in the years before World War II adoption was not so popular - it was thought that a provision of secrecy would encourage more people to adopt (Samuels 2002; Triseliotis 1984 & 1991).

Although adopters are supposed to tell their adopted child of their status, some adopted people are not informed of such (Burns-Robinson 2004; Fopp 1979; LRC (NSW) 2002; Riley 2009; Triseliotis, Feast & Kyle 2005;). Indeed, some adopted people have learnt of their status by accident. People who do not know they are adopted are placed in a vulnerable position because they can not lodge a contact veto and may well have their natural parents turn up on their door step out of the blue thus creating much distress for them (LRC (NSW) 2002; Riley 2009; Triseliotis, Feast & Kyle 2005). Evelyn Burns-Robinson (2004) talks of a young woman who only learnt she was adopted when she was contacted by her natural mother. The young woman suffered much distress because her adopters had chosen to not tell her. Other instances include adopted people, unaware of their status, receiving letters from their state child welfare departments, indicating that a natural relative is wanting to contact them (Riley 2009). If a person is not told they are adopted and they discover this at a later date by accident, then the opportunity for reunion with their natural parents may then not be possible, as they may have died by that time. This creates a very agonising situation for an adopted person if their natural mother dies before they can meet her. In many instances the natural mother is the only one who can provide the adopted person with the identity of their natural father (Riley 2009).

Triseliotis (1973) found from his study that many adopters were not happy to discuss the adoption with the children they had adopted (Triseliotis 1973 & 1984; Triseliotis, Feast & Kyle 2005). The number of adopted people who are unaware of their status is not known and the numbers are likely to be quite substantial (LRC (NSW) 1999 & 2002; Riley 2009). It can be a very distressing experience for people to find out they are adopted, especially when they do not learn of such until adulthood. Even so, the literature suggests that adopted people would rather know the truth about their origins, than to be kept in the dark. Many of the adopted people interviewed by John Triseliotis in his 1973 study believed that ‘truth is better than deception’, even if this is upsetting initially (Marshall & MacDonald 2001; Riley 2009; Swain 2000; Triseliotis 1973). Some adopted people also resented their adopters for the deceit (Triseliotis 1973; Riley 2009).

In Argentina it is illegal for adopters not to inform the child of their adopted status (Plum 2000). The concept of closed adoption originated in the US and was apparently intended to protect the privacy of parties to the adoption. It was thought that such secrecy would encourage more couples to adopt. Closed adoptions have since been found to be detrimental to adopted people and their natural parents. Anecdotal evidence suggests that closed adoptions served to protect the adopters, who feared intrusion and possible reclamation of children by their natural parents (Triseliotis, Shireman & Hundlebury 1997).

### **Opening of Adoption Registers**

Changes relating to existing adoptions were implemented to adoptions laws in every State and Territory from 1984 onwards. These changes, which vary by State and Territory, enable adopted people over 18 years of age and their natural parents to access information relating to

the adoption (ABS 1999). The first State in Australia to allow adopted people to access to their original birth certificates was Victoria in 1985. New South Wales opened their registers in 1990 and other States soon followed. This means that adopted people in Australia can now obtain their original birth certificates and other adoption information once they reach the age of 18 years. This has led to many adopted people being reunited with their birth parents and other natural extended family members (Boss & Edwards 1992; Burns-Robinson 2004; Cuthbert & Spark 2009; Fokert 2009; Gair 2009; LRC (NSW) 2002; Marburg 1998; Marshall & MacDonald 2001; O'Neill, Ban & Swain 2009). This change in legislation has been introduced because of the acknowledgement that now exists for the rights of adopted people to know about their genetic origins (Gair 2009). Marshall and MacDonald (2001) remark on the return to the belief in blood ties being related to one's identity. This change in perceptions has come about because of the experiences of adopted people who suffered great anguish by being cut off from their genetic origins. Many adopted people have applied for information under the new legislation and this has in many cases led to contact with their natural parents and other blood relatives (Boss & Edwards 1992; Kelly 2000; Marshall & MacDonald 2001).

In some States vetoes on contact or the release of information can be applied. Victoria does not have a veto system and New South Wales no longer has any vetoes. In the Australian Capital Territory, a veto preventing contact between the parties is available. In South Australia and Western Australia a veto on information release can be placed, but only for adoptions finalised before certain dates. A veto in Queensland can not prevent information release, but before receiving the information the applicant must give an undertaking not to attempt to contact the other person (Boss & Edwards 1992; Kelly 2000; Marshall & MacDonald 2001; O'Neill, Ban & Swain 2009). The number of vetoes lodged has fallen in recent years. Less than one veto is lodged for every 35 requests for information. Most vetoes were lodged by adopted people rather than their natural parents (Higgins 2010; Kelly 2000).

## **Access to Birth Certificates Internationally**

Internationally, there has also been much attention paid to the access to and use of adopted persons' birth certificates. In Scotland in the early 1970s a study was conducted by John Triseliotis (1973). He interviewed adopted adults who had obtained their original pre-adoption birth certificates from the Registrar General in Edinburgh. Since the beginning of legal adoption in Scotland, adopted people have been able to obtain their original birth certificates upon attaining the age of 17 years. The only other countries at that time with similar legislation were Finland and Israel (Kraus 1982; March 1995; Sachdev; 1984 Triseliotis 1973; Triseliotis, Feast & Kyle 2005; Triseliotis Shireman & Hundlebury 1997). In Scotland the new post-adoption birth certificates are marked with the word "ADOPTED" at the top. So even if the adopters do not tell the child, he or she will know when they obtain a copy of their full birth certificate (Ferguson in Burns-Robinson 2004; Triseliotis 1973).

The Scottish adoption legislation was introduced in 1930 (O'Halloran 1994) and was considered unique, considering that adoption registers of many other countries were not accessible at that time, including those of England and Wales. The first adoption act was introduced to England in 1926 and in 1929 to Northern Ireland (Fokert 2009; Marshall & MacDonald 2001; Morgan 1998 O'Halloran 1994; Triseliotis Feast & Kyle 2005). In 1972 in England, the Houghton Committee sought to close the Scottish adoption registers, in order to bring their legislation into line with the rest of the United Kingdom. First the committee commissioned research into what the experience had been in Scotland, with their access to records. Fortunately the findings led not only to the registers remaining accessible in Scotland, but it was decided that the adoption registers in England and Wales would likewise

be opened. Adopted adults in England and Wales were then able to obtain their original birth certificates, from 1975 onwards and from 1989 in Northern Ireland (Triseliotis Shireman & Hundlebury 1997). The changes in England and Wales (as well as lobbying by adopted people and birth parents) led to the opening of the registers in many other countries, including Australia (Fopp 1979; Kraus 1982; Morgan 1998; Triseliotis 1973 & 1984; Triseliotis, Feast & Kyle 2005).

Adoption laws did not commence in Ireland until 1952 and all adoptions have been secretive since the legislation was first introduced. In Ireland only a single mother can place a child for adoption. The adoption registers in Ireland remain closed and adopted people are not permitted access to their original birth certificate unless their natural mother gives permission. A contact register is provided by the Adoption Board, but the current law gives the natural mother the right to refuse contact and also her to prevent her adult child from receiving their original birth certificate. Without contact and their original birth certificate, adopted people in Ireland can neither discover their original identity nor learn the names of either natural parent (Anonymous 2010a; O'Halloran 1994 & 2009).

New Zealand introduced adoption legislation early on in 1881 (Fokert 2009). In 1986 New Zealand passed the *Adult Information Act*, allowing adopted people over the age of 20 to have access to their original birth certificate. This right is not unconditional, however, and the law enables natural parents to place a veto on the certificate thus forbidding its release. Adopted people may also place a veto on the release of information to their natural parents. Vetoes remain in force for ten years and an adopted person must attend a counselling session prior to the release of their original birth certificate. At the conclusion of the counselling interview, the counsellor will provide the adopted person with their original birth certificate provided the natural parents have not place a veto against its release (Corcoran 1991).

Adoption in the US began in 1851 in Massachusetts and other States followed, with the enactment of their own legislation over the next 50 years (First Mothers' Action 2003; Marshall & MacDonald 2001; Morgan 1998). Access to original birth certificates and laws on this vary from one state to the next (Triseliotis, Shireman & Hundlebury 1997). Many people in the US are unable to obtain their original birth certificates. In some States the registers remain closed, except by court order which judges are reluctant to grant. In other States access is only granted if birth parents have not lodged a request denying its release. The only States that currently allow for unconditional access to original pre-adoption birth certificates are: Alaska, Oregon, Kansas, Alabama, New Hampshire and Maine (Anonymous, 2010b; Bastard Nation 2008; Foody 2010; Garcia & Miller Rubin 2010, Messenger 2010; Sachdev 1984, Samuels 2010).

The sealing of birth records (for adopted people) in the US started about the 1940s and continued through to the 1970s. Prior to that time States had no secrecy clauses and adopted people could access their original birth certificates when of legal age. Once secrecy laws were introduced one required a court order to see their original records, although judges would rarely grant such (Anonymous; 2010b Carp 2002). Some States are reluctant to change laws and cite privacy of the natural mother as the reason, yet this is incorrect. The real reason for sealing records was to please the adopters who wished to pretend that the child in their care had been born to them naturally (Anonymous 2010b; Caragelo 2001; Feigenholtz 2010; First Mothers' Action 2003; Garcia & Miller-Rubin; Latimer 1996; MacRoy & Grotevant 1996; Müller & Perry 2001; Samuels 2001, 2002 & 2004). However, studies have shown that the vast majority of natural mothers support their children's access original access to birth records and would also be very happy to meet their adult children (Feigenholtz 2010).

It seems it never crossed the minds of officials that adopted people would wish to know about their origins (Samuels 2001). Should any adopted people have wanted to learn of their origins or even meet their natural parents, they were met with disdain and thought to be ungrateful or even mentally ill (Samuels 2001 & 2000). Carangelo (2001) is concerned about the issuance of false birth certificates for adopted people and the detrimental impact this has on them and their descendants trying to trace their ancestry. She is deeply concerned about these false birth certificates which are a sham. This is because people will locate a certificate (for an ancestor) in the register not realising it is an adoptive birth certificate and they will thus be deceived into tracing their ancestry back to many people they are not related to. She insists that governments have a duty to be honest with people regarding their forebears. Various family history societies, in particular the New England Historical Genealogical society, has spoken out on the falsification of birth certificates (Carangelo 2001).

The first adoption act passed in Canada was in the Province of New Brunswick in 1873 and the other provinces followed at later dates. Canadian adoption laws are based on those of the US. Secrecy provisions were introduced to their adoption acts in the 1920s. In most provinces adopted people are permitted to have non-identifying information about their family of origin upon reaching adulthood. Their right to identifying information is not unconditional and is only released upon consent of the natural mother. A few provinces also require the permission of one's adopters to release such information (Kadushin 1984; MacDonald 1984; March 1995; Sachdev 1984).

## **Access to Original Birth Certificates: The Perspectives of Adopted People**

Having discussed the legislative changes in relation to birth certificates, we now turn to the perspectives of adopted people. As we have seen, the original birth registration of an adopted person is cancelled and their birth is then recorded under the names of the adopters. The true birth record with the names of the natural parents is no longer valid. Some adopted people have objected to this and consider their 'new' post-adoption birth certificates to be a 'false document' and a 'lie'. They object to their 'identities being officially erased'. Their original birth certificate contains their accurate history and lineage, yet ironically this is no longer considered a legal document to be used for the purposes of identification (AIHW 1999; Botz, Aussie Adoptee & Asker in Yahoo blog 2009; Burns Robinson 2000; Ferguson in Burns-Robinson 2004; March 1995; Sachdev 1984; Triseliotis 1973).

In Australia, Evelyn Burns-Robinson (2004) talks of a young woman adopted by her step-mother when young. She says: 'I was horrified when I was planning my marriage, to be told that my original birth certificate with my mother's name on it was no longer a legal document and that I would have to record my step-mother's name as my mother' [on the marriage certificate]. Adoptions are now more 'open' and sometimes children have access visits with their natural parents. Even so their birth certificates are still being amended and their names, identity and genealogy are still being taken from them. Riley (2009) argues that in Australian society, birth certificates play an important role with regards to establishing one's identity. The belief surrounding birth certificates is that they contain factual information about one's genetic origins. Unfortunately however, for people who have been adopted, their birth certificate does not reflect their genetic origins and so many of them believe the document is a 'lie' and a 'forgery' as it implies that their adopters were the one's who conceived them (Burns-Robinson 2000 & 2004; Wellfare 2009).

In addition to being issued with a false birth certificate many adopted people are upset that their original birth certificate does not record the name of their natural father and yet a person's identity is connected to both their natural parents. Although the fathers of adopted children were not always known, Higgins (2010) claims that in almost all cases the father's identity was known. They were usually boyfriends, but in some cases were husbands as well (Higgins 2010; Marshall & MacDonald 2001). Now, in Victoria, all births to be registered must record the names and details of both parents, but this is not yet uniform across all States and nor is it retrospective (Marshall & MacDonald 2001). In some States the natural father's name can be added at a later date to the original birth certificate, usually by providing the results of a legal DNA test (Burns-Robinson 2004).

The opening of adoption registers and access to birth certificates came about because of the adopted persons' rights movement and groups of natural mothers who together lobbied Governments in their various countries to change the laws to allow access to information. These groups mostly sprang up in the 1970s, when adopted people and natural parents organised themselves into lobby groups demanding the opening of birth and adoption registers which they consider to be a basic human right. Although some groups are mostly self-help and research organisations, they are politically active in promoting adoption reform as well (Kadushin 1995; March 1995; Marshall & MacDonald 2001; Sachdev 1984; Samuels 2002; Triseliotis 1984; Triseliotis, Feast & Kyle 2005). Some of these groups include the Association of Relinquishing Mothers (ARMS), Jigsaw and Adoption Triangle in Australia, and Jigsaw in New Zealand. In the United Kingdom there are groups such as the National Organisation for the Reunion of Child and Parent (NORCAP), Descendants of Deceased Adopted Persons (DAP). They campaign for access to adoption and birth registers for children and grandchildren of adopted people. Also there is a group known as Contact and

Genealogy Source. In Ireland there is an association called Adoption Rights Alliance (Anonymous 2010a). In Canada there is an organisation known as Parent Finders. In the US there are several adoption rights organisations such as Adoptees' Liberty Movement Association (ALMA) which lobbies for adoption law reform and has led to wider awareness of adopted persons' need for access to registers and contact with natural parents. Also there is Orphan Voyage, Yesterday's Children, Concerned United Birth Parents (CUB) and Adoption Identity movement (AIM). In the US there is also a lobby group known as Bastard Nation, which advocates for open birth records and unconditional access to these records (BAAF 2009; Bastard Nation 2007 & 2008; Carp 2002; March 1995; O'Neill, Ban & Swain 2009; Sachdev 1984; Samuels 2002; Triseliotis 1984). Law professor, Elizabeth J. Samuels, campaigns on behalf of adopted people and provides a perspective from American legal history at senate hearings to debate bills on adoption information reforms (Samuels 2001, 2002 & 2004).

In this review of the literature I have explained the history of adoption in Australia and the resulting changes to the birth certificates of adopted people. I have demonstrated that these practices occurred internationally. In response, there have been reform movements that, among other things, have demanded that adopted people have access to their original birth certificates and other information about their adoption. This then leads to my next chapter where I present an analysis of adoption policy and legislation particularly with regards to the birth certificates issued to adopted people in Australia.

## **CHAPTER 3: ANALYSIS OF LEGISLATION AND POLICY**

In this chapter I will discuss my findings from the many policy documents I have sourced from various State and Territory departments. First I outline the process that an adopted person must undergo in order to obtain their original birth certificate and other information. Then I discuss what the original birth certificate looks like and what they can do with it. Finally, I consider the policy implications arising from my analysis of these policy documents.

### **Access to Information for Adopted People**

As we have seen, when adoption first began in Western Australia in 1896 there was no secrecy or sealing of birth records. Over time, children's names were changed and secrecy heightened around their family background across all Australian jurisdictions. Today, for adopted people thus affected, there are processes in place for them to access their original birth certificate and information about their natural family. This is a somewhat arduous process as I outline below.

At the age of 18 years an adopted person can receive their original birth certificate, their adoption record and any identifying information relating to them and their natural parents and siblings. Available information is held by government and non-government services and includes: the department of child welfare, private adoption agencies, court records, Registrar General's offices and the hospital where they were born (*Adoption Act 2000* (NSW); *Adoption Information Act 1990* (NSW); DOCS (NSW) 2008; DOCS (NSW) as at June 2010; *Adoption Act 1984* (VIC); DHS (SA) & AFIS undated; DHS (VIC) & AFRS 2003; DHS

(VIC) undated; *Adoption Act 1988* (TAS); DC (QLD) 2010; *Adoption Act 1993* (ACT); *Adoption Act 1988* (SA); DCD (WA) undated). This is the case for every State and for the Australian Capital Territory. In the Northern Territory, however, the age at which information is released is 16 years (DHCS (NT) undated).

Before the age of 18 years both identifying and non-identifying information is available (from birth, agency, court records and other records) but one must obtain agreement in writing from both one's adopters and natural parents. Or if the adopters are deceased, one must present their death certificate or other evidence of such. Without such consent only non-identifying information will be released (*Adoption Act 1984* (VIC); DHS (VIC) & AFRS 2003; *Adoption Act 1988* (TAS); *Adoption Act 2009* (QLD); *Adoption Act 1993* (ACT); DHS (SA) & AFIS undated; DDHCS (ACT) undated; DHS (VIC) undated; DCD (WA) undated). In the Northern Territory, adopted persons under 16 years wishing to obtain information must obtain the consent of their adopters to do so (*Adoption of Children Act 1994* (NT); DHCS (NT) undated).

In the event that an adopted person dies, then their children inherit the right to apply for the information, but evidence of their death must be shown. Children of adopted persons can apply for information whilst their parent is still alive, but their parent must be notified of the application (DOCS (NSW) as at June 2010; DHS (VIC) & AFRS 2003; AFAV 2001; DHS (VIC) undated; *Adoption of Children Act 1994* (NT); DHCS (NT) undated; *Adoption Act 1988* (SA); *Adoption Act 1994* (WA)).

Each State and Territory Government has set up an Adoption Information Service and in most cases this is run out the child welfare department. Information provided to adopted people is both identifying and non-identifying in nature such as: background information, medical

history, names and dates of birth (if known) of one's natural parents and other information held by the State child welfare departments about the natural parents, (*Adoption Act 1988* (SA); DDHCS (ACT) 2009; DDHCS (ACT) undated; DCD (WA) undated; *Adoption Act 1998* (TAS); *Adoption Act 1994* (WA); *Adoption Act 1984* (VIC); DHS (VIC) & AFRS 2003; DHS (VIC) undated). Some States also provide 'message box' or 'mail box' services which enables natural relatives and adopted people to exchange information which can be either identifying or non-identifying, such as letters and photographs (*Adoption Act 2009* (QLD); *Adoption Act 1988* (SA); DCD (WA) undated).

Several States also provide 'information, reunion and or contact registers' which contain information and contact details, as well as a person's wishes relating to possible contact with natural relatives (*Adoption Act 1988 TAS*; DDHCS ACT 2009; DDHCS ACT undated; *Adoption Act 1993 ACT*; DCD WA undated; *VIC Adoption Act 1984*; DHS VIC & AFRS 2003; DHS VIC undated). Also provided in most instances are counselling and mediation services, as well as referrals to other services where necessary, such as support groups for adopted people (*Adoption Act 1988 TAS*; DCD WA undated; *Adoption Act 1994 WA*; *Adoption Act 1984 VIC*; DHS VIC & AFRS 2003; DHS VIC undated; DDHCS ACT 2009; DDHCS ACT 2009 & undated; *Adoption Act 1993 (ACT)*).

A few States and Territories still have vetoes on contact. In Western Australia, since June 2003, vetoes can no longer be placed but old ones remain in force for contact (DCD (WA) undated). Queensland, Tasmania and the Australian Capital Territory have vetoes for contact only (*Adoption Act 1993 (ACT)*; DDHCS (ACT) 2009; *Adoption Act 1988 (TAS)*; DC (QLD) 2010). In the Northern Territory, natural parents can lodge a veto against the release of any identifying information, which remains in force for three years (*Adoption of Children Act 1994 (NT)*). An undertaking will have to be signed agreeing not to contact the person and

then the information will be released, otherwise court action will be necessary. Messages can also be left on the veto form (DCD (WA) undated; *Adoption Act 1993* (ACT); DDHCS (ACT) 2009).

### **Obtaining Original Birth Certificates**

In order to obtain their original birth certificate it is first necessary for adopted persons to obtain a copy of their post-adoption birth certificate (in their adoptive name) from the Registrar General's Office in their State (BDM (NSW) as at Dec 2010; AFAV 2001; DHS (VIC) & IFRS 2009; DHS (VIC) 2010; BDM (QLD) as of Dec 2010). This will be required when approaching the child welfare department for further information in order to locate their adoption records. When applying for a birth certificate in their adoptive name there are a few hurdles to complete. An adopted person can only apply for their own birth certificate and must prove that it is their own birth registration for which they seek the certificate. In order to prove the birth certificate they seek is theirs, the applicant must provide three forms of identification from the Registrar's 'acceptable list' (RGO (ACT) as of January 2011; BDM (NSW) as at Dec 2010; BDM (VIC) 2010; BDM (SA) as of Dec 2010; BDM (QLD) as at December 2010; BDM (WA) as at Dec 2010; BDM (NT) as at Jan 2011).

With regards to what constitutes acceptable forms of identification there are only slight variations if any from one State to another. This generally includes such items as: a passport, driver's licence, firearms licence, Medicare card, credit or debit card, Social Security Pension or Health Care Card, University Identification card, recent utilities account or bank statement, notice of assessment from the Department of Taxation, telephone bill, lease or a University

statement of enrolment (BDM (NSW) as at Dec 2010; BDM (VIC) 2010; RGO (ACT) as of Jan 2011; BDM (NT) as of Jan 2011).

It is also necessary to apply on the appropriate form, provide information relating to the birth and pay the required search fee, which varies from State to State, ranging from \$25 in the Northern Territory to \$45 in New South Wales, as at May 2011 (RGO (ACT) as of Jan 2011; BDM (SA) as of December 2010; *BDM Registration Act 1996* (VIC); BDM (NT) as at Jan 2011; BDM (NSW) as of Dec 2010; BDM (QLD) as at Dec 2010; BDM (TAS) as at Dec 2010; BDM (VIC) as of Dec 2010; BDM (WA) as at Dec 2010).

The next step, after obtaining a copy of their post-adoption birth certificate, is for an adopted person to then proceed to the child welfare department in their State, which are now called by such names as: Department of Community Services (DOCS) in New South Wales, Department of Human Services (DHS) in Victoria and South Australia, Department for Community Development (DCD) in Western Australia, Department of Health and Community Services (DHCS) in the Northern Territory, Department of Communities (DC) in Queensland, Department Disability, Housing and Community Services (DDHCS) in the ACT and Department of Health and Human Services (DHHS) in Tasmania or rather the State where their adoption took place. They must make application and provide a few forms of identification, which includes their post-adoption birth certificate amongst others and these must be certified by a reputable person, such as a physician or solicitor (LRC (NSW) 1992; DOCS (NSW) 2008). Some States charge fees for these services, although others do not. Western Australia, the ACT and the Northern Territory currently do not charge fees for accessing information on adoption from their child welfare departments (DCD (WA) undated; DDHCS (ACT) 2009; DDHCS (ACT) undated; *Adoption Act 1993* (ACT); DHCS (NT) undated; BDM (NT) as at January 2011). In New South Wales and Victoria the fees can be

waived in cases of hardship or are reduced for holders of Pension and Health Care Cards. Some examples of the costs of obtaining such 'authorisations' are as follows, in New South Wales the charge is \$135.00, although the fee is reduced for former State wards and holders of pension and health care cards who only pay \$35.00. In Victoria the charge is \$87.20, but persons in receipt of Social Security benefits receive a 50 per cent reduction. In South Australia one pays \$50.00, but they can apply for a reduction in the fee if this causes hardship. In Tasmania the charge is \$95.00, but again the fee can be reduced or waived in cases of hardship, (DHS (VIC); DOCS (NSW) 2008; DFC (SA) 2008; DHHS (TAS) 2010). However, one must still pay a fee to obtain their pre and post-adoption birth certificates from the Registrar General's Office.

Many States and Territories insist that an adopted person attend a mandatory 'counselling' session or interview in some form before release of any information. During the interview one will receive the information for which they had applied (in some States this includes their birth certificate, in others they must return to the Registrar's office). They will be advised of their rights and available services that might assist them (such as support groups) and will be informed if any natural relatives have applied for information about them. People can be referred for more long term counselling if there is any trauma related to the adoption. The agency can also search on their behalf for natural family members and act as an intermediary (*Adoption Act 1993* (ACT); DHS (VIC) & AFRS 2003; *Adoption of Children Act 1994* (NT); DHS (VIC) undated; DHS (VIC) & IFRS 2009; DHS (VIC) 2010, *Adoption Act 1984* (VIC); BDM (VIC) as of Feb 2011; DHCS (NT) undated; AFAV 2001; BDM (QLD) as of December 2010; DDHCS (ACT) 2009). In South Australia however, one makes application for the information and then receives a telephone call from the department, after which the information will be posted (DHS (SA) undated).

After applying to the relevant child welfare department, an adopted person is issued with a letter allowing them to obtain other information from government departments, private adoption agencies, court records, the hospital where they were born and, in particular, their original birth certificate, as well as abridged birth, marriage and death certificates for their natural parents in some States (DOCS (NSW) 2008; BDM (SA) as of Dec 2010; DHCS (NT) undated; *Adoption Act 2000* (NSW) & *Adoption Information Act 1990* (NSW); LRC (NSW) 1992). This letter is called by different names in different States but is supplied by the child welfare department. The letter contains all the identifying details of the parties at the time of the adoption (that is, adopted person, natural parents and adopters). The ‘supply authority’ (as it is called in New South Wales) is also required to obtain one’s original birth certificate from the Registrar General’s Office, (DOCS (NSW) 2008; BDM (NSW) as of Dec 2010; DOCS (NSW) as at June 2009; DOCS (NSW) as at June 2010; BDM (NSW) as of Dec 2010). In Tasmania this document is called a ‘certificate of interview’ or a ‘section 80 letter’ DHHS (TAS) 2010(RGO ACT as of January 2011; DDHCS (ACT) undated). In South Australia one is issued with either an ‘authorisation’ or a ‘certificate of interview’ although these ‘interviews’ can often be conducted over the telephone (BDM (SA) as of December 2010). In Queensland and the Northern Territory an ‘authorisation’ is issued, (DC (QLD) 2010; *Adoption Act 2009* (QLD); DHCS (NT) undated). In Western Australia one is issued with ‘written authority’ from their Department for Community Development, (BDM (WA) as at December 2010; *Adoption Act 1994* (WA)).

With this written ‘authorisation’ one then returns (in most instances) to the Registrar’s Office, presents the authority, pays yet another fee and receives a copy of their original birth certificate. The fee for receiving the original birth certificate is the same price as one would pay for any other birth certificate, which means that adopted people are being charged double

the price. The authorisation is also used for applying for other information relating to their birth or adoption from other departments and agencies.

### **What the Original Birth Certificate Will Look Like and How it May be Used**

Information contained on a birth certificate (original or otherwise) varies from State to State. In the Eastern States the following information will (generally) be recorded: the registered person's (birth name), date and place of birth, name of natural mother and her address at the time, her age when she gave birth, where she was born and the name she gave the child. If the parents were married at the time of the adoption, then the father's details will also be recorded (DDHCS (ACT) 2009). In many cases with the original birth certificates of adopted people, the father's name and his details will not be recorded, as was the practice in those times when the parents were not married to one another (AFAV 2001). In both New South Wales and Queensland, unless the father's name appears on the original birth certificate one can not access any identifying information about him from their adoption file (DOCS (NSW) 2008; DOCS (NSW) as at June 2010; DC (QLD) 2010; *Adoption Act 2009* (QLD)). In most cases the father's name is not recorded and if natural mother is dead, it will be almost impossible to learn of his identity.

There is one way in which the original birth certificates of adopted people are significantly different from those of non-adopted people. Original birth certificates of adopted people are issued marked with the notation that they are not a legal identity document and can not be used as a regular birth certificate. In Victoria original birth certificates are marked with the word 'ADOPTED' (*Adoption Act 1984* (VIC)). In the Northern Territory the certificate will carry the notation that it is 'NO LONGER CURRENT' (BDM Registration Regulations 1996

(NT)). In South Australia such a birth certificate will be marked 'CANCELLED' (Adoption Regulations 2004 (SA)). In Queensland the certificate will be marked 'NOT TO BE USED FOR OFFICIAL PURPOSES' (DC (QLD) 2010).

Considering that the original birth certificates of adopted people are marked 'Adopted', 'Cancelled', 'Not Current' and 'Not to be Used for Official Purposes', they are unable to use them as a legal identity document. Their original birth certificates can only be used for family research purposes by providing them with information about their birth identity and thus enable them to search for natural relatives. If an adopted person should wish to revert back to their original birth name they will have to apply to have their name legally changed as would any other person. The change of name will then be recorded on their post-adoption birth certificate.

### **Birth Registrations and Identification of the Father**

In previous decades when a child was born out of wedlock, the father's name and details would not be recorded on the child's birth certificate. Since there is no longer any recognition in law of 'illegitimacy' (sic), there is no longer any impediment to recording the father's details and it is now common practice to do so. All States and Territories require that the parents of the child register the birth jointly and provide their details. If the father is deceased or missing then the mother can provide his details in some instances. The birth can still be recorded with only the mother's details in some instances, although provision is available for adding the father's details at a later date, by presenting results of a DNA test for example or if a court orders such or if the father could not be located at the time the birth was registered. Additional fees are payable for this (*BDM Registration Act 1995* (NSW); *BDM Registration*

*Act 1996 (SA); BDM Registration Act 1999 (TAS); BDM Registration Act 1996 (VIC); BDM Registration Act 1998 (WA); BDM Registration Act 2003 (QLD); BDM Registration Act 1997 (ACT); BDM Registration Regulations 1998 (ACT); BDM Registration Regulations 1996 (NT); BDM Registration Act 1994 (NT); BDM (NT) as at January 2011; BDM (VIC) as of Dec 2010).* Adding the father's details at a later date does not apply, however, to adopted people who would wish to add the details of their natural father to their original birth certificate.

Although fewer adoptions occur these days, it is interesting to note some developments with regards to amended birth certificates in recent years. In Western Australia for people who were adopted after 1994, they have one birth certificate that includes the names and details of both their natural parents and their adopters, (DCD (WA) undated). An adopted person in South Australia has the choice of either a birth certificate containing the names of both their natural parents and adopters or a birth certificate containing the names of their adopters only (*Adoption Regulations 2004 (SA)*). This is not the case in other States.

## **Policy Implications**

There are several policy implications that can be drawn from the current situation in relation to the original birth certificates of adopted people. These include the unusability of original birth certificates for adopted people, as well as the cost and inconvenience of the entire process. Access to the father's name and having this recorded on the original birth certificate is another issue again. The overriding issue is that adopted people can not use their original (pre-adoption) birth certificate as a legal identity document. They can not declare their natural parents to be their parents. When they marry the names of their adopters must be

recorded on their marriage certificate as their parents. Many original pre-adoption birth certificates are marked 'Cancelled' or 'Not to be used for official purposes', which prevents their use.

In relation to cost, most people pay once for a birth certificate with the names of their natural parents' names on it, but adopted people have to pay twice and then they can not use their original birth certificate for identification. In addition to this, there are other fees charged in most States to gain access to other information including the written authorisation one needs to obtain their original birth certificate. Adopted people did not ask to be adopted and yet they are required to pay for information which most people have for free and have known all their lives.

There is also the time and inconvenience involved in meeting the various requirements of the processes to obtain their birth original certificate. Sometimes there are also additional inconveniences. In Victoria, for example, the birth certificate form used for adopted people is a 'Sixth Schedule' (a Schedule 2, a different certificate form is used for non-adopted people). A Sixth Schedule birth certificate does not include the person's place of birth. Should an adopted person need to know their place of birth, in order, for example, to obtain their passport, they must return to the Registrar's office where their place of birth will be added to their certificate upon request and at no charge (*Adoption of Children Act 1984 (VIC)*; DHS VIC & IFRS 2009; DHS VIC 2010; AFAV 2001).

There are also policy implications in relation to the release of information. In the Northern Territory, natural mothers can still impose a veto on the release of their adult adopted child's original birth certificate. All other States that had information vetoes have now removed them and retain vetoes for contact only. Moreover, the father's name is not recorded in the

majority of cases. In New South Wales the father's name is sometimes recorded in adoption files, but the Department of Community Services refuse to release such information unless his name is recorded on the original birth certificate. Considering that the majority of adopted people were born to unmarried couples and the mother was not permitted to record his name on the certificate, most adopted people will be unable to access any information about their father. If one's mother is deceased, or can not be located or will not divulge the name of the father, then the only way to learn of the father's identity is from the adoption records which the department will not release. This situation continues to perpetuate genealogical bewilderment and other identity problems for adopted people.

There are, however, examples of what I consider to be good practice and policy. In South Australia when an adopted person applies for their post-adoption birth certificate, they may be issued with (should they so choose) an integrated birth certificate showing the names of both their natural parents and their adopters, along with their birth name and adoptive name. In Western Australia an integrated birth certificate is issued for adopted people, but only for those adopted after 1994.

Based on the integrated birth certificates on offer in both South Australia and Western Australia, I have provided in the Appendix examples of two possible revised birth certificates. The first example follows the idea of the integrated certificate used in the two States previously mentioned. The second example is how a certificate from a reinstated birth registration might look. I suggest that it should look the same as the birth certificate of a non-adopted person, but contain notations in the final section relating to previous names and states that the adopters were previously recorded as the parents.

## CHAPTER 4: CONCLUSION

According to Carol Bacchi (2009), policy ‘problems’ are defined by governments and discourses surround such problems. The policy ‘problem’ of adoption came about because there were children living in institutions and this cost had to be borne by the relevant State Governments. ‘Boarding out’ or fostering were utilised for a while but again this cost governments money, as they had to pay a subsidy to the host family for the care of the child. So in 1896 in Western Australia and in the 1920s and 1930s in other States the first adoption acts were introduced. Adoption was unpopular at first, as couples did not wish it known that they were caring for someone else’s child, as well as that adoption was seen as an abnegation of parental responsibilities and a breaking of blood ties. In order to make adoption more attractive, it was argued that blood ties were not important as well as pushing the discourse that the children were unwanted by both their parents and other extended family.

Adoption became more popular once adopters were able to pretend the child was their own natural child and this was achieved by secrecy, which included changing the child’s name and birth registration as well as the sealing of the original birth records. It was actually the issuing of new birth certificates to adopted children that which made for success of this particular government policy. Governments were eager to push their policies and so things were done to please the adopters, with little or no thought given to the feelings of the children or their natural parents. Indeed, in past decades children were considered to be the property of their parents and upon adoption to be the property of their adopters. The idea of children having rights and being thought of other than chattels, is a very recent innovation.

All seemed well until the adopted children grew up and wanted to know about their origins. Not only had the original birth records been closed to the public, but they had been closed to

adopted people as well. A court order was needed to gain access to the records which most judges would not agree to. Adopted people and parents who had lost children to adoption formed pressure groups and lobbied governments to open the adoption records. Although adoption had been good for adopters and for State governments it had not been so good for those who had been adopted. Adopted people were found to be suffering from mental ill-health, including genealogical bewilderment stemming from their adoption which had prevented them from forming a complete sense of self and identity. In 1975 the adoption registers of England and Wales were opened and adopted people in those countries were able to gain access to their original birth certificates and meet their natural parents. In 1984 Victoria became the first State in Australia to open the adoption registers, with other States following. A few States and Territories had vetoes on the release of information in the beginning, but this has now changed to vetoes on contact only, except for the Northern Territory where a natural mother can prevent her adult child from obtaining any information including their original birth certificate. Many adopted people have obtained their original birth certificates and other information, as well as being reunited with their natural parents.

My research has found that obtaining such information is difficult due to the process and the costs involved. There are fees to obtain the post-adoption birth certificate, fees for the authorisation to obtain the original birth certificate and other information. Then there is an additional fee to obtain the original birth certificate. In addition to this one will probably need to apply for their natural mother's birth certificate, marriage certificate and if necessary her death certificate. All these certificates have to be paid for. Although there are concessions available when applying for adoption information, there are no concessions available when applying for certificates from the Registrar's office.

After paying all that money an adopted person can not use their original birth certificate as a legal identity document. Should they wish to revert back to their birth name, then such a name change must be noted on their post-adoption birth certificate. Indeed their original birth certificates are marked with the notations 'Cancelled', 'No Longer Current' and 'Not to be Used for Official Purposes'. In the majority of cases their father's name is not recorded on their original birth certificate. Information on one's father will not be released from the adoption records unless his name is recorded on the original birth certificate. Since most adopted people were born to unmarried parents, their father's name will not be recorded on their birth certificate and if their mother has died, there will be no way of learning his identity.

I have suggested alternative forms of birth certificates. The first suggestion is the 'integrated model' and is similar to such certificates currently being issued in South Australia and Western Australia. Some adopted people might prefer a birth certificate which contains all their information, as they would feel they are part of both families and would like both their natural parents and adopters to be listed on their birth certificate. For other adopted people, however, nothing less than the reinstating their original birth registration will be acceptable. The second certificate suggestion is called the 'restored model'. The certificate type is the same as the birth certificate for a non-adopted person and lists the natural parents as the legal parents of the child. In the section at the bottom on the certificate entitled 'endorsements' the adopted person's previous names are listed and it also lists the names of the adopters and that they were previously recorded as the parents.

My research suggests several changes to policy and practice. First, adopted people should be given the choice of either an integrated or restored birth certificate regardless of when they were born and adopted, showing the names of their natural parents and their adopters, or the names of their natural parents only, and that this would be a legal document. Second, costs

should be reduced for adopted people who access their original birth certificate. No fees should be charged by the various child welfare departments to provide information and 'authorisations' required to obtain their original birth certificates. The issuing of an integrated (or even a restored certificate) would mean an adopted person will only pay once for one certificate.

I also suggest a change in policy regarding the identification of the natural father. As I have explained, often the father's name is not recorded, when most other people have the names of both natural parents recorded on their birth certificate. In the event that the natural father's name is recorded in their adoption file, then this should be considered sufficient evidence for adding his name to their birth certificate. Adopted people should not be denied information pertaining to their natural father that is enclosed in their adoption files. An integrated or restored certificate would allow for the name of the natural father to be recorded.

I also suggest that the Northern Territory remove information vetoes, as other Australian jurisdictions have done. A mother should not be permitted to prevent her adult child from obtaining their original birth certificate. Non-adopted people do not have such an impediment and can obtain a copy of their birth certificate (with the names of their natural parents).

My study prepares the ground for a more detailed study that examines the changes in legislation in relation to access to and use of original birth certificates by adopted people. This further study would consider such matters as the meanings adopted people attach to their birth certificates, how they feel about their birth registrations and names being changed, their natural parents' names being substituted for the names of their adopters, and not being able to use their original birth certificates. It would also consider what adopted people think of the two certificate models that I have suggested in this thesis.

## **APPENDIX**

### **Sample Birth Certificates:**

#### **1. The Integrated Model**

#### **2. The Restored Model**

These are examples of two different models of birth certificates for someone who has been adopted. Sample 1 shows an integrated certificate which includes information on both the birth parents and adoptive parents, as well as any changes of name. It also provides for the addition of information relating to the natural father where this was not previously included. Sample 2 shows a restored birth certificate, where the natural parents are listed as the only parents. Changes of name and the names of the adoptive parents are noted on the birth certificates in the ‘endorsements’ section. This model also provides for the addition of paternal details.

I suggest that these models be used as certificate forms by the various State Registrars’ offices and that they would then be considered legal documents. Providing the options of the integrated or restored certificate gives adopted people the choice of the type of birth certificate they want. It also allows them to legally declare their natural parents to be their parents, should they wish to do so. Examples of both these models appear in the next two pages.

# Birth Certificate

(Sample 1, Integrated)

BIRTHS RECORDED IN THE STATE OF **EASTERN AUSTRALIA**  
BIRTHS, DEATHS AND MARRIAGES ACT 2012

REGISTRATION NUMBER: 12345/ 1968

## 1 CHILD:

Family Name: **Deely-Smith**  
Given Name(s): **Emily Teresa**  
Sex: **Female**  
Date of Birth: **29<sup>th</sup> February 1968**  
Place of Birth: **Royal Women's Hospital, Crown Street, Sydbourne.**

## 2. BIRTH PARENTS:

### 2A: BIRTH MOTHER:

Maiden Family Name: **Deely**  
Given Names: **Mary Teresa**  
Occupation: **Not Stated**  
Age: **17 years**  
Place of Birth: **Windsor, E.A.**

### 2B: BIRTH FATHER:

Family Name: **Smith**  
Given Name(s): **Joseph Edward**  
Occupation: **Shop Assistant**  
Age: **19 years**  
Place of Birth: **Fairfield, E.A.**

## 3. ADOPTIVE PARENTS:

### 3A: ADOPTIVE MOTHER:

Maiden Family Name: **Collins**  
Given Name(s): **Elizabeth Emily**  
Occupation: **Not Stated**  
Age: **30 years**  
Place of Birth: **Epping, E.A.**

### 3B: ADOPTIVE FATHER:

Family Name: **Johnson**  
Given Name(s): **William Alfred**  
Occupation: **Pharmacist**  
Age: **35**  
Place of Birth: **Canterbury, E.A.**

## 4. INFORMANT(S):

- 1) **M.T. Deely, mother (birth), 55 High Street, Windsor, 1<sup>st</sup> March 1968**
- 2) **E.E. Johnson, Adoptive mother, 123 Station Street, Burwood, June 1968.**

## 5. REGISTERING AUTHORITY:

**I. M. GOODE, Registrar General, Sydbourne, June 1968**

## 6. EDORSEMENTS:

1. **The birth name of the registered person was recorded as Teresa Deely. Registrar, June 1968.**
2. **The full (adoptive) name of the registered person was subsequently recorded as Emily Johnson, Registrar, October 2012.**
3. **Evidence has been furnished that the biological (birth) father is Joseph Edward Smith, his details were recorded by the Registrar October 2012.**

I, **Ida Margaret Goode, Registrar General** hereby certify that this is a true copy of particulars recorded in a register kept by me.  
**Registrar General of Eastern Australia, Sydbourne**

# Birth Certificate

(Sample 2, Restored)

BIRTHS RECORDED IN THE STATE OF **EASTERN AUSTRALIA**

BIRTHS, DEATHS AND MARRAIGES ACT 2012

REGISTRATION NUMBER: 12345/ 1968

## 1. CHILD:

Family Name: **Deely-Smith**  
Given Name(s): **Emily Teresa**  
Sex: **Female (Younger born of twins).**  
Date of Birth: **29<sup>th</sup> February 1968**  
Place of Birth: **Royal Women's Hospital, Crown Street, Sydbourne**

## 2. MOTHER:

Maiden Family Name: **Deely**  
Given Name(s): **Mary Teresa**  
Occupation: **Not Stated**  
Age: **17 years**  
Place of Birth: **Windsor, E.A.**

## 3. FATHER:

Family Name: **Smith**  
Given Name(s): **Joseph Edward**  
Occupation: **Shop Assistant**  
Age: **19 years**  
Place of Birth: **Fairfield E.A.**

## 4. MARRIAGE OF PARENTS:

Date of Marriage: -

Place of Marriage: -

## 5. PREVIOUS CHILDREN OF RELATIONSHIP:

(names, ages and order of birth)

**Patrick (twin) 1 hour.**

## 5. INFORMANT:

**M.T. Deely, mother, 55 High Street Windsor, 1<sup>st</sup> March 1968.**

## 6. REGISTERING AUTHORITY:

**I.M. GOODE, Registrar General, Sydbourne, June 1968.**

## 6. ENDORSEMENTS:

1. The full (birth) name of the registered person was previously recorded as Teresa Deely., Registrar, June 1968.
2. The full (adoptive) name of the registered person was previously recorded as Emily Johnson., Registrar October 2012.
3. The adopters: William Alfred Johnson and Elizabeth Emily Collins were previously recorded as the parents of the registered person., Registrar October 2012.
4. Evidence has been furnished that the biological father is Joseph Edward Smith. His details were recorded by the Registrar, October 2012.

I, Ida Margaret Goode, hereby certify that this is a true copy of particulars recorded in a register kept by me.

**Registrar General of Eastern Australia, Sydbourne.**

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