

## Brian FitzGerald

### SUBMISSION TO SENATE INQUIRY:

### COMMONWEALTH CONTRIBUTION TO FORMER FORCED ADOPTION POLICIES AND PRACTICES

#### *Précis:*

- *The thinking behind the now discredited “forced adoption” policies of the past is still evident in the birth certificates that are issued to adopted people. These certificates are still part of the “secrecy and lies” approach.*
- *The information on these birth certificates is essentially untrue. Official government documents should not lie.*
- *Everyone has a fundamental right to true and accurate information about their birth and origins. A government has no right to withhold, and should have no interest in withholding, such information.*
- *Both mothers and children have been victims of coercion, secrecy and lies. Much has been done to improve the whole adoption process, but the Commonwealth should have played a part in this and certainly should step in now to help put any remaining anomalies right.*

I attended recently a workshop - organised by the Post-Adoption Resource Centre in Sydney - specifically for late discovery adoptees. It was a room full of distressed and very angry people. What everyone kept coming back to throughout the session was the lying: it's pretty obvious that human beings hate being lied to and it's particularly hard to tolerate lying that is systematic, organised and prolonged as is often the case with adoption. Much of the anger of the victims is directed of course at family members and sometimes that is never forgiven, but it is quite clear that there was a considerable amount of official lying – doctors, community services and government. While much has improved in recent years, it is shameful that the state governments in Australia continue a policy of deception on the birth certificates that are issued to adopted people. This is certainly the case in New South Wales; I understand that the situation in other states of Australia is very similar.

It is all part of the package of coercion and secrecy that characterised the “forced adoption” policies of the past and it is the mothers and the children who have borne the brunt of these policies ever since. Those callous policies, while much criticized nowadays, are still evident in the birth certificates and if the states won't address the issue, then it is perhaps up to the Commonwealth to set things right. It also wouldn't hurt to have uniform policies throughout the country.

A birth certificate that is issued to an adopted person in NSW lists as the parents, not the birth parents, but the adoptive parents. The latter are of course the legal parents once adoption has taken place but their names are listed, in the words of the NSW Attorney General's Department, "as if they were the birth parents". There is no qualification or explanation. It is called a BIRTH CERTIFICATE but the information given in it has nothing to do with the title of the document; this statement of parentage is at the very least misleading, and is actually quite false, an accusation that an official government document should not be open to. The NSW Attorney General's Department's words clearly admit to and acknowledge – though presumably unintentionally – the falsity. (The tax office and Centrelink, for example, make it quite clear that giving false and misleading information on one of their documents is "a serious offence".)

This certificate is referred to by government as the "amended" certificate. It might be argued that it should therefore be officially called an AMENDED BIRTH CERTIFICATE, but that would raise the obvious question about exactly what has been changed and it would seem that secrecy and obfuscation are actually the aim. Of course an adopted person, once an adult, may now apply (since 1991) for their "original" birth certificate which records the facts of birth parentage. The flaw is that you have to already *know* you are adopted so that you *know* a separate original certificate exists. Those who don't know about their adoption are fooled by the conspiracy of silence that has been set up under the cloak of secrecy.

I spoke to a judge some years ago who had an association with the Law Reform Commission, who quite openly and unequivocally offered the opinion that the information on these certificates was "a lie". That clearly cannot be tolerated.

The Government (the Minister for Community Services, the Attorney General and their departments) offer one or two unconvincing reasons why the current practice is in order. They say that the certificate "is intended as a document that sets out the relationship the law has established to exist between the adoptive parent and the child". But that is not how the certificate is presented: it is presented, falsely, as a birth certificate – see the title - not some kind of statement of "legal guardianship". Adoption is not mentioned.

Adults have a right to know who they are and to know the facts of their birth; governments do not have the right to withhold this information. Since any adopted adult can by law possess the two certificates, "original" and "amended", I don't see any reason why both should not be issued on application. The two certificates contain between them the information that the state holds about an adopted person's parentage and origins, and about his or her current legal status, all of which information being that person's right to possess. (And this is indeed a human rights issue.) The presently called "amended" certificate could remain the legal document that the owner uses for identification and so on, as at present; the "original" being for private information. An adopted person would then possess a certificate that looks like everyone else's and privacy, if that is an issue, is maintained. But equally important, the truth is also told.

In the recent apology to the victims of past adoption policies by the West Australian Government, virtually no mention was made of the children. It was probably quite proper to focus on the women who were coerced into giving up their babies, but it should be remembered that the children were victims too. It actually might have been rather awkward to include the children in the WA apology since the state was still lying to them on the birth certificates.

While adoption has been a state matter, the Commonwealth should have and certainly could have played a more involved role in these matters which have, as I have suggested, a basic human rights element. I propose that in the absence of any impetus from the state governments, the Commonwealth should seek to reinforce the more recent and welcome trend towards openness, transparency and honesty in the adoption process by putting an end to one of the last vestiges of the now hated forced adoption policies of the past and in the process put honesty back into our birth certificates.

**Brian FitzGerald**