

Adoption, Red Herrings, and Birthmother's Skirts

As America's source of adoptable white infants diminished in the 1970's, the size of birthmother's skirts changed. They expanded in breadth and width. About the time that the American Civil Liberties Union (ACLU), the National Council for Adoption (NCFA) and the Catholic Conference got involved in the fight to keep birth and adoption records sealed. Birthmother's skirts became a trusty ruse behind which these lobbies covered their true objectives. Secure the supply of adoptable infants. Sustain a lucrative private adoption industry. Protect adoptive parent interests in exclusive possession of the child. So the ACLU, NCFA and the Catholic Conference began to hide beneath and behind birthmother's skirts.

Birthmothers are woman that relinquish a child to adoption. For decades, their illegitimate and abandoned offspring were the primary source of America's adoptable children. Concerned United Birthparent's (CUB) first coined the term. It was a way to identify their role in an adoption.

Statutes that record the legal transfer of a child from a biological parent to an adoptive parent date back to 1851. So does a public record of that transfer. An adoption industry began to emerge by 1910-1920. Private agencies started offering services limited to the adoption of infants. Most adopters were white, married, infertile couples. By the late 1930's to the 1940's states gradually began to seal birth and adoption records. Kansas and Alaska were exceptions. The Child Welfare League of America (CWLA) first published standards for agency practice in 1938.

Belief in the efficacy of a "clean break" between the child's birth and adoptive families was in vogue at that time. Cutting "old" parental ties was best. New ones could replace them. This assured adoptive parents that the child "would be wholly yours, and really belonged to you." No "family ties that could threaten you in years to come." CWLA director Joseph Reed concurred. Protection was best "against interloping or worse by the natural mother." By the 1970's the emphasis on protection for the adoptive family had shifted. Now it was about protection of the birthmother.

The slang used to describe birthmothers reflected societal disapproval. She was a woman "in trouble." Her pregnancy deemed a "mistake." Her baby identified by a swearword. Still, it was more her baby's subsequent adoption that marked the child as irregular, inferior, spurious, and from "bad seed," rather than the child's illegitimate birth. Ironically, many of these babies were the birth grandchildren of America's dominant economic and social strata. When there is no adoption, birth records for illegitimate children are not sealed.

The first generation of adopted persons to discover that states had blocked their access to their vital records came of age in the 1960's. A grass roots campaign to open their records ensued. As they began to garner media interest, and some sympathy, they came to represent a threat. Headlines blared, "Should Adoptees Open Pandora's Box?" As social

policy, the “clean break,” meant to cut the adopted child’s birth ties completely, had failed. Ancestry, roots, and heritage prevailed.

Their adoptive parents often reacted in anger and in fear. “Does this mean we’ve been nothing more than babysitters”? Adoptive parent legislators, attorneys, and heads of agencies testified against open record legislation. An adoptive parent city council member and an adoptive parent state senator led the opposition that killed open record legislation in the District of Columbia and the state of Maryland

Nineteen hundred and seventy eight, however, marked the appointment of a grass roots adoptee activist to the Model Adoption Legislation and Procedures Advisory Panel. It was the first time that an adopted person was part of the decision making process. When completed, The Model State Adoption Act provided that the original birth certificate would be opened to an adoptee that has attained majority upon the adoptee’s simple request.

The adoption establishment perceived The Model Act as a direct threat. They had begun to experience a significant change in the supply of, but not in the demand for adoptable infants. Better birth control, reproductive rights, and less punitive attitudes toward unwed mothers diminished the availability of white, adoptable infants. Mother’s had begun to keep their babies. A group of private agencies banded together to form the National Council for Adoption (NCFCA) and scuttled the Model Act.

Now they said, “Birthmother’s need protection.” They vowed that birthmothers had been “promised anonymity.” It was an indirect way of saying what the private agencies, and many adoptive parents really wanted. To keep the birth records sealed. “What About Protection of the Birthmother?” superseded the original pitch, “Should Adoptees Open Pandora’s Box?” It was a brilliant red herring, worthy of a propaganda hall of fame.

The Oregonian published a letter from CUB President Karen Vedder in 2005. “The myth that we want to maintain anonymity – something we never asked for in the first place – is just that, a myth.” Author Lorriane Dusky wrote to a New Jersey paper re ongoing open record legislation there. “The ACLU and other misguided organizations claim they wish to ‘protect’ [birthmothers] from their own progeny. But by giving me anonymity I don’t want, and never asked for, these organizations are perpetuating a kind of identity theft one has to go back to slavery to replicate.” Real and identifiable birthmothers express these words. No unnamed sources here!

So who else hides behind birthmother’s skirts? Ontario’s privacy commissioner Ann Cavoukian admits no personal connection to adoption. She spoke in 2005 on behalf of birthmothers re open record legislation pending there. “Lives would be ‘shattered’ if the province retroactively opens up sealed adoption records and reveals the secrets of women who gave up children years ago.” Cavoukian claims she received a letter from a birthmother that threatened to kill herself if the law goes into effect.

Similar sentiments headlined news articles in the late 1990's when sheep farmer, art teacher and adult adoptee Helen Hill succeeded in getting Measure 58 on Oregon's ballot. It would give adult adopted persons born in that state the same access to their original birth certificates as non-adopted Oregonians. An enlightened electorate overwhelmingly passed Measure 58 in 1998. Red herrings did not persuade them.

Adoptive father and attorney Frank Hunsacker represented Oregon's "unnamed birthmothers." He wanted to stop the law. Bill Pierce was the chief lobbyist and a past president of the NCFA. He claimed, "The ruling opens the door to birth mothers being harassed by children they gave up for adoption years ago . . . understanding they would never be contacted." The San Francisco Examiner editorialized that "Oregon voters set off a 21 year time bomb." A three-judge panel, nonetheless, unanimously held "that birthmothers have no constitutional right to have the records kept confidential." Hunsacker, the NCFA and the Jane Doe birthmothers lost. The law went into effect.

An earlier decision by the U.S. Court of Appeals for the Sixth Circuit Court ruled that no one has a constitutional right to preserve his or her anonymity from his or her offspring.

"In fact, no document of [birthmother] surrender has ever been produced containing a promise of confidentiality . . .," Madelyn Freundlich, past executive director of the E. B. Donaldson Adoption Institute wrote to the NY Times.

Farmer/rancher, Utah State Senator and adoptive father Carroll Burling sponsored Nebraska legislative bill 61. Governor Dave Heineman approved it March 9, 2005. It allows heirs 21 years of age or older of adopted persons to access certain birth information. That includes the adopted person's original birth certificate. The adopted person, however, must be deceased. Both of his or her birth parents and their spouses must be deceased. Moreover, 100 years must have passed since the adoptees birth.

Author and birthmother Mirah Riben launched "The BirthParent Project." She wants to collect statistical data and copies of authentic surrender papers. Her goal is to make known what birthmothers really wish re adoption records.

Filmmaker and birthmother Sheila Ganz turned a master's thesis "Pretend it Didn't Happen" into "Unlocking the Heart of Adoption." The film airs on public TV.

Next time folks purport to speak for birthmothers, check to see who is wearing a skirt, and who is hiding behind one.

© 2008 All Rights Reserved

Joanne Wolf Small, M.S.W.
Author, *The Adoption Mystique*
jwsmallmsw@jwsmall.com