

SUBMISSION TO
Western Australia Legislative Council
Environment and Public Affairs Committee Inquiry into past forced
adoptive policies and practices
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PART ONE – ADOPTION IS A LEGAL FICTION. ADOPTION IS IDENTITY THEFT.

The Committee should first understand the awful legal reality of what exactly, adoption is. Adoption is a legal fiction, and it is state sanctioned identity theft.

The Committee should differentiate between the practical act of giving a child a home, and the legal act of a Court erasing one human identity, to create another.

Consider the words of a Judge in the NSW Supreme Court, when explaining how adoption is simply a legal fiction.

In the decision by Hallen J in *Re Gordon* [2020] NSWSC 673, his Honour said

“An adoption order is status changing. It severs, in law, but not in fact, the existing relationship of blood, and creates an adoptive relationship in place of the natural relationship, which in fact, although not in law, continues unchanged. New family ties are created which approximate blood ties. The child becomes part of his, or her, adoptive parents' family, solely through operation of law, and there is no necessity for any actual blood relationship to exist between them. He, or she, thereafter, is regarded, in law, as the child of the adoptive parents, and the adoptive parents are regarded in law as the parents of the adopted child. The adopted child also ceases to be regarded, in law, as the child of the birth parents and the birth parents cease to be regarded, in law, as the parents of the adopted child. The parental responsibility for the adopted child by the birth parents is also extinguished. By operation of law, a legal fiction is created.”

This legal fiction comes into place with an “Order of Adoption”, granted by the relevant Court. The department of Births, Deaths and Marriages then takes the birth certificate off the child, and issues them a new (and fake) birth certificate, with a new name, and new “parents”.

By this process, the legitimate identity of a child is stolen, by the state, without their consent. A new (and fake) identity is created, and the person adopted, is forced to live in this identity, forever.

Some survivors of forced adoption don’t have any need for the legal fiction of adoption, and the fake identity that goes with it. They want to undo it, and take back their real identity, the one that was stolen, when they were babies. They want to be put back into their family tree, where they belong. They want to live as the person they were born, not as the person the state created.

Some survivors of forced adoption want adoption reversals, even when they have close and loving relationships with the people that adopted them. They want their adoptions reversed because they want to live an authentic existence, as their true selves, and be who they really are.

Note - If adoption occurred without the erasure of identity, via the taking and replacing of birth certificates, people would not have to seek reversals, later in life. Adoption could occur with a certificate of adoption in the same way that marriage occurs with a certificate of marriage.

PART TWO – THE LANGUAGE OF ADOPTION

Language is culture, and culture informs outcomes.

The language of adoption was created to support the legal fiction referred to above, and it has made the illegitimate seem legitimate. It has made actions that are criminal and morally repugnant (child abandonment and the baby trade) socially acceptable. By accepting the language, we deny biological facts, and accept the false premises that have been imposed on us.

Therefore, at Cribmates, there are terms that I do not use, because they are either inaccurate or offensive.

Others can use their own terms, but we use the terms;

- Mother (not birth mother); and
- Father (not birth father); and
- Siblings, grandparents, family (not birth siblings, grandparents, family); and

- Person living in an adoption construct/survivor of forced adoption (not adoptee); and
- Woman who adopted me (not adoptive mother); and
- Man who adopted me (not adoptive father); and
- Other children who were adopted with me (not adoptive siblings); and
- Relatives of the people who adopted me (not adoptive family); and
- Adoption reversal (not adoption discharge).

PART THREE – WHAT IS CRIBMATES?

Cribmates is a free service, run by volunteers, with adoption experience, legislative experience and legal skill. It provides adoption reversal application services, to people living in a forced adoption construct.

Cribmates was formed by Victorian resident Grace Kelly, who used to live in a forced adoption construct, until she had it reversed.

Cribmates writes adoption reversal applications (affidavits) for applicants, lodges them with various Courts, liaises with the judiciary, Births, Deaths and Marriages, and any other government departments, to achieve the reversal.

Cribmates does not provide counselling, and we do not seek to persuade people to pursue adoption reversals. We will not engage in helping with decisions regarding reversal, we are simply here to assist, once the decision is made, that the person wants to get out of their forced adoption situation.

PART FOUR – BODY OF THE SUBMISSION

Our submission is brief, and simple.

It is one thing to apologise, it is another to right the wrong.

Adoptions can be reversed. People do not have to remain stuck in forced adoptions. Every person living in a forced adoption should be notified (some people don't even know they are adopted) and offered the option to reverse their adoption. The reversal should be free and fuss free.

People living in forced adoptions can access counselling and support, but ultimately, the practical remedy to their situation is a reversal of the adoption,

a process known as a “discharge” - it is believed that the term “discharge” heralds from the concept of a mortgage, which is discharged when paid out.

In a decision by Palmer J in *Re Susan* [2009] NSWSC 592 his Honour considered that importantly before making a discharge, a number of policy considerations come into play. In particular, the need for adoption orders to give a sense of security and permanence:

“It has long been recognised that if adoption orders can easily be set aside, then the proposition that the relationship between adoptive parent and adoptive child is in all respects the same as between natural parent and child is an illusion. A great deal has been written concerning the importance of giving security and permanence to an adoption order. It is recognised that prospective adopting parents may be discouraged from undertaking the emotional and financial commitment of an adoption if the relationship which is the result can be severed.”

This illustrates just how deep the lack of consideration towards forced adoption survivors runs; their individual situations are diminished in favour of policy imperatives.

The Committee should know that in Western Australia, the process for adoption reversal is fairly simple. An affidavit is lodged, and the other parties to the adoption (adopters, parents) must be notified. The decision is made on the papers, in chambers. There are no court hearings. The process takes a few weeks, and there is no cost.

Cribmates lodges applications for reversals all over Australia, and we consider WA the gold standard, when it comes to reversals.

Nevertheless, more can be done. **Every person living in a forced adoption should be notified (some people don't even know they are adopted) and offered the option to reverse their adoption. The reversal should be free and fuss free.**

Cribmates thanks the Committee for the opportunity to lodge this submission, and further information can be obtained from us, on the email address above.