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by Mirah Riben

“...I want to suggest that the conventional understanding of adoption should be turned on its head.”

Rickie Solinger, Beggars and Choosers

In most of the world births are documented. One's birth certificate is the basis for all identification and benefits within one's jurisdiction and the ability to travel outside its borders. Whether publicly accessible or not, it is the property of those named on it - the child and the parents - who have unfeathered access to it.

When people are adopted in America and other industrial nations, they are issued a document stating that they have been adopted, but rather an entirely new “certificate of birth” as if “born again” to their new legal and entirely different set of parents. This “certificate of birth”, called “amended” birth certificate, replaces the original birth certificate (OBC). It changes to whom the child was “born”, the child’s given name and often changes the place and date of birth as well as, in some cases, his race, becoming a state committed fraudulently issued document that one’s entire life from that point forward based on.

In the post WWII era, when thousands of babies were placed for adoption to protect mothers’ reputations from the stigma of having birthed an “illegitimate” child outside of marriage, it became common practice state by state for the OBCs to be sealed and secretive even to those to whom it would otherwise belong. The intent was to make the adopted child “as if born” into his adoptive family in a way that he never had to know that he was adopted, which it was felt might make him feel “different.” The child was at the behest of his adopters to reveal the truth, or to live out his life falsely believing that his psychological parents are in fact his genetic progenitors.

The result has been that instead of preventing stigmas for relinquishing mothers and adopted persons, it legitimized them. Adoption became a legalized “dirty secret” not just from the public, but for the parties to the adoption itself.

Mothers who lost children to adoption had to add the agony of not knowing if their children were alive and well cared for to the trauma of their loss and feelings of shame and guilt foisted upon them for having soiled their parents’ good names. They coped in various ways, many doing as they were told and maintaining the secrecy – never telling anyone – living silently with their unrecognized, unmourned, limbo loss and irrevocable lifelong grief.

Some adoptees have lived into adulthood not knowing they were adopted. Others are told that they were adopted and born to “another woman” and nothing more. Their heritage is consigned to silence and secrecy – often creating a sense of rejection and fear of being rejected again if they asked too many questions about their verboten ancestry. Amidst a national fascination with genealogy, adoptees report being told their natural curiosity about their roots is indicative of a lack of “gratitude.”

Beliefs about secrecy are changing. Recognizing that secrets revealed create feelings of betrayal, current thinking in adoption practice is for more openness. As newly occurring domestic adoptions are often open, there are legal rules which sealed the OBCs from persons separated by adoption. Six states have various degrees of access, some with stipulations such as providing mothers an opportunity to “veto” their child’s access to their own OBC or contact, or requiring intermediaries for contact, thus keeping this population infantilized and marginalized. Other states allow access only for adoptees born during specified years and not to others.

State legislators struggle with what seems to be a balancing act between the rights of the adoptee to his own birth certificate, and the alleged right of mothers and fathers to anonymity. Lacking any documentation of any such promises made to mothers at the time of relinquishment, proponents of continued secrecy claim it was “assumed.”

The absurdity of this claim that OBCs remain sealed to protect mothers' privacy is glaring when one recognizes that everything short of her identity is exposed, including things that are far more delicate, private, and potentially devastating as adoptive parents are routinely given medical, social and cultural history as are returning adult adoptees.

While such information redacts names – which the adoptive parents may have on an adoption decree – it contains information gathered via confidential counseling sessions between the expectant or new mothers and social workers, clergy or their representatives.

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As such, this information should be protected under HIPAA’s health information privacy rules.

Adoption files routinely contain women’s gynecological history including age of first sexual relation, number of partners, STDS, number of pregnancies and number of pregnancy terminations, spontaneous or otherwise. Such information is not genetic and of no value for the health of the adoptee and would not be accessible by a non-adopted person about his or her mother. Also included are psychological evaluations of women at a time of great stress with judgments such as “hysterical”, “depressed”, or “flat” and “emotionless.” Ironically, many adoption agencies deny mothers who relinquished access to such files about themselves.

It is absurd and preposterous that this personal and confidential information contained in adoption agency records is routinely sought and provided – while at the same time alleging “protection of mothers’ privacy.” Parents who relinquished their children, relinquished no other rights or protection under the constitution. Yet the birth certificates, which should be the property of the parties named therein, are denied to the adoptee and often to the mother as well. Such practices are upside down and backwards and treat adoptees and their original family members in ways that no other citizens are treated, discriminating against them and denying them rights equal to all others. They are simultaneously denied the right to access and the right to protection of confidential records.

There is no justification in U.S. law to mandate laws that apply only to certain people based on their birth status. The only fair, just and equitable solution to equalize these populations is for all states to cease withholding original birth certificates from the parties named therein and to stop the practice of releasing confidential information intended to placate curious adoptees while further violating their mothers.

Testifying at a legislative hearing about a proposed NJ bill regarding adoptee access to records, Adam Pertman, adoptive father and executive director of the Evan B. Donaldson Adoption Institute, said that it is time to see beyond simply thinking adopted people only want or need their medical histories. Having their original birth certificate and the names of their original parents represents a much deeper need and should be their right, not only for their psychological health and sense of well-being, but also making them equal to the rest of us who have always had this information. (http://www.firstmotherforum.com/2010/03/should-adoptees-or-their-decedents-or.html)

Other than a right to privacy of health records, and confidential counseling conversations with social workers and clergy, there are no other laws that protect anyone’s secrets or lies. Men are sought to own up to paternity and pay support making the “protection” of mothers gender biased and as backward as was the goal of “protecting” women by denying them the right to vote.

Every day past affairs and out-of-wedlock children come back into people’s lives with no law to prevent it from happening. Adoptees and their original families need to be made whole and treated with the same respect – and face the same consequences – as all others and not have laws that apply only to them and infantilize them.

Most mothers who placed children for adoption long to know they are well. Adoptees who find their mothers are welcomed approximately 90% of the time. In the first year that records were opened in Oregon 5,318 requests were made by adoptees for their birth certificates and only 58 birth parents did not want contact. In Delaware there were 414 requests for records by adoptees and only 14 birth parents did not want their names revealed. Those who do not want to welcome their child have every right to say “no” if and when a child comes calling. Sufficient legal options exist to protect all citizens from unwanted intrusions, harassment and stalking.

Legislators and grassroots reformers need to remove all language that is vague in reference to access of adoption agency “files” or “records” and become clear, concise and explicit in requesting access to the original birth certificate to all parties named therein as a restoration of denied human rights. Even Bastard Nation, which began with a strong theoretical differentiation between one’s right to their OBC and search for “medical and psychological need to know” does not maintain that distinction in their mission and blurs the lines by using the term "records" which might imply confidential records.

Equality very simply means “the same as” – not less nor more than any others have legal access to. Equality demands that adopted persons are given the same access to their own birth certificate as their non-adopted peers have and are also granted access to their own pediatric medical history. Any and all additional family medical and social history could then be acquired the same way all other non-adopted people acquire theirs – by asking one’s parents. And all mothers and fathers have every right to reveal as much or as little as they see fit to reveal, thus balancing everyone’s rights.

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In a climate where mothers' rights have long been pitted against adoptees' rights, keeping the issues clearly defined in this manner will defuse opposition from mothers who oppose violation of their HIPAA rights.

Clarifying the vagaries of terms such as “records” will likewise help legislators, reformers and the public rights and also help assuage opposition of some state ACLU branches. Reformers and legislators need to get back to basics, keep it simple, and keep the focus on equality, something all Americans can understand and support and legislators are wont to deny.

Mirah Riben is an author of two internationally acclaimed books — “Shedding Light ... The Dark Side of Adoption” (1988) and “The Stork Market: America's Multi-Billion Dollar Unregulated Adoption Industry” (2007), and numerous articles. Riben is former Vice President of Communications, Origins-USA, and former Director of the American Adoption Congress. A "pioneer", Riben was one of the first birthmothers to go public and has been researching and writing about family preservation for decades. As a staunch proponent of human rights Riben opposes all profiteering in adoption and falsified birth certificates. Riben has been a presenter at multiple national adoption conferences, including St. John's University, Practicing Law Institute, The Evan B. Donaldson Adoption Institute and Ethica, Inc. Riben is the mother of four, one of whom was lost to adoption in 1968 with whom she was reunited and who is now deceased.

Reunion
by Lynn Lauber