Repeal the Seal!

Mirah Riben
REPEAL THE SEAL!
by Mirah Riben

"REPEAL the SEAL!" Should this be our new battle cry, mantra and legislative action plan?

Wouldn't it be great to stop focusing our legislative energies on trying to "fix" or reform what is wrong with adoption, but on totally getting rid of the archaic draconian laws passed in the 1940s – for the most part, in all but two states – that created a second class of citizenry for those who are adoptee? To stop being on defensive and go on the offensive!

For the past 60 years, since the records became sealed, grassroots activists worked to seek to restore rights unjustly taken from us. We have succeeded in gaining unconditional, unrestricted access in just six states in those six decades.

We were unarmed pioneers fighting sophisticated machines. Part of our battle was overcoming the silence and shame surrounding these issues, including our own. We needed to make ourselves whole first and then conquer the mystique and glamorization of adoption: the misconceptions and long-held beliefs that adoptees should be grateful and birth mothers ashamed and seeking to hide behind anonymity.

While we educated the public, we grew more empowered and became self-taught activists and lobbyists! Now we are ready, as a movement, I believe, to move to the next step and go at this thing, not apologetically and politely, but with guns blazing full steam ahead.

In 1989, I first coined the phrase "equal access." While I was on a book tour after the publication of shedding light on... The Dark Side of Adoption, at the AAC Region 3 conference that October, I presented a talk entitled "Inequality Must End" in which I put forth the argument that seeking open "records" was too vague and open ended. Records? What records? It opened us up for Pandora Box criticism, and in general it sounded as if adoptees were asking for special treatment instead of what we were really seeking - equality. I pointed out that equality is a very American ideal and would gain us far more support. It was that year, for that presentation, that I printed up bright pink "Ask what equal means" button that I hand out wherever I go.

I returned to activism after a respite following the death of my daughter to the realization that change occurs very slowly. Most groups and organizations are using the phrase "equal access" but many still maintain "open records" in the name of their groups or in their mission statements. Even Bastard Nation (BN), the most "militant" among us, has a mission statement, which, after starting out "advocating for the civil and human rights of adult citizens who were adopted as children" follows by speaking of a prohibition of "assessing [sic] personal records"...and records "held by their governments in secret" without ever mentioning original birth certificates (OBCs).


Mike Dougney recently observed that "the vague promise that adoptees might know the facts of their origins, and the outright confusion of birth certificates with seldom-specified 'medical records' that complicate, if not sabotage, the relatively simple matter of restoring a basic civil right and equal protection under the law to adoptees http://tinyurl.com/doughney-ebd." Dougney was aiming his guns at Evan B. Donaldson Adoption Institute and Adam Pertman, calling such language "an ongoing threat to human rights" yet failed to include BN, whose mission statement remains today as above, and many others among us who unintentionally likewise diffuse the clarity of our struggle as a human and civil rights issue with ambiguous terminology.

New Tools: Time for a New Approach

Evan B. Donaldson has produced three clear, cogent, and highly recommended handouts that are powerful new tools for activism and legislative work:

- Setting the Record Straight: Why is OBC Access Important?
- Setting the Record Straight: What were Birthmothers promised?
- Setting the Record Straight: What are the negative consequences? http://www.adooptioninstitute.org/events/2011_03HardRock.php

When you add to this the research of E. Wayne Carp, Elizabeth Samuels, the Oregon University Adoption History Project and Barbara Raymond on the history of sealed adoption records, a clear picture emerges. Baby brokers such as Georgia Tann pushed for secrecy in adoption in order to practice slush, underhanded gray market adoptions without any scrutiny that transparency would provide. Meanwhile, the Child Welfare League of America opposed secrecy and sealing of records and

(continued on next page)
favored openness and honesty in adoption practice then, as they do today. It was the industry versus the experts concerned about the best interests of children and their families and the industry won to the detriment of the people.

Today, as then, it remains those whose livelihood depends upon the redistribution of children – the adoption practitioners and their lobbyists – who oppose access to the OBC for adoptees. They now pretend it is out of concern for mothers when that was never the reason the records were sealed to begin with. State laws reflect the reasons for sealing adoption records and OBCs were to protect adoptees from the stigma of illegitimacy and to protect the adoptive family from intrusion by the birth family. Nothing about protecting birth mothers or any alleged promises of confidentiality because none exists. It began as a moneyed interest against those personally affected by adoption, and it remains so.

We must seek repeal because we need and deserve a return to pre-1940s parity with Alaska and Kansas. Even the best access legislation (that in Alabama, Maine, New Hampshire and Oregon) allows birth certificates to continue to be sealed to begin with, making them not as pure as Alaska and Kansas. For example, consider the case of adoptive parents of a troubled teen who believe reconciliation with their child’s birth family might be worth trying to save him or her from self-destruction. In Alaska or Kansas they could access their child’s OBC because it was never sealed. However, in Alabama, Maine, New Hampshire or Oregon, unlike Alaska and Kansas, OBCs are still being sealed. Thus, unless the new law specified access for adult adoptees or their adoptive parents on behalf of their minor child, parents in such a scenario would not have access without a court order. Such denial is unconscionable and unacceptable. Unless these laws have such provisions, they are less than perfect.

Additionally, only repeal allows the other parties named on the OBC – the mothers and in some cases fathers who relinquished – to likewise have access to those legal documents on which they are named. Repeal is the only way to level the playing field and allow adoptees in all states to have parity with those born in Alaska and Kansas. Additionally, repealing the laws that sealed the records – unlike any other current legislation – eliminates all sealed OBCs and falsified birth certificates going forward.

A Tougher Road?

Repeal seems a clearer, more direct road to achieve our goal of ridding states of these oppressive laws because civil rights cannot be compromised. It is not equality to require some citizens to jump through hoops and overcome obstacles such as vetoes and age restriction – the latest being an attempt by Rhode Island to require the adoptee reach age 40 before being allowed access – that are not required of all citizens. Repeal leaves no opening for such unequal requirements.

Will it be tougher to get a sponsor for such a bill? No doubt. It appears to be without precedent except when you utilize Alaska and Kansas. Consider running for state Assembly and introduce your own bill!

Knowledge is power. We know this history and the present opposition and we have the documentation to prove our case. These were ill-conceived laws passed against the advice of the experts to profit baby brokers. Any real concern for protecting adoptees from the stigma of illegitimacy is long past.

The opposition, on the other hand, has no proof of their claims of promises made to mothers because there is none. Nor do their claims of increased abortion or decreased adoption hold water. We must also use the fact that remaining open in Alaska and Kansas has not resulted in any consequence.

We must use this power to come from an offensive position! Many of us have used the term “restore” our access. This is accurate as the discrimination and denial of civil and human rights of adoptees is a relatively new phenomenon – in effect only since the 1940s in MOST states. Restoration must become a regular part of our vocabulary because of its “dead on” accuracy. We want to be restored to pre-1940s America in regard to adoptee equality.

I also suggest demonstrations wherein adopted persons, with Amended Birth Certificates in hand, turn themselves to their local authorities for violating state and federal laws that prohibit being in possession of falsified government documents. See http://www.law.cornell.edu/uscode/18/usc_sec_18_0001028----000-.html. This can be combined with conferences or other events, and properly announced to the media, could make quite an impact on educating the public.
A wonderful opportunity for such demonstrations is approaching in July. On July 28, 1868, the 14th Amendment was ratified giving the Federal Government the right to intervene when states and local governments deprive citizens of their rights. This crucial amendment has become the basis for all the Civil Rights legislation in the last 125 years and would be a great day to come out in force for the rights of adopted citizens.

Armed with the power of right on our side, we can boldly attempt to REPEAL the laws that have held us as second class citizens for six decades! We deserve no less and must demand what we deserve. Civil human rights cannot be compromised and nothing less than unrestricted, unconditional access can be acceptable. It is unconscionable to promote and encourage adoption as a “loving choice” until such time as adopted citizens have the same rights as their non-adopted peers with no conditions or requirements that apply only to them.

Mirah Riben is 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 birth mothers to go public and has been researching and writing about family preservation for decades. Riben is the mother of four,