The Metamorphosis of Marriage and Adoption

Sanford N Katz, Boston College Law School
Daniel R Katz

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When the Supreme Judicial Court of Massachusetts issued its opinion in Goodrich v. Dept. of Public Health, 798 N.E.2d 941 (Mass. 2003), family law history was made by the court’s decision that failure to issue a marriage license to a same-sex couple violated the couple’s constitutional rights under the state’s constitution. Since 2003, Connecticut, Vermont, New Hampshire, Iowa, New York, and the District of Columbia have legalized same-sex marriage either by court decision or legislative action. The State of Washington recognized same-sex marriages in June, and in January 2012 Maryland set to do the same. In addition, in May of this year, the Rhode Island governor signed an Executive Order recognizing same-sex marriages. In the same month, President Obama revealed his support for same-sex marriages in a TV interview, the day after the citizens of North Carolina voted to ban same-sex marriages in its state. Forty-two American jurisdictions maintain a ban on same-sex marriages. Legislators in those states have enacted statutes or constitutional amendments restricting marriage to a man and a woman. However, same-sex couples may enter civil unions, which provide

them with the same benefits as marriage in Illinois, New Jersey and Rhode Island. The issue of same-sex marriage is likely to be a major one in the upcoming presidential campaign.

One of the arguments against same-sex marriage is that marriage, as a legal institution, has always been a relationship between one man and one woman and the history and tradition of a people should trump all other considerations. Missing in that argument is the fact that marriage has actually changed. It is not the same legal institution that it was during the eighteenth century. It had been, for many centuries, a union between two equal parties, without legal domination of one spouse over another. This is illustrated by the fact that a wife may now own property in her own name; a wife’s body is her own and not subject to her husband’s abuse with impunity; spouses can sue each other; a wife’s domicile does not automatically become that of her husband’s upon marriage and husbands can be awarded alimony as well as wives. Perhaps most surprising in the recognition that contemporary marriage does not result in the loss of one’s legal identity.

Because the same-sex marriage issue, marriage has caught the attention of legal scholars and journalists who seem to be examining the institution from every angle. In the popular press it is not unusual to find articles reporting surveys of Americans that reveal their positive attitude toward same-sex marriage (the latest poll indicates that 53 percent of Americans favor same-sex marriage). Other articles may relate to the acceptance of inter-racial marriages and on the prevalence of inter-religious marriages. Governor Romney’s Mormonism has given rise to articles about the practice of polygamy, now legally banned but reported to be practiced in a Utah community and the subject of a popular TV series.

While marriage has dominated legal scholarship and the popular press, major changes in adoption law have gone unnoticed. In fact a metamorphosis in adoption laws have occurred. It is not the legal institution it was in 1851, when Massachusetts enacted the first adoption statute that provided a judicial proceeding to adopt a child rather than a private informal agreement of a legislative act to formally change the name of a child and secure the child’s right to inheritance. For almost two centuries, adoption was a taboo subject with a veil of secrecy attached to it. In addition, what was a public effort to create a childless couple who wanted to start a family and establish an heir has become one for locating a person or persons who can provide a family setting for a child.

For years the process of establishing the adoptive relationship was designed to create the impression that the adopted child could have been the natural child of his adoptive parents. Adoption agencies attempted to place a child with a prospective adoptive parents who were of an age that they might have conceived the child, who shared the same ethnic background, skin coloration, race, physical appearance and even religion. So strong was the policy of secrecy that often adopted children did not learn that they had been adopted until they were adults. Sometimes the disclosure was made in the will of the adoptive parent. The reasons for the changes in adoption law and practice are complex and have a great deal to do with the progress that has occurred in civil rights, the drop in the number of American infants available for adoption, changes in the laws dealing with child abuse and no

Health care coverage for lawfully residing aliens: Massachusetts and federal perspectives

The commonwealth’s policy of near universal health care coverage extends to noncitizens who are living lawfully in Massachusetts. In April 2006, under then-Governor Mitt Romney, Massachusetts became the first state to implement a near universal requirement for health care coverage when the Legislature enacted chapter 58, § 45, of the Acts of 2006, “An Act Providing Access to Affordable, Quality, Accountable Health Care.” A significant feature of this law was the creation of affordable and comprehensiveness health insurance that would be available to qualified low income individuals who lawfully reside in Massachusetts. This article provides an overview of the payers for health care coverage that is accorded for the legal immigrant population. Covering legal immigrants was first accomplished in Massachusetts with the state acting as sole payer, however, pending federal public benefits law may provide the necessary, economic support to sustain state health care coverage.

The commonwealth’s health care reform combines an insurance requirement to obtain and maintain comprehensive coverage for nearly all citizens and legal residents aged nineteen and older, with state subsidies to assist low income residents on a sliding scale basis. Specifically, to assist low income residents in transitioning from costly emergency room services to preventive care, the Legislature created the Commonwealth Health Care Insurance Program (Commonwealth Care). This program essentially filled the gaps in existing public benefit programs by subsidizing monthly premium costs for residents who fell outside of Medicaid or MassHealth eligibility criteria and whose household income did not exceed 300 percent of the Federal Poverty Level (FPL). Before Commonwealth Care, the poorest of the poor, for example a single adult earning less than $11,172 and 100 percent FPL, was left uninsured unless the individual had a disability or was otherwise categorically eligible for Medicaid (MassHealth). Similarly, an individual who had possessed lawful permanent resident status for 10 years and was living in the United States but who held such an immigration status for less than five years was not eligible for Commonwealth Care. Established coverage for these disadvantaged populations. In furtherance of the commonwealth’s policy of near universal coverage and to reduce health and ethnic disparities, the commonwealth provides subsidies to allow qualified residents to enroll in Commonwealth Care, the state’s unique health insurance program which benefits low income residents, including disadvantaged populations who are noncitizens. Under this program, the costs associated with health care coverage for legal immigrants are funded entirely by the state and its residents.

Financial ramifications to states faced with full economic responsibilities for health care reform policies may be unsustainable without federal support and legislation. Beginning in 2006, for example, the commonwealth incurred the costs associated with state health care benefits for legal residents because it receives no federal financial reimbursement under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). When during a state budget crisis the legislature terminated coverage only for legal immigrants, the Massachusetts Supreme Judicial Court determined that lawful permanent residents constitute a suspect class who are entitled to the state constitutional rights of equal protection on the basis of national origin and alienage. ‘Aliens, standing by definition outside the body politic and yet subject to its laws, are a prototypical example of the discrete and insular minority. In light of their particularly vulnerable status, it thus remains necessary to exercise heightened vigilance to ensure that the full panoply of constitutional protections are afforded to the commonwealth’s resident aliens.”

Because of the decisions in Finch v. Commonwealth Fin. Auth., 459 Mass. 655 (2011) and Finch v. Commonwealth Health Ins. Connector Auth., 459 Mass. 655 (2011), approximately 40,000 legal immigrants can be restored to full coverage. In the Finch cases, the cat 
The psychological dimensions of the search for an adopted child’s origins were explored in a brilliantly edited study first published in England in 1973 and in the United States in 1975 by Beacon Press. Entitled In Search of Origins, it was written by Dr. John Triseliotis, a psychiatric social worker doing research in Scotland, the book sheds important light on the psychological effects of adoption. It is hard to imagine what life would be like for a child who is fathered by a biological father who did not want that child and was forced to relinquish it to the adoption system. For many of the adopted children, the search for origins is a painful and often traumatic experience. The crack in the wall of secrecy has been great. It is hard to believe that this phenomenon could have existed for so long, but the adoption system was designed to create a veil of secrecy around the process of adoption. It is hard to imagine what the lives of these children would be like if they had never known the truth about their biological origins. For many of them, the search for origins is a painful and often traumatic experience. The psychological effects of adoption are complex and can have a lasting impact on the children and their families. For some children, the search for origins can be a source of comfort and a way to connect with their biological family. For others, it can be a source of pain and a reminder of the pain of separation. The search for origins is a complex and often painful experience for adopted children and their families. It is important that adoption agencies and adoption lawyers work to create a system that is sensitive to the needs of adopted children and their families. Adoption is a complex and often painful experience for adopted children and their families. It is important that adoption agencies and adoption lawyers work to create a system that is sensitive to the needs of adopted children and their families. Adoption is a complex and often painful experience for adopted children and their families. It is important that adoption agencies and adoption lawyers work to create a system that is sensitive to the needs of adopted children and their families. Adoption is a complex and often painful experience for adopted children and their families. It is important that adoption agencies and adoption lawyers work to create a system that is sensitive to the needs of adopted children and their families.