

ADOPTION IN HAWAII

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“ ‘Adoption is a great adventure, comparable only to the thrill of actual physiological motherhood, and, in some ways, surpassing even that. Having tried both, I can state from experience that the child you deliberately choose rewards your love and care just as richly as the one Mother Nature sends haphazard.’ This conviction voiced by a mother, amid the gloom of depression and war threatened years, is but a reflection of what many others have said with enthusiasm.”¹ The above quotation is the opening paragraph of a book published in 1939. Since that time there has been increasingly widespread human interest in adoption. Practically every national magazine has within the last year carried one or more articles on this subject. TV and radio have found the subject of such public interest that, in addition to many public service programs, several commercial programs have appeared. Adoption may be defined as the legal process of transferring full parental rights, responsibilities, and privileges from one set of legal parents to another, the child thereby becoming fully the legal child of the adoptive family.

History of Adoption in the United States

The modern concept of adoption began to develop in the United States about one hundred years ago. In 1851 the State of Massachusetts passed the first adoption law which focused on safeguarding the rights of children. As in most instances, this law was enacted to legalize and regulate already existing practices and customs in the community.

Prior to that time, if a child could not be cared for by his own people, or became a pauper, at an early age he was farmed out for indentured labor. Around this time, the “free home” had also become the vogue and literally hundreds of pauper children of the Atlantic Coast were separated from their parents and shipped west and south to families whose interest in them had been solicited. Families would look over the group of children at the railroad station and would pick by sight the child who appealed to them. Though still legally related to the families they had left behind, the children were indebted to the families who took them in. The emphasis in all of these placements, or quasi-adoptions, was on the desires of the foster family with little recognition given to the needs of the child.

Throughout our country as a whole, interest in adoption has been increasing for the past 20 or 30 years and very markedly so during the past ten years until at this time there are more adoptive parents seeking pure Caucasian infants than there are infants available for adoption.

Adoptions in Hawaii

The history of adoptions in the Territory had a different beginning. In Hawaii, among the Hawaiians, rearing someone else's child, whether legitimate or illegitimate, was an acceptable tradition and the gift of one's child to a relative or friend was an act of love and respect. This practice of *hanai* was not cemented by any legal action and was not confined to poverty stricken children. It is impossible to state to what extent the informal

¹ L. M. and E. C. Brooks, *Adventuring in Adoption* (Chapel Hill: University of North Carolina Press, 1939), p. 3.

practice of hanai still exists, but we do know a large number of Hawaiian and Part Hawaiian children are being adopted each year.

In 1951 Hawaii had the highest adoption rate of the twenty-five states reporting comparable data to the United States Children's Bureau. National statistics for the past few years are not immediately available, but Hawaii is still probably close to the top in adoptions per capita.

Over the past ten years, approximately 600 children have been legally adopted annually in the Territory of Hawaii. During this period there has been some fluctuation in adoption figures but no discernable trend. The latest year for which adoption statistics are available is 1956. During that year, of the 611 children involved in adoption in the Territory, 502 resided in the City and County of Honolulu, 52 on Hawaii, 41 on Maui, and 16 on Kauai.

The above figure of approximately 600 children adopted annually can be very misleading to the childless couples seeking to adopt a child not related to themselves. "Although adoption is ordinarily considered the process by which a child becomes a member of a family to which he is unrelated, 72 per cent of all petitions filed in 1956 were filed by step-parents or other relatives, such as aunts, uncles, grandparents; by far the largest of these were step-parents. The remainder (28 per cent) were filed by persons unrelated to the child."²

Over the years, approximately 20 per cent of the children involved in adoption petitions are placed with persons not related to them. Of these children placed with non-related persons, about half are placed by social agencies and about half by other individuals such as friends, physicians, lawyers.

The children for whom adoption petitions were filed in 1956 were almost equally divided between those born out of wedlock and those born in wedlock. Non-relatives were the petitioners for the majority (68 per cent) of the adoptive children born out of wedlock. In contrast, relatives filed petitions for the majority (59 per cent) of the adoptive children born in wedlock.

In 1956 in Honolulu³ the largest number of children involved in adoption petitions were of Part Hawaiian ancestry; the next largest group was Caucasian; and the third largest group was Japanese. Part Hawaiians accounted for 36 per cent of the total; Caucasians for 24 per cent; Japanese for 9 per cent; Filipino for 5 per cent. Children of mixed racial ancestry other than Part Hawaiian accounted for 12 per cent. Racial ancestry was not specified in 10 per cent. Other races represented less than 1 per cent each.

Legal Aspects of Adoption

Since adoption is a legal process it is important that adoption laws be written and administered in a manner that will give adequate protection

² Territory of Hawaii, Department of Public Welfare, Adoption of Children in Hawaii for the year ended in December 31, 1956, p. 2.

³ Honolulu Juvenile Court Annual Report 1956, p. 55. (Racial statistics were not available for the total Territory.)

to all three parties involved: the child, the natural parents, and the adopting parents. In 1953 the Adoption Statutes of Hawaii were completely revised and modernized on the basis of recommendations of the United States Children's Bureau. A committee composed of representatives from the court, social agencies, and interested citizens worked during 1951 and 1952 to formulate proposals which resulted in the enactment by our Legislature of these new laws which afford greater protection to all three parties. "Termination of Parental Rights" legislation was also enacted which permits the court for valid reasons in a separate hearing to separate legally the child from his parents and to make him unquestionably available for placement for adoption. Without going into legal terminology, we might note some of the significant effects of these revisions. Children who previously might have been deprived of a permanent home are now made available for adoption. After the natural parents have surrendered their child and he has been placed in an adoptive home, he cannot be removed unless it is for the child's best interests. Previously the relationship between the child and the adoptive parents was quite insecure until the adoption was finalized by law. Inheritance rights of an adopted child were clarified. Greater confidentiality of records and of hearings was achieved. Territorial Law provides that a new birth certificate in the name of the adoptive family be issued at the time the adoption decree is final.

The history of laws relative to adoption and to the child born out of wedlock reflects the changing attitude of society.

The common law of England from which our law stems was ruthless in its denial of any rights to children born out of wedlock. The legal status of the child was deplorable. He was variously described as *filius nullius*--nobody's child; *filius populi*--the child of the people; *heres nullius*--nobody's heir. He was kin to no one, not of the blood of his father. . . . He was not even considered the lawful child of his own mother and could not inherit from her. . . .

As late as the middle of the nineteenth century we find an English court defining the mother's relation to her child born out of wedlock as no different from that of any stranger.⁴

The early laws of the United States relative to the child born out of wedlock, and the natural parents of such a child appear to have been based on punishment of the offender. The history of paternity or bastardy proceedings well illustrates this point in that in many states to this date the proceedings are still quasi-criminal in nature and in some states begetting a child out of wedlock is a crime. Until recently our Territorial Laws regarding paternity had been quasi-criminal but through legislative action this has been changed and the proceedings are now completely civil in nature.

A sound adoption law cannot be regarded as the entire solution to protecting the rights and insuring the future welfare of the three parties involved in an adoption. One cannot legislate social values, good will, true generosity of feeling, sound judgment, genuine respect and compassion, and enlightened understanding of the needs of the natural parents, the child, and the adopting parents; and yet these characteristics or their lack in a

⁴ S. B. Schatkin, *Disputed Paternity Proceedings*, (Mather Bender and Company, 1944), p. 9.

given community will determine in large measure how adoption planning is worked out in practice within the existing law.

We must remind ourselves therefore, though one to four centuries separate us from the early English Poor Laws and common law, and from our own country's early poor laws and its era of publicly branding the unwed mother--that the social conscience of a society matures slowly and very often unevenly. From the statistics reported, at present we not only have to take into consideration our attitudes towards the unwed mother and her child, but towards the increasing number of married couples who believe placing their legal child for adoption is a necessity.

Despite the enormous progress made in social agency practices and advances in state adoption laws, it was possible for the practice of selling babies in adoption (black markets) to develop and flourish in the United States. In 1955 and 1956 the country was shocked by the finding of the United States Senate Sub-committee on Juvenile Delinquency which investigated the black market operations in adoption or "commercial child adoption practices."⁵ We can thankfully say that no such operation has ever had a start here in Hawaii.

We wish we could say, however, that for every child adopted in the Territory, the most favorable plan possible for him had been worked out and that as little as possible had been left to chance. Mr. Joseph Reid has written that "adoption agencies are a creature of the public, not just in the sense that they are financially supported by the public, but more importantly, that society has created agencies to fulfill its responsibility to children. If for no other reason, adoption agencies and the profession that is engaged in adoption (social work), have a pressing responsibility to clarify their values and principles and to make them known."⁶ The three agencies offering adoption services are the Territorial Department of Public Welfare, the Catholic Social Service, and the Child and Family Service. Their views and of that part of our society that supports them are well stated in part in a further quotation from Mr. Reid.

Children should not be passed . . . from hand to hand without society . . . taking responsibility to see that the child is protected.

The three parties involved in every adoption have rights and must be assured certain protection, both through legal measures and the responsible administration of services. . . .

Every child needs and has the right to have his own parents and the first obligation of society is to make it possible for him to grow up with his own people in his own home. No child should unnecessarily be deprived of his own parents.

⁵ Juvenile Delinquency (Commercial Child Adoption Practices): Hearing before the Sub-committee to Investigate Juvenile Delinquency of the Committee of the Judiciary of the U. S. Senate, 84th Congress, First Session, S. Res. 62, July 15th and 16, 1955, Second Session, S. Res. 173 on S. 3021, May 16, 1956, U. S. Government Printing Office, Washington, D. C., 1956.

⁶ Joseph H. Reid, "Principles, Values, and Assumptions Underlying Adoption Practice," Social Work Journal of the National Association of Social Workers, (II, No. 1, January, 1957), p. 22.

The child's need for continuous and loving care and guidance is issential to his well being and development and to the future of the nation. If the child's own parents are unable or cannot be helped to give the care that is expected for children, it must be provided by others.

The purpose of adoption is to provide for each child who has been permanently deprived of a family of his own who can benefit by family life in a home in which he will have the opportunity for healthy personality development.

Out of the knowledge and experience gained from social work and other fields dealing with children, parents, and child-parent relationships, certain principles have evolved that are guides to practice. Their aim is to carry out the purpose of adoption as conceived by the community which has created adoption services. Among these is the belief that, as a practice, there needs to be . . . determination of the needs of the child, the natural parents, and the adoptive parents before a sound adoption placement can be made. Second, that it is sound practice to place the infant in his adoptive home just as early as possible, consistent with the determination that his parents have come to a firm decision concerning his release. Third, that there are certain essential qualities for parenthood and potential adoptive parents should possess these qualities. . . .

Everything that is done must be in the child's best interest, but the natural parents must be free from duress or pressure in making their decisions. The adoptive parents must have an equal chance with others as they seek a child. All three parties to the adoption must be protected in regard to confidentiality.⁷

Historical Sketch of Agencies' Dilemma

In Hawaii as elsewhere agencies have been misunderstood on many scores and have themselves contributed to the misunderstanding of their good intentions. A quick historical look at the problem will explain in part why this was so. A generation ago, more or less depending upon the community, adoption was not popular. Mr. Reid's statement that "attitudes towards . . . bringing children of different 'blood' into the family set up strong barriers to adoption"⁸ was as true here as on the Mainland. Meanwhile, the social agencies had responsibility for making permanent plans for the children under their care, and these children represented a cross-section of the racial and nationality groups in the Territory. As on the Mainland, agencies actively had to solicit adoption homes for their children. Against the prevailing attitudes of the times this was not easy, and many children grew older before adoption homes could be found for them, and for some who needed homes, families never were found.

These conditions, as on the Mainland, had an unfortunate effect on the social agencies. Though always child-centered in emphasis, in their eagerness to encourage as good an opinion of adoption as possible, agencies got into the habit of proceeding with caution so extreme that their practices

⁷ *Ibid.*, p. 23.

⁸ *Ibid.*, p. 24.

were not in keeping with the risks adopting parents showed themselves willing to take when, during the past ten years, adoption rapidly became overwhelmingly popular. For a time, the agencies were criticized for not placing children at an early enough age; and this cannot be denied. The agencies were preoccupied with placing "blue ribbon" babies⁹ whose promise of joy to the adopting couple could not be questioned. In an effort to guarantee the credentials of their children and implicitly thereby the success of their adoptions, the agencies for a period were misled as well by the earlier tenets of other professions. Fifteen years ago, like the social agencies with whom they worked, pediatricians were cautious in clearing a child medically for adoption because so much could not be determined during the first six months or year of a child's life. Psychologists were then hopeful that psychological testing could accurately predict a child's later potentialities--and indeed it can for children who are well out of their infancy, and at some future point it may be able to do so for the infant. And therefore children grew older before the agencies felt they could safely proceed with adoption.

Hawaii can be pleased that its adoption agencies made a rather more rapid shift than many of their Mainland counterparts. According to Mr. Reid, "Broad cultural considerations have deeply affected the principles and convictions of agencies. It may be trite to say that all of us live within our culture and cannot divorce ourselves from it. . . . As the child lost economic value, he gained social value. Children are not longer thought of as chattels to be passed by deed from one family to another. . . . A family . . . is not considered complete or meaningful unless it has children. Childless couples have a multiplicity and diversity of pressures upon them to have children. . . . In fairness it can be said that it is not socially acceptable not to have them.

"The adoptive parents today are not doing a child a favor by adopting him. Rather they are seen as people who are fulfilling themselves and enriching their own lives by the process of adoption."¹⁰

Perhaps Hawaii's adoption agencies changed more rapidly because they had the help of Hawaii's unique culture, the increasing blending of many races and sub-cultures, and the cherished position of children in the Hawaiian culture.

Hawaii's Social Agencies--Present Views and Practices

Let us take this question up in terms of the three parties always involved in any adoption.

The natural parents--The agencies believe it is very important to offer generous help to the natural parents seeking adoption for their child. All services to them should be administered in such a manner that privacy and confidentiality are possible and that unintentional duress is not added to complicate the natural parents' thinking about their situation and decision.

The child--The agencies believe that an infant urgently needs an early and sustained relationship with a single mother person¹¹ and that

⁹ *Ibid.*, pp. 24 and 25.

¹⁰ *Ibid.*, pp. 25 and 26.

¹¹ Maternal Care and Mental Health (New York: Columbia University Press, 1951).

a child should be joined with his adoptive parents at as early an age as possible, straight from the hospital if circumstances permit. Our agencies are no longer "blue ribbon" minded, and are willing for adoptive parents to assume the normal and reasonable risks of an early placement. These are the same risks parents take in having their own children.

The over-exaggerated emphasis of exact matching (racial and nationality) of child and adoptive parents which so paralyzed for a time adoption planning in sections of the Mainland existed here in Hawaii to a lesser degree. At present our social agencies are guided by the adoptive parents' views on the kind of child they wish to adopt and by an appraisal of the kind of child a particular couple could be expected to succeed with in the light of their personality strengths and situation rather than be pre-conceived ideas of matching on the part of the agencies.

Agencies believe that in adoption planning the emphasis must be on the welfare of the child, on finding and selecting the most suitable home for the child and not on finding a child for a particular couple, however much their feelings go out to the couple seeking a child. This emphasis is a particularly upsetting one for those couples who are childless and who are seeking the kind of child much in demand. Yet in doing otherwise the agencies would not be fulfilling their responsibilities to the children placed under their care.

The agencies have under care for adoption children from all the different racial groups to be found in the Territory. For many children suitable homes can be found with relative ease. For other children, unfortunately not small in number, homes are hard to find. These hard-to-place children are of certain mixed racial backgrounds. Also in the hard-to-place group, the agencies will always have some children for adoption with some degree of physical handicap but in other respects normal and appealing and fully able to benefit by and respond to adoptive family living if homes could be found for them. It is sad to think there are children yearning for a home of their own and families longing for a child to love, and the two groups cannot get together.

In regard to the principles advocated by Mr. Reid in the above quotations we can say that his convictions are shared by the Territory's three social agencies.

Certainly, as child welfare agencies, they have not been established primarily for the purpose of providing services to help the childless. Basically, they are child-centered agencies to find homes for children needing adoption. . . . The job of the agency is to help adoptive applicants determine . . . whether they are able to meet the needs of the kind of children for whom the agency needs homes. . . . Helping the applicant decide and become an adoptive parent is a real service. The agency can also offer him (the applicant) the real service of selecting a child . . . whose needs this family can meet.

A third service the agency can render . . . is to make certain that the child is really relinquished, that the adoptive parents are protected against intervention by the natural parents. Here its work with unmarried mothers or other natural parents is the key. It is not just a legal matter, but essentially a psychological one that requires the professional help of case work.¹²

¹² Joseph H. Reid, *op. cit.*, p. 28.

There has been much community misunderstanding in regard to the agencies' requirements of adoptive parents. Agencies are not looking for "perfect" parents, but simply for parents whose parental qualities and expectations fit the needs of the children requiring homes. Couples vary widely in the kind of child they can take on. Children vary widely in what they need from adoptive parents depending upon the child's age, what has happened to him prior to his natural parents' decision to release him, his health and physical and emotional well being, and his particular background. It is understandable then that some couples will get children rather readily and quickly, and it is no reflection upon the worth of couples who accomplish adoption of a child more slowly, or perhaps not at all.

Contrary to public opinion, the agencies in the Territory are really quite flexible in their requirements. There are none of the arbitrary regulations so frequently found in some communities on the Mainland, such as residence, age, ownership of property, wealth, length of marriage. The agencies are looking for the same qualities in adoptive couples which would make them comfortable and helpful parents for their own children. They believe parents can bring with them a wide range of strengths and weaknesses and still be satisfactory parents. Their expectations need be only relatively flexible and reasonable. Other relative qualities are a satisfying and stable marriage, sufficient maturity and stability to accommodate to the needs of a child and to respect a child for his own sake in addition to whatever personal expectations a couple hopes a child to fulfill. There is additional need for sufficient moral fibre and standards of decency to guide a child in his behavior and social relationships, combined with the necessary giving type of love which nourishes a child's development in all areas, and sufficient income and capacity for home management to meet a family's basic material needs. Adoption is possible for couples of very modest means as well as those enjoying a sizable income and a wealth of material advantages. In addition, adoptive couples must be able to be comfortable about a child's adoptive status and willing to tell him and others he is adopted.

Prospective adoptive parents will be interested in another additional practice and trend which distinguishes agency adoptions in the Territory from many of the Mainland. By law, there is no fixed "supervisory" period. This means that the social agencies here can approve of the adoptive parents finalizing the legal steps at any point the adoptive parents are ready to do so and no further service from the agency is needed. Adoptive parents need no longer arbitrarily wait six months to a year before a child is made legally fully theirs.

Of significance too is the agencies' interest in placing second and even third children with couples who have already adopted one when this is requested and when this is advisable from the standpoint of the adopting family and the needs of the additional children. This means adopted children need not be only children except when the adoptive family's interest and needs make a one-child family preferable.

Agencies' Hopes for the Future

In sketching our social agencies' outlook on adoption in the way we have, we do not wish to suggest the agencies are entirely satisfied with their adoption practices. Far from it. Some natural parents are still receiving insufficient help. Too many children are not being placed early enough into adoptive homes. To the social worker responsible for the child, it is small comfort that an insufficient number of homes for hard-

to-place children is at present the reason for the delay rather than attitudes of the agencies. Too many promising adoptive applicants are remaining childless when, if these children's needs could be better understood and accepted by them, many of these couples could be enjoying the rich rewards of the love of a child and of contributing to the happiness and development of a child who needs them. Successful experiments on the Mainland are pointing the way to achieve the adoption of hard-to-place children and are a real hope for the future.

Another hope of the future in the field of adoption is that of research. Agencies believe they could learn much from their adoptive parents, and that such knowledge would be useful in improving their services in adoption, by the opportunity to test their assumptions, principles, and methods of practice. At the present time all available money and more is sorely needed to carry on the agencies' direct service to the natural parents, the child, and the adoptive parents.

Agencies have the satisfaction, however, of learning from their adoptive parents in many instances, such as when adoptive parents reapply for second and third children or carry on an annual correspondence at Christmas time to report to the agencies upon the joy they are experiencing with their children and the events that have occurred in their lives.

With so much recent progress made on the part of the agencies, and with the steadily shifting cultural attitudes within the Territory, it is possible to envision further progress in the community's adoption planning.

Editorial note: In addition to the suggestions for research in this field suggested by the authors, sociologists naturally become intrigued by such questions as the following: What factors help us to understand the increased interest in adoption, both in our nation and in Hawaii? What are the differences among racial groups in the cultural definitions of adoptions and in the way their definitions are changing? What are the changing attitudes regarding adoptions across ethnic lines? What problems arise in such adoptions? What are the opportunities for basic research on personality development of adopted children?