

THE CASE FOR ADOPTION WITH OPENNESS

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This brief paper, first reviews why it is extremely important to provide the approximately 9000 Crown wards of Ontario with permanency, helping them to achieve a sense of identity and belonging. Second, a case will be made for adoption with openness as the preferred way of providing children who cannot be raised by a birth parent to gain a “forever” family. Other options, such as custody (assigned guardianship) and kinship care will be mentioned as having the potential to provide the stability and security young people require. Attention will be given to using Family Group Conferencing/Family Group Decision-Making in making placement decisions, especially those involving aboriginal children or adoption by relatives. Finally emphasis will be given to adoption subsidy, and post-adoption counselling as means to increase the number of adoptions and the proportion of adoptions with openness.

Children Needing “Forever” Families

Currently there are about 9000 children in the permanent care of the fifty children's aid societies (CAS's) that are members of the Ontario Association of Children's Aid Societies (OACAS), (OACAS, Children in Care and Permanency Fact Sheets, 2009-10, p.4). This number is predicted to decline considerably in the next few years as the large number of children who became permanent wards during the late nineties. That influx was due in part to the introduction of new legislative provisions related to abuse, neglect and the risk of either, as well as increased requirements to report and mandatory standard risk assessment procedures. Current numbers are expected to decline not only due to demographic trends but also due to growing emphasis on kin care adoption. Over 5000 of these 9000 children are between the ages of 6 and 15 years (Ibid.). Many of these children came into permanent care when they were of school age; the Ministry of Children and Youth Services (MCYS) has stated that the average age at which children become Crown wards is about 8 years (Ministry of Children and Youth Services, Child Welfare Review, Oct., 2008, p.12).

These children for whom the provincial government has assumed responsibility have, in most instances, had lives of turmoil. Often they have been in temporary care two or three times before the province has taken permanent custody, and many have had a series of foster homes as well as a succession of workers (MCYS, Child Welfare Review, Oct., 2008, pp.21-22). Attachment and behaviour problems

abound. Over 80 % of all children in permanent care are categorized as “special needs children” due to mental, emotional or physical problems, and about half of these children have been so traumatized that they are on psychotropic medications to make them manageable (OACAS, 2009-10, p.4; MCYS, Child Welfare Review, Oct. 2008, p.26). They desperately need stability, as well as the love, security, and sense of belongingness of a “forever” family.

The Changing Nature of Adoption

In Ontario, since the very brief Adoption Act of 1921, adoption has been the legal means to transfer parenting responsibility and permanent custody from the birth parent to the adoptive parents. For decades adoption was shrouded in secrecy and stigmatized. Gradually, as single parenthood has become more common, many young parents have contended with the increasing complexity of raising their children, at least until their need for help is recognized. Since the late 20th century, as children frequently have been taken into permanent provincial care well beyond infancy, many birth mothers and other family members have been granted access orders enabling a degree of continuing contact (Aitken, G., Morrison, J., Burgess, S., 2010, pp. 60-71). In 2007, the last year for which provincial Crown ward data are available, 75% of Crown wards had access orders (MCYS, Child Welfare Review, Oct. 2008, p.21). The shroud of secrecy has been shredded and many adoptees over the age of 18 now seek information about and access to birth family members.

The Impacts of Access Orders

At present, over 6000 children who are Crown wards have access orders (OACAS, 2009-10, p.4). To date, however, an Access Order has had to be cancelled if an Adoption Order was to be issued, and a reapplication for access could be made subsequent to the adoption. As An Act to Amend the Child and Family Services Act, Bill 179, received royal assent in June, 2011, access orders will not be the barrier to adoption that they have been in recent years. The amended legislation states that “Nothing in this Act prohibits a society from planning for the adoption of a Crown ward in respect of whom there is an access order in effect under Part 111 (Child Protection)” (Bill 179, s.3, ss.141.1.1(1)). “Where a society begins planning for a child who is a Crown ward, the society shall consider the benefits of an openness order or openness agreement in respect of the child” (Ibid., s.3, ss.141.1.1(2)). When a child is placed for adoption by a licensee or society, any outstanding access order automatically terminates (Ibid., s.4(1)). After due notification, persons who had access have 30 days in which to apply for an openness order, with the knowledge of the adoptive parents (Ibid.,s.6, ss.145.1.1(3)). The agreement of the child is also required if he or she is 12 years of age or older (Ibid., s.6., ss.145.1.2(6)(c)). Bill 179 is a major move towards facilitating adoptions with openness.

The Need to Promote Adoption, Especially Adoption with Openness

During the past two years the number of adoptions through children's aid societies has increased from 819 in the year ending March 31, 2009, to 993 in the year ending March 31, 2010 (OACAS, 2009-10, p.4). These increases are significant when considered in terms of the proportion of children in permanent care. Agencies recorded 16 adoptions with openness orders and 46 with openness agreements in 2009 (Ibid., p.4). This is a positive trend that should lead to many more adoptions with openness agreements in the near future. Also, it seems far preferable to work towards achieving openness agreements rather than openness orders which involve a court process. By contrast, openness agreements reflect a cooperative process to achieve an outcome that seems suitable to both birth and adoptive families, and often indicate the satisfaction of both sets of parents with surprisingly limited contact (Children in Limbo Task Force, Submission to the Standing Committee on Social Policy, May 10, 2011).

Private adoption workers have for many years involved the birth mother, and sometimes the father, in choosing from among several families the one they wish to parent the child. In many cases this has led to a continuing relationship between the birth and adoptive parents, one not always recognized as entirely legal, and one not always entirely problem free, but one that has, particularly with the facilitation of a competent worker, usually been beneficial to the child as well as the parents involved. These private adoptions are most often of very young children, and generally, the young mother, sometimes with family support, is attempting to act responsibly.

The circumstances of Crown wards in CAS foster homes usually present a clear contrast to those who are the concern of the private adoption worker. Frequently the foster mother has not been assisted to develop a relationship with the birth parents, and in many cases is reluctant to have any direct contact. Often contact between the birth and adoptive parents has not been encouraged. This gulf may be traumatic for the child, as well as a factor in exacerbating a child's negative self-image, and impeding bonding with the adoptive parents.

To date, when a child in foster care has been cleared for adoption, often neither the child's worker nor the foster parents have been in a position to recommend or facilitate adoption with openness. With the proclamation of Bill 179 on September 1, 2011 the paths are cleared for greater promotion and acceptance of adoption with openness. Under amended legislation, the birth parents can apply for an openness order, involving the court, or work out an openness agreement, indicating cooperation with the prospective adoptive parents. In most situations, an openness order or, preferably an openness agreement, is beneficial for the young person. Prospective adoptive parents need to recognize that a child may bond with adoptive parents more readily if she or he is not plagued with feelings of guilt or disloyalty for leaving a troubled birth mother or siblings who are at risk. Often foster parents, particularly with appropriate information and support, can play an important role in encouraging a favourable relationship between birth and adoptive parents even though they may not participate directly in conferencing. Certainly, adoptions with

openness will not be suitable in situations where there is a serious risk of contact leading to ongoing abuse of the child. In such instances successful bonding with the adoptive family might be impeded. However, if skillfully facilitated, adoption with openness is desirable for a great many children, particularly for those well beyond infancy.

Benefits of Some Contact After Adoption

Some degree of contact with the birth family members, for instance a birthday card or gift, or an occasional visit, may help children understand who they are and why they were adopted. Openness orders or agreements vary widely with regard to specifying the nature, frequency and conditions of contact. Sometimes they reflect that the birth parents want to be reassured that their child is in a beneficial situation, but accept that they do not need, nor necessarily want, frequent contact. If a child thinks foster parents and adoptive parents are positive towards birth family members, this may have a salutary effect on the child's attitude toward the new parents. When adoptive parents have a negative attitude and are secretive about the birth family, this may adversely affect the child's developing identity. We all need knowledge of our roots (Rella, M., 2010, pp.13-25). While children do not require complete details of their past, they require honest information if they are to develop a healthy self-image, and avoid fantasizing. Adoption with openness can be beneficial to all parties, including the birth mother, the child, and the adoptive parents.

Positive Effects of Sharing Information

There are several reasons why adoptions with openness are appropriate to these times. Certainly this is an era of increasingly rapid and diverse means of information exchange, an era when secretiveness is less feasible than formerly. Also, children have a right to information about themselves as we all do (Granofsky, B., 2010, pp.7-12). It is a much healthier outcome for adopted children to have accurate knowledge about themselves than to compile inaccuracies from various sources over time. For this reason it is important that the foster parents are given reliable information about a child in their care in order that this can be shared with the child as appropriate, and also with adoptive parents. In some circumstances foster parents can support the development of an amicable relationship between birth and adoptive birth parents, and can assist birth parents to adjust to the prospect of adoption with openness.

Family Group Conferencing as a Means to Facilitate Successful Placement

If adoptions with openness are to be successful, selected professionals need to specialize in facilitating positive relationships among the parties involved. Agencies require workers with the experience and skills to help people who are generally committed to establishing a stable, permanent family for the child. To ease the processes around adoptions with openness, mediation and Family Centred

Conferencing involving primarily the birth parents and prospective adoptive parents, are being used to help develop positive relationships among the birth and adoptive families. However in many instances, Family Group Conferencing/ Family Group Decision Making (FGC/FGDM) may be the way to ensure positive attitudes and support for a permanent placement. Family Group Conferencing involves significant members of the extended birth and adoptive families as well as foster parents and workers or therapists closely connected to the child. FGC/FGDM has the benefit of changing the balance of power in the decision process as the extended family members involved in this sometimes lengthy discussion are expected to make a decision about the child's placement that the agency will follow, providing it seems to be a safe choice. It goes without saying that if it is to be successful, the facilitator requires specific training and skills. It is a technique that has the potential to help reduce the widespread reluctance towards adoption with openness, to assist those involved in realizing its benefits, and to avoid unnecessary adoption breakdowns.

Post-Adoption Support

If adoption with openness is to be successful, however, it is essential that two other conditions are met. First, adoption placements should be followed by counselling and support from a skilled worker to whom the adoptive parents can turn for help. At present little post-adoption counselling is available. Individual and group support can help new adoptive parents deal with issues as they arise, and in many instances avoid crises. Also, frequently children can benefit from the assistance of a skilled worker while adjusting to their new situation.

Second, as with all adoptions, if adoption with openness is to be successful, financial pressures on the newly constituted family should be avoided, and adoption subsidy must be much more available than at present. As 82% of children requiring permanent families are categorized as special needs children, the expenses of obtaining the required health and educational services should be subsidized in many situations (OACAS, 2009-10, p.4). As many of these children present challenges, the major criterion in selecting adoptive parents must not be their level of affluence. Children in care generally come from low income families in which they have experienced frequent disruptions and hardship. Suitable adoptive parents are those who can navigate rather rough waters and do not expect smooth sailing. However, financial pressures should not add to their challenges.

Other Means of Providing “Forever” Families

To achieve the essential objective of providing children in care with a permanent placement and a “forever” family, adoption with openness may be the most desirable option for many. However, in recent years another alternative has been available. Since 2006, amendments to the Child and Family Services Act of Ontario have allowed custody [or, a preferable term would be “guardianship”] to be assigned by the province for permanent wards (Child and Family Services Statute

Law Amendment Act, 2006, s. 63.1; Ibid., s65.2(1)). Frequently, this designation is given to foster parents for a child who has been in their care for some time. This arrangement allows the assigned guardian to continue to receive support similar to a foster care allowance, and provides them with greater parental authority and prestige. In most instances the child keeps the birth family name and may have some contact with birth family members. A special advantage of custody (guardianship) is that the child has an enhanced sense of belonging and permanence, and some expectation that this will be a “forever” family available beyond the age of protection and care. Assigned guardianship is more economical than foster care as less contact is needed by CAS staff with the guardians than with foster parents. While there are few of these arrangements to date, there are distinct benefits over foster care, particularly for pubescent and teenaged children if adoption does not seem feasible or desirable.

Kinship care with ongoing financial and other supports offers in some instances another means of providing Crown wards with greater permanence than foster care. The success of such arrangements very much depends on the people involved. Also, these situations require financial support and access to ongoing counselling. In some instances kinship care arrangements and relative adoptions provide the child with the stability and security required. Here again, skilled Family Group Conferencing can contribute to successful permanent placements.

Circumventing Future Costs

There will always be many competing demands for scarce tax dollars. However, it is exceedingly important to provide the resources necessary to find and maintain permanent placements for children in the care of children’s aid societies. Too often children’s aid societies flounder in the face of serious financial shortfalls (OACAS, *Pre-Budget Consultation Submission*, Dec., 2008, p.11). Too frequently children in care who have not been provided with the support of a “forever” family nor the necessary education, emotional or financial support to succeed, struggle unsuccessfully to become independent (Toronto Star, Sunday, June 12, 2011, p.A1). That there are numerous casualties is evident from data with regard to youth in care (MCYS, Oct. 2008, p.18), and to people who have graduated from the system but who become entrenched in the social welfare, mental health, and /or correctional systems. Most parents attempt to provide the support necessary for their children to become healthy, independent and productive members of society. Children in Ontario’s care deserve the same. Therefore, it is gratifying that recent preliminary reports of the Transformation Goals in Child Welfare Practices indicate positive effects of the multi-pronged focus on achieving permanent placements for provincial wards (OACAS, *Transformation Results 2005 to 2010*, June 14, 2011). This progress is to be applauded as is the recent announcement that the Ministry of children and Youth is allocating “\$9.5 million dollars to help with difficult adoptions”. (Toronto Star, September 2, 2011, P.A16). If we don’t provide the necessary resources and effort now, we shall pay later.

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