



A Brief History of Adoption: An Ontario Perspective

Patricia Fenton, MSW RSW

Adoption has existed since ancient times. A Babylonian legal text dating from the 18th century B.C. includes reference to adoption. The Bible recounts the story of Moses and his adoption. The first Emperor of Rome, Octavian Augustus, was adopted. There are references to adoption in various documents down through history from Greek and Roman times, the Middle Ages in Europe, the time of Napoleon, through to modern day.

Historically, adoption was a service to the adults involved, in contrast to the modern day approach whereby adoption is intended to be a service to children. In early times, its purpose was often to ensure a male heir and maintain family lineage. Adoptions were also arranged to establish family or political alliances, or to ensure that the adoptive parents would be cared for as they aged. The principle of the best interests of children and the specific needs of the child did not seem to play a significant role in planning or decision-making. Most often the parties to the adoptions knew each other so these early adoptions were open.

In the early history of Ontario and Canada, there was no legislation for formalizing an adoption, so adoptions were rare. In the 19th century, as society became more industrialized and people moved from farms to urban areas, issues relating to employment, homelessness, poverty and illness arose. More and more families were unable to adequately care for their children and the need for services for neglected and abandoned children became more and more evident. Religious and charitable organizations generally took responsibility for the care of children in need until the late 19th century. Children without adequate parental care could be taken in by neighbours or extended family. Or, with the help of the church or a charity, they might be cared for in an orphanage or foundling home.

In the latter part of the 19th century through the first few decades of the 20th century, Ontario was the destination for at least 70,000 children, believed to be neglected or orphaned in Britain. Organizations in Britain organized emigration programs in response to their concern about the plight of homeless children in Britain. The largest of these organizations was developed by physician-philanthropist, Dr. Thomas Barnardo, who set up homes in Britain to feed, clothe and train these children, and then send them out of country to Canada and other British colonies.

He believed that this would provide a better life for the children than they could have if they stayed in Britain. Many of these children, often referred to as 'Barnardo children' or 'Home children' were placed with families to provide farm labour or domestic service. The hope was that these children would become part of the receiving families and experience a better life than being on the streets in London. Many arrived before Ontario had introduced legislation for adoption so very few of them were formally adopted. In honour and recognition of the dedication and hard work of these British home children and the lasting legacy they built in Ontario, the Ontario government passed the **British Home Child Day Act 2010** which designated September 28 as British Home Child Day. It is estimated that 10 to 12 % of Canadians can trace their ancestry to one of these Home children. The Barnardo Homes served as a model for Ontario's first foster homes.

Foster care became more prominent in the latter half of the 19th century. Although orphanages provided care and continued to exist in Ontario until the 1970s, it was believed that a family was a more appropriate environment than an institution for a child's health and development. There was no remuneration for foster parents who were expected to make sure the child attended school and church while providing food, clothing and supporting the child's healthy development.

In Toronto, in the late 1800's, J.J. Kelso, a newspaper reporter of Irish background, became aware of the fact that there were many poor children living and/or working on the city's streets. Recognizing that these children needed to be supported and protected, he became very interested to find ways of helping them and became a tireless advocate for them. He has been called the 'father of child welfare in Ontario'. In 1887, at the young age of 23, he founded the Humane Society of Toronto for the purpose of protecting both children and animals. And then, in 1891, he founded the Children's Aid Society of Toronto and became the agency's first president. With the **Child Protection Act of 1893** Ontario began to establish children's aid societies across the province. By 1912, there were 60 children's aid societies that joined together to form a province wide association, now known as the Ontario Association of Children's Aid Societies (OACAS).

In 1921, Ontario passed its first adoption legislation, the **Adoption Act of 1921**. With the passage of the new Act, adoptions were formalized, transferring the birth parents' rights to the adoptive parents, amending the original birth certificate, and sealing the original birth registration and adoption record. The Act was a reflection of the attitudes and mores of the time and was designed to protect against the stigma of pregnancy out of wedlock, infertility and being born out of wedlock. The confidentiality of all the parties was to be protected with the result that their identities were kept secret from one another. The language surrounding adoption practice, e.g. being an 'illegitimate' child or a 'fallen' woman, reflected a secretive, shame-based, and at times punitive approach that was the thinking of the day.

Adoption gained wider acceptance in the period following World War II which saw a significant increase in the number of children born out of wedlock. At the same time, the incidence of infertility also rose. In the debate of nature vs nurture, the scientific community began to

promote the dominance of nurture over genetics. Adoption was viewed as a viable option for building a family and a good solution for unwed mothers and infertile couples.

In the 1950's and 60's, Dr. H. David Kirk, a sociology professor at McGill University, the University of Waterloo and the University of Victoria, conducted research on adoption. He emphasized the importance of acceptance of difference as a key factor in the success of adoptive families. In his books, ***Shared Fate*** and ***Adoptive Kinship***, he presented his social theories on adoption and the need for reform. As Ellen Herman states in The Adoption History Project:

“Shared Fate was important for two reasons. First, it analyzed adoption as an important social institution rather than as an arrangement made by individuals seeking to solve a range of personal problems. Second, it promoted a decisive shift in the world of adoption away from simulation and toward diversity as the foundation for family-making. As a new adoption reform movement dawned in the late 1960s, matching was criticized, along with policies of confidentiality and sealed records. The denial of difference no longer seemed natural or wise, as it had earlier in the century. The struggle with difference, also at the heart of therapeutic adoption, emerged as the single most defining feature of the adoption experience.”
(<http://darkwing.uoregon.edu/~adoption/topics/sharedfate.htm>)

Also in the 1950's, as more and more children were in the child welfare system and many of these could be placed for adoption, the province in co-operation with children's aid societies initiated an ***Adoption Resource Exchange (ARE)***, an event to recruit adoptive families by providing information to prospective parents about children awaiting adoptive placement. The Ontario government continues to host ***Adoption Resource Exchanges*** today on a semi-annual basis in Toronto and has found this to be a highly successful method of finding adoptive homes. In 2011 the Ontario Ministry of Children & Youth Services expanded the number of ***AREs*** to include additional regional events around the province.

From 1960's to the 1980's an estimated 20,000 Aboriginal children in Canada were taken away from their families and placed for fostering or adoption in white, middle class families in Canada, the US and western Europe. This practice became known as the '***Sixties Scoop***' and Ontario was a key player in it. Along with the residential school system which was in effect in Canada from the 1880's to 1996, the Scoop had a devastating effect on the lives of Aboriginal families and communities. At the time, it was characterized as an effort to assimilate, but many have come to believe that it was a form of cultural genocide. Indigenous Affairs Minister Carolyn Bennett describes it as a 'dark and painful chapter' in Canadian history. The facts are that the Sixties Scoop meant that many Aboriginal families lost their children and this has had a profound, long-lasting effect on the emotional, social and mental well-being of individuals, families and communities.

In recent years, survivors of the Sixties Scoop have come forward to launch suits against the Canadian government. In Ontario, a class action suit, *Brown v. Canada*, was filed in 2009 out of court and, in February 2017, an Ontario court judge ruled in favour of the survivors. Although lawyers for the Federal government argued that practices used were well intentioned and in

keeping with the norms of the times and then offered to negotiate a settlement out of court, Superior Court Justice Edward Belobaba found that the Canadian government breached its 'duty of care' in not taking steps to prevent the children involved from losing their Aboriginal identity. In his decision he points out that the children lost their language, culture and identity which has significantly impacted their ability to live healthy and fulfilling lives. The claimants in this legal action, led by Chief Marcia Brown Martel, were seeking a settlement of \$1.3 billion for approximately 16,000 class members. Details of the financial settlement are not yet known. The impact of the Sixties Scoop illustrates the importance of identity, a sense of belonging, connectedness to roots and culture and the costs of ignoring the realities of transracial and transcultural adoptions.

More information about the history of Aboriginal adoption in Canada and an exploration of some of the issues of transracial adoption as well as the impact of the Sixties Scoop can be found in the following journal article, *Identity Lost & Found: Lessons from the Sixties Scoop* by Professor Raven Sinclair:

<http://journals.sfu.ca/fpcfr/index.php/FPCFR/article/view/25/63>

A better understanding of the reasons behind the overrepresentation of First Nations children in the child welfare system, can be found in the following comprehensive report, *Kiskisik Awasisak: Remember the Children*:

http://cwrp.ca/sites/default/files/publications/en/FNCIS-2008_March2012_RevisedFinal.pdf

Finally, the book *Speaking My Truth: Reflections on Reconciliation and Residential School* published by the Aboriginal Healing Foundation in 2012 is also recommended. It contains a collection of readings and essays by 15 indigenous authors, selected by Shelagh Rogers, Mike DeGagne and Jonathan Dewar. It is currently out of print but a downloadable copy of the book is available here: http://speakingmytruth.ca/downloads/AHF_READER.pdf

In 1964, after learning about children in care of the child welfare system and needing adoptive homes, Helen Allen, a reporter for the ***Toronto Telegram***, started a column, "***Today's Child***", featuring photos and information about children in need of adoption. Amid controversy and concerns from some children's aid societies in the province, "***Today's Child***" was supported by the Ontario Ministry of Community & Social Services and a handful of children's aids societies. This pioneering column was an instant success and, in the first few years, 80% of the children featured in "***Today's Child***" were adopted. When the Telegram stopped publication in 1971, The Ministry hired Helen Allen as an information officer and ***The Toronto Star*** took over the column. The column has helped 1000s of Ontario children find adoptive families.

Over the years, several Child Welfare Acts were passed – in 1954, 1965, 1980 and in 1984 ***The Child and Family Services Act (CFSA)***. Through these legislative developments the province took on responsibility for child welfare services, providing public funding, and requiring agency reporting and supervision. In addition to supporting child protection services the legislation

supported a shift from institutional care to foster care. There was also a shift to include prevention services to help to preserve families and keep children from coming into care. Adoption of children from the child welfare system was to be handled by the children's aid societies. In the case of private adoption, voluntary placements of newborns, these at first could be organized by lawyers, doctors and social workers. The later legislation required that private adoptions be handled only by licensed agencies or individuals as well as approved adoption practitioners.

In the 1980's Ontario witnessed the emergence of the adoption reform movement to improve access to adoption records. Birth parents along with adopted persons who wanted to know about their origins and background began to make their voices heard. They expressed their anger and frustration at being denied access to important information about themselves and or their child. Search and reunion services offered by the Ontario government had huge backlogs. Several chapters of *Parent Finders Inc.* had been established to provide search and reunion services and support to adoptees and birth relatives who wished to find each other. Over the years, several attempts were made to introduce legislation to open Ontario's adoption records. Notable among the more recent advocates for open adoption records was Marilyn Churley, a birth mother and Member of Provincial Parliament. In her recently published book "Shameless", Ms. Churley describes her experience as a birth parent searching and reuniting with her son and the obstacles and challenges she faced along the way. Her efforts as well as those of the **Coalition for Open Adoption Records (COAR)** eventually led to the passage of the **Access to Adoption Records Act, 2008**. Implemented in 2009, this Act effectively opened Ontario's adoption records, allowing adult adopted persons and their birth parents access to information about each other while also allowing a disclosure veto for parties involved in adoptions finalized before September 2008 who did not wish to have their information released. In a five year review of the operations of disclosure services, conducted in 2014, the Ontario government reported that it had handled over 17,000 disclosure requests and over 8,000 individuals had asked for privacy, registering not to be contacted or have their information disclosed.

In 1987 a group of adoption community members joined together to establish a province-wide organization for all parties to adoption, to raise awareness about adoption, to provide information and education on adoption and to advocate for services and support for members of the adoption constellation. With funding support from *The Children's Aid Foundation*, this organization, the Adoption Council of Ontario, drew together a Board of Directors comprised of adopted persons, birth parents, adoptive parents and adoption professionals from around the province and was incorporated. ACO began publishing a quarterly newsletter, *Adoption Roundup*, and hosted its first Adoption Education Forum in 1988. ACO's education programs expanded to include workshops on various aspects of adoption, and, in response to the demand, ACO began holding regular How to Adopt sessions. Later, ACO also provided educational seminars as part of the **Adoption Resource Exchange**. In 1995, ACO opened Ontario's first Adoption Resource Centre, at 3216 Yonge St. in North Toronto. The Centre housed a lending library, meeting rooms, a helpline and served as the base for the Council's activities. Today, ACO, from its new headquarters at 36 Eglinton Ave W., provides a range of

services, including semi-annual Adoption Education Days, on-line seminars on How to Adopt, as well as post adoption support services. ACO was the lead organization for the development of AdoptOntario, a program funded initially by the Ontario Trillium Foundation to raise awareness about adoption and find adoptive homes for children with special needs. The program has developed into an internet-based recruitment and matching tool supported by the Ontario Ministry of Children & Youth Services. It includes a databank of waiting children and adoptive applicants which can be utilized by applicants and adoption professionals. The ACO continues to operate the AdoptOntario program and reports that AdoptOntario, since 2006, has helped more than 300 children find their forever families.

Intercountry adoption, which first began in a small way in the 1970s and 1980s, came into its own in the 1990s. In 1993, the Federal Government of Canada signed the **Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption**, an international agreement to safeguard intercountry adoptions and establish international standards of practice for such adoptions. Since adoption is governed by provincial legislation, each province and territory in Canada needed to introduce legislation to ratify the Hague Treaty. Ontario passed the **Intercountry Adoption Act (IAA), 1998** which was implemented in 2000. This legislation stipulates that adoptions finalized in the child's country of origin must be facilitated by licensed non-profit agencies in Ontario. Under the **IAA**, the Ontario Ministry of Children & Youth Services licenses the agencies and also reviews and approves homestudies for intercountry adoptions. For non-relative intercountry adoptions that are finalized in Ontario, the **Child & Family Services Act** applies.

From the 1990s until 2008, many adoptive applicants chose intercountry adoptions as the process was more streamlined and there were many options; the children were quite young, and the process could be completed in a timely fashion. Since 2008, however, there has been a decline in intercountry adoptions. There are several reasons for the decline. Some countries have changed their requirements for applicants and the process has slowed down considerably. Several countries have become signatories to the Hague Convention and changed their laws governing adoption. This has resulted in more emphasis on placement of children within country, and a decrease in the number of children available for adoption. Children being placed for intercountry adoption tend to be older or have special needs. The fees for intercountry adoption are a deterrent for applicants in uncertain financial circumstances. The sudden bankruptcy of one of Ontario's licensed international agencies, **Kids Link, Inc.**, and subsequent charges of fraud in 2009 has led some applicants to be wary of international adoptions.

While the numbers of private newborn adoptions and intercountry adoptions have decreased in the past few years, there has been more attention paid to finding permanent homes for children in the care of Ontario's child welfare system.

The past decade has seen a greater emphasis on permanency for children and greater efforts to improve the child welfare system. In April, 2000, through the Child Welfare Reform initiative, significant amendments to the **Child and Family Service Act** were made. The protection, best interests and well-being of the child were underscored as paramount and the protection of

children at risk of neglect and abuse was enhanced. Neglect and emotional harm were recognized as grounds for protection and a maximum time was set that a child could remain in care before a court decision regarding permanency must be made. The public's duty to report suspected abuse or neglect was more clearly defined.

In 2006, **Bill 210** and the **Child Welfare Transformation Agenda** were introduced. Greater emphasis was to be placed on kinship placements and preventing the necessity for children to come into care, and the Act allowed a greater role for permanency options including customary care, adoption and kinship care. The Transformation Agenda introduced mandatory training for foster and adoptive parents, **Parent Resources for Information, Development and Education (PRIDE)**. A standardized method for assessing applicants for foster parenting and adoption, **Structured Analysis Family Evaluation (SAFE)**, was implemented.

Also in 2006, in collaboration with the Adoption Council of Ontario, and with funding support from Jockey Being Family (Jockey, the underwear company), the North American Council on Adoptable Children (NACAC) initiated a Community Champions Network in Ontario. Adoptive parents and other members of Ontario's adoption community including adopted youth came together and have been advocating for improvements in adoption and post adoption services since that time.

In recent years, as in other parts of North America, the trend has been toward open adoptions whereby the parties to an adoption agree to maintain contact and/or exchange information on an ongoing basis. Openness and open adoption relationships have become a regular feature for consideration, especially in private domestic adoptions. Open adoption arrangements between birth parents and the adoptive families raising their children can be made at the outset of the adoption placement. Many birth parents choose some degree of openness when making a plan for adoption for their child. Such open adoption relationships exist along a continuum. For some, the arrangement involves periodic exchanges of photos and letters without face to face contact. Others include regular visiting. Sometimes these adoptions involve open relationships with extended birth family members as well. Openness orders and agreements have also become possible within the public adoption system in recognition of the importance of keeping connections for children being placed for adoption.

In 2008, the Ontario Ministry of Children & Youth Services appointed a 12 member Expert Panel on Infertility and Adoption. The purpose of this group was to make recommendations on two topics: 1) how to improve Ontario's adoption system so that more children could find permanent homes, and 2) how to make infertility treatments more accessible and affordable. The Expert Panel's report, **"Great Expectations"**, released in 2009, made many recommendations for improvement to infertility services as well as adoption services in Ontario. The report indicated that the province had had approximately 1600 adoptions in 2007-2008 through public, private and international adoption. About half of these adoptions, approximately 822, were children from Ontario's child welfare system. By contrast, the report went on to say, there were in that period of time within the child welfare system well over 9000 Crown wards legally free for adoption. Some of the recommendations have provided impetus for further legislative changes

pertaining to adoption and permanency. The peak number of child welfare adoptions was in 2009 when the number reached 995. The Ministry has subsequently set targets of over 900 a year to be completed.

In 2011, following on the Expert Panel's advice, the Ontario government passed the ***Building Strong Families and Supporting Youth to be Successful Act***. It introduced measures to make it easier for adoptive applicants to adopt, make it possible for Crown wards to find permanent homes, and provide subsidies for families adopting siblings or children over 10. Subsidies prior to this had been offered by some agencies but there was no consistent or predictable support for families adopting children with special needs. Financial support for families adopting younger children with special needs remains an issue.

In June 2017, the Ontario government passed the ***Child, Youth and Family Services Act (CYFSA)***. The legislation, once proclaimed, has been designed to put children at the centre of decision-making, and support more accountable, responsive and accessible child and youth services. It is also intended to strengthen oversight for children's aid societies and licensed residential services.

Key changes include:

- Raising the age of protection from 16 to 18 to increase protection services for more vulnerable youth in unsafe living conditions, to support their education and to reduce homelessness and human trafficking;
- Strengthening the focus on early intervention, helping prevent children and families from reaching crisis situations at home;
- Making services more culturally appropriate for all children and youth in the child welfare system, including Indigenous and Black children and youth, to help ensure they receive the best possible support; and,
- Improving oversight of service providers, including children's aid societies, so that children and youth receive consistent, high-quality services across Ontario.

These changes build upon feedback received through a 2015 review of the CFSA. The CFSA remains in force until the new legislation is proclaimed

Ontario continues to work to find ways to improve outcomes for children and ensure safety, permanence and well-being for all Ontario children.

More information about the Adoption Council of Ontario, including its current Programs & Services Guide, can be found on its website at www.adoptontario.ca .

Ontario - Legislative Highlights

1799 – The ***Orphan’s Act***. This was the first child welfare law in Ontario and was designed to assist in the education and support of orphaned and abandoned children through legally binding apprenticeships for girls up to 18 and boys up to 21. Children were expected to work long hours to ‘earn their keep’.

1874 – The ***Charity Act*** – Voluntary organizations were encouraged to establish orphanages to help care for orphaned, abandoned, or destitute children.

1893 – The ***Act for the Prevention of Cruelty to and Better Protection of Children***, also referred to as the ***Children’s Protection Act of 1893***, required that towns within Ontario with populations of 10,000 or more have shelters or receiving homes that had the authority to apprehend children and provide temporary care for them. This fostered the development of children’s aid societies across the province.

1921 – The ***Children of Unmarried Parents Act*** provided protection services to ‘illegitimate’ children. This Act was passed in response to concerns regarding the number of children born out of wedlock and/or through extramarital relationships and the common belief that single mothers were unable to adequately care for children.

1921 – The ***Adoption Act*** authorized courts to issue an adoption order transferring all parental rights to the adopting parents after a probationary period of two years if all parties agreed. Prior to this time, adoptions were made legal only through passage of an individual bill in the Ontario legislature and were, therefore, extremely rare.

1927 – The ***Adoption Act*** was amended to seal Ontario’s adoption records. A register of adoption orders was established.

1954 – The ***Child Welfare Act*** established full provincial acceptance of responsibility for child welfare. It made children’s aid agencies accountable to the province, set up a provincial grants system and recognized the importance of the prevention services. The ***Adoption Act*** was repealed and adoption became a part of the new ***Child Welfare Act***.

1965 – The ***Child Welfare Act*** was amended to make reporting of child abuse mandatory and to place a two year limit on temporary wardship. Prevention was an important service goal.

1978 - The ***Child Welfare Act*** defined neglect, abuse, and the meaning of ‘a child in need of protection’. A voluntary adoption disclosure register was established. The ***Act*** included licensing of individuals and agencies to provide private adoption services.

1985 - The ***Child and Family Services Act, 1984(CFSA)*** replaced the ***Child Welfare Act***. In addition to the best interests of the child, the Act focused on the least disruptive or least restrictive course of action for children in need of protection. The Act also recognized that Indian and native people, wherever possible, should be entitled to provide their own child welfare services

2000 – The *Intercountry Adoption Act (IAA), 1998* implemented the *Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption* and authorized the Ontario government to license, regulate and monitor agencies facilitating international adoptions finalized in the child's country of origin. Intercountry adoptions finalized in Ontario continued to be governed by the *Child & Family Services Act*.

2005 - The *Adoption Information Disclosure Act* permitted adult adoptees to obtain original full name, birth certificate and the names of his/her birth parents. Birth parents could obtain the adoptee's adoptive name. Implemented in 2007, this *Act* was struck down by a court decision two days later.

2006 – The *Child and Family Services Statute Law Amendment Act* established the *Transformation Agenda* creating the Child Welfare Secretariat within the Ontario Government, and placing greater emphasis on early permanency planning, kinship care, differential response in responding to families requiring services, and involvement of birth family members through alternate dispute resolution processes.

2008 - *Access to Adoption Records Act, 2008 "An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act"*. This Act allows for a *disclosure veto* to be used by adoptees and birth parents involved in adoptions completed prior to September 1, 2008, to prevent the release of their names.

2010 - The *British Home Child Day Act, 2010* established September 28 as British Home Child Day in Ontario in honour and recognition of the 70,000 British home children who were placed with families in Ontario in the late 19th and early 20th centuries.

2011 – The *Building Strong Families and Supporting Youth to be Successful Act* amended the *Child & Family Services Act* to 'make it easier for prospective parents to adopt a child, provide permanent homes for more Crown wards and better prepare youth for adulthood' (Source: Results-Based Plan Briefing Book, 2013-2014, Ontario Ministry of Children & Youth Services). Adoption planning can take place for Crown wards with access. Youth in care become eligible for support to age 18 or older under certain conditions. The Act provides for openness orders or openness agreements in adoption. Families who adopt siblings or children 10 years and over may receive subsidies from children's aid societies to help with the expenses of caring for their children.

Compiled by Patricia Fenton, MSW RSW, social worker and approved adoption practitioner. Ms. Fenton is one of the founders of the Adoption Council of Ontario, started in 1987, and served as its first Executive Director until 2007. She became an approved adoption practitioner in 1999. She worked at the Adoption Unit of the Ontario Ministry of Children & Youth Services from 2007 to 2012, serving as Adoption Officer for four years and then as Acting Director and Co-ordinator of Private and International Adoptions for one year before retiring to her private practice in adoption in 2012.