

Adoption in Tasmania

c. 1920 –

Details

The Australian Institute of Health and Welfare defines adoption as “The legal process by which a person legally becomes a child of the adoptive parent(s) and legally ceases to be a child of his/her existing parent(s)”. In Australia, each state or territory has its own adoption legislation and its own policies and processes. In the 1960s, the Commonwealth government led a model legislation project to harmonise the various adoption acts in Australia, and to ensure that the states recognised each others’ adoption laws.

The *Adoption of Children Act 1920* made Tasmania’s first legal provision for adoption. Tasmania was the second jurisdiction to enact adoption laws (after Western Australia in 1896). Prospective parents applied to the Children’s Court and, if successful, registered with the Statistical and General Registry Department, or its successors, which managed adoptions.

Prior to the 1920 Act, adoptions in Tasmania were organised unofficially through private connections and newspaper advertisements. Solicitors might draw up an agreement for these.

Joan Brown writes about services available to single mothers in Tasmania in the nineteenth century. From 1888 until 1900 there was a government-run Lying-in Home that had been established on the site of the former Female Factory at Cascades, and moving to a new site in New Town in 1895. According to Brown, “most kept their babies”. Single mothers received minimal assistance in the form of allowances and help with finding accommodation and work (Brown, quoted in Joint Select Committee, 1999, p.18). There were also private institutions for single mothers and their babies such as the [Anchorage Home](#), [Home of Mercy](#) and [Elim Maternity Hospital](#).

The Secretary of the Neglected Children’s Department sometimes arranged for state wards to be adopted using his powers under the *Youthful Offenders, Destitute and Neglected Children’s Act 1896* to place children where he thought fit. If the Secretary arranged the adoption of a state ward, he remained the legal guardian. The Department did not have to pay adoptive parents, as they did foster mothers, so cost saving was a motive behind the adoptions of wards of state.

In Australia, there was a boom in the adoption industry after World War Two. Nationwide adoption data is not available prior to 1969, however the Senate inquiry into forced adoptions used figures in files held by the National Archives of Australia to estimate that around 150,000 adoptions took place in Australia between 1951 and 1975. Policies and practices resulting in forced adoptions were widespread throughout Australia during this period (Senate, 2012, pp.4-5).

In background material provided to the 1999 Joint Select Committee on Adoption and Related Services by the Department of Health and Human Services, an estimated 11,338 adoption orders were made in Tasmania between 1920 and 1998, and 11,074 of those were made prior to 1 July 1989. Relationships Australia Tasmania states that around 4500 adoptions took place in Tasmania between the 1950s and 1970s (Relationships Australia Tasmania, 1999).

The *Adoption of Children 1968* made private adoptions illegal in Tasmania. The Department's submission to the Joint Select Committee states that it is difficult to establish who was involved in private adoption arrangements during the 1950s and much of the 1960s. The 1968 legislation had provisions for authorised adoption agencies to arrange adoptions, in addition to the Department of Social Welfare. Only one adoption agency existed in Tasmania, the Catholic Private Adoption Agency, run by the [Catholic Family Welfare Bureau](#) (later known as Centacare and CatholicCare Tasmania).

The 1968 legislation came about as a result of the Commonwealth government's moves to enact uniform adoption legislation around Australia. As part of this process, the Tasmanian government provided a brief to the Commonwealth, highlighting a defect in the state's law that was common to nearly all jurisdictions – adoption acts were said to be more concerned with the legal order of adoption, rather than the processes to approve adopting parents and place the child. Tasmania called for new legislation that provided for “a responsible control of the process by which proposed adopters are investigated and approved, and children for adoption are placed with proposed adopters” (Senate, 2012, p.149).

Like the adoption acts passed in other Australian jurisdictions in the 1960s, the 1968 Act was informed by the clean break theory which held that it was best for the mother and soon-to-be adopted child if they were separated as early and as completely as possible. In Tasmania, secrecy and confidentiality provisions were a significant departure from the adoption practices that had existed since 1920. The 1968 act introduced strict confidentiality provisions designed to ensure the permanent concealment of the identities of parties to adoption. Moreover the confidentiality provisions were applied retrospectively (Joint Select Committee, 1999 p.22).

The report of the Joint Select Committee referred to an “enlightened leadership team” in the Department of Social Welfare during the 1960s. Its Director, Gordon Smith, believed that it was “immoral that a mother be forced to give up her baby because of economic circumstances”. In the mid 1960s the Department introduced limited financial assistance, counselling and advocacy to assist single mothers to keep their child. The Committee stated that “Mr Smith's view concerning the rights of parents regarding a child before adoption, such as the mother being able to see her child, conflicted with the opinions of influential and respected medical practitioners who, prior to the passage of the 1968 Act, had every legal right to arrange privately, the adoption of babies” (Joint Select Committee p.8).

In the late 1960s when the new adoption act commenced, training of Child Welfare Officers within the Department “stressed the importance of allowing a birth parent to reach the decision appropriate for her and her child in the particular circumstances”. However, if single mothers were in charitable or religious institutions such as Elim Maternity Hospital, run by the Salvation Army, they did not necessarily have any contact with the Department (Joint Select Committee, 1999, p.56) and the institution's staff were likely to be less “enlightened”.

Across the country, adoptions steadily declined from the early 1970s, largely because of changing social attitudes towards single mothers and the introduction of the Supported Parents Benefit in 1973. In Tasmania, there were 243 adoptions in 1969-70. This number dropped to 148 in 1979-80, and by 1989-90 there were only 71 adoptions. Between 1 July 1988 and 30 June 1999 145 Australian-born children had been placed for adoption in Tasmania, an average of 11 a year.

In August 1982, the Social Welfare Department in Tasmania closed its adoption list. However, it continued to find adoptive parents for some babies and a small number of children that the Annual Report of 1984 described as having ‘special needs’, that is, older children, including wards of state and children with behavioural or emotional difficulties. The Department also processed inter-country adoptions.

In Tasmania a review of the adoption legislation was conducted by an Interdepartmental Committee on Adoption Legislation in the 1980s. The Committee's report was released in October 1986 and contained 92 recommendations which were eventually embodied in a new adoption act in 1988. The committee gave particular attention to the report of an earlier review in Victoria, which brought about groundbreaking adoption legislation in 1984 (Joint Select Committee, 1999, p.27). Tasmania passed a new adoption act in November 1988.

In 1999, Tasmania held the Joint Select Committee on Adoption and Related Services 1958-1988 to investigate past adoption practices. In its report, the Committee noted the importance of advocacy by self-help organisations

like Jigsaw, Origins and Loose Ends in raising awareness of these issues. It found that past adoption practices, especially the taking of consent, had profound effects on the individuals who appeared before them. The report stated that “for many women, their experience of giving birth, particularly prior to the *Adoption of Children Act 1968*, the social and environmental circumstances which prevailed and against which they had no defence, nor defender, have left deep and unhealed psychological wounds” (Joint Select Committee, 1999, p.4). The Committee’s recommendations included free counselling and the waiving of search fees for adoption records.

In 2011, the Australian Senate began the inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, and its report was handed down in February 2012. The inquiry heard testimony and evidence about the pressure and stigma experienced by pregnant single women and how many were forced to put their child up for adoption. The negative and life-long effects of forced adoptions continue to affect adopted people, mothers and fathers.

On 21 March 2013, the former Prime Minister Julia Gillard apologised on behalf of the Australian Government to people affected by forced adoption or removal policies and practices

On 12 October 2012, the Premier, Lara Giddings, apologised on behalf of the Tasmanian government to people who had been hurt by the adoption practices of the past.

In 2018 the Australian Government’s House of Representatives Standing Committee on Social Policy and Legal Affairs conducted an Inquiry into local adoption. This inquiry considered how to establish a nationally consistent local adoption framework in Australia and the viability of using adoption as an alternative to out-of-home care to create stability and permanency for children. The inquiry discussed that adoption rates in Australia are the second lowest in the developed world, but Australia simultaneously has a growing number of children in out-of-home care. The report identified a key barrier to increasing adoption in Australia is the ‘fear of repeating the mistakes of past forced adoption policies and practices’ (History and timeline of forced adoptions in Victoria).

The history of adoption in Tasmania for Aboriginal and Torres Strait Islander peoples is unique. Historian Shurlee Swain writes that Indigenous adoptees have been marginalised, both in the story of the Stolen Generations and in the history of adoption in Australia (Swain, 2013). Adoption was particularly damaging in the context of the Stolen Generations and was one means of removing Aboriginal and Torres Strait Islander children from their families. The Senate report describes how adopted Aboriginal and Torres Strait Islander people experienced cultural loss, and were also subject to “a layer of official secrecy: not only a denial of their original individual parents, but an additional official desire to suppress racial and cultural identity” (Senate, 2012, p.80).

A 2008 report by Tasmania’s Stolen Generations Assessor pointed out that Aboriginal children removed from their mothers were also removed from their culture. It found that in some cases, adoptive parents were not informed that their adoptive child had Aboriginal ancestry and that the Department’s past practices resulted in an active denial of many children’s Aboriginal heritage (Department of Premier and Cabinet, 2008, p.5).

Just as adoption numbers have decreased in the overall population, there has also been a reduction in the adoption of Aboriginal and Torres Strait Islander children. The introduction of the Aboriginal Child Placement Principle has meant the majority of Indigenous children are adopted by Indigenous families. The Aboriginal Child Placement Principle is not explicitly mentioned in the Tasmanian adoption legislation, although the 1997 *Children, Young Persons and their Families Act* follows the principle. In 2019, a review into the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle in Tasmania stated that “Tasmania continues to have limited alignment of legislative, policy and process frameworks to meet the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (SNAICC, 2019).

Adoption Law in Tasmania

Tasmania was the second jurisdiction in Australia to pass adoption legislation, with the [*Adoption of Children Act 1920*](#). This act required the consent of parents be given before an adoption was made, except in the case of wards of the state.

Secrecy was not provided by the 1920 Act, which allowed all parties to the adoption to be known to each other. The adopted child's original birth certificate was annotated and a new registration made with the adoptive parents' details. Single as well as married people could adopt under this legislation. It wasn't until 1960 that provision was made in Tasmanian legislation for applicants who wished to keep their identity confidential. This was done by utilising a system of allocating serial numbers. Until then information as to identity was freely available and could be accessed from council records (Joint Select Committee, 1999, p.17).

The report of the Tasmanian inquiry into past adoption practices in 1999 discussed some aspects of the 1920 legislation:

The loose structure of adoption procedures under the Adoption of Children Act 1920 contributed to abuses and questionable practices. The Act laid down no time within which the natural mother was to sign her consent to the adoption of her baby and a practice of rapid adoption grew up whereby a married woman whose baby died at birth was given the child of an unmarried woman and returned from the hospital with that baby. An infertile married couple might also have obtained the child of an unmarried mother through a doctor whom both they and the natural mother had consulted. Such a couple would simply be given the baby. 'Baby farmers' persuaded unmarried mothers to place their babies with them and would thereby become eligible for the foster care allowance (Joint Select Committee, 1999, p.21).

The *Adoption of Children Act 1920* was amended in 1943, 1945 and 1960.

The model adoption legislation devised by the Commonwealth government in the 1960s and agreed to by state and federal attorneys-general provided the basis for the [Adoption of Children Act 1968](#). This law regulated adoption procedures and largely eliminated the abuses and undesirable practices that had grown up under the 1920 act.

The Joint Select Committee wrote that the 1968 Tasmanian Act was a turning point in adoption procedures (p.6). This legislation stated that the welfare and interests of the child was the paramount consideration in approving adoptions. The act provided for the assessment of applicants to adopt a child. It made privately arranged adoptions illegal in Tasmania. For the first time, private adoption agencies entered the field in Tasmania, the first being the Catholic Family Welfare Bureau.

The 1968 act introduced strict confidentiality provisions to ensure permanent concealment of the identities of parties to adoption. This was a significant departure from the 1920 legislation. Moreover the confidentiality provisions were applied retrospectively (Joint Select Committee, 1999, p.22)

In 1986, an Interdepartmental Committee on Adoption Legislation reviewed Tasmania's adoption legislation and a [new adoption act](#) was passed in November 1988. Many of the recommendations contained in that committee's 1986 report were adopted in the subsequent legislation.

Under the 1988 Act, access to information was easier – a significant departure from the secrecy of the 1968 Act. Fathers, who had had absolutely no legal rights under the 1968 act, were given the right to refuse consent to the adoption of his child. Eligibility requirements for adopting parents were tightened. The act provided that single people could be granted an adoption order under "exceptional circumstances". It provided for informed consent to be given by the birth mother and father and for them to be told about their child's progress.

The 1988 legislation established the Adoption Information Service and the Adoption Information Register. The Register recorded parties to adoption's names, addresses and their wishes about contact or dissemination of their information.

The Joint Select Committee report stated:

Legislation passed in 1998 had finally broken the barrier of protection by anonymity that had prevented relinquishing mothers and their offspring from seeking relevant information that hopefully would lead to identification, contact and re-union. Many contacts had been made, not always with successful outcomes, but for others great joy and the rebuilding of relationships, which often included adoptive parents, occurred.

More info

Related Entries

Related Events

- [Review of Tasmanian Adoption Legislation \(1985 - 1986\)](#)
- [Apology to People Hurt by Past Forced Adoption Practices, Parliament of Tasmania \(2012\)](#)
- [Inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, Commonwealth of Australia \(2011 - 2012\)](#)
- [Joint Select Committee on Adoption and Related Services 1958-1988, Tasmania \(1999\)](#)

Related Glossary Terms

- [Forced Adoption \(c. 1940 - c. 1970\)](#)

Related Legislation

- [Adoption of Children Act 1920, Tasmania \(1920 - 1968\)](#)
Date: 1920 - 1968
- [Adoption of Children Act 1968, Tasmania \(1968 - 1988\)](#)
Date: 1968 - 1988
- [Adoption of Children Act 1988, Tasmania \(1988 - current\)](#)

Related Organisations

- [Statistical and General Registry Department, State of Tasmania \(1882 - 1924\)](#)
After 1920, the Statistical and General Registry Department administered adoptions.

Resources

- Quartly, Marian; Swain, Shurlee; Cuthbert, Denise; Drefus, Kay and Taft, Margaret, *The market in babies: stories of Australian adoption*, 2013
- [Jane Monaghan interviewed by Caroline Evans for the Forgotten Australians and Former Child Migrants oral history project](#), 30 August 2012
- [Les Batchelor interviewed by Caroline Evans for the Forgotten Australians and Former Child Migrants oral history project](#), 7 February 2012
- [David Bartlett interviewed by Caroline Evans for the Forgotten Australians and Former Child Migrants oral history project](#), 22 June 2011 - 24 June 2011
- *Department of Social Welfare: report for the year ended 30 June 1971*, 1971
- Cunningham, Anne, *Background paper for the Minister of Community and Health Services on issues relating to historical adoption practices in Tasmania*, 4 December 1996
- Richards, Blair, [Forced adoptions heartache](#), The Mercury, 9 October 2011
- *Mum tell of years of torment*, The Mercury, 1 March 2012
- [Young mothers 'drugged, shamed' inquiry told](#), ABC news, 11 December 2011
- No date

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