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Media Release

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Getting adoption reform back on political agendas

Adoption Action Inc. is urging all political parties to make the reform of outdated adoption laws part of their policy platforms.

New Zealand's adoption laws are based on an Adoption Act passed in 1955. This is widely seen as being out of touch with current social attitudes and values. It has been described by several Family Court judges as "outdated", "anachronistic" and "based on white Anglo-Saxon values which prevailed in 1955".

The 1955 Act has been criticised by New Zealand's Human Rights Commission. It is inconsistent in many respects with New Zealand's obligations under the United Nations Convention on the Rights of the Child. When the UN Committee on the Rights of the Child raised concerns in 2002, the then government told the Committee that it was about to bring in major reforms to the 1955 Act. Twelve years later the promised reforms have not been initiated let alone implemented.

Six separate government committees and two Parliamentary Committees have recommended reform to adoption laws (see attached Chronology).

Various Ministers have stressed the need for reform. Former National Minister of Justice, Simon Power, expressed regret in his 2011 valedictory speech that governments had been unwilling to tackle tough issues such as adoption reform.

From 1999 on, several Labour Ministers expressed their support for adoption reform along the lines of the recommendations of the Law Commission in 2000. A large amount of policy work was done by the Ministry of Justice in developing the details of new legislation. The matter came before Cabinet on two occasions and an adoption reform Bill was drafted in 2006, but for reasons that have never been disclosed, the proposals for reform were not progressed.

Under the National-led government that came into power in 2008, there has been no attempt to progress adoption reform. It has been shoved into a dark corner.

In the election campaign, no party has come up with a commitment to reform New Zealand's archaic adoption laws. The Labour spokesman on Justice issues indicated earlier this year that reform was a priority, but this does not appear on their website.

Kevin Hague of the Green Party drafted an Adoption and Surrogacy Reform Bill last year, but it was not drawn in the ballot and has since been withdrawn.

Adoption Action Inc challenges all political parties to make adoption reform an election issue. It has been lobbying for adoption reform since 2007. It brought a case against the Government before the Human Rights Review Tribunal in July 2011 claiming that the Adoption Act 1955 unlawfully discriminates in ten different respects under our Human Rights Act and we await the Tribunal's decision. The Ministry of Justice has, on numerous occasions, advised Ministers and Cabinet that the 1955 Act is discriminatory and in breach of NZ's international obligations.

The 1955 Act is archaic and is inadequate to deal with the issues that are now commonly faced such as surrogacy and international adoptions. For example, the Act fails in the following areas:

- It does not require the best interests of the child to be the paramount consideration and there is no mechanism for children and young people (who may be as old as 19 years) to give or refuse their consent to their adoption or to be heard at the adoption hearing;
- In some cases, a man's child can be adopted without his knowledge or consent;
- The mother of a child can give an irrevocable consent to her child's adoption 10 days after birth of the child. There is no requirement that she receive or be offered legal advice, information about the options to adoption or counselling before she does this;
- Mothers are still vulnerable to pressure from fathers, social workers, churches and community organisations to give up their child for adoption. In Australia, the government has apologised to mothers for past adoption practices;
- New Zealanders can adopt children from countries that are not parties to the Hague Adoption Convention and the adoption will be recognised in New Zealand without any scrutiny by Child, Youth and Family or the Family Court. Adoption scams have taken place in some non-Hague countries involving children being kidnapped or unlawfully removed from their parents;
- Adoption laws have not been amended to take into account the growing number of conceptions through assisted human reproduction and surrogacy arrangements. There is evidence that abuses are occurring in relation to international surrogacy arrangements;
- Adoption has been criticised by Maori for decades in that it severs the child's relationship with members of the child's whanau, hapu and iwi. As a result some children are denied access to their whakapapa and their cultural heritage;
- While open adoptions are now supported by Child, Youth and Family, they are not supported by the legislation. Open adoption agreements cannot be enforced by the child's natural parents or by the adoptive parents; and
- Children cannot access information about their biological parents until they turn 20. By contrast, a child conceived by sperm donation can obtain far more information about the donor parent at age 18, or in some cases, at 16.

Attached to this media release is a chronology detailing the failure over decades to bring our adoption laws into line with contemporary attitudes and values.

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