BRIEF
SUBMITTED TO THE STANDING SENATE COMMITTEE ON SOCIAL AFFAIRS,
SCIENCE AND TECHNOLOGY

PUBLIC HEARINGS ON THE STUDY
“THE ADOPTION MANDATE IN POSTWAR CANADA”

BY

MOUVEMENT RETROUVAILLES
ADOPTÉ(E)S - NON ADOPTÉ(E)S - PARENTS

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INTRODUCTION

Mouvement Retrouvailles was founded in 1983 to address the needs of people affected by adoption and post-adoption and support its members in their efforts to find their relatives. To ensure that their rights are respected, Mouvement Retrouvailles has also fought for recognition of the right to identity and origins for people directly affected by adoption. Since then, we have continued our work in that area to improve the legislation governing the adoption system, specifically post-adoption issues.

The experience we have acquired over the years and our participation as a guest member in various committees and groups that deal with the confidentiality of adoption records, reunion services and Quebec’s adoption system have provided us with extremely useful knowledge about adoption and the associated legislation. Because of these activities, together with the various briefs* we have submitted over the last few years, we believe that our recommendations generated sufficient interest within the Quebec government that the current laws were finally revised to some degree with the passage of Bill 113 in June 2017.

Mouvement Retrouvailles is grateful and proud to have once again been given the opportunity to present its views, comments and concerns at the national level, before the members of the Standing Senate Committee on Social Affairs, Science and Technology, and to share our opinions on the subject with you.

Caroline Fortin, president and provincial coordinator
(adoptive)

March 15, 2018
Date
Mouvement Retrouvailles, adopté(e)s – non adopté(e)s – parents

* List of the documents submitted over the last few years:

- Brief submitted at public consultations on Bill 125, An Act to amend the Youth Protection Act and other legislative provisions

- Brief submitted at the time of the introduction of Bill 397, An Act to amend the Civil Code as regards adoption, tabled by Action démocratique du Québec in June 2008

- Brief submitted to the Committee on Institutions at the January-February 2010 public hearings on the draft bill entitled An Act to amend the Civil Code and other legislative provisions as regards adoption and parental authority, introduced by Ms. Kathleen Weil

- Brief submitted to the Committee on Institutions in December 2012 following the introduction of Bill 81, An Act to amend the Civil Code and other legislative provisions as regards adoption and parental authority, tabled by Jean-Marc Fournier in June 2012 and, after the change of government, in September 2012

- Comments on Bill 47, An Act to amend the Civil Code and other legislative provisions as regards adoption, parental authority and disclosure of information, introduced by Bertrand St-Arnaud in June 2013

- Brief submitted to the Committee on Institutions in connection with the general consultation and public hearings on the document entitled “Orientations gouvernementales pour un gouvernement plus transparent, dans le respect du droit à la vie privée et la protection des renseignements personnels” [government policy directions for a more transparent government, respectful of a person’s right to privacy and the protection of personal information] in August 2015

- Brief submitted to the Committee on Institutions in connection with the special consultations and public hearings on Bill 113, An Act to amend the Civil Code and other legislative provisions as regards adoption and the disclosure of information, in November 2016
GENERAL

We were happy to see that some of our recommendations were accepted for the implementation of the new Bill 113 in Quebec in June 2018. The government has changed its stance, partly, by giving precedence to disclosure of information over confidentiality of records. On the other hand, some important suggestions were ignored, which means the legislation is flawed.

First of all, we feel that the fact that the rights of adopted persons and the rights of the birth parents are not the same in all provinces is discriminatory. Adopted persons and birth parents did not choose adoption as a lifestyle. The majority of the mothers, both in Quebec and in other parts of Canada, had no choice.

Many mothers were mistreated, enduring psychological, emotional and even physical abuse, for their “sin.” During their pregnancy, they had to put up with the contemptuous looks, hurtful words and judgements of the people who ran the institutions where they were “hidden away.” For many, giving birth while in distress was, according to the authorities of the time, a way of paying for their mistake. When the child was born, their only choice was to hand him or her over to religious communities, priests, lawyers or agencies of uncertain reliability for placement with “a good family.” Some went so far as to place the children in return for financial compensation. How heartbreaking it must have been for these mothers to lose the being they carried inside them for nine months. What courage they must have shown by turning over part of themselves to someone else. How were they able to live their lives without knowing the person that they bore? Most of them had to keep that secret, never speak about it again, and stay away from the area where they grew up to avoid shaming their families. These social secrets were managed by governments, society and religion.

For those who were put up for adoption, how would the breaking of this bond caused by their being ripped away from their mothers affect their lives? Some had, and are still having, trouble getting over the harm caused by this severance of the mother-child connection. Who are they? Who brought them into the world? What does the person they lived inside for nine months look like? What were the circumstances of their birth, and what is their family’s medical history? These are only some of the right-to-identity questions those millions of people have.
We are talking about mothers and about adoptees, but it is important to keep in mind that the adoption mandate may also have affected, in different ways, other family members, including the father, grandparents, brothers, sisters and other relatives who have no rights in the matter. Those people too must have lived with the burden of that secret and the negative impact on their own lives.

In our view, the right to identity is a right that all human beings have, whether they were adopted or not. Nothing should prevent people from knowing who they are, where they came from, who brought them into the world, who their blood relatives are, what their ancestry is, and so on.

First and foremost, however, it is absolutely essential for adoptees to know that they were adopted. Even today, people of different ages are finding out that they were adopted when the secret is deliberately or unwittingly revealed, when adoption papers are discovered by accident, or when applications are submitted for passports or various services. Is it normal, in 2018, for a person not to know that she or he was adopted? It is vital to ensure that responsibility for informing the person does not lie solely with the adoptive parent. The Registrar of Civil Status should have the power to disclose that information as soon as the person reaches the age of majority and is no longer a “child” in need of protection.

Most Canadian provinces have amended their laws concerning confidentiality of records and disclosure of information. On the other hand, the laws are not harmonized, and in our view, they are discriminatory. Take, for example, Quebec’s new Bill 113, which will enter into force next June:

- A person adopted in Quebec will not be able to obtain the same information as a person adopted in British Columbia or Ontario, for example. Why not ensure that all Canadians are on an equal footing with regard to identity? All provincial legislation should allow the authorities to provide whatever information is available in the adoption records, even a complete copy of the adoption records, both to the adoptee and to the birth parent or any other blood relative. Adoptees should have access to their original birth certificate, including their name at birth and any information about the identity of their birth parents. The adoption order and the original baptism certificate should also be accessible, since the adoptee and the biological parents are main subjects. In our opinion, the post-adoption baptism certificate is a document that is “falsely legalized” to eliminate any traces of illegitimacy.
• In Quebec, even under the new law, a birth parent will not be given access to the adoptee’s name without his or her consent. No recourse is included in the legislation, and confidentiality is always the order of the day. The adoptee’s identity is strictly protected by a disclosure veto, which he or she must lift before the information can be made available to the birth parents. Why does Quebec have different rules from the other provinces? The birth mothers should be entitled to have the documents that prove the birth took place and identify their daughters or sons.

• A birth parent will have 12 months to register a disclosure veto and may register a contact veto at any time. For a birth parent who previously refused to allow the disclosure of information, resulting in a contact veto, the vetoes will be renewed automatically. The vetoes will expire one year after the death of the person who registered them. Mouvement Retrouvailles is opposed to this idea of allowing disclosure vetoes, because we consider the birth parent’s identity to be part of the adoptee’s identity. With regard to the contact veto, we believe that no one can force two people to contact one another, but for such a veto to be admissible, the person should be required to provide very good reasons, such as medical grounds or family violence, and information about the family medical history affecting the applicant’s health. In an ideal world, no veto would be acceptable.

• With regard to siblings, if the requests conflict, brothers and sisters and other family members will still not be provided with contact information. It should be noted that siblings or blood relatives are an essential source of information for adoptees whose biological parents are deceased. It is also important to consider the fact that many descendants of adoptees want to know about their ancestry. At the moment, it is very difficult for the direct descendants of an adoptee to find out that person’s ancestry, which is also their ancestry. Another very common example is that of birth mothers who wait until the very end of their lives to tell their children, spouse and other loved ones that they gave up a child for adoption. It is almost impossible for these people to track down the adoptee and provide her or him with family history information. Then there is the case, for example, of two or more children with the same mother who were adopted and cannot be notified if the mother registers a veto for one or more of the applicants. In addition, an adoptive parent whose adopted child has died currently cannot be given contact information so that he or she can notify the birth parent of the adoptee’s death and provide information about the adoptee.
These are only a few examples of the differences between provinces. Identity rights should be the same no matter what Canadian province you were born in. Whether you were an unwed mother in Quebec, Ontario or some other part of Canada, the right to know the person you gave birth to ought to be identical. Why are there so many discrepancies between the provinces? It is true that adoption systems are governed by provincial legislation, but identity and truth must be respected, universal and top-priority. For proof of how important identity is to all human beings so that they can achieve their goals, you need only look at how many people around the world are using websites, social media, print and broadcast media and, increasingly, DNA-based genetic databases. We have difficulty understanding how an identity disclosure or information veto can be maintained. It would be so much easier to reveal the truth, one’s own truth, to each and every person.

For decades, adoptions were mandated, and the mothers had no choice but to submit to all that religious, social and governmental power. They were ostracized, singled out and labelled as undesirables, sinners and a disgrace to their families. Why? Because they had a life inside them, outside the bonds of holy matrimony. Different times, different mores, you might say. Except that the harm done to those thousands or even millions of Canadian women is irreparable. Even today, they are paying the price.

Moreover, in our view, before adoption was considered, it would have been absolutely essential for the birth parents to be competent to make the decision and to provide their informed consent. Many mothers had to give up their child against their will. In some cases, the child was declared stillborn. Many were never able to see or hold their child, while others do not even know the child’s gender. Some women had to sign “consent” forms under duress or when they were not competent to make such a decision because of their age or medical and psychological condition. It should be noted that the consent forms made no mention of “confidentiality” or of their right to withdraw their consent. Those women, who have been stigmatized by that life experience, deserve to have the veil lifted and their rights recognized.

At the time, even the child’s immediate family was not given much consideration in that life-changing process. The connection between a child and his or her grandparents, aunts and uncles, brothers and sisters, and other close relatives is a very important family relationship that has not been considered or studied. The final decision seemed to be exclusively in the hands of the authorities, and for them, an unwed mother and her child were signs of weakness, shame and impurity, for which she and her sin had to be punished.
After all those years of darkness and ignorance, it is also important to consider the medical side of things. Today, genetics can play a key role in certain physical pathologies. Adoptees present serious problems for the medical community because of the difficulty of obtaining useful information about their biological ancestors. What happens to adoptees when their health and that of their offspring are jeopardized by a lack of information? What about all those medical records that are misleading because they lack accurate information? How many people are affected by this phenomenon and do not yet know that they were adopted or have no information about their past. We believe that knowing one’s medical history is an inalienable right; we even believe that it is a vested right. What do the various colleges of physicians think? This subject is probably worth investigating.

Serious violations have been committed, and it is urgent to remedy them at the national level. How is it conceivable to live life under a veil of secrecy? Isn’t the period of great darkness behind us? In countries where records are open, such as Scotland, Australia, Great Britain and New Zealand, no major negative consequences have been observed. Why would it be different in Canada?

The human mind has a fundamental need to know about its biological roots. The confidentiality of adoption records causes serious identification problems, singles out the people concerned, and makes it impossible for them to explore their real ancestry.

The right to equality and dignity is every human being’s right.
CONCLUSION

As we have pointed out repeatedly to government officials, in the media, in books, in our activities and elsewhere, adoptees do not know the truth about their origins. Where do they come from? Who brought them into the world? Where are their birth siblings? Where are their roots? What is their family medical history? This puzzle will never be solved until the missing piece becomes accessible to everyone, without discrimination. The time of being in the dark is past.

Adopting a child is a wilful act. Giving a child up for adoption was not then and is generally not, even today, done willingly. In both cases, the child must be subject of the adoption, not the object. The child’s rights must be respected.

Giving birth to a child was in the past and remains today an unquestionably happy event. Unfortunately, for some women, it was a very painful, heart-rending event, a deep wound and a black mark on their reputation. Being separated from that pure and innocent little being against one’s will is clearly a profoundly traumatic event, an event that permeates one’s entire life.

Things were done in the past, and we believe that national apologies should be made for that period of sadness, which is unimaginable for those who did not have to live through it, and so hurtful for those who did. And there are so many of them.

We believe it is time for all Canadians to come to terms with the right to identity and truth. Everyone needs to recognize the dignity of being a mother.

We appreciate your attention to this brief, and we sincerely hope that the Committee will take all the requests submitted very seriously and recommend in the near future that new, harmonized measures be put forward and that apologies be made in a very official way. We believe that our requests and those made by a number of other groups and individuals are consistent with today’s values and above all with respect for the right to identity for each and every Canadian.

MOUVEMENT RETROUVAILLES, ADOPTÉ(e)s - NON ADOPTÉ(e)s – PARENTS