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# SEARCH AND REUNION IN ADOPTION: THE AFTERMATH OF THE FILM ‘PHILOMENA’ AND AN OPPORTUNITY TO SHAPE CHANGE

By Dr. Valerie O’Brien and Sahana Mitra

## ABSTRACT

Popular culture has been central to shaping and reflecting debates and discourses in relation to adoption. The film ‘Philomena’, based on the true story of Philomena Lee and her son Anthony, has continued this tradition and has brought a new perspective on previously ‘untold’ stories. It has had the effect of bringing attention to the pain and challenge of search by both adoptees and birth families. It showed how efforts to open adoption records have been thwarted and has brought increased attention to the impetus and efforts involved in bridging lost connections. General changes in adoption were achieved through the enactment of the *Adoption Act 2010* in Ireland, but the omission of search and reunion from this legislation has had major implications for people touched by adoption.

Keywords: Search, Ireland, Adoptions, Reunions, Social Work, Open Adoption

## INTRODUCTION

This article traces what has been occurring in Irish adoption since the release of the ‘Philomena’ and the trajectories an open adoption system have taken in the society in recent years. It discusses the various legislative developments that have emerged and appraises the role that social work has played and is likely to play in future service provision. Social work has the potential not only to shape the future, but to push ethical practice and a social justice perspective which can ensure that changes go in the right direction.

Adoption has always been a controversial and an emotional terrain that touches on blood ties, heredity, religion or race and stirs up deeply held views (O’Brien, 2014b). The search by adopted individuals for their birth identity and birth parents for their children confronts some of the most fundamental premises, tenets and values of adoption as an institution in Ireland. Historically, in English-speaking countries, laws sealing the adoption record commenced in the late 1920’s to embrace the idea of adoptive family to be regarded as “the same as any other family” and protected accordingly (Schecter & Bertocci, 1990, p. 62). Glimpses of this were seen in the film ‘Philomena’, where the adoption records were sealed based on the dual notion of punishing the ‘unmarried birth mother’ for the sin she committed and preserving the rights of adoptive parents in the creation of their family life and development (Schecter & Bertocci, 1990, p. 63). In Ireland, the inhumane environment for many women who became pregnant outside marriage, the method of separation of young mothers from their

children (Goulding, 1998) and the complicity of some religious orders, church hierarchy (Milotte, 1997) and society (O’Brien & Pavao, 2013) in these, at times, unethical and extra-legal adoptions, which took place outside of a legal framework, remains a shocking reminder of how awful the reality was and why it remains a life-long pain that many mothers and children endure in isolation (Kelly 2005; Sixsmith 2010). As a consequence, ‘the system of adoption was regarded as a neat arrangement to meet the needs of children for parents and the need of infertile couples for children, thus solving two social problems in one instance’ (Richardson, 2003, p. 14). Thus, the closed adoption system incorporated all the beliefs of secrecy into one model.

## BACKGROUND

Searching is at the core of adoption. It has been 62 years since the introduction of legalised adoption in Ireland in 1952. This occurred in response to the proliferation of unregulated adoption practices and the perception of the country that this was generating in the post-War period. Since then, eight Adoption Acts and an amendment to the Constitution (concerning adoption) have been brought forward. None has facilitated or granted information rights or statutory-based information and tracing services to Irish adopted people (Adoption Rights Alliance, 2014a). The *Adoption Act 1952* did not provide for search and reunion as it was based on the premise of the ‘clean break’. Thirty years later, the Review Committee on Adoption Services (Department of Health, 1984, p. 88) called for ‘a greater openness about children born out of wedlock’ and recommended birth certificates to be made available. This was instrumental in starting the move towards openness in Ireland. In 1989, the *Guidelines for Policy and Disclosure of Background Information: Adoption and Foster Care Placements* was published but the incorporation of more openness did not begin to occur until the late 1990’s. Therefore, greater openness in adoption, with no legal binding, began to be understood as occurring along a continuum from open communication among the parties at one end to no contact at the other (O’Brien, 2013, p. 22).

In 2001, the first *Adoption Information and Tracing Bill* (Department of Health, 2001) was introduced to Dáil Éireann by Mary Hanafin, then Minister for Children with the responsibility for adoption. The proposed Bill would have criminalised adopted people if they tried to contact their natural parents without their expressed prior permission. After a successful campaign by the organisation, *Adoption Ireland*, and a level of public outcry, the Bill was shelved in October 2003 (Adoption Rights Alliance, 2014b). Later, the National Adoption Contact Preference Register (NACPR) was set up by the Adoption Board in 2005 on an administrative basis (without specific legal underpinning). NACPR saw a steady increase in the number of people searching but with a relatively low match rate (AAI, 2013). The Unit processed 628 applications from January to September 2014, which resulted in 64 “matches”. It is noteworthy

that if the NACPR had been in existence at the time that Philomena and her son, Anthony, were searching for one another, the register could have facilitated contact and the outcome for them could have been very different from that seen in the film.

The procedures and best practice guides for search and reunion have developed over time. These include the *Standardised Framework for the Provision of a National Adoption Information and Tracing Service* set up in 2007. Further, the *Adoption Act 2010* gave effect to the provision of the Hague Convention but did not deal with contact. Currently, adoption in Ireland is at a pivotal stage in both changing legal and practice contexts, with the move away from a culture of secrecy and shifting towards a child-centered perspective by accepting an open approach (McCaughren & Lovett, 2014, p. 240). The level of openness is dependent on the type of adoption (domestic or inter-country) that is and has taken place and the underlying trends associated with both (O'Brien & Richardson, 1999; O'Brien & Conway, 2004).

There are several factors that surround this issue. There is a level of evidence that, as a result of increased openness in domestic adoption, some people choose to adopt from other countries because of the much lower likelihood of post-adoption contact (Hollingsworth, 2003, p. 209; Kirton, 2013, p. 97). In the case of Ireland, the declining numbers of children available for adoption has resulted in many agencies stating on information guides that it is preferable if applicants are committed to a level of openness. In McCaughren's (2010) study of open adoption, adoptive parents spoke about how their family, friends and neighbours perceived contemporary adoption in terms of the traditional closed model. Due to this mindset, the contact maintained by adoptive families with the birth families was not discussed with people other than their immediate family members. This shows that while adoption is clearly being reformulated by those directly affected by it, these paradigm shifts are not always understood or reflected within wider society (McCaughren & Lovett, 2014, p. 244).

## CHANGES IN THE LEGAL BACKGROUND SINCE 2013

'Philomena' created intense media and public interest in the area of adoption information and tracing. Such activities have generally taken place in an unstructured and unregulated way. This was highlighted as early as 2003 when Richardson stated that when an adopted person is seeking information under section 22(5) of the *Adoption Act 1952*, the Adoption Board was obliged to inform itself about the individual case and to decide whether to release or withhold the information sought. In practice, the Board needs a report from the adoption agency that was responsible for the placement before an order is granted. The Supreme Court ruling in the *IO'T v. B* case from 1998 (ARA, 1998) is instrumental in the decision making. This case concerned two people who were the subject of "informal" adoptions and who wished

to have access to their birth information. The majority of the court held that a natural child had an implied constitutional right to know the identity of his or her mother, though this had to be balanced against the right of the natural mother to privacy. Therefore, reflecting on present developments, the legislative and political system is still seen to be stuck in respect of open adoptions, both in relation to historic and more recent adoptions, despite several Bills being proposed since the release of the movie. These Bills are discussed below.

## ACTIVITY IN POLITICAL/ OFFICIAL CHANNELS

After the release of 'Philomena', the Chairman of Adoption Authority of Ireland (AAI) reported in the *Annual Report 2013* that the 'Information and Tracing Unit' received 1,480 written requests by letter and email for information and/or assistance from members of the public. Accredited agencies, Health Service Executive/ Child and Family Adoption Services and other public bodies handled approximately 5,000 telephone enquiries.

At a legislative level there have been three main developments occurring in respect of information, search and reunion in Ireland.

- a) First, the *Open Adoption Bill* was drafted and proposed in March 2014 by Anne Ferris, TD as Bill Number 18 of 2014 in Houses of Oireachtas (Houses of Oireachtas, 2014a). Ferris recommends open adoption rather than "a lifelong echo of a door slammed shut" as she described the current lack of information in respect of adoptions (The Journal, 2014). Through her personal experience of being both an adopted person (that she discovered at age 17 years) and a birth mother (who placed a baby in 1972), she has the first-hand experience related to both sides of search and reunion. The bill proposes to change the current situation, allowing the natural parent or relatives to agree measures for on-going access to the child, either with the Adoption Authority in advance of an adoption or with the adopters afterwards. Ferris points out, "this is about the needs of the adopted child as the laws are too inflexible to address the special emotional needs of many adopted children" (The Journal, 2014).

Therefore, the bill envisages adoption being used for a larger cohort of children in the future. For this reason, the content of her proposed bill deals with both retrospective as well as future adoptions.

- b) Second, *The Adoption (Identity and Information) Bill 2014*, described as Bill Number 103 in Houses of Oireachtas (Houses of Oireachtas, 2014b) and sponsored by Senators Averil Power (who was herself adopted from a mother-and-baby home), Jillian van Turnhout, a children's rights campaigner and Fidelma Healy Eames, an adoptive mother (O'Brien, 2014a). It advocates for equal human and civil rights for those

affected by Ireland's closed secret adoption system. The bill, if passed, will entitle:

- (i) adopted persons to obtain a certificate of birth and to access information related to their identity, origins and the circumstances of their birth;
  - (ii) to address the position of the natural parents and of the adoptive parents of such adopted persons, subject to reasonable safeguards;
  - (iii) to allow natural parents a right to access certain information, subject to the wishes of the adopted person;
  - (iv) to require certain bodies and persons to deliver records to the Adoption Authority of Ireland.
- (c) Third, there have been a number of references to an *Adoption (Information and Tracing) Bill* made by the current and previous Ministers connected to the adoption brief. Recently, the Minister for Children and Youth Affairs went on record stating he intends to provide access to records for birth parents and adopted persons balancing the rights of those involved. He intends to proceed to finalize legislative proposals so that a general scheme and Heads of Bill on adoption information and tracing can be brought to the Government, with a view to early publication (Department of Children and Youth Affairs, 2014). It is hoped by the DCYA that the introduction of the forthcoming '*Information and Tracing Bill*', which will contain provisions for placing the NACPR on a statutory footing, will re-publicise the existence of the Register and encourage all those eligible (especially older birth parents) to join.

These developments within political/official circles reflect in part the power of the film 'Philomena.' The recent attention regarding the historic use of mother and baby homes, and the increased focus on how adoption and its many facets have impacted on many people's lives, continues to push for change.

## LEARNING FROM OTHER COUNTRIES EXPERIENCES?

Despite many years of promises from Irish politicians to deliver change, the lack of legislation to facilitate an adopted person to obtain their original birth certificate remains. Legislation to allow adopted people to obtain original birth certificates has been introduced in the UK, Canada, New Zealand and Australia. This trend commenced in the 1970s. What is surprising is that Ireland's child welfare and protection system replicates many features and trends of other jurisdictions, but the change in the field of adoption has been much slower. In the absence of a statutory basis, there are real difficulties in the provision of an Adoption Information and Tracing Service. It is for this reason that we, as a society, have to link our past history with present practices and in the process be open to the lessons that need to be learned

(O'Brien & Pavao, 2013) and we need to have the courage to do the right thing.

Perhaps the time will come when Ireland can learn from countries, such as Australia, where women were 'forced' to place children for adoption (Kenny et al., 2012, p. 9). Many trends in respect of what occurred in Australia were common in Irish society. Stigma, shame and the resulting belief that a clean break in a closed adoption would be best for all. This included a view that the 'best interest of the child' needed to counteract what Maguire & Cinneide (2005, p. 635) showed was the extent of discrimination and prejudice that surrounded the 'illegitimate child'. Western Australia became the first state to apologise in 2010 for this practice (WA News, 2010) and this was followed by South Australia, which apologized in 2012 (The Herald, 2012). Therefore, Irish legislative actors can learn from the Australian experience and embrace the changes being pitched by the Irish society. It is evident that the Irish Government finds itself in a serious predicament and has to date been unable to find a solution that balances everyone's needs. O'Brien (2013, p. 114) argues that despite the complexities, 'search and reunion is a topic that needs decisive action and resolution'. Too many lives are on hold and for many people time is running out as it did for Philomena and her son.

## CHANGES IN THE SOCIAL BACKGROUND SINCE 2013

While the call for change can be referenced back to early adoption reform in 1980 (Law Reform Committee, 2000), it has been predominantly in the last decade that momentum has grown for a proper framework for search and reunion. 'Philomena' has opened the doors further for several social platforms that have been working to enact change.

The media has been central to reporting on and contributing to the construction of the debates in respect to adoption and social work has brought its practice and research experience into this context. In a recent discussion of the *Open Adoption Bill, 2014*, Ruth Kelly, a senior social worker and author of the book titled *Motherhood Silenced* (2005), was interviewed on RTE radio's Morning Ireland show (RTE, 2014). She argued that caution is needed in this complex field and stated, "adoptive person can have a right to birth certificate but it doesn't automatically give them the right to contact". She also spoke at length of the service implications and practice issues arising from the proposed changes (RTE, 2014). Organizations dealing with search and tracing, and the social workers central to the service, are playing an essential role in preparing and working with all the various people affected by it. A recent social work study has also been an important contribution (O'Neill et al., 2014). The study, with 33 adoptive adults, reported that the search experience was positive overall and the participants would encourage others to search, but a level of caution is required. The finding of 'caution' is linked to a general

fear that a search could go wrong or that a person may not achieve exactly what they hoped for when searching. The study concludes by stating that before the process of search begins and starts to shape the child's and adoptive parent's life, the adoptive person needs to think of what they are hoping to achieve from their search and to be prepared that they may not get the outcome that they envisage.

Social workers have a role not only working with people on an individual basis but also with the potential to assist in adoption education (Witkin, 2012). For this to be effective, social workers need to be aware of and competent in the use of social media that has revolutionised adoption practice (Fursland, 2010; O'Brien, 2013, p. 22). Facebook and Twitter and the development of social narratives through use of blogging, wiki and social inquiry, are creating pathways in search and tracing services (Dodsworth *et al.*, 2012). The enormous power of Google and other search engines have made previously unimaginable searching and linking not just possible but readily and almost instantly do-able. Social workers need to know what social media is, how it works, how it can be used and perhaps critically how it may impact on the adoption situation in the absence of appropriate groundwork. Reflecting and knowing certain answers to the questions can be an important aspect in social work, especially where people are likely to be at very different stages in the process (O'Brien, 2013, p. 25) and have faced long waiting periods.

## THE PHILOMENA PROJECT

Following the release of the film, *Philomena* Lee in association with the Adoption Rights Alliance, launched '*The Philomena Project*' on 24th January 2014. The project aims to effect legislative change by calling on the Irish state to grant access to adoption records for both in-country and Irish-US adopted people and their families. The project is calling on the Irish government to lead the way and enact legislation to allow the release of the 60,000 plus files held by the Health Service Executive, private adoption agencies and church representatives to the people whose identities these contain (Adoption Rights Alliance, 2014c). The target is to assist the now adult children, particularly those taken to the US, to trace their family members and to obtain their birth certificates and other relevant records; to campaign for open records; and to lobby politicians, relevant international bodies such as the United Nations, both at home and abroad. This development is hugely welcome in the authors' view and social workers can work alongside or as part of this project to enact the necessary changes.

## ROLE OF SOCIAL WORK AND FUTURE IMPLICATIONS FOR THE POST-ADOPTION SERVICES

Despite the impediments in Irish legislation making this process a complex one, a co-ordinated approach with all the individuals involved at the time of the adoption

(Gibbons, 2014) will facilitate the adopted person's task of searching their origins. As adoption is a life-long, on-going process (Pavao, 2005) the people who are involved in the search process may experience levels of grief and anxiety. They also have huge resiliencies as they strive to connect to their past lives and heritage. At the point of coming in contact with a social worker, the worker may have a dual role as an information provider and counsellor. The actual role will be defined by the agency brief within which the worker is operating.

Generally in this context, social workers operate within the strict limitations of the current legislation, which does not permit the automatic release of identifying information. Confidentiality and anonymity guaranteed to birth mothers at the time of the adoption takes precedence over an adoptee's wish to obtain information pertaining to his/her birth. In practice, adoption agencies will provide adopted persons with information from their adoption file that is non-identifying, such as the name they were given at birth, the birth mother's first name, her physical description and medical information. However, the quantity and quality of information on files varies considerably.

Now, more than ever there is an onus on social workers to reflect on and re-evaluate their role. They need to consider the level of skill and knowledge required in this complex work. The social workers who have worked in this area for a number of years should be instrumental in showing others the best way forward. It is an area of work that can benefit from a team-based, inter-disciplinary approach involving social workers and psychologists. It should also tap into the expertise of adopted people, birth/ natural and adoptive parents and family members. A range of different practice models including psycho-education, family group conferencing and systemic, narrative and family therapy approaches can be utilised.

## SEARCH AND REUNION - PERIPHERAL POST-ADOPTION SERVICES

At a service level, post adoption services are extremely limited in Ireland. Search and reunion forms a small subset of post-adoptive services in social work and there are three kinds of families that look for these services. The first group concerns families that were affected by historical adoptions. This category involves all legal adoptions that occurred since 1952 and may also involve a cohort of cases where adoptions were not registered (perhaps placed pre 1952) or when extra-legal adoptions were made. This involves people placed in Ireland and sent overseas for the purpose of adoption.

The second group concerns families that are currently involved in rearing children less than 18 years of age and who look for support to guide them through the journey. This may involve assisting with opening up or assisting with agreements regarding openness and generally helping with the life stages and tasks associated with being an adoptive family. This involves the range of families involved in different types of domestic (family/

step parent, adoption from long term foster care and the small number of babies relinquished by consent by parents) and inter-country adoption.

The third group involves individuals and family members where contacts have been made. With this group the social work involvement may take many forms as the complex web of relationships and emotions are navigated, managed and held. Issues of multiple identities, belonging and genealogical heritage are usually at its core and reflect the life-long nature of the adoption event.

Thus, there is need for variations and flexibility in post-adoption services, covering the age range of adoptees, voluntary agreements made between the families and the number of families struggling with decisions pertaining to openness. This calls for a range of services to meet the needs of these families. Currently services are provided by both voluntary and statutory services, but services are limited. In the voluntary sector, Barnardos and Clarecare are involved in providing post-adoptive therapy services. Several accredited adoption agencies are involved in providing search and reunion services only, as they have closed their adoption placement service. A number of these have closed in recent years and adoption records were given to the Child and Family Agency, which now struggles to meet the service needs.

The field of search and reunion lies on the periphery of post-adoption services and with upcoming '*Information and Tracing*' and '*Open Adoption*' bills, the role of social workers is likely to be re-defined and expanded.

Contemporary post adoption services need structured support services for domestic and international adoptions. Many thousands of children have been adopted into Ireland from overseas since 1991. While there are fewer children adopted domestically, support in relation to identity is likely to be necessary as this newer group of adopted children grow older and have questions about their culture of origin and ethnicity (Howe, 2009). Social workers need to be available to offer guidance and resources to adoptive children and families who are faced with questions and to design tailored support services and professional intervention for children who have spent longer time in institutions (McCaughren & Ni Raghallaigh, forthcoming). Although Article 9C of the Hague Convention states that central adoption authorities should promote the development of post-adoption services, no provision for this was included in the *Adoption Act 2010*. Perhaps, this reflects a political focus on facilitating those who had exercised their statutory right to an assessment of suitability to continue their adoption process, rather than dealing with the messy realities of past and current adoption practices.

The need for more robust post-adoption services has been identified. Patricia Carey, Chief Executive, AAI (2014), stated "the need is to quantify the issues talked by adoptive parents and then try to work with the Government and the agencies to put measures in place across the country". Furthermore, Trish Connolly, IAA

(International Adoption Association, Ireland) added, "the need for post adoption services is to include different aspects related to the birth information right of the child, how to tackle the children's questions related to search and what to expect in cases where there are chances of reunion" (Wayman, 2014). Indeed, if the 'best interests of the child' is to be given due consideration, then ongoing post-adoption support is not just an aspiration but must be given priority.

## CONCLUSION

Adoption has not been central to social work practice in recent years, when compared to where social work has been predominantly employed. The *Adoption Act 2010* has heralded a level of change; the Child and Family Agency now has responsibility for work that was previously carried by social workers in the Adoption Board (now Adoption Authority). Adoption agencies have had to change structures to deal with legislative requirements which prevent holding multiple roles, and a number of agencies have de-registered and closed. The Government's proposed legislation, if enacted, will certainly bring changes. Where and how does social work need to be positioned to work in this dynamic and changing environment?

Good ground work has been laid by the Council of Irish Adoption Agencies (CIAA), especially through its guide to ethical practice (CIAA, 2014). The Adoption Authority is leading training and consultation as evidenced by a recent series of conferences (AAI, 2014). CIAA, which is made up predominantly of social workers, aims that all its members operate to the highest professional standards; keep abreast of best practice in all aspects of adoption; inform and highlight adoption issues; influence adoption policies and campaign for changes in adoption legislation (CIAA, 2014). The IASW has been to the fore of child welfare and protection issues in recent years. The time has come to collaborate with organisations already working in this area and to continue to provide a vehicle where social workers can provide the leadership required in this field.

If the main goal is good quality and a just service delivery then, as social workers, we must take into account the values that underlie the child welfare field. This field is never value neutral. As the adage goes, the legacy of the past always shapes the future. As we go down the road of openness in adoption, social work will be involved with people who are simultaneously unravelling their past while constructing new futures. We will also be more involved in decision-making in respect of increasing numbers of children in care in Ireland, where adoption may be seen as a viable option for their futures.

Ethics, social justice and a high level of knowledge and skill will be needed to navigate the times ahead. We may hear the individual stories of those affected in our offices, but we must keep in mind the generational implications that arise from adoption decisions. The adoption field is perhaps one of the most complex areas of practice that

is bounded by law, politics, a myriad of human emotions, all swimming in a sea where the ‘best interest of the child’ has no clear definition but many different interpretations.

In this domain, social work has a major responsibility to help in the framing of policies and influencing the legislative proposals being presented. These need to take into account the value system on which the society is operating and the values that are influencing people involved in the adoptive process, including their own. It is difficult to operate from a value neutral perspective, but it is essential to find a balance between ‘what we should be doing (policy), what we must do (law), what we can do (resources) and what we want to do (values)’ (O’Brien 2014, p 105). Too much is at stake for too many to get this wrong or to delay it further.

**Dr Valerie O’Brien.** School of Applied Social Science, UCD was a member of the Adoption Board 1998 -2010. She is currently researching the adoption of children to and from the USA with Dr Joyce Maguire Pavao; adoption of children from the Irish care system with Ms Angela Palmer and comparative Indian / Ireland adoption practices with **Ms Sahana Mitra**. Email Valerie.obrien@ucd.ie

**Sahana Mitra** is a PhD scholar and an Erasmus fellow from Tata Institute of Social Sciences, Mumbai, India. She has researched in pre-adoption foster care in India and currently working on Indian adoptive parents and social work perspectives.

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