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The Overturning of *Roe V. Wade*: Some “Ageing Adoptee” Thoughts, Questions, and a Wish-List

By Alice Diver

Abstract: Difficult questions arise in the wake of *Roe’s* reversal, not least in respect of how fundamental rights, laws, and social policies will have to be amended to enable the dark practicalities of legalizing state-enforced births and relinquishments. Templates and blueprints already exist: these can be found amongst the harrowing testimonies of many women and children who survived the ‘mother and baby homes’ and ‘orphanages’ over the past century, in various jurisdictions.

Keywords: Adoption, abortion, human rights, enforced birth, adoptee guilt

As a 1967 Canadian adoptee (relinquished at birth, adopted seven months later), the current discourses on the reversal of the five decades-old decision in *Roe v. Wade* resonate with me—and act as an emotional trigger—for a variety of reasons. Numerous adoptees of a similar or earlier vintage to my own will know full well that many—perhaps most—of our mothers would have very likely opted to not give birth to us (and undergo the long-term traumas of infant relinquishment) had procedures to terminate their pregnancies legally been available to them back then. Their abject lack of choice(s) stands in sharp contrast to the relative freedoms and reproductive rights that several generations of frightened, unexpectedly pregnant women and girls have been able to access since, within many Western jurisdictions. To her credit, my own birthmother—as we chatted through the early stages of a tentative reunion five years ago—

dealt briefly but sensitively with the “abortion issue,” stressing in a passing comment that, though she was “generally pro-choice” (for the wider population), she still considered herself, on a personal level, to be pro-life. ¹

She seemed very aware of the delicate nature of the topic, and of how I was likely to feel or respond had she simply railed against a legal (and sociocultural) system that had left her with no option but to flee her home and family in 1966, to enter the brutishly shaming regime of a church-run Montreal maternity home. She has since spoken to me and one of my daughters—albeit briefly—of the walled-in servitude and profound abuse that she endured there, as she awaited my birth. Like so many other relinquishing mothers of that time,² she remembers little to nothing of the delivery, having apparently been given a variety of drugs (and little sympathy) by the attending nuns and nurses.³ She neither held nor saw me at any stage, signing relinquishment papers four days later.⁴ For the next five decades she told very few people of my existence, including her own family and—thanks to the deeply ingrained sense of disgrace and indelible stigma surrounding the notion of unwed motherhood—was quick to harshly reject (and then veto) my first attempt at letter-based contact in 1991. After a second attempt three decades later—thanks to the wonders of DNA match registries, the emergence of a more progressive, compassionate society, and the determined, kindly intercession of my maternal aunts over many weeks—we are now doing very well.⁵ That said, it’s clearly been a long and difficult road for her, and one which was only very reluctantly embarked upon. Put bluntly, a termination would have spared her five decades of trauma, loss, and indignity: I am under no illusion that, had abortion then been an option for her, she would have likely welcomed it, just as firmly as she rejected the option of living a life of unmarried motherhood, or acknowledging my existence, three decades later. ⁶

The twin notions of unwelcomeness and unwantedness seem to be at the heart of many of the increasingly heated debates on the issue of “adoption as alternative to abortion.” The

glib, easy-solution imagery of happy, “blank-slate” infant handovers, a staple of the adoption industry for so many years, becomes a sinister thing when set against a backdrop of state-enforced birthing, maternity, and infant relinquishment. For adoptees who come into existence via this pathway, the usual measures of adoptee guilt (*I ruined someone’s life*) and gratitude (for existing, for being “rescued” from danger or from our illegitimacy, and so on) will likely be amplified. To discover that your birthmother was bound by law—and perhaps actively *policed*—into giving birth to you against her will, will not make for an easy origin story. Familial contact or reunion, already a fraught, tricky thing, will become much more difficult, perhaps rendered impossible given that the usual tales of selfless maternal altruism (*she loved you so much she gave you away*) do not quite fit this “new-yet-archaic” narrative of the adoption process.⁷ In this sense the reversal of *Roe v. Wade* calls to mind some of the most horrific works of dystopian fiction, where genetic motherhood is either brutally enforced, or rendered weirdly redundant, in the interests of the greater good. Margaret Atwood’s *The Handmaid’s Tale*, Lois Lowry’s *The Giver*, and William F. Nolan and George Clayton Johnson’s *Logan’s Run* are obvious examples, reducing as they do the role of genetic mothers (and the nature of their motherhood) to that of “willing” patriotic servants or (preferably) invisible surrogates, whose chief mission is to fulfil a higher duty of infant supply. Within such works the “end-product” child—seldom if ever referred to as an adoptee, but easily recognizable to those of us in the know—is often a voiceless, placid presence, rarely or scarcely seen, presumably grateful. But for a corrupt system, and its reliance upon many egregious human rights violations, such children would not exist, though this element is seldom if ever a major plot point. Rather, there is an overarching need for the protagonists to dismantle or escape from a cruel, unjust administration, leaving little time to ponder the nature or implications of an enforced existence.⁸

The traditional “fallen woman” and “abandoned orphan” tropes of Romantic literature also merit mention.⁹ Within such works (as throughout adoption’s lengthy sociolegal history) effective systems of highly coercive relinquishment, or shame-led infant abandonment, ensure that children are “freed” for adoption. In life as in works of fiction, judicious use of the notion of “illegitimacy”¹⁰ often serves to further negate adoptee rights, interests, and identities, reinforcing social exclusion and otherness, not to mention a sense of rescue-gratitude. Under such regimes, the unwanted are generally “rights-less” (bar an entitlement to child protective welfare) and thus unable to claim authentic name, kinship, or genetic heritage, perhaps permanently. The key indicators of family-life rights tend also to be missing or denied: information, identity, contact, reunion. All of this sits well within the traditionally bleak narratives of orphanization—so often used to justify the darker aspects of sealed-records adoption.

In the wake of *Roe*’s 2022 reversal, it seems likely that a rise of darker, new-yet-old stories of unwantedness—rather than altruistic abandonment or noble relinquishment—might yet attach to this new category of adoptee. New, deeply unsettling legal terminologies, such as *forced-birth adoptee* may well become normative.¹¹ New sociolegal labels for reluctant, resistant motherhood might also be coined, possibly making reference to the indentured nature of such pregnancies, or perhaps pointing to heroism or martyrdom; erasure from the process altogether seems a more likely option, given the adoption industry’s liking for sleight of hand and subterfuge.¹² Newly “illegal” antenatal behaviors, such as an attempt to leave one’s state or country to procure a termination, or purchase pregnancy-ending medication, seem likely to be recorded in adoption files, just in case mothers might perhaps change their mind post-birth, and seek to keep their children or apply for some form of contact later on. We might also see an increased reliance upon items that have been used traditionally to evidence the

“adoptability” of such infants: certificates of mental hygiene,¹³ pre-birth court orders, or harsh sanctions for a maternal failure to relinquish.

Detailed templates for systems of law and policy that enable infant adoptions in the wake of enforced birth do already exist, sadly. These can be found amongst the various Inquiries and Commission Reports (into human rights abuses) of recent years, across a wide variety of jurisdictions, as noted above. These do not make for pleasant reading, but they do serve as useful predictors of what might unfold in the future, to enable a new surge of doubly difficult adoptions.¹⁴ From the perspective of the adoptee, a reversion to the harsher sociocultural norms and laws that existed in pre-*Roe* days is likely to involve much more than rights-balancing exercises, or simple changes and challenges to human rights frameworks, however. The sort of thinking that afflicted several generations of adoptees will again be needed: “blank slate” ideologies, brick-wall policies of secrecy and untruths, and too-glib arguments that adoption is somehow all-healing or “trauma-free.”¹⁵ There will be an added, extra-cruel element of higher level unwantedness, not to mention a potential backdrop of maternal criminality, where reluctant mothers have perhaps initially sought a termination, or been detained to ensure fetal preservation. Where mothers are denied an abortion, and then forced to deliver and relinquish unwanted babies, a new level of deep shaming will be needed: will women be encouraged or made to sign irrevocable, no-contact vetoes, pre-birth? Will we see an increased redaction—or falsification—of birth and adoption records, to attempt some sort of futile “shielding” of adoptees from the knowledge that they were the by-product of a state-imposed birth?

Many of the slow advances in adoptee rights made over recent decades—in terms of accessing information, establishing identity or authentic ancestry, repairing broken bonds of kinship—are likely to be subject to easy reversals on the basis that parental privacy rights have become increasingly nebulous and merit stronger protections. New forms of stigma will

perhaps therefore be needed, to stop adoptees from searching for their genitors or siblings: these could be grounded in older, traditional forms of shame, tied to fresh rights violations. Likewise, the legal and ethical distinctions between suffering an unplanned, unwelcome pregnancy and having to endure an unwanted, state-enforced birth could quite easily give rise to convoluted human rights analyses. These “new” forms of indignity, involving highly gendered vulnerabilities, and intergenerational harms, might be more correctly viewed as archaic repetitions of the systemic rights violations outlined in various Commissions and Inquiries across several jurisdictions (such as Ireland, the U.K., Canada, and Australia) over the past century.¹⁶

A thought should be spared for those who will be born—perhaps kept, or adopted, or raised within struggling state care systems—under the shadow of these egregious rights violations. This is happening in an age where access to juridical, enshrined human rights protections is increasingly regarded as the hallmark of a civilized, just society. To have come into being against such a backdrop is to be doubly *othered*: where one’s very existence comes at the expense of another person’s dignity, and the loss of their fundamental rights and freedoms, this adds a very problematic layer to the already-heavy burden of enduring—and trying to make sense of—the condition of the adopted self. The usual adoptee mix of gratitude, guilt, trauma, and loss can only be enhanced, upon discovering—or perhaps being unkindly told—of such birth circumstances.¹⁷ Those who were, as infants, fortunate enough to be born wanted, *welcomed*, held, and kept, should remain mindful of those of us who were very clearly not. A new generation of unwanted humans—even where they might be adopted at (or very soon after) birth by kindly, eager substitute parents—will have to face myriad issues, old and new, that many non-adoptees cannot begin to fathom. Sadly too, many of the so-called “comedic devices” and tired tropes that have, for too long, attached to the subject of adoption, will no doubt be adapted or updated to include those born under these new-old circumstances.¹⁸

In sum, an extra, enhanced layer of *adoptedness*—for want of any better term—can only add to difficulties of unwantedness already facing some adoptees.

Some Questions on Law and Policy

- Will mothers attempting to procure a termination or leave their home state be charged with a criminal offence, or imprisoned pending delivery? If so, will this impact upon their right to parent other children that they might (already or yet) have?
- What happens where a mother decides to keep her baby? Will fresh legislation be required to deprive her of this already highly qualified right (to parent), on the basis that she might have previously sought a termination?
- Might the right to relinquish maternity be revoked, so that mothers are forced to keep and raise their child?
- Will new categories of “adoptability” (and *unadoptability*) be seen?
- Will relinquishing mothers be encouraged—or ordered—to be anaesthetized during birth, to prevent them bonding with the baby or changing their minds about adoption?
- Will we see changes to interpretations of the “best interests” principle to more fully include unborn children?
- Will the cruelties of “re-homing” be seen more frequently, perhaps even deemed justified, on the basis that a child born under such circumstances has been subjected to extra trauma?
- Will current rights to access birth and adoption records—limited as they often are—be affected? Privacy (and secrecy) laws have a double-edged tendency to spark unforeseen effects.
- Will maternal anonymity and sealed records again become normative? Might we see the return of (faux) orphanages (if in fact they ever really went away)?

- Might birth certificates be annotated somehow to indicate adverse birth circumstances?

A Wish List

- That adoptive parents will refrain from engaging in sharp “savior narratives,” mother-shaming, or adoptee-gratitude reminders;
- That the usual “. . . *oh, yeah, they’re adopted*” jokes and punchlines might become a thing of the past, and that any new twists on these involving the concept of “unsuccessful abortion” will not become a thing;
- That the easy use of the phrase “*welcomed a child*” in birth announcements might be used a bit more cautiously: not all of us were welcome;
- That kept persons will not diminish the adoptee’s lived experiences with the phrase “*but we all have issues. . .*”;
- That no adoptee will have to be asked if they “*would rather have been aborted*”;
- That birth-parental anonymity—or the use of contact vetoes—does not once again become normative;
- That traced bio-relatives will not react with an extra helping of revulsion, should they be traced and contacted in years to come;
- That lawmakers and human rights advocates will somehow navigate a way through or past this latest development, and that, in the meantime, that thoughts are spared for those who will be born and relinquished—or perhaps kept—during this era.

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¹ Fortunately enough, for me and my descendants.

² See for example Canada's; *CLANN*; and Government of Ireland.

³ These drugs would also, apparently, permanently suppress lactation.

⁴ Oddly, she was permitted, perhaps required, to give me a first name: *Karen Marie*. If this was a compulsory act, I cannot decide whether the enforced naming an infant you would likely never see was some church-designed kindness, or an exercise in abject cruelty.

⁵ Special mention goes to my aunt whose research into her—our—Indigenous ancestry (and her profound commitment to its ways and teachings) moved her to take a DNA test in 2016. She was not expecting to find me, an aging niece (I am older than her by a few years), but still welcomed me with open arms and many emails and was pivotal in eventually convincing my terrified birthmother that I was not an axe murderer and was worthy of correspondence.

⁶ I can offer no sensible answer to the repeated Twitter-refrain of *Would you have preferred to have been aborted?*, given that I am unequipped to comment on life pre-birth or post-death, or on alternative states of existence. Most days, I am relatively happy to be alive.

⁷ One wonders whether or how future interpretations of child welfare (best interests) principles might alter: where, for example, a mother had initially sought an abortion but later changed her

mind, will this be noted and used against her to force her into relinquishment on the basis of some child protective presumption?

⁸ Reunion scenes in Margaret Atwood's sequel *The Testaments* (2019) notwithstanding.

⁹ See for example E. M. Forster's *Howard's End* (1910), George Elliott's *The Mill on the Floss* (1860), and Thomas Hardy's *Tess of the d'Urbervilles* (1891).

¹⁰ See further Carp; and Novy.

¹¹ It is difficult to find any appropriate or sufficiently compassionate term to categorize—or encapsulate the nature of—these adoptions of the future, and the various behaviors that will likely enable (legal, socio-cultural) and attach to them (parental, familial, adoptee). The usual, tired trope of *your mother didn't want you* will inevitably be open to dark enhancement, along the lines of *you were nearly aborted*. Sadly, it seems easier to predict derogatory potential labels: *abortion-denied* or *domestically supplied infant*.

¹² Possible terms might include *neo-surrogacy*, *non-maternity*, *un-mothering*, or *maternity refusal*. My expectation is that some freshly horrific, lawyer-devised nomenclature will find its way into adoption jurisprudence (on e.g. relinquishment, contact, records-sealing, etc.) that will surely arise in future.

¹³ I include this because I was issued with one prior to my adoption (and still occasionally produce it to impress or reassure my students).

¹⁴ There is an extra layer of darkness to such adoptions, from the very start, grounded as they are in human rights-violating enforced pregnancies and births. Issues around relinquishment, secrecy, stigmas, and disclosure (not to mention potential reunion) will likely be similarly steeped in higher levels of guilt and shame.

¹⁵ For an interesting (public-health-funded) take on the issue of adoptee trauma—and recovery—in Northern Ireland, see McSherry and McAnee, which stresses the apparent

“capacity of adoption to help children who have experienced early psychological trauma to recover from those difficulties.” (p.13)

¹⁶ See, for example, on Northern Ireland, Leanne McCormick, et al.; on Australia, see Parliament of Australia; on England and Wales, see UK Parliament.

¹⁷ See further Verrier; and Lifton.

¹⁸ There is an early episode of *Derry Girls* that does precisely this. The “punchline” of ‘*you were adopted*’ is cruel enough without having it replaced by ‘*you were meant to be aborted.*’