



The notion of simple adoption suggests that regardless of legal responsibility, family belonging is a matter of blood. ©IMAGES.COM/CORBIS

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Adoptive parents aren't second best

A Quebec proposal to preserve the legal bond between child and birth parents risks undermining the whole idea of adoption

ROBERT LECKEY

*Professor of family law
at McGill University*

This week, Quebec's Minister of Justice, Kathleen Weil, tabled a draft bill proposing (among other things) sweeping changes to the province's adoption law. The minister framed the changes as a progressive response to societal changes.

The proposals are complex and call for careful study during the consultations by the National Assembly. A key feature of the draft bill is a distinction between "open" and "simple" adoptions. Intentionally or not, the proposal for simple adoptions marks a serious departure from Quebec's established family law and advances a conservative view of family.

In open adoptions, adoption would still cut the legal tie between children and their birth parents, replacing them with the new adoptive parents. But the adoptive parents could sign an agreement allowing for continuing contact between the birth parents and the child.

Open adoptions reject the traditional model of confidentiality and secrecy that mattered much more when society stigmatized children born out of wedlock as illegitimate. Many children adopted today have been in child or youth protection. These kids know their birth families. They know

that they're being adopted, so the secrecy of the old closed model can't apply.

The proposal for open adoption requires an examination of its potential to undermine the adoptive parents' relationship with their child. But at least it responds directly to the minister's concern about social changes.

The more troubling proposal is the option of simple adoption. Simple adoption would give a child a new adoptive parent or parents, who would assume the primary responsibility for caring for the child. But it would also preserve the legal bond connecting the child to his or her birth parents and birth family. The minister suggests that this model would be especially suitable for children placed in child protection.

What's the rationale for this idea? It's not the practical reality that many children being adopted already know about their birth families and wish to keep contact with them. Open adoption deals with that. Simple adoption aims at something else.

This proposal risks undermining the idea of adoption. When birth parents can't or won't care for a child, adoption provides new parents and establishes the child in a new family. Since the first adoption law 90 years ago, adoption has created new bonds of filiation or legal parentage. It gives the child a new identity.

By focusing on the genetic

tie, the call to recognize simple adoption undermines the established legitimacy of adoption as a source of new, fully equal family ties. It implies that adoptive parents are second best.

Simple adoption suggests that, while it's fine for a new adult or adults to take on legal and financial responsibility for a neglected child, filiation and family belonging are matters of blood.

The minister's proposal departs from an idea that has underpinned Quebec's family law since the legislature abolished illegitimacy 30 years ago: All children whose legal parentage is established are equal.

The proposal's timing is unfortunate. A major change to the practice of adoption in Quebec in recent years is the increase in international adoptions. These adoptions are usually interracial, matching children with adoptive parents who are visibly different from them in ethnic origin. Another recent change is the opening of adoption to same-sex couples. There, too, a child is obviously not the offspring of both adopting adults.

Quebec's current law views the children of interracial adoption and of adoption by same-sex couples as equal to any other children. It assumes that their adoptive families give such children a wholly valid identity.

Calling for simple adoption shores up the importance of genetic connection over bonds

of adoption. Might it not hint that those adoptive parents increasingly prevalent in recent years are never true parents?

The minister justified her proposals as "responses to an incredible change in Quebec society" and societal changes across North America. The irony is that the most troubling proposal comes from elsewhere.

Open adoption comes most obviously from Ontario. It has been the law in the province since 2006. But simple adoption, which sustains the child's tie to the birth family, comes from France.

Whatever the cultural and historical ties with France, Quebec has not followed the conservatism of French family law for decades. On the rights of married women, illegitimate children and same-sex couples, Quebec has repeatedly adapted its law to changing social practice without bothering about French debates. Why turn back now?

Ms. Weil says her proposals recognize that there is no longer a single model of family and that diverse families present diverse needs. But the minister's emphasis on genetic connection actually reinforces a single family model.

There's truer diversity in our current law that, whether by birth or adoption, parents are equally parents.

» Robert Leckey is the author of the IRPP study *Families in the Eyes of the Law: Contemporary Challenges and the Grip of the Past*.