

ABSTRACT

The Child's Right to Know Their Origin v. Babybox

The goal of my Master Thesis is to evaluate the possibility of applying the child's right to know their origin, to find out the relationship between the right and Babybox and objectively compile and assess the existence of Babybox itself. My attention has been focused on other institutes, too, where the right to know one's origin is feasible to achieve as well as on institutes where this right is still being heavily discussed. I concentrated on one part of family law that has to react to the scientific and medical progress and changes in society. The topics I focused on are not unambiguous and it is necessary to deal with them sensitively as it is an issue important for the whole of society. It is clear that every human being wants to know their past and roots for many various reasons.

This Thesis is divided into five chapters.

The first chapter is dedicated to legal regulations in family law, both international and domestic. The most important international norms and contracts managing children's rights and related questions are included. I found the Convention on the Rights of the Child, where the right to know one's origin is also included, as the most significant norm. Many institutes are in conflict with this Convention. Czech legal framework derives from various international legal norms and tries to reflect the fast-paced progress of our society. The question remains whether the Czech Republic is successful. In my Thesis, I have tried to describe the current legal framework and changes and intents of this dilemma.

In the second chapter, I have tried to explain the history of relationship between parents and children. The main topic of this chapter is the affiliation proceedings, both in determining the mother and the father. This issue is quite extensive, yet still very important. The mother is always the woman who gave birth to the child – this sentence is still true, even given the rapid medical development, which had brought new possibilities in the territory of assisted reproduction. The question of determining the father is more complicated. The old hypotheses are still valid and have tradition in our legal system, yet they are, to some extent, overcome by DNA testing. The right to know one's origin is also dealt with in this chapter. One must also not forget the negating right of the General Attorney, which is being discussed lately, especially due to the term “the interest of the child,” which the General Attorney is supposed to protect. Not always is this phrase explained by the General Attorney correctly.

The third chapter evaluates the up to date history of Babyboxes. The main ideas of both supporters and opposition of the device as well as my own opinion are included. It is not very easy to assess whether these boxes are right or wrong solution, but they do help save children's lives. One of the arguments of the opposition is that Babyboxes evade or break the right of the child to know their origin; that the child has a right to grow up with their parents and be brought up by them, which the Babybox prevents. The issue is not one sided and everyone is free to make their own opinion.

Secret and anonymous births are dealt with in the fourth chapter. This topic is also not one sided and arouses great amount of inconsistent reactions. Even here the right to know one's origin and the mother's endeavor to shed the parents' responsibility and leave the child are in conflict. The legal framework is not ideal, on the other hand, one can see the attempt to adapt to the contemporary world. The truth remains that the child, who is brought to the world by an unknown mother, has a possibility to find a new family and environment.

The last chapter is consisted as a short excursus to the issue of adoption as this part of family law also is in conflict with the before mentioned right of the child. Adoption is, according to law, divided to reversible and irreversible. The irreversible adoption is the kind where the adopted parents are stated as parents in child's birth certificate. The consequence of such an adoption is that the biological parents do not have any rights or responsibilities to the child.