

From The Times
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I was gratified this week to find that [an article I wrote in December](#) has been quoted in full by the Court of Appeal. (I only hope there were no typos.) It is flattering that Mr Justice Munby takes The Times seriously. It is of more import that he decided to publish his judgment on the case that I wrote about six months ago. For it is only when judges make their reasoning public that we can start to debate the grounds on which children should be taken into care.

A few long-suffering readers may remember that this peculiar case concerns a woman whose baby was removed by social workers, not because the child came to any harm but because there was a suspicion that her father might have injured a child from his previous marriage. That suspicion was never proven, no charges were ever brought and the child of the earlier marriage was never removed. But a woman who everyone agrees is blameless has lost her only child – for ever – because she is deemed to be besotted with a man who may pose a danger.

As so often in these situations, there are complex allegations and flawed characters. In my view it is questionable whether the father's inability to conceal his loathing of social workers makes him unsuitable for parenthood. Mr Justice Munby has decided on several grounds not to grant an appeal. The case may still go to Strasbourg, but it will be too late: the child will have been adopted.

This couple have become a cause célèbre for campaigners who fear that the Government's drive to get more children adopted is having a perverse effect on some local authorities. For the same local authority to leave a man alone with a child that it thought he had harmed, but to take away another that had not been harmed, does seem bizarre. Until you realise that the child from the first marriage was disabled, and older, and would have been hard to place with an adoptive family. The child from the second marriage was a healthy baby, just the kind of "adoptive commodity" that local authorities find relatively easy to place.

I still believe that ministers were right to want to speed children out of the hell of care. But they have put social services departments in a strange position. We now expect them to combine three contradictory roles: to protect children, to keep families together and to meet adoption targets (which bring financial rewards). Under pressure, in situations that are not clear-cut, those roles are bound to conflict.

What is the evidence? Government figures show a significant jump in the number of babies being taken into care, from 1,600 in 1995 to 2,800 in 2005: a 75 per cent increase in ten years. While there has been an increase across all age groups, it is much, much greater for babies. More 10 to 15-year-olds are removed, but the rate of increase was only 21 per cent.

One possible explanation is that the authorities are now monitoring pregnant women, especially teenagers and substance abusers. But there are also numerous examples of relatives being turned down by local authorities when they offer to take the children of a family member. Some of them may indeed be unsuitable. But the turning-down sometimes seems very peremptory. John Hemming, MP, who follows these issues closely, believes that "the [hard-to-place] children the targets were established to get adopted are not getting adopted; instead a completely new group of children are being taken into care, then adopted". Ministers should be seriously alarmed if a failure to help difficult candidates find homes were being masked by a zealous pursuit of babies.

This case has also brought something else home to me: our hypocrisy about privacy. It is illegal for me to write about most care cases, or to read court papers, even when the parents involved beg me to. I can generally only write when judges go public. Yet I have discovered that even as I was writing about this case last year, painstakingly omitting much of the detail to ensure that no one could identify the child, her picture, real name and age were being published in a national newspaper. Not by a journalist, who would have been in contempt of court. But by an adoption agency, advertising for adopters.

Agencies have to find good homes for needy children. Many do a great job. But for parents who are routinely told that they will be in contempt if they dare to reveal the legal proceedings to anyone outside the court, or even to talk about the child by name, because his or her privacy is paramount, it is staggering to see their children being advertised like pets.

Contempt of court is a serious matter. Last year Harriet Harman, the Minister for Justice, admitted in Parliament that in 2005 “200 people were sent to prison by the family courts, which happens in complete privacy and secrecy”. Family court judges can send parents to prison for up to six months for contempt. Two hundred people is about four a week. That is far more than the number of suspected terrorists we have locked up without a fair trial. So where are the civil libertarians? One young woman was recently sent to Ashford prison for kidnapping her child back from social workers and trying to flee the country. Others seem to be committed for minor breaches of contact orders. The threat of jail is made time and again, and it is real.

The main justification used for keeping family courts secret is to protect the identities of children. It is the argument used to gag parents and the media. How strange that seems when a little girl, whose family struggled to get the right legal advice to keep her, can be paraded around the country.

Every judge in these adoption cases can decide to make their judgment public. Until they do, the pretence of privacy will be nothing but rank hypocrisy.