



**THE BLUEPRINT OF LAW
REGARDING ADOPTION IN INDIA**

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Abstract

This paper examines the numerous adoption laws, types, and practises in India, as well as the contentious argument over inter-country vs. intra-country adoption. Adoption is a legal and social process that establishes a parent-child connection that is distinct from birth. It is the process by which a kid of one set of guardians becomes the child of another set of guardians or parent. Adoption practises in India have been imprinted over a long period of time by social reform campaigners and child welfare organisations. The rules and approaches proposed by the Indian government demonstrate this. A later policy in Section IV of the Juvenile Justice Act of 2000 implemented the concept of mainstream adoption, whereby, without regard for the guardians' network or religious influences, a privilege appears to be granted to all subjects to embrace, and all children to be embraced, without regard for the network or religious influences of the guardians or the child concerned. While this was a positive step forward, the child's legal and true-blue status was still not similar to that of a natural, honest-to-goodness child. Following that, the Juvenile Equity (Care and Protection of Children Act, 2006) clarified the issue, defining adoption as the process by which a child is permanently separated from his or her biological parents and becomes the genuine child of the adoptive parents, with all the rights, benefits, and responsibilities that come with the relationship. Our purpose for writing this study is to discuss the history,

display, and eventual fate of adoption in India. To accomplish so, one must first gain a better understanding of the verifiable point of view of Indian adoption.

Introduction

India is a country with a wide range of religious beliefs. Every religion has its own set of rituals that it adheres to. The Indian legal system incorporates both customs and legislation to create law. In personal concerns, Indian culture is governed by the conventions of the four most common religions: Hinduism, Islam, Christianity, and Parsinism. Hindu and Muslim personal laws are derived from their respective religion texts. Children are regarded as the country's future. While children have the right to be pampered, cared for, and provided with all of the essentials for development, many children are abandoned each year in India. Human trafficking and sexual assault are sometimes perpetrated against these children. The abandoned children are taken to any adoption agency in the best-case scenario. Adoption of children in such instances provides a second chance at life. Adoption, in its most basic form, is a procedure in which one person acquires parental responsibility for another, permanently transferring all rights and duties, as well as filial links, from the original parent or parents.

ORIGIN OF ADOPTION CONCEPT

Dattaka-mmmms by Nanda-Pandita was regarded the classical text on the topic of adoption in the early 17th century, and was later used by British authorities as Hindu law. Sutherland later translated it into English in 1821. Kuvera is also credited with the work Dattaka chandrika. The paradoxes of Indian culture are unique. There are several legends in Indian mythology about babies being born



in one place and raised by non-parents in another. The Hindu Law explicitly states that there are 12 types of sons, one of which is the Dattaka son, i.e. a son whom his father or mother affectionately offers as a son to someone of the same caste in a time of need. Although there is no explicit statute for child adoption in India, judicial activism has resulted in a number of cases that have established precedents for related difficulties and other complexities in child adoption.

It was normal in the early twentieth century for parents to wait 3-5 years after submitting an application to a private adoption agency before receiving a healthy infant. The civil rights movement of the 1960s coincided with an upsurge in the number of children adopted.

MEANING OF ADOPTION

Adoption is a legal process by which a child is placed with a married couple or a single female who agree to raise her as their own child and assume all responsibility for her. Adoption is a legally approved way to formulate a parent-child relation between people who are not associated with birth. This two-way process has facilitated childless parents to have a child.

Adoption is the legal process of putting a kid with a parent or parents other than the biological parents for the rest of their lives. The parental responsibilities and rights of the parents are severed when a child is adopted, and those responsibilities and rights are transferred to the adoptive parents. It is a globally recognised institution. Adoption is mentioned in almost all faiths and mythologies in some way. In today's world, the concept of adoption has evolved from

delivering a child to the orphaned to offering a home to the homeless.

ADOPTION IN INDIA

Adoption is a legal and social process that establishes a parent-child connection that is distinct from birth. It is the process by which a kid of one set of guardians becomes the child of another set of guardians or parent. Adoption practises in India have been imprinted over a long period of time by social reform campaigners and child welfare organisations. The rules and approaches proposed by the Indian government demonstrate this. A later policy in Section IV of the Juvenile Justice Act of 2000 implemented the concept of mainstream adoption, whereby, without regard for the guardians' network or religious influences, a privilege appears to be granted to all subjects to embrace, and all children to be embraced, without regard for the network or religious influences of the guardians or the child concerned. While this was a positive step forward, the child's legal and true-blue status was still not similar to that of a natural, honest-to-goodness child. Afterward, the Juvenile Equity (Care and Protection of Children Act of 2006) cleared the issue, where the adoption was characterized as the procedure through which the received child is for all time isolated from the organic guardians and turns into the genuine child of the new parents with all rights, benefits and duties that are connected to the relationship. The articulation youngster was shown to be in need of consideration and security in this demonstration.

Adoption policies and social transformation may have developed as a result of the British leadership of India at the time. In the Madras and Bombay Presidencies, the primary



Children's Act was enacted in 1920, requiring the stated obligation to care for abandoned and neglected children. The primary purpose for enacting this law was to provide protection and assurance to youngsters. Furthermore, the developments that have occurred in Independent India since 1947 have resulted in changes in social enactment and arrangements. These developments also had a positive impact on family arrangements for children's well-being. ("Parental Contact with Children Fostered and in Residential Care after the Children Act 1989")

In India, there is a well-defined legal process that gives both the adopted child and the adoptive parents genuine rights. The goal of these laws is to preserve an adopted child's rights by transferring all legal obligations and rights from biological parents to adoptive parents. Three important laws allow Indian citizens to adopt in India:

- ❖ Hindu Adoption and Maintenance Act, 1956 (Hindus, Sikhs, Jains & Buddhists)
- ❖ Guardian and Wards Act, 1890 (Foreign citizens, NRIs and Indian nationals that are Jews, Christians or Christians)
- ❖ Juvenile Justice Act, 2000 (a section of which deals with non-Hindu parents adopting children)

The Hindu Adoption and Maintenance Act, 1956 (HAMA)

Hindus, Buddhists, Jains, and Sikhs are all covered by this Act. The following sections of the Act are relevant:

- a) Adoption can be done by married couples or single individuals.
- b) Legally, a man can adopt with his wife's agreement.
- c) Adoption is possible for a single man or woman.

- d) If the family already has a biological child, a child of the opposite gender must be adopted.
- e) Children adopted under this Act have the same legal rights as biological children.
- f) Adoption is possible for children under the age of 15.
- g) When adopting a girl, a single guy should be at least 21 years older than the child.
- h) Adoption under this act is irreversible; a single woman adopting a boy must be at least 21 years older than the youngster.

Requisites for a person to be adopted:

- a) He or she is a follower of Hinduism.
- b) He or she hasn't been adopted yet.
- c) He or she has not been married, unless there is a custom or usage relevant to the parties that allows married people to be adopted.
- d) He or she has not reached the age of fifteen years unless the parties have agreed to a custom or usage that allows persons who have reached the age of fifteen years to be adopted.

Other legal parameters to be fulfilled are:

- a) If the child is a son, the adoptive father or mother must not have a Hindu son, son's son, or son's son's son living with them at the time of the adoption.
- b) If the adoption is for a female, the adoptive father or mother must not have a Hindu daughter or son's daughter living with them at the time of the adoption.
- c) If the person to be adopted is a male, the adoptive father is at least twenty-one years older than the person to be adopted.
- d) If the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted.
- e) A kid may not be adopted by two or more parents at the same time; the child must be actually given and taken in adoption with the goal of transferring the child from the birth family.



The Guardians and Wards Act, 1890 (GWA)

This was the sole law that enabled non-Hindus to adopt before the Juvenile Justice (Care and Protection) Act of 2000. However, this act became India's first secular law allowing for the adoption of a child. The following are the main aspects of this Act:

- a) Anyone under the age of 18 can be a ward;
- b) A will is required for any property/goods to bequeathed to the kid;
- c) This will can be legally contested by 'blood' relatives;
- d) The guardianship can be withdrawn by the courts or by the guardian;
- e) Both spouses have the legal authority to be guardians.
- f) There are no age limitations for single people who want to adopt.

The Juvenile Justice (Care and Protection) Act of 2000, amended in 2006 (JJ Act)

The Juvenile Justice Act is primarily intended for the care and rehabilitation of children who have run afoul of the law. A law was needed to ensure that all children, whether adopted or biological, had the same rights. There was also a need for a law that separated adoption from the adopting parent's faith (s). The Juvenile Justice Act took up this space, with a little piece added for adoption. Since then, the provisions have been expanded by the Amendment Act of 2006. The following are the Act's primary advantages:

- a) Any Indian citizen can adopt a kid who is lawfully available for adoption;
- b) The adoptee has the same rights as a biological child;
- c) Single persons can adopt;
- d) Adoption is irreversible;
- e) The adoptive parent's religion is irrelevant;

- f) Time constraints have been established to ensure that children are legally available for adoption sooner; and
- g) The focus is on the child's best interests.

The Act applies to the entire country, but it can only be implemented in places where JJ Boards (as defined by the Act) have been established. This is a continuous process, with the majority of states providing notices that make up these boards.

Adoption under the Ambit of Constitution

The Indian government is completely aware of and committed to children's rights and welfare. Fundamental Rights are enshrined in Chapter III of the Indian Constitution. Article 21 guarantees one of these rights. Article 21's major goal is to ensure that the procedure set by law is strictly followed before a person's life or personal liberty is taken away by the state. The right to life refers to the ability to live a full, meaningful, and dignified life. It doesn't have a specific meaning. As a result, article 21 ensures that every child lives in dignity. The right against exploitation of children under the age of 14 is protected under the Indian Constitution's Article 24-Chapter on "Fundamental Rights of Citizens."

As a result, religion-specific adoption regulations should be scrapped in favour of the creation of a Uniform Civil Code. Children's education is free and compulsory, according to Article 45 of the Indian Constitution's Directive Principles of State Policy. In 1974, India drafted a National Policy for Children, which gave the Ministry of Social Justice and Empowerment (now known as the Ministry of Women and Child Development) the authority to create laws concerning children's welfare. The Indian



Constitution contains a chapter titled "Directive Principles of State Policy," which outlines the government's essential responsibilities. The provisions are not judicially enforceable, despite their importance in the country's governance.

The Act specifies the requirements for a legitimate adoption. The Act's primary legal effect of a legitimate adoption is that an adopted kid is assumed to be the child of his or her adoptive parents for all purposes as of the day of the adoption.

Legal rules and Guidelines under different religions for Adoption

❖ Adoption under Hindu Law

Hindus have the legal right to adopt a child. Other communities could only function as the children's legal guardians. (Bajpai) The following are the two main goals of adoption according to Shastric Hindu Law:

This goal is religious, in the sense that it is to have a son who will participate in the father's death ceremonies, and it is secular in the sense that it is to pass on the family name.

A person who died without leaving a son behind was thought to go to hell. As a result, there was a compelling incentive to adopt a son. Only a male child can be adopted under Shastric Hindu Law, and he must be from the same caste as his adoptive parents. The Hindu Adoption and Maintenance Act, 1956, has made significant revisions to the law regulating adoption in India. The most significant modifications brought about by this act were that it limited adoption to secular purposes exclusively and allowed women equal rights to males, i.e., both boys and girls can now be adopted under this act. This act has also solved the problem of people belonging to the same caste.

The only law in India that treats an adopted child equally to a natural born child is Hindu law. This is mostly due to the assumption that a son was required for the family's spiritual as well as material well-being. Males were to be adopted under Hindu law, and restrictions were established based on Caste and Gotra. Hindu law prohibits the adoption of a female kid. Only the man had the right to adopt under Hindu law, and his wife's approval to the proposed adoption was irrelevant.

However, such limitations have changed throughout time. In today's society, gender biases have been reduced to a minimum. Every Hindu, male or female, has the legal power to adopt if he or she has reached the age of majority and is of sound mind, according to modern Hindu law. The Hindu Adoption and Maintenance Act of 1956 enumerates the majority of these laws, norms, and regulations.

Adoption under Muslim Law

Adoption is not permitted under Islamic law. Because Muslims do not have an adoption statute, they must apply to a court under the Guardianship and Wards Act of 1890. When a Muslim adopts a kid under this provision, the child is considered to be placed in foster care. Prior to the 1937 Shariat Act, Muslim adoption was recognised by custom. A Muslim talukadar was allowed to adopt under Section 29 of the Oudh Act of 1869.

According to Muslim law, the father has the upper hand. It also distinguishes between custody and guardianship. However, both Sunni and Shia schools agree that the father is the sole guardian while he is alive. Even after the father's death, the mother is not recognised as a natural guardian.



Adoption is handled a little differently under Islamic law than it is in other cultures. Kafala is the Islamic name for what is often referred to as adoption. Adoption, like everything else in Islamic Law, is strictly controlled. Instead of a parent, a guardian/ward function is played. There are particular regulations that govern this interaction. These rules are primarily in place to protect the family line's integrity.

Adoption is not forbidden in any way. It is against the law to attribute one's adopted child to oneself as though they are biologically related. This is because Islam aims to preserve biological lineage rather than complicate it. In Islam, there are a few laws that govern the concept of adoption:

- a) An adopted child inherits from his or her biological parents, not from the adoptive parents.
- b) An adopted child inherits from his or her biological parents, not from the adoptive parents.
- c) If the biological family provides the kid with property/wealth, the adoptive parents must take care not to mix that property/wealth with their own. They just act as trustees.

It's also worth noting that in Islam, the extended family network is extensive and powerful. It's unusual for a youngster to be entirely orphaned, with no family to look after him or her. A wholly abandoned child is nearly unheard of in Islam, which places a high value on kinship relationships. Before permitting someone outside of the family, much less the community or country, to adopt and take the child from his or her familial, cultural, and religious origins, Islamic law would prioritise finding a relative to care for the child. This is especially vital during times of war, starvation, or economic catastrophe,

when families may be uprooted or separated for a short period of time.

❖ Adoption under Parsi and Christian Law

These communities' personal laws do not recognise adoption, although it is possible to adopt from an orphanage by seeking authorization from the court under the Guardians and Wards Act. There is no such thing as a Christian adoption legislation. There are no adoption rules for Christians, thus they must go to court under the Guardians and Wards Act of 1890. It expressly states that the father's right comes first, and that no one else can be chosen unless the father is ruled unfit. This Act also states that when assigning a guardian, the court must consider the child's welfare.

In India, there is no explicit law that allows or regulates Christian adoption. Foster children are not treated as children in law unless they have a formal or customary adoption recognised by the courts. When foster parents die, their inheritance is divided among the intestate legal heirs, to the prejudice of foster children. Christians in India can adopt children under section 41 of the Juvenile Justice (Care and Protection of Children) Act 2006, as well as different state government guidelines and rules.

These communities' personal laws do not recognise adoption, although it is possible to adopt from an orphanage by seeking authorization from the court under the Guardians and Wards Act. There is no adoption law specifically for Christians in Indian Law.

Requisite guidelines and General Procedural Law for Adoption



- a) The adoptive parent must be able to adjust and meet the qualifying criteria.
- b) Paying a visit to any voluntary coordinating institution or Child Welfare Agency in the area where they intend to seek or now reside.
- c) Comprehending the needs of the specific institution and registering after submitting an application.
- d) The Agency conducts a preliminary interview during which they assess the intention and reason for adoption, as well as other relevant factors such as emotional health, marital quality, financial and family background, and their attitude toward adoption.
- e) The Agency also double-checks the documents that were submitted with the application form.
- f) The institution looks for an adoption placement agency that fits the Act's legitimate eligibility requirements as well as the adopting person's application.
- g) A 'Home-Study' report is created for the institution's review and consideration.
- h) The adopting parents and the child are scheduled to meet if the agency deems it appropriate.
- i) Adopting parents can pick a doctor to examine the kid, and they can file an adoption petition with the relevant court.
- j) The Court summons the parties for a hearing and is required to resolve the adoption matter within two months after the application's submission.
- k) The adoption is final and binding after receiving the court's decree.
- l) The institution's engagement continues since it is required to provide periodic post-adoption follow-up.
- m) Once a lawful adoption is completed, the adoptive parents cannot reverse it, and the adopted child cannot return to his or her birth parents.
- n) Only the court has the right to annul an adoption decree if there is fraud in the adoption proceedings.

Inter-Country Adoption vs. Intra-Country Adoption

Inter-country adoption is an unavoidable aspect of family growth. It might be described as the adoption of a child by a person from another country.

The number of children adopted by families that live outside the child's home country has climbed dramatically in the last ten years. The increasingly globalised world is blurring the lines between racial, ethnic, and national identities, allowing these children to find a permanent home.

The rise in the number of children adopted by families from other countries has also resulted in a massive increase in public policy debate, resulting in the Hague Convention and Treaty on International Adoption, as well as various countries changing their internal laws and approaches to regulate intercountry adoption practises. It has also resulted in a significant reduction in the chances for a large number of children who rely on their families to ever have this opportunity or to benefit from it early enough in their lives to avoid the assaults of lack of nourishment, regulation, hunger, and educational facilities. A global assessment of examination of results for children indicates that the children, for the most part, do very well. Acceptable responses to appropriation issues include connection, personality, and consolation. Racial segregation concerns are frequently more troubling to universal adoptees than adoption-related issues. The rates of overseas adoption upsetting or returning the child to his or her pre-supportive state are related to



the rates of domestic adoptions. Nonetheless, the method for the child's repatriation has not been clarified by law anywhere in the globe, including India.

In lieu of the flags raised above, attention should be directed to India's only inter-country adoption regulation legislation, The Juvenile Justice (Care and Protection of Children) Act, 2015, as well as the Adoption Regulations, 2017. The Child Rights Act of 2015 was enacted by India's Parliament amid heated debate, argument, and protest over many of its provisions by the Child Rights Fraternity. The Act replaced the Hindu Adoptions and Maintenance Act, 1956, and the Guardians and Wards Act, 1890, with a universally accessible adoption law for India, attempting to close existing flaws and loopholes in the system.

Adoption, as we all know and understand it, is the act of adopting someone or something as your own. It most commonly refers to the legal process of becoming a non-biological parent, also known as an adoptive parent. Adoption can be the most beautiful solution for a childless couple or single person, as well as for homeless youngsters who sorely need a family atmosphere for their general development. A failed adoption, on the other hand, can be a nightmare, if not a burden, for a child who is unable to fit into a family. The source of this conundrum is that legislation that purports to protect a child's best interests is unable to speak much about cases of adoption breakup. The aforementioned Juvenile Justice Act, which is responsible for regulating all aspects of inter-country adoption, has glorified its essence by relying on the "Principle of Best Interest, Principle of Safety, and Principle of Repatriation and Restoration" specified in Section 3 of the Act.

Questions and uncertainties about the affirmation of these ideas are very much alive since they have been beautified in legislation, but when it comes to the point where they must be put into practise, they appear to remain on paper. Apart from the capability that these principles possess, the act has avoided elaborative clauses concerning adoption dissolution, corresponding repatriation, and child restoration.

The 2017 Adoption Regulations outlined the details of a follow-up procedure in the event that the adopted kid is unable to adjust in the adoptive family or that the child's continued placement in the adoptive family is not in the child's best interests. In a disrupted adoption case, Regulation 19 sheds some information on the child's withdrawal process. Despite the fact that the regulations are capable of delineating the critical obligations vested in the Authorised Foreign Adoption Agency or Central Authority in aiding the dissolution or disruption process, clarity on this element has not been established to date.

Regulation 40 appears to be ahead of the curve in describing the repatriation process that Indian diplomatic missions must conduct in collaboration with local authorities, the adoption agency in question, and the Authority. It is important to remember that the above-mentioned authorities' responsibility for the child's welfare is still a statutory obligation on paper. Until now, there has been no clear and concise protocol for the actual functioning of the adoption process in terms of dissolution or interruption. It is important to note that the legislation clearly states that if an adoption is disrupted, a report must be filed to the appropriate authority detailing the grounds and reasons for the interruption. However,



the focus remains on the fact that, had the process been in full swing, such a report would have been loud enough to reflect the adoption's success or failure. It can readily be deduced whether the concept of best interest has been properly adopted in adoption based on whatever the outcome of the adoption is that emerges within 6 to 24 months of the completion of the process.

A rigorous step-by-step monitoring and surprise check of the role played by these legislative provisions, like any other law, is the need of the hour to look at how these regulations have been implemented. It is feared that it will come to light how certain officials operate, assuring inhabitants of this country of their support even outside national borders.

The focus on adoption should be switched away from regulations and toward the authorities with the authority to ensure that the process is completed successfully, not merely to the point of completion.

It is necessary to emphasise the operation of India's single governing organisation for intercountry adoption, the "Central Adoption Resource Authority (CARA)". Despite having achieved the highest status for regulating a treatment that requires an investment of emotions, time, and the general development of a family, the authorities involved in the process appear hesitant to carry out the procedure in a compassionate manner.

The Hague Convention on the Protection of Children and Co-operation, which came into effect on May 29, 1993, reaffirms the intent behind the Juvenile Justice Act, 2005 pertaining to the principles of best interests,

safety, and welfare of a child, as do certain other statutory laws framed in response to the need and urge for the same.

The Juvenile Justice Act, 2015, however, is not entirely a result of the Hague Convention because it also includes the guidelines issued by the Supreme Court in *Laxmikant Pandey Vs. Union of India*¹, which led to the creation of an authority solely responsible for regulating inter-country adoption procedures. Despite several revisions that were required in response to new circumstances, this statute still exists but lacks the necessary claws to carry out its meaning and purpose. A conflicting approach can easily be deduced from the fact that, at the outset of an adoption procedure, the authorities create havoc with regard to the validity of said adoption, even barring real cases from using an otherwise properly designed legal road. When the function requires life at its finish, it is discovered to be missing with adopted children left at their command in a land they cannot claim as their own.

It can be deduced that the current legislation includes gaps and loopholes as a matter of course, but one issue that cannot and should not be overlooked is the repatriation of a kid who has been separated from his country. A youngster who has been adopted by a foreign family can either take his time adjusting to his new family or will never be able to adjust and will wish to return to the institution where he was raised. There is no reason to equate how a child would respond to the specified adoption process if the probability of any of the above two alternatives is kept equal.

The age element of an adopted child further complicates the matter. A youngster under

¹ AIR 1984 SC 469



the age of five years will usually grow up with an innocent acceptance of his parents, but a child older than five years will be able to frame his mind towards the process and will naturally welcome his application of mind in that scenario. Following the path to eventual repatriation, it appears that if the aforementioned authorities do not exercise the already vested powers to be exercised in the event of dissolution or disruption of an adoption, there is no means to determine the child's will after the procedure is completed. If the follow-up process had been accorded the same weight as the adoption process itself, a child who is unable to establish his own rights would have always been protected by the law that guarantees to provide him with the same.

The matter is further complicated by the departments' unaccountable stance. Having mentioned so much about repatriation, the subject now necessitates the inclusion of variables relating to changing citizenship and immigration concerns. As difficult as it is for a youngster to trace his way back to his homeland due to the lack of functioning and adherence to norms clearly stated under the law, his citizenship status is also in jeopardy. When an inter-country adoption process is completed, a child is given a new home and citizenship in the state where he or she will eventually live with his or her adoptive parents. However, this blessing can turn into a curse if the process fails and his citizenship is placed under scrutiny and ambiguity. With no specific response or remedy, the concerned authorities juggle their roles in this process. However, it is more likely that no one will even ask them these questions because they work or rather refrain from doing so in accordance with one another. The irony remains in the fact that these

widespread and high-profile concerns arise from the execution of a statute intended to protect innocent children.

The preceding serves as a teaser for the in-depth differences that exist in the inter-country adoption process. As much as the commencement of a procedure comprises several considerations for really bringing it to a finish, the law has always neglected the casualties that a kid would have to experience if the stated process were to fail. It is stated emphatically that the Juvenile Justice Act of 2015 is a much-needed push in the direction of the welfare of all those children who were, in fact, without the love of a family, but who remain silent to the conditions in which the children are trapped in an environment that does not help them grow.

Inter-country adoptions are more relevant than in-country adoptions because the latter still allows children to express their ethnicity; however, in the former adoption scenario, a child is forced to experience the obliviousness of a foreign land with nowhere to turn in situations where he actually requires assistance.

The formation of authorities under the aforementioned legislation was intended to ensure the smooth operation of an already time-consuming process, but their blatant rejection and lack of explanation makes it difficult for all parties involved in the adoption process.

Furthermore, the dispute between the authorities and departments involved appears to be blame-shifting acts that pay little attention to the principles outlined above and are merely intended to beautify the law. Not only is the aforementioned area of concern,



but so is the fact that, despite statutory requirements for a follow-up procedure, one does not exist in practise. The true picture in this area would have already come to light if the authorities had been functional enough to ensure that a youngster who is far away from his homeland is in fact bearing the results of successful adoption.

The fact that any actual practise can only be contested if it is not in accordance with a prevailing provision in a statute is more relevant. The more pressing issue in this case is that the process of dissolution of adoption is a clandestine operation whose truthfulness can only be verified by the authorities involved or by the courts asserting and justifying the guarantee of justice. Despite several precedents by the Apex Court of India emphasising the urge and need to protect children's best interests time and time again, the subject has become a talking point because its relevance and application appear to be lacking in reality.

In a country like India, where the supreme court repeatedly repeats essential principles with increasing emphasis on child-centric and child welfare legislation, the immediate authorities working in that direction appear to be in control of blatant violations of such values. The Hon'ble Supreme Court of India's significant judicial decisions consistently show our legal system's child welfare centred philosophy. In the case of *Vivek Singh v. Romani Singh*,² this assertion was embellished (2017).

Furthermore, the Hon'ble High Court of Delhi in *PKH v. CARA* ³2016 detailed elaboration of the evolution of adoption law,

its origin, and its loopholes in the form of submissions by the parties involved and observations made by amicus curiae in light of the welfare-centric law that the Juvenile Justice Act, 2015 claims to be. The Supreme Court has often stated that the child's welfare is paramount, and that great caution must be exercised before allowing a child to be placed for adoption with foreign parents, lest the kid be ignored or abandoned by the adoptive parents in a foreign country.

The Hon'ble Supreme Court of India has ensured and never failed to establish the repeated requirement to have in mind the betterment of a youngster who is unable to speak for itself through *Laxmikant Pandey Vs. Union of India*⁴. It remains as one of the precedents by the Hon'ble Court looking over the stance made years ago with no endangering of a child's safety, care, and development, no matter how far in the past it finds its traces. It also placed a focus on cases in which the children seeking adoption are destitute or abandoned and reside in social or child care centres. It becomes vital to think about what normative and procedural safeguards should be put in place to protect their interests and promote their wellbeing. Because an abandoned or penniless youngster has already lost his most beautiful stage of life, his childhood, he should not be subjected to the wrath of his past experiences when it comes to accepting a new life with promising future prospects.

Despite the fact that the Juvenile Justice Act of 2015 has a little negative side to it, it has never been seen as a blot on the legislations dealing to a child's welfare because of the optimistic attitude it takes. The Act of 2015

² 3 SCC 231

³ 2016 (5) ADR 327

⁴ AIR 1984 SC 469



has served as a home and a place of origin for a number of parentless children looking for a family that can provide them with the love and care they need to grow into responsible citizens of this country. It can be said without a doubt that when a youngster in need of care, love, and safety is given the finest in his environment, he will grow up to be a yielding individual for his country. Every day, the above-mentioned law and the related authorities work together to attain the goals that are still a long way off. When it reaches the finish line in the near future, it will most likely be able to look back and see its own success in the eyes and smiles of thousands of happy youngsters.

Landmark Judgements relating to Adoption

Shrimati Asoka Mukherjee Vs. Gandhi Das and Anr⁵

Adoption of defendant was not proved in the absence of evidence of a giving and taking ceremony. It has not been established that Kalipada and Sabitri Bala gave and took defendant No. 1 in adoption. The witnesses who were there at the moment of the adoption declined to testify. The plaintiff is the owner of the suit premises, according to the court, and the defendant No. 1 has no right, title, or interest in the suit premises as a renter because his claim that he is the adopted son of Kalipada and Sabitri Bala has not been proven.

Ankush Narayan v. Janabat⁶

The adopted son becomes the son of the deceased adoptive father when he is adopted

by a widow, according to the court, and the place of the adopted son in the adoptive family under Hindu law remains unchanged.

Darshana Gupta Vs. None and Ors.⁷

Held, When the child to be adopted is an orphaned, abandoned, or surrendered child, or a child in need of care and protection as defined by the Juvenile Justice Act, the Hindu Adoption and Maintenance Act's Section 11 (i) and (ii) do not prevent a Hindu with a biological child from adopting a child of the same gender. Acts were liable to be construed harmoniously in light of the changed socioeconomic environment to ensure the rehabilitation and social reintegration of orphaned, abandoned, and surrendered children - hence, the adoption of a little girl to the Appellant was upheld.

Karam Singh & Ors Vs Jagsir Singh & Ors.⁸

Adoption – Hindu Adoptions and Maintenance Act, 1956, Section 16 – Presumption of validity – An adoption deed comes into force the minute it is signed or thumb marked by the natural parent and the adopting parent – The only consequence of non-registration or a deficient registration is that the presumption of truth established by Section 16 of the Act is not applicable – Adoption deeds must be proven in the same way that any other fact or document must be.

Guradas v. Rasaranjan⁹

Adoption occurs after the real giving and taking has occurred, rather than during a religious rite such as Datta Homam. It would be necessary to bring records of a genuine

⁵ (2002) 3 CAL LT 307 (HC)

⁶ AIR 1966 Bom 174

⁷ AIR 2015 Raj 105

⁸ 2015 (3) RCR (Civil) 45 (P&H)

⁹ AIR 2006 SC 3275



giving and taking Ceremony in order to have a lawful adoption.

CONCLUSION

The discussion demonstrates that both the adopted child and the adoptive family have legal status. Other than Hindus, no community has a fool proof system for governing adoptions on par with Hindus. Although the religious beliefs of Parsis, Christians, and others do not forbid adoption, none of these societies have personal or statutory adoption laws. In their situation, it will be custom that governs adoption.

Adoption is a good cause that offers joy to children who have been abandoned or orphaned. This allows the civilised part of society to come through. It's a helpful programme in which the child is treated as if he or she were a natural born child, with all of the love, care, and attention that comes with it. Adoption is the process of establishing a new, long-term relationship between an adopted parent and a kid. Once this occurs, there is no legal distinction between an adopted child and a child born into a family.

Adoption, once legitimately completed, is irreversible. The adopted youngster was unable to reject his or her adoption. The legislation also expressly prohibits the payment of money or any other form of compensation in exchange for adoption.
