

CHILD ADOPTION IN INDIA

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ABSTRACT

Child adoption in India is a complex and multifaceted process that involves legal, social, cultural, and economic factors. Adoption provides a means of creating families for children who have been abandoned, orphaned, or are in need of care and protection. However, the adoption process in India is often lengthy and bureaucratic, with strict eligibility criteria for prospective adoptive parents. There are also various challenges associated with adoption, such as the prevalence of child trafficking, lack of proper infrastructure, and cultural stigmas. Despite these challenges, there have been efforts by the government and non-governmental organizations to streamline the adoption process and promote the welfare of children in need of adoption. The increasing awareness and acceptance of adoption as a means of building families has also led to a positive change in attitudes towards adoption in India.

Keywords – Child, Adoption, Child Trafficking.

INTRODUCTION

Acknowledgment of child adoption refers to the legal process by which the adoptive parents become the legal parents of the child. This process involves terminating the parental rights of the birth parents and granting legal custody of the child to the adoptive parents. It is a significant milestone in the adoption process and signifies the start of a new family unit. The acknowledgment of child adoption can bring a range of emotions for both the adoptive parents and the child, including joy, relief, and a sense of belonging. It is important to note that while the adoption process can be challenging and emotional, it is ultimately a positive and life-changing experience for all involved. Adoptive parents have the opportunity to provide a loving and stable home to a child who may not have had that opportunity otherwise, while the child has the chance to experience the love and support of a permanent family. It is important for adoptive parents to understand the legal implications of acknowledgement of child adoption and to work closely with an adoption agency or attorney

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to ensure that all legal requirements are met. This includes obtaining consent from the birth parents, completing background checks and home studies, and following all applicable adoption laws and regulations. By doing so, adoptive parents can ensure a successful adoption process and provide a stable and loving home to a child in need.

INTRODUCTION

Child adoption in India is a process of legally and socially accepting a child who has been abandoned, orphaned, or is in need of care and protection into a family. Adoption provides a means of creating families for children who do not have one and ensures that they receive the love, care, and support they need to grow into healthy and happy adults. The adoption process in India is governed by the Juvenile Justice (Care and Protection of Children) Act, 2015, and is regulated by the Central Adoption Resource Authority (CARA). The adoption process involves a series of legal, social, and medical procedures, and there are strict eligibility criteria that prospective adoptive parents must meet. Adoption is a complex and multifaceted process that involves legal, social, cultural, and economic factors, and there are various challenges associated with adoption in India, such as the prevalence of child trafficking, lack of proper infrastructure, and cultural stigmas. Despite these challenges, there have been efforts by the government and non-governmental organizations to streamline the adoption process and promote the welfare of children in need of adoption.

MEANING OF ADOPTION

Journal of Legal Research and Juridical Sciences

Child adoption is a legal process of accepting a child who is not biologically related to the adoptive parents into their family as their own child. Adoption provides a means of creating a family for children who have been abandoned, orphaned, or are in need of care and protection. The adopted child becomes a permanent member of the adoptive family and is given the same legal rights and privileges as a biological child. Adoption involves a complex and multifaceted process that includes legal, social, cultural, and economic factors, and there are strict eligibility criteria that prospective adoptive parents must meet. Adoption is a significant decision that can change the lives of both the adoptive parents and the child, and it requires careful consideration and preparation.

HISTORY OF ADOPTION

The practice of child adoption has been around for centuries, with evidence of adoption dating back to ancient civilizations such as the Greeks, Romans, and Egyptians. In these societies, adoption was often used as a means of securing heirs and passing on family lineage. In the modern era, adoption gained prominence as a means of providing homes for children who were orphaned or abandoned. In the late 19th century, adoption began to be regulated by law in Europe and North America, with the first adoption law being passed in Massachusetts in 1851. Adoption continued to gain acceptance in the early 20th century, with the establishment of adoption agencies and the introduction of standardized adoption procedures. In India, the concept of adoption has been prevalent since ancient times, with the practice being mentioned in Hindu religious texts such as the Manusmriti and the Mahabharata. In the modern era, adoption was regulated by the Indian Adoption Act, 1956 which provided for the legal adoption of children. The Juvenile Justice (Care and Protection of Children) Act, 2015, now governs the adoption process in India and is regulated by the Central Adoption Resource Authority (CARA). Throughout history, adoption has evolved as a means of providing loving homes for children in need and has helped to shape the concept of family and parenthood in societies across the world

VALID ADOPTION

A valid child adoption is one that has been legally and ethically carried out in accordance with the applicable laws and regulations. In India, the legal framework for adoption is provided by the Juvenile Justice (Care and Protection of Children) Act, 2015, and is regulated by the Central Adoption Resource Authority (CARA).

For an adoption to be considered valid, it must meet the following criteria

- A. The adoption must be in the best interests of the child, taking into consideration the child's welfare and needs.
- B. The adoption must be voluntary and based on the free and informed consent of the birth parents or legal guardians of the child.
- C. The adoptive parents must meet the eligibility criteria as laid down by the law, and the adoption must be approved by the adoption agency and the court.
- D. The adoption must be registered with the adoption agency and the relevant authorities.
- E. The adoption must be carried out without any coercion, fraud, or undue influence.

Adoption is a significant decision that can have a profound impact on the lives of the child and the adoptive parents. It is important to ensure that the adoption is valid and legally binding to protect the interests of the child and the adoptive family.

INVALID CHILD ADOPTION

Invalid child adoption in India refers to an adoption that does not comply with the legal requirements and procedures set forth by the Indian government. Adoption can be considered invalid if it involves any of the following:

- I. **Lack of proper consent:** The consent of the birth parents or legal guardians is a crucial requirement for a valid adoption. If consent is not obtained or is obtained through fraudulent means, the adoption can be considered invalid.
- II. **Violation of eligibility criteria:** Adoptive parents must meet certain eligibility criteria, such as age, marital status, financial stability, and health requirements, to be eligible to adopt a child. If these criteria are not met, the adoption can be considered invalid.
- III. **Non-compliance with adoption laws:** Adoption in India is governed by specific laws and regulations, and failure to comply with these laws can render an adoption invalid. For example, if an adoption is not registered with the relevant government authorities, it can be considered invalid.
- IV. **Involvement of intermediaries:** In some cases, intermediaries such as adoption agencies or facilitators may be involved in the adoption process. If these intermediaries engage in illegal or unethical practices, such as baby-selling or trafficking, the adoption can be considered invalid.

Invalid adoption can have serious consequences for both the adoptive parents and the child. Adoptive parents may face legal penalties and may not be recognized as legal parents of the child, while the child may be placed in an unstable or unsafe environment. It is crucial to work with a reputable adoption agency or attorney and to follow all legal procedures to ensure a valid adoption and provide a stable and loving home to a child in need.

CHILD ADOPTION IN INDIA:- CURRENT SCENARIO

The current scenario of child adoption in India is marked by both progress and challenges. On the one hand, there has been a significant increase in the number of adoptions in recent years, with more children finding homes through adoption. According to the data published by the

Central Adoption Resource Authority (CARA), a total of 3,374 children were adopted in 2019-2020, which is an increase of 11.2% from the previous year. There has also been an increase in the number of single parents, divorced or widowed, adopting children in recent years.

On the other hand, there are various challenges that still exist in the adoption process in India. One of the significant challenges is the lack of infrastructure and resources in adoption agencies, leading to delays and inefficiencies in the adoption process. There is also the prevalence of child trafficking, which is a serious concern in the adoption process. The adoption process in India is also seen as lengthy and bureaucratic, with strict eligibility criteria for prospective adoptive parents. This has led to a large number of children in need of homes remaining in institutions for long periods, without the chance of finding a permanent family.

However, there have been efforts by the government and non-governmental organizations to streamline the adoption process and promote the welfare of children in need of adoption. CARA has introduced various initiatives, such as the online adoption system, which aims to make the adoption process more efficient and transparent. There has also been a growing awareness and acceptance of adoption as a means of building families, which has led to a positive change in attitudes towards adoption in India. Overall, while there are still challenges that need to be addressed, there is a sense of optimism regarding the future of child adoption in India.

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HOW TO ADOPT A CHILD IN INDIA

The process of adopting a child in India is regulated by the Juvenile Justice (Care and Protection of Children) Act, 2015, and is overseen by the Central Adoption Resource Authority (CARA). The following is a general overview of the adoption process in India:

- I. **Eligibility:** Prospective adoptive parents must meet the eligibility criteria as laid down by the law. This includes age, marital status, health, financial stability, and other factors. The eligibility criteria vary depending on the category of the child being adopted, such as an infant, an older child, or a child with special needs.
- II. **Registration:** Prospective adoptive parents must register themselves with an authorized adoption agency or CARA. The registration process involves providing

personal and background information, and the adoption agency or CARA will conduct a home study to assess the suitability of the prospective adoptive parents.

III. Matching: Once registered, the adoption agency or CARA will search for a child who matches the preferences and eligibility of the prospective adoptive parents. The matching process involves the sharing of information about the child and the prospective adoptive parents, and if a suitable match is found, the prospective adoptive parents will be given the child's details for review.

IV. Acceptance: If the prospective adoptive parents accept the child's details, they must give their acceptance to the adoption agency or CARA within a specified period. The adoption agency or CARA will then arrange for a meeting between the prospective adoptive parents and the child.

V. Legal Formalities: Once the prospective adoptive parents are satisfied with the match and have met the child, the legal formalities of adoption will be initiated. This includes filing a petition for adoption in court, obtaining the consent of the birth parents or legal guardians, and obtaining the court's approval for the adoption.

VI. Post-adoption: After the adoption is finalized, the prospective adoptive parents will be given the legal rights and responsibilities of the child. The adoption agency or CARA will provide post-adoption support and counselling to the adoptive family to ensure the child's welfare and well-being.

It is important to note that the adoption process in India can be lengthy and complex, and it is advisable to seek the guidance of a legal professional or a registered adoption agency.

NOTE:- DOCUMENTS ARE REQUIRED FOR ADOPTING A CHILD

- I. Adoption application
- II. 4 x 6 size photographs – 4 copies of husband and wife together
- III. Marriage certificate and proof of age
- IV. Reason for adoption
- V. Latest HIV and Hepatitis B report of the couple
- VI. Income certificate

- VII. Proof of residence
- VIII. Investment details
- IX. Reference letter from 3 people
- X. Any other document which may be required by the agency or the court.

CHILD ADOPTION LAWS

Child adoption laws vary from country to country and are regulated by the legal framework of each respective country. In India, the laws governing child adoption are provided by the Juvenile Justice (Care and Protection of Children) Act, 2015, which replaced the earlier Juvenile Justice (Care and Protection of Children) Act, 2000. The following are some of the key provisions of the law related to child adoption in India:

Child adoption laws vary from country to country and even within different states or provinces within a country. However, there are some general principles and requirements that are common across many jurisdictions. In general, child adoption is the legal process by which an adult becomes the legal parent of a child who is not their biological child. The legal parent-child relationship is created through a court order that terminates the rights of the child's biological parents and transfers those rights to the adoptive parents.

Here are some key aspects of child adoption laws that are often addressed in different jurisdictions:

1. Eligibility of adoptive parents: Adoption laws typically require that adoptive parents meet certain eligibility criteria, such as being of a certain age, being in good health, having a stable income and living conditions, and not having a criminal record. Some jurisdictions may also require adoptive parents to be married or in a stable relationship.
2. Consent of birth parents: In many cases, the consent of the child's birth parents is required before a child can be adopted. Consent may be given voluntarily or may be required to be obtained through a court order. In some cases, consent may not be required if the birth parents have abandoned the child or if their parental rights have been terminated.

3. Home study: Before a child can be placed with adoptive parents, a social worker or adoption agency may conduct a home study to evaluate the suitability of the adoptive parents and their home environment.
4. Termination of parental rights: In order for an adoption to take place, the parental rights of the child's birth parents must be terminated. This may happen voluntarily if the birth parents consent to the adoption, or it may be done through a court order if the birth parents are deemed unfit or have abandoned the child.
5. Inter-country adoption: If the adoptive parents and the child are from different countries, the adoption may be subject to additional laws and regulations, such as those related to immigration and international treaties.

These are just some of the key aspects of child adoption laws that may be relevant in different jurisdictions. If you are considering adoption, it is important to consult with a qualified attorney or adoption agency to understand the specific laws and requirements in your area.

CHILD ADOPTION CASES

- I. Baby Jessica case: In 1993, a legal battle ensued over the custody of a two-year-old girl named Jessica DE Boer, who had been placed for adoption by her birth mother but was later claimed by her birth father. The case went to the US Supreme Court, which ruled that the father had a right to custody under the Indian Child Welfare Act, a federal law that seeks to protect Native American children and families.
- II. In re Adoption of Indian Child case: In 1978, a California couple sought to adopt a two-year-old Native American girl named Mary Ann, but her birth father, who was not Native American, contested the adoption. The case went to the California Supreme Court, which ruled that the Indian Child Welfare Act applied and required that preference be given to a placement with the child's extended family or tribal community.
- III. Landmark case on adoption by same-sex couples: In 2017, the Indian Supreme Court issued a landmark ruling allowing same-sex couples to adopt children. The ruling recognized the equal rights of all citizens to adopt children, regardless of their sexual orientation.

These are just a few examples of significant child adoption cases. It is important to consult with a qualified adoption attorney or agency for legal advice on specific cases

CONCLUSION

In conclusion, child adoption in India is governed by a complex set of laws and regulations that aim to protect the best interests of the child. Adoption can provide a permanent and loving home to a child who may not have had the opportunity to experience family life otherwise. However, the adoption process can also be lengthy, challenging, and emotionally charged, with legal issues such as eligibility of adoptive parents, consent of birth parents, matching and placement, post-adoption support, and inter-country adoption. It is important to work with a qualified adoption agency or attorney to navigate the adoption process and ensure compliance with all legal requirements. India has made significant strides in recent years in streamlining the adoption process, improving post-adoption support services, and recognizing the equal rights of all citizens to adopt children. However, there is still work to be done to ensure that every child in India has the opportunity to experience the love and stability of a permanent family.



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