Adoption in India – The Past, Present and Future Trends

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ABSTRACT: Adoption is a legal combination between the party willing for adoption and a child. India as one of the ancient countries in the Asian continent has gone through major changes in the field of adoption. India has shown liberal changes in adopting male child for performing last rites after the death of the adopted parents. Later in 1950's India focused on finding home for abandoned, deprived, illegitimate and surrendered children. These children were eventually placed for domestic and inter-country adoption. The domestic adoption in India gained its strength in late 1980's. Adoption as a concept has different dimensions in various legal systems and it is serving a very important social purpose in the society. Today, institution of adoption is prevalent in one form of the other in almost all the legal systems of the world barring a few countries. But there are national variations in adoption laws and procedure. In India, there is no general law of adoption. In India, Adoption has been recognized for centuries, but being a part of personal Laws, there is no uniformity among the different communities. The reasons for adoption may vary from one person to another person. Adopted son is like a natural born son in new family. He acquires all the rights and status in this new family and his ties with the old family come to an end.

Key Words: Domestic Adoption, inter country adoption, Indian Adoption welfare

Introduction:-
Adoption is a process other than the birth process which creates parent and child relationship. It is a social and legal process by which a child of one set of parents becomes the child of another set of parents or parent. Traditionally, a child was adopted for spiritual purposes and now adoption is also done to satisfy the emotional and parental instincts of the adopters. According to juvenile justice (care and protection of children act of 2006) adoption was defined as the process through which the adopted child is permanently separated from the biological parents and becomes the legitimate child of the adoptive parents with all rights, privileges and responsibilities that are attached to the relationship. This act introduced the expression "child in need of care and protection". The importance given to sonship resulted in development of concept of adoption. The legal procedure by which legal relationship between a child and his or her biological parents are terminated and a new parent-child relationship is initiated is called "adoption"

History of Indian adoption:-
In India, adoption has been experienced for thousand years. Historically, when there is lack of male offspring occurred, couples went for adoption of a male child to title him as a lawful heir after the death of the adoptive parents. According to Hindu tradition if person has a son to light the funeral fire then salvation will be easily achieved through sons who offer ancestral worship. In ancient systems of law only Romans and Hindus provided for an organized institution of adoption. Under both these systems primary objective of adoption was to provide a child to childless and continue the line. According to Manu "An adopted son shall never take the family name and estate of his natural father, the funeral cake follows the family name and the estate the funeral offerings of him who gives the son in adoption cease as far as that son is concerned"

Adoption under English law:-
The English law started recognizing adoption in 19th century but legal adoption came into existence in 1956 the purpose of this adoption act was to prevent the biological parents from calming back their children. English law of adoption is very similar to Hindu law of adoption as it also lays down that the adopted child, for all intents and purposes becomes like natural born child.

Modern Adoption Laws:-

1 www.researchgate.com
2 www.lawctopus.com
Modern laws of adoption came into existence after the First World War. Many kids were abandoned by their parents others were separated from their biological families and some were deprived due to war incidents. The first Adoption law was introduced by England and Wales named as (Adoption of children Act 1926) this law required the consent of both the biological parents and that of the adoptive parents. Although the Act recognized that adopted children benefited from the same rights, duties, liabilities and obligations as a birth child, it did not ensure the child’s full mixing into the adoptive family, nor were inheritance rights replaced in the birth family. A large number of countries enacted new adoption laws. Several amendments were made to earlier legislations during 1940 – 1980. A number of countries also modified existing legislation on adoptions to allow for new form of adoption.  

Adoption Laws in India  
In India there is no uniformity in adoption laws it is applicable to all Indians. According to (HAMA) Hindu Adoption and Maintenance act 1956. A woman who has attain the age of majority, widowed or divorce can adopt a son or a daughter. Married women can also adopt under certain circumstances. This act allowed the adoption of a daughter also under the old law only parent can give child in adoption. Now even a guardian with the permission of court can give the child in adoption. Adoption is purely secular act under the present law. However HAMA provides adoption for Hindu child only other communities (Muslims, Christians, Paresis) have resort to guardians and wards act 1890 where they became guardians of the child and when the children turn 21 years of age, they no longer remain wards and assume individual identities. According to juvenile justice (care and protection of children) Act 2000 adoption is an important process in the rehabilitation and social integration of children who are abandoned orphaned neglected or abused in their families or institution in 1992 the government of Tamil Nadu introduced a scheme called cradle baby scheme. This initiative was stated to bring down the shocking number of female infanticide the cradle baby scheme has brought down the number of female infanticide in some extreme rural areas of Tamil Nadu this also seems to be a factor for the increase in the number of female children.

Social Changes in Indian Adoption:-  
With the passage of time it has been seen that adoption as an institution can play important role to serve the needs of the children also. Adoption serves two purposes it provides solution not only to children less couples but also for homeless children. When there were no relatives to care for these children’s giving them up for adoption was considered to be next best choice. In our country there are large numbers of orphan’s with abandoned, deprived and handicapped children the adoption of such children’s may serve important social objects. The future of any nation depends upon the proper upbringing of its children. The child should be protected from exploitation hazardous jobs and anti-social activities. In developing countries like India adoption need to be accelerated because cores of children are living in inhuman and degraded conditions. In our country the institution of adoption can definitely serve a good social purpose by providing homes to the destitute and the orphan children.

Inter-country Adoptions:-  
Inter –country adoption has added a new social aspect to the institution of adoption more and more people from different countries have stared adopting child from rising countries like India but these adoptions are not free from misuse. The existing Indian law for adoption is silent in this regard. The provisions of guardian and wards act 1890 are applied in the context of inter country adoption. The foreigner who wants to adopt a child have to apply to court for the guardianship of the child. Absence of a uniform law in India and caste prejudices made inter – country adoption more popular than domestic adoption.

Structuring of inter-country adoption policies in India:-  
The Hague convention of 1993 states that the child, for the full and harmonious development of his or her personality should grow up in a family environment. India signed this Hague convention on inter-country adoption in 2003 and ratified the same with a view to strengthen international cooperation and protection of Indian children placed in inter-country adoption. To restructure the process of inter-country adoption, the
(center adoption resource agency) was formed in India in 1986. The role of CARA is to observe and regulate the adoption process which leads to an association of placement agencies (Adoption coordinating Agency) which provide sufficient opportunity to every child to find home within India.

**Challenges in domestic adoption:**

Even though state approved agencies are providing adoption, most of the times adoption agencies seem to be “money makers” and so they are constantly put under scanner by the informers and there is lack of complete data in some states which makes it difficult to conduct investigation. Indian culture adopts closed adoption rather than the open adoption because it is observed both in rural and urban areas, adoptive parents don’t want to tell their children about the adoption status. If a child collected this information from others the trust could become major issue in child parent relationship.

**Adoption Rules in India:**

In India, an Indian, Non Resident Indian (NRI), or a foreign citizen may adopt a child. There are specific guidelines and documentation for each group of prospective adoptive parents. A single female or a married couple can adopt a child. In India, a single male is usually not eligible to be an adoptive parent.

Conditions to be fulfilled by an adoptive parent are as follows:

- An adoptive parent should be medically fit and financially able to care for a child.
- A person willing to adopt a child must attain the age of 21 years.
- Although there is no legal upper age limit for parents but most adoptive agencies have their upper age limit. If you want to adopt a child who is less than a year old, the maximum combined age of you and your spouse should be not more than 90 and none of you must be older than 45 years. The age of adoption is relaxed depending on the age of the child. Children as old as 12 years are given for adoption; the upper age limit of adoptive parent is usually 55 years.

**Adoption Rules for single mother:**

In India all adoption issues are handled by the Central Adoption Resource Authority (CARA), an autonomous body governed by the Ministry of Women & Child Development.

1. A minimum age difference of 21 years between the single mother and the adopted child is required if they’re of opposite sexes.
2. A single parent should be between 30 – 45 years in age if she wishes to adopt a child in the age group of 0-3 years. The upper limit for a child older than 3 years is 50.
3. The single parent should have an additional family support.

**Process for Adoption in India:**

The new guidelines simplify the entire process of adoption and bring in greater transparency and clarity in the process. The following is broadly the process followed:

- Parents register online on CARINGS (Child Adoption Resource Information and Guidance System) and select the preferred Adoption Agency for HSR (Home Study Report) and State
- Required documents have to be uploaded within 30 days of registration
- Specialized Adoption Agency (SAA) conducts Home Study Report (HSR) of the PAPs and uploads it on CARINGS within 30 days from the date of submission of required documents on CARINGS
- Suitability of PAPs is determined (if not found suitable, PAPs informed with reasons for rejection)
- PAPs reserve one child, as per their preference from up to 6 children
- PAPs visit the adoption agency within 15 days from the date of reservation and finalize
- If the child is not finalized within stipulated time, the PAPs come down in the seniority list
- On acceptance of the child by the PAPs, SAA completes the referral and adoption process (on CARINGS)
- PAPs take the child in pre-adoption foster care and SAA files petition in the court and the adoption Court order is issued
- Post-adoption follow-up report is conducted for a period of two years.

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6 [www.yourarticelibrary.com](http://www.yourarticelibrary.com)
7 [www.indiaparenting.com](http://www.indiaparenting.com)
8 [www.womensweb.in](http://www.womensweb.in)
Adoption statistics in India:

As per CARA (central adoption resource authority) the In-country adoption number has come down from 5693 in 2010 to 3011 in 2015-16. The Inter-country adoption has not changed much between 2010 and 2015-16. More female children have been adopted compared to the male children in the last 3 years. While 4475 male children have been adopted between 2013-14 and 2015-16, 6448 female children have been adopted in the same period. The age-wise adoption data is being maintained by CARA only from August 2015. Between August 2015 and March 2016, a total of 2160 children were adopted out of which 1561 were in the 0-2 age group. This is 72% of all the adopted children. 94% of the adopted children were below the age of 6 years and only 6% of the adopted children were above the age of 6 years. In all the different age groups, more female children are adopted than male children. More than 7700 PAPs were registered with CARA. More than 2700 opted for only a girl child while more than 2800 opted only for a male child. More than 2100 opted for either a girl or a male child. However, the number of children available for adoption is only a little over 1600. Out of the 1600 children available for adoption, 770 are normal children while the rest are those with special needs. Though 1400 Children Homes (Government & NGO) and Specialized Adoption Agencies (SAAs) are functioning in the country as per government records, the number of available children is less than 1/4th the demand.

Future of Adoption:

Family courts will have to move towards ‘child friendly’ policies to complete adoption process. Indian judiciary should give periodical training to the district court judges on complex handling in adoption cases. NGO’s and child welfare agencies need to give necessary guidance to raise children. With increased awareness of psychological implication in the adoption process, Indian government should forecast the training and education for adoption counseling since same sex couple adoption has gained its motion. Policies need to be put in place as of now Indian government has legalized same sex marriages. With increased awareness of psychological implication in the adoption process and Indian government should forecast that training education for adoption counseling and will gain much more attention in the next decade.

Conclusion

Adoption in terms of living in society may be the most prosperous way. The chance for a child finding a family is something to have the courage to hope for. Adoption agencies are now functioning as organized sectors closely monitored by the state and central government. Domestic adoption has gained its motion once the government of India got involved in monitoring and regulating inter-country adoption laws. The psychological effects of adoption are challenging in every aspect, but dealing with social workers and counseling will help families build upon their future. Overall number of children being abandoned or surrendered has decreased due to ban on abortion of a child which is managed by the family planning of India and the improvement of the Indian economy.

Keyword- (PAPs - Prospective Adoptive Parents)