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Adoption Under the Juvenile Justice Act, 2015

Suresh Chandra Pandey*

With the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015, India's policy for the care and protection of children, particularly via adoption, underwent a significant transformation. Through the implementation of this forward-thinking legislation, which establishes a transparent and well-organised structure for adoption, the rights and well-being of children who are in need of care and protection are given priority. Under the provisions of this Act, the Central Adoption Resource Authority (CARA) has been given the role of overseeing and regulating all of the adoption procedures. It is the Ministry of Women and Child Development that is responsible for CARA's operations. As a result of the standards established by CARA, the adoption process has the potential to become more transparent, accountable, and ethical. Since India became a member of The Hague Convention on Inter country Adoption in 2003, the Act has brought the adoption system of the country into conformity with the convention's norms, therefore incorporating international values. The adoption process is made more safe, uniform, and legal when it is aligned with international standards. This ensures that children and their best interests are protected at every step of the process.

1. The Definition of Adoption

The Juvenile Justice Act, 2015, defines adoption specifically under Section 2(1)(a), which provides that adoption is "a process through which a child, whose biological or legal parents are not capable of providing proper care

* Head of the Department, Dr. Rajendra Prasad Law Institute, DSB Campus, Kumaun University, Nainital.

and protection, is permanently placed with adoptive parents who assume full parental rights and responsibilities.” This definition is important because it highlights the permanence of adoption, which is one of its fundamental principles. In contrast to temporary foster care or guardianship, under this law, adoption is irreversible. It awards all rights and duties of parenthood from the biological parents or the state to the adopting parents, making sure that the child finds a secure, loving, and permanent family environment.

The Act also emphasizes that the best interests of the child are the utmost concern in the process of adoption, and there must be the realization that adoption is not a case of simply placing a child with a family but entails an enduring commitment on the part of the adoptive parents to care for, provide for, and raise the child throughout his/her life. Permanence of the adoption relationship is essential because it ensures the right of the child to family, protection, and care that the child may not have otherwise received from the biological or legal parents. The legislation also recognizes that this permanent placement has to be done in the best interests of the emotional, psychological, and social welfare of the child.

2. Important Provisions of Adoption

The Juvenile Justice Act, 2015, establishes a series of provisions giving a systematic, clear, and secular adoption process for children in India. These provisions are aimed at doing away with inconsistencies in adoption practices, specifically the eligibility of parents, the adoptability of children, and the role of CARA facilitating and monitoring the whole adoption process.

2.1. Eligibility of Prospective Adoptive Parents (PAPs)

One of the most important reforms under the Juvenile Justice Act is that adoption is open to all Indian citizens, regardless of religion. This is a big change from the previous legal regime, where adoption laws were frequently subject to personal religious laws. The new law makes the adoption process secular and ensures that potential adoptive parents (PAPs) of all religions have equal access to the adoption system.

The conditions for qualification of prospective adoptive parents are stipulated by CARA in order to certify that PAPs are fit to give a child a stable, secure, and caring environment. These qualifications are based on age, marital status, and considerations about health. In particular, PAPs must be 21 years or older but not older than 45 years than the child they desire to adopt. If the couple adopting a child, the total age of the adopting parents shall not be more than 90 years.

The Act also allows single parents to adopt children, broadening the scope

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of adoption to include those who would otherwise be left out of the process. This is significant because it recognizes that single parents can give a stable and loving home to children. Nevertheless, the law also stresses that the PAPs should be healthy (both physically and mentally), and financially stable enough to take on the responsibilities of caring for a child.

Yet another significant factor considered in the qualification of PAPs is social and psychological compatibility between the adoptive parents and the child. The law provides that PAPs must also go through the process of home study, under which their fit as parents to the child's needs is examined in terms of their capacity for emotional, economic, and social support to the child. This home study process plays an important role in placing the child with adoptive parents that are able to fulfil their special needs, such as any special needs they have.

2.2. Eligibility of Children for Adoption

The Juvenile Justice Act, 2015¹, outlines the type of children eligible for adoption. Under the Act, children who are orphaned, abandoned, or surrendered are the major contenders for adoption. Such children are deemed to be in need of protection and care, and adoption is intended to offer them the possibility of a secure and nurturing family setup.

Notably, persons over the age of 18 are not eligible for adoption in terms of the Act, which is consistent with international standards. Nonetheless, minors below the age of 18 are eligible if there are fit adoptive parents to take them in. Under the Act, the child's welfare is placed at the heart of the process of adoption, with the age of the child being one of the determinative factors in finding fit prospective parents.

The Act also makes provision for the adoption of children who may have special needs or disabilities. While the availability of adoptive parents for such children may be lower, the law seeks to encourage and facilitate the adoption of children with disabilities by offering support and incentives to PAPs who are willing to adopt them. This is important especially in a bid to see that all the children, with or without any physical or mental condition, get equal opportunities of adoption and nurture.

2.3. Role of CARA

Central Adoption Resource Authority (CARA) is a Ministry of Women and Child Development governed body which serves the core role in monitoring, governing, and controlling the procedure of adoption within India. Since the central body, CARA undertakes responsibility so that any adoptions

shall be performed with following guidelines mentioned in the Juvenile Justice Act, 2015, as well as by an ethical as well as transparent method.

The duties of CARA² are to have a central database of available children for adoption, coordinate with the State Adoption Resource Agencies (SARAs), and to ensure that matching of children with potential adoptive parents is in an efficient, transparent, and ethical way. CARA also ensures that adoptive parents fulfil the eligibility requirements, makes follow-ups post-adoption, and arranges inter-country adoptions as per both Indian law and international law, including the Hague Convention.

2.4. Process of Adoption

After a match is created, the child is temporarily placed with the adoptive parents for a trial period to allow them to determine that the placement is adequate and that the child is adapting successfully into their new residence. Following the trial period, the adoption is finalized in court. After the adoption, post-adoption follow-ups are made to check on the child's adaptation in the adoptive family to ascertain whether the child's needs are being catered for and if the adoption is functioning as planned.

The process is made transparent by the law, with protection against fraud, trafficking, or exploitation of the child during adoption. The well-being of the child is always given priority, and the adoption is made as a permanent and irreversible process transferring all legal rights and obligations to the adoptive parents.³

2.5. Inter-Country Adoption

The Juvenile Justice Act, 2015⁴, also makes provisions for inter-country adoption so that it is consistent with both Indian law and international law. The provision is necessary because it helps in adopting Indian children by other countries' families, and such adoptions must be according to the guidelines of the Hague Convention on Inter country Adoption to which India is a signatory since 2003.

Finally, the Juvenile Justice Act, 2015 has greatly transformed the adoption scene in India such that the process is now secular, transparent, and child-focused. By its provisions for domestic adoption and inter-country adoption, adoptive parent and child eligibility criteria, the central role played by CARA, and its emphasis on ethical, legal, and child centred adoption processes, the Act lays a strong foundation for the protection and care of children who are in need of adoption.

3. Conclusion

Adoption under the Juvenile Justice Act is a legal process that plays a pivotal role in ensuring the well-being and future of orphaned, abandoned or surrendered children in India. It upholds their right to a loving family and provides prospective adoptive parents with the opportunity to provide a nurturing home.

While challenges and controversies exist, the Act continues to evolve to address them, emphasising the significance of adoption in building strong families and inclusive communities. Adopting a child is not only a legal act but also a profound expression of love, compassion and the enduring human spirit.

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