

Adoption

Adoption is the act of lawfully assuming the parental rights and responsibilities of another person, usually a child under the age of 18. Adopted children become full members of their adopted family and have the same legal status as biological children. Although the majority of people who adopt are married couples, many single people also adopt. The focus is now moving from 'parent centred' to 'child centred' adoptions and from the concept of 'child for a family' to 'family for a child'.

Adoption vs Foster care

Adoption differs from foster care, a situation in which a child is temporarily placed with a foster family. An adopted child becomes a permanent member of the new family, with all the rights and privileges of a biological child, including the right of inheritance. Adoptive parents gain the right to make decisions in the child's best interest regarding such issues as medical treatment and education.

Foster care, on the other hand, is designed to provide temporary care for children, usually by child welfare agencies. Some of these children are voluntarily placed in foster care when circumstances, such as a serious illness, prevent their parents from caring for them. In cases of child abuse or neglect, social service agencies may remove children involuntarily and place them with foster parents. Most foster placements are made with the intention of reuniting the biological family at a later time. Agencies also place children in foster care while searching for adoptive parents. Families

wishing to adopt a child sometimes serve as foster parents for the child until the adoption can be completed. The adoption process involves 'Pre-adoption counselling' and the preparation of the 'Home study report'

Pre-adoption counselling

The adoptive couples that come to adoption agencies in India often come with lot of anxiety, apprehension and sometimes misconceptions about the process of adoption. To dispel doubts and establish a positive rapport with the prospective adoptive parents becomes the primary task of the social workers. Through this process the couples are helped to overcome the feeling of helplessness and enjoy the art of parenting.

Preparation of Home study report

Social service agencies usually perform background checks, such as screening the adoptive parent for a history of criminal behavior or child abuse. However, background checks of relatives seeking to adopt are generally less extensive than the checks required of adoptive parents who are not related to the child. Adoptions may be open or closed.

Open adoption

An open adoption involves some exchange of personal information. At the very least, one party will furnish information relevant to the child's future well being, such as medical history or financial status. In some cases, the biological parents may maintain personal contact with the child after the adoption. The adoptive and biological parents generally negotiate these issues before the child is adopted and, in many cases, months before the child is born. The desires of the biological

parents usually determine the outcome of such negotiations. The biological parents may refuse to proceed with the adoption if the adoptive parents do not agree to abide by their conditions. State laws concerning the enforceability of such agreements vary.

Closed adoption

In a closed adoption, the biological parents and adoptive parents do not exchange information or have any personal contact. Only a few states require a direct exchange of information between birth parents and adoptive parents. However, all states have laws establishing whether court files regarding adoptions are to be open or closed. If the files are open, state laws regulate who has access to them and when they may be examined. Some state agencies have additional policies regarding these issues.

Legal Situation

In India, there is no uniform law of adoption that is applicable to all Indians, irrespective of their religious affiliation. The legislation related to adoption can be seen as falling into two broad categories

- Hindu Adoption and Maintenance Act - (HAMA), 1956
- Guardians and Wards Act (GWA) 1890

Thus adoptions in India are at present governed by personal laws and therefore only Hindus can avail of HAMA 1956. Personal law for Muslims, Christians, Parsees and Jews do not recognise complete adoption and hence persons belonging to these communities desirous of adopting a child can do so only in guardianship under the provisions of GWA 1890. This does not provide the child the same status as that of the child born to the family. This act confers only a guardian-ward relationship.

International Adoption

A significant number of people seek to adopt children from other countries for many reasons, some to adopt an infant or a very young child or one who share their ethnic heritage. Publicity regarding the availability of infants in a particular country also encourages some people to seek to adopt there. Many people adopt abroad because of anxieties regarding domestic adoptions, especially fears that the birth mother will refuse to proceed with an arranged adoption after she gives birth to the child. The Supreme Court in its landmark judgement of 1984 has laid down firm procedures for processing guardianship petitions in the case of intercountry adoption. As per the guidelines every destitute child who is free for adoption should be first offered for adoption to Indian parents and only then considered for foreign adoption.

Adoption Procedure

- Contact a child welfare agency or VCS (Voluntary Coordinating Agency) - if it exists in your area to get the relevant information. Clarify your doubts and then register with them.
- A list of such agencies can be obtained from Indian Council for Child Welfare / State Government / Central Adoption Resource Agency. This list is also published in the leading national dailies from time to time.
- The Child Welfare Agency will depute their social worker for a home visit to conduct a study (known as the home study) about the various aspects of your family to decide the suitability for placement of a child with you.
- Use your meetings with the social worker to clarify all your apprehensions and to discuss your expectations.

- The agency will then identify a suitable and compatible child for you.
- The social worker will arrange for you to see the child that has been identified for you.
- The agency, thereafter, will make available particulars of the child (known as child study report) to you for your approval and acceptance.
- Once you feel you would like to adopt the child, you may get a complete medical re-examination done with a pediatrician of your choice to reassure yourself of the child's health and developmental status, if you so desire.
- All relevant documents, the child study report, home study report, letter of acceptance of the child *etc.*, will then have to be filed along with proper application in the court for seeking permission of the court to adopt that particular child. For non-Hindus, application for appointment of guardianship is filed.
- The agency will assist you with all the legal formalities and put you in touch with a lawyer who will file the relevant papers in court.
- The case will then be referred to the scrutinizing agency *i.e.*, Indian Council for

Child Welfare or Indian Council of Social Welfare by the court.

- After consideration of the application, supporting documents and the report submitted by the scrutinizing agency, order would be issued by the court granting you permission to adopt the child. Thereafter, a deed of adoption will be executed and the child will thus be legally adopted. For non-Hindu cases the court will appoint the family as a guardian of the child.

I have had the good fortune of knowing at close quarters the functioning of 'Amma Thottil' the electronic cradle program of Kerala State Council for Child Welfare, Thiruvananthapuram, who has received 34 babies in less than 2 years. Every state in India and many districts have Child Welfare Councilor Voluntary Coordinating Agency or local NGOs working in the area of adoption. We as practicing pediatricians and esteemed members of Indian Academy of Pediatrics have an opportunity and a responsibility to promote, help, sustain and support such a noble cause.

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