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FINDINGS

Adoption is a legal process through which the adoptive parent(s) acquire the rights and responsibilities of the biological parents. In India, currently, two kinds of adoption systems exist simultaneously. The HAMA is exclusively for Hindus, and the JJ Act is for all religions. Both systems are fundamentally different from each other. The objective of adoption and approach towards child welfare are differential under HAMA and the JJ Act, which affect the child's interests and welfare. The shifting concept of adoption from being parent-centric to child-centric has not entirely been reflected in the current adoption systems in India. The hypothesis of this study is that the differences and inadequacies of the two adoption systems are hindering the welfare of children in adoption in India. This research contains an empirical study and a doctrinal study.

The Hindu adoption is one of the ancient social institutions that is still surviving. The text of Vasishtha was said to be the foundation for the Hindu law of adoption. All the schools accepted the authority of Vasistha. Also, *Dattaka Mimansa* and *Dattaka Chandrika* were the most well-acclaimed works on adoption. The customary adoption had its origin in the natural desire to have a male child to perpetuate the lineage and offer funeral oblations, with the intention of affection and as a protector in old age. The most revolutionary change aimed at by the HAMA, 1956, was to remove all kinds of impediments associated with the widow's adoption and to abolish the laws that diversify the vested property as an effect of adoption.

The journey of modern Indian adoption started with the case of *Laxmi Kant Pandey v. Union of India*, 1984 AIR 469. The Supreme Court of India institutionalised the concept of the 'Best Interest of the Child' for the first time. In the absence of any existing legal framework, the Court laid down elaborative guidelines for all the concerned authorities. The Juvenile Justice (Care and Protection of the Children) Act, 2000, under Section 41, introduced the concept of 'secular adoption' in India. The JJ Act, 2015, and Adoption Regulations, 2017, together

establish an international standard, secular adoption system, incorporating the HCIA, 1993. The Adoption Regulations, 2022, are the revised version of the 2017 Regulations. The adoption institution in India has a pyramidal structure. CARA is the nodal body for inter-country adoption and implements the adoption programme in the country. The most significant part of the current adoption structure in SAAs and CCIs is where the children are placed and the children for adoption are given. DCPUs and SARAs are the vigilance bodies for CCIs, SAAs, and the proceedings conducted by CWCs.

The secular adoption system has a robust mechanism to protect the interests of children. Based on the abilities and needs of the children, the Adoption Regulations categorise some children as 'hard to place' children. The HAMA is designed to provide parents with a child. Without maintaining a registry, there is no scope to know the number of adoptions taking place or who is taking which children. The common complaint against the CARA-regulated system is the lengthy and cumbersome adoption procedure. It takes 3 years to adopt a child.

Due to the lack of maintained data by the State, it is impossible to study the effectiveness of the HAMA. Nevertheless, the researcher filed several RTIs. One was with the Stockholding Corporation of India Limited to know the number of e-stamp papers sold from January 2018 to May 2022 for adoption. The pilot study was conducted in three SAAs in Kolkata. Following this, a final study was conducted on the SAAs of the five States of India: Uttar Pradesh, Madhya Pradesh, West Bengal, Maharashtra, and Tamil Nadu. She was able to communicate with 136 SAAs. Of these 136, 96 respond and 40 refuse to respond, resulting in a 71% response rate and a 29% refusal rate. The respondents also gave their opinions and observations of the current system, which immensely helped the researcher to comprehend the issues and difficulties with the current system.

The researcher feels that India needs to draft specific legislation on adoption that includes substantive rights and procedural regulations; a significant number of illegal adoptions are legalised through HAMA. The characteristics of HAMA are outdated and not suitable for the current time; the waiting period under the CARA system should be reduced; CARA needs to take a different approach to preparing PAPs and older children for adoption; the process of counselling of the prospective adoptive parents should be revised; alongwith medical fitness, psychological stability should be made mandatory to be eligible to adopt a child; CARA should remodel the 'immediate placement adoption'; the post-adoption surveillance and monitoring should be extended beyond the follow-up reporting period of 2 years; CARA should frequently consult with the SAAs.