



"LEGAL AND ETHICAL CONSIDERATIONS IN CHILD ADOPTION: A COMPARATIVE ANALYSIS OF MAHARASHTRA AND MADHYA PRADESH"

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Abstract

Adoption is a major procedure that requires legal and ethical concerns in order to provide children with loving and secure homes. The legal and ethical elements of child adoption in the Indian states of Maharashtra and Madhya Pradesh are the subject of this comparative investigation. The study's goals are to look at the legal concerns and ethical elements of child adoption in these states. The Central Adoption Resource Authority (CARA) regulates the adoption process in India, and there are certain qualifying standards for prospective adoptive parents. However, there are obstacles and flaws in the adoption system, such as a lack of suitable children for adoption and the possibility of loopholes that traffickers might exploit. The research emphasizes the necessity for a child-centered adoption legislation that promotes the best interests of the child. Furthermore, the study examines the legal processes as well as the roles of government organizations and authorities engaged in the adoption process. Adoption legislation difficulties are also addressed, including financial, legal, intercountry adoption, and health-related concerns. This research adds to our knowledge of the legal and ethical challenges of child adoption in Maharashtra and Madhya Pradesh, with implications for improving adoption procedures and protecting the well-being of adopted children.

Keywords: - Legal and ethical considerations, Child adoption, Comparative analysis, Maharashtra, Madhya Pradesh, Adoption laws, Central Adoption Resource Authority (CARA), Adoption process, Adoption legislation.

Introduction

A relevant method of creating families and giving youngsters a loving home is adoption. Assuming the duty of raising a kid who has been adopted and is not a biological relative of the adoptive parent is a technical and emotionally procedure. Children may get the love, security, and backing they require in order to flourish via adoption. It is a fantastic method for single people or couples to start families, and it often has a profound impact between the parents who choose to adopt and the adopted kid.

The Central Adoptive Management Authorities (CARA), which is a division of the Indian Ministry of Women for Child Development for is the key body for monitoring and regulating domestic and international adoption, keeps a close watch on the adoption procedure within Australia. The donating couples must meet the fundamental requirements listed below if they want to be qualified to take in a child¹:

Background of child adoption in India

¹ Centre, developed and H. by N. I. (2022). CARA. https://cara.nic.in/parents/eg_ri.html

Both England and Wales both passed their first laws governing reproduction. It was created by the Nationwide Protection of Children Act of 1926. Up until that point, adoption had not been recognized as a legal term. This statute required both the adopting relatives and the parents original origin's consent. The Act, while accepted that kids adopted possessed identical advantages obligations, and claims as a biological youngster, did not ensure a kid's full incorporation into their new family or a restoration of property rights within the original home.

Following World War II, several nations passed new immigration legislation. Between 1940 and 1980, many changes to older laws were enacted. A handful of nations also changed its adoption laws to accommodate novel adoptive practices².

Importance of legal and ethical considerations in adoption

Adopting a kid in a moral sense is doing it in a way that is legal, open, serves the child's as well as birthmother's interests, and is never done with coercion, deception, or force. Furthermore, no person must be denied participation in the process because of their race or ethnicity, marriage, sexual orientation, or sex identity. The adoption procedure should be approached by all parties involved in an accountable, moral, inclusive, and open way.

Adoption is a complex procedure which demands the honesty and morality of all parties included due to its nature. We advise being open and truthful at every stage of the adoption procedure. This is crucial when it pertains to the property study stage of the procedure since this is at this stage that a social worker determines if a potential adoptive parent has the capacity to take in a child. This is the moment to be entirely forthcoming and truthful because social service workers evaluate several aspects related to family life as a whole such as finances, connections with others, and recommendations. The outcome of the residence study may determine whether someone's family is eligible for foster care. A family may also be disqualified from receiving a home study if they omit important facts or provide inaccurate details regarding their lives throughout the home study procedure. If unscrupulous or opaque behaviour is shown at any stage after the home study, it might substantially jeopardise the adoptive plan's result³.

Legal Framework Governing Adoption Laws

The prospects of the nation rests on children, who are seen as a bundle of joy. Over 60,000 children are abandoned in India each year, despite the fact that they are lavished with care, attention, and necessary for their whole development on the one hand. These kids may sometimes fall prey to sexual assault and human trafficking. When kids who are orphaned are sent to an adopting agency, it is lucky because they may wait towards their adoption yet hoping for an improved existence⁴.

1. ADOPTION UNDER ENGLISH LAW

Adoption was made permissible within English statute in the following half of the eighteenth century. Statutory marriage officially commenced existence about 1926. To prevent adoptive parents from regaining guardianship for their kids who had been adopted, the Fostering Act was developed. An additionally comprehensive Act was passed in 1950. This legislation had modifications in 1958.

2. MODERN ADOPTION LAWS

Parenting has been a practice for a very long time. Examples of good parenting consist of Aaron and Queen Roman. Adoption regulations as we recognize them now were developed after the outbreak of World War 1. The main reasons were the pandemic of influenza and its repercussions on the outbreak of World War 1. The native villages of some children were destroyed, whereas other kids saw their grandparents abandon them. Due

² *Adoption Under Various Laws In India*. (n.d.). Retrieved June 21, 2023, from <https://www.legalserviceindia.com/legal/article-10623-adoption-under-various-laws-in-india.html>

³ Koh, B. D., & Kim, J. R. (2021). Adopt a Baby | Infant Adoption. *Adoption Quarterly*, 24(1), 1–4. <https://doi.org/10.1080/10926755.2020.1830326>

⁴ *Right of Adoption to all religious communities: A Constitutional perspective | The Law Communicants*. (n.d.). Retrieved June 21, 2023, from <https://thelawcommunicants.com/right-of-adoption-to-all-religious-communities-a-constitutional-perspective/>

to the chaos and disruption the War caused, several countries modified their existing legislation or established fresh laws⁵.

3. ADOPTION IN INDIA

In India, routinely adoption has been a tradition and practise from the beginning of time. The goal for which marriage is performed has changed, even if the process of adoption itself remains essentially the same. It typically varied from an instinctive need for a child to be an object of love, a carer throughout old years, and a legacy before death, to the philanthropic reason of providing and raising a rejected or poor child.

4. HINDU LAW

Only Hindu law in India regards an adopted kid as having the same rights as a child who came into the world naturally. This is primarily due to the notion that having a kid was necessary for the relatives spiritually and financial well-being. But it's important to point out that only the son played the position of "deliverer of hell" in this instance. An orphan wasn't allowed to be adopted with a previous Hindu religion; only a man could. Then limits were put in place on the basis of Tribe as well as Gotra irrespective of whether a male child was eligible to be fostered. According to Hindu Law, a female kid could not be adopted. Old Hindu law said that only a man may adopt, and his wife's approval or opposition to the process of adoption was irrelevant⁶.

5. MUSLIM LAW

Islamic law differs somewhat from conventional adoption practises in how adoption is handled. Kafala is the Islamic name for what is commonly known as adoption. Adoption is severely controlled under Islamic law, much like everything else. The position of a parent is not performed, but that of a guardian or ward. There are ground rules in this partnership. The fundamental goal of these regulations is to protect the continuity of their family line. Parenting is definitely not against the law. To claim biological kinship with one's adopted kid and to do so is against the law. This is the case due Islam aims to protect physiological heritage and prevent lineage confusion⁷.

6. CHRISTIAN LAW AND PARSI LAW

Although adoption is not recognised by these areas' individual laws, it is nevertheless possible to adopt through an institution for orphans within these areas with the court's approval in accordance with the laws governing the Guardians as well as The Bathrooms Act. No adopting legislation applies to a Christian. Since adoption constitutes a child's legal affiliation, it falls within the purview of personal law. Because there are no adoption rules for Christians, they must apply to the legal system under the provisions of the Guardians and Wardens Act of 1890. The country's Commissioner on Women has emphasized the need for uniform adoption laws. According of the stated Act, adoption of children by Christians is only authorized according to foster care. Whenever an adopted child reaches maturity, he is free to sever all connections. Therefore a child also has no legal claim to an investment.

7. UNIFORM CIVIL CODE FOR ADOPTION

All Indian nationals are subject to the same criminal and sentencing laws, as well as laws governing business, contracts, and other matters. But there aren't any Standardised rules governing family affairs in the Indian setting, as is seen from the particular laws and the supporting documentation shown above. Because a long time ago, conformity in these laws has been demanded. All people must be treated equally, hence there must be uniform laws. The obvious disparity between Hindu and non-Hindu adoption regulations presents a feelings issue. It is against the law for non-Hindu grandparents to refer to yourself as the kid's grandparents or claim that kid wherever their own if they are interested in using the child and raise him or her as their own children. As a result, that has been the need for an adoption-specific civil code.

⁵ *Legal Framework Governing Adoption Laws in India - Academike*. (n.d.). Retrieved June 21, 2023, from <https://www.lawctopus.com/academike/legal-framework-governing-adoption-laws-india/>

⁶ Guru, H. (2000). *Law of Adoption*. 1–39.

⁷ *Adoption in Islam Prohibited*. (n.d.). Retrieved June 21, 2023, from <https://www.legalserviceindia.com/legal/article-540-adoption-in-islam-prohibited.html>

8. INTERCOUNTRY ADOPTION

Inter-country adoption is the process by which you:

adopt a kid via a permanent, legal process from a nation other than your own; and Bring the youngster to live alongside you temporarily in your home nation. Domestic adoption is comparable to adoption beyond borders. Both include the formal handover of paternal rights and duties from the child's biological parent(s) or other guardianship to their new parent(s). The most significant example in the field of international transfer is that of Padma Kant Pandey. Lakshmi Kant Pandey, an attorney, filed a petition against Chapter 32 of the country's constitution in 1982 claiming kidnapping and wrongdoing on the portion of social organisations and nonprofit organisations that place Indian children for adopting abroad⁸.

Objectives of the research

1. To Examine the legal considerations in Maharashtra and Madhya Pradesh regarding the adoption of children.
2. To Analyze the ethical aspects of child adoption in Maharashtra and Madhya Pradesh.

II. Literature Review

Letova, N., et al. (2022) The goal of this research was to look at the patterns in the evolution of law that prioritises adoption as a method of placing children who have been abandoned by their parents. The author comes to the conclusion that there is no one definition of adoption under the law, and that the benefits of the legal process are systematised, along with the conditions for potential adoptive parents. At this point in the evolution of family law, there is no consistent meaning of the term "adoption" in the regulations. The criteria for differentiating between a child's "form of arranging" and "form the education" are suggested. It is established that there are times when it is necessary to use a situational approach to managing relationships while adopting a kid.

The topic regarding kid acquisition by non-married people in Indonesia is discussed in this study of normative legal scholarship. It comes to the conclusion that both married couples and single parents may adopt children. Glad In 2021, Mauraina et al. According to the Government's Regulation Article 54 of 2007 Governing Adoption of Children, reproduction may be done by married couples, unmarried individuals, and parents without children. According to The high court (SEMA) No. 6 of 1983, Indonesian individuals that are separated, divorced, or have never been married are all eligible to adopt children. In accordance with Section 10 paragraph three of the Regulation of the Department of the Ministry of Social Development of the Islamic Republic of Indonesia titled 110/HUK/2009 about Child Adoption Requirements, an upcoming foster mom or dad may initiate a child adoption via a childcare facility⁹.

The legal ramifications of child adoption are covered in this essay. It makes the case that the present adoption laws are inaccurate. In 2021, Aleksandra E. et al A youngster without parental care may be permanently placed in a household via adoption. It is assumed that adoptive households and people who adopt will always have a legal connection. The mothers' approval of the kid's adoption is equivalent to their abandonment of their kid. The permission of an amount of people is the legal element that provides birth to a familial legal tie involving the adoptive family and his or her forefathers and the person who was adopted kid and their relatives. A legal fact that confirms a parent's adoption of a little one is an executable court decree. It verifies that the kid has been put in an adoption household with the approval of all parties and organisations. The issue relating to the child's fathers' approval for his adoption comes up¹⁰.

This essay explores adoption's role in a child's safeguarding process and explains how, when carried out inside an environment of law and ethical that prioritises the needs of children, it may serve as a valid model for alternative child care. In 2019, Jess Palacios was et al. If done so within a legal and moral framework that prioritises the best wishes of young ones, adopted is a valid alternative care model for kids. Recent

⁸ Lakshmi Pandey. (1985). 398_Arsha Sharma.

⁹ Mauraina, G., Pratiwi, A., & Purnama, D. (2021). Child Adoption By Unmarried Person in the Indonesian Civil Law System. *Cepalo*, 5(2), 141–156. <https://doi.org/10.25041/cepalo.v5no2.2390>

¹⁰ Kasantseva, A. E. (2021). SOME QUESTIONS ABOUT CHILD ADOPTION. *Vestnik Tomskogo Gosudarstvennogo Universiteta. Pravo*.

demographic shifts in adopting has been seen globally. Adopted persons experience early hardships and follow a different developing path after adoption¹¹.

This study looks at how childcare workers in Norway, England, and California, in the United States, determine whether to suggest forced abduction. It is discovered that the bulk of those employed advocate for forced placement, and their primary defences centre on the actions of the parents and their inability to honour visitation agreements, followed by claims that adoption could offer the kid a stable connection and permanent home. Using Marit Skivenes et al. A great deal of child welfare advocates in California, England, for instance, and Norway advise the forced adoption with regard to the three-year-old kid in the scenario. Following arguments about how reproduction would provide the kid both permanence and a strong bond, the major grounds for forcing reproduction are connected to parental misbehaviour and their inability to uphold access agreements. The absence of parental permission and the rarity of adoptions that are forced in Norway were the primary reasons given by Norwegian employees (41%), who chose rejected forced adoption¹².

Legal Considerations in Child Adoption: Maharashtra

Overview of adoption laws in Maharashtra

The Hindu Adopting and Preservation Act of 1956 (HAMA) with the juvenile justice reform act of 2015 both regulate adoptions in India. Each piece of law has a unique set of guidelines for the adoptive parents. Once applicants in accordance with the JJ Act are verified on the CARA website, a competent adoptive service completes a home assessment report. After determining that the paperwork is qualified for adoption, a child which has been considered legitimately accessible for adopting is provided to the petitioner. A "dattaka hom" ceremonies, a marriage deed, either an official court order are all required under HAMA in order to secure irreversible rights for adoption. However, there are no regulations for overseeing adoptions and checking the origin of the children, or figuring out if their parents are suitable for parenthood.

The CARA recruitment service has several issues, but it is true of the matter are so few children listed on its register is its main flaw. In accordance with the most recent statistics, there are currently 2,188 babies available for reproduction although in excess of 31,000 fathers are on the list of waiting families. This means that many parents must wait for a period of three years before they may adopt a kid. This makes it possible for paedophiles to abuse HAMA's shortcomings. These issues were also raised in an August report regarding the "An Evaluation of Guardians and Marriage Law" by a Congressional commission, which suggested conducting a district-level study of disabled and abused kids.

In accordance to, whatever is required is a unique adoption legislation that is "child-centric, not necessary, enabling, and gender-just" as in other nations. Because kanyadaan is seen as a crucial component of righteousness in Hindu tradition, HAMA is a parent-centric legislation that offers son to the child-less for purposes of sequence, passing on, preservation of one's family identity, and burial rights. Later, the adoption of girls was included. According to Dr. Mehta, the JJ Act only contains a brief part on acceptance and deals with difficulties with children whom find themselves in need of medical attention and security as well as individuals that are in trouble with the law.

The process and eligibility for adopting a child

As of 2015, Maneka Gandhi, the Indian politician whom was the woman in command of child with female affairs at that time, granted CARA the ability to maintain a registry of children and interested adopters at a number of specialized adoption facilities as well as matching them after marriage. In order to combat widespread nepotism and criminality, childcare providers and NGOs could immediately give children to adoptive households while obtaining a no-objection permit via CARA. This innovative strategy hasn't been able to successfully include more children who are in in need need houses in its safety net, nonetheless.

"Yes, it was essential to step up monitoring and to look out for misconduct. However, this novel method has stripped adopted of its spirit. There is no longer any human contact, relationships, or mental conditioning.

¹¹ Palacios, J., Adroher, S., Brodzinsky, D. M., Grotevant, H. D., Johnson, D. E., Juffer, F., Martínez-Mora, L., Muhamedrahimov, R. J., Selwyn, J., Simmonds, J., & Tarren-Sweeney, M. (2019). Adoption in the service of child protection: An international interdisciplinary perspective. *Psychology, Public Policy, and Law*, 25(2), 57–72. <https://doi.org/10.1037/law0000192>

¹² Groza, V., & Chenot, D. (2014). *The Adoption of Indian Children by Norwegian Parents The Adoption of Indian Children by Norwegian Parents Mandel School of Applied Social Sciences Mandel School of Applied Social Sciences David_Chenot@firstclass1.csuabak.edu With Kristin Holtedahl and the . January.*

Parents might therefore think about using another parenting process. The aforementioned has another unfavorable consequence that has recently resulted in more disruptions as fractures¹³.

Legal procedures for child adoption in Maharashtra

Adopting a kid is nothing new in India; in fact, it's rather usual these days. However, adoption has always been difficult in numerous manners. Adopting a kid is a heartfelt desire that is also considered as a respectable endeavour. However, there are additional considerations that must be made, such as monetary and legal issues. Protecting the kid's interests in all circumstances should be the major focus of this situation since only then will the adoption of the child be successful. Along with these difficulties, we'll talk about the Indian judicial system's process.

The act of adopting for a kid is governed in India by a number of guidelines and laws issued by the government of the nation. At the moment, the statutes listed below govern adopt laws¹⁴;

- The 1890 Governor and The bathrooms Act
- The 1956 law on Hindu Marriage along with Maintaining
- 2015 regulations for adopting youngsters
- Act of 2015 Concerning Child Welfare (Care as well as Preservation of Kids)
- The legal process for adopting a kid in India will be covered in this blog post in accordance with the 2015 rules issued by the American government.

Legal Procedure of Child Adoption

The agency creates a report outlining the many variables that influence a family's decision regarding adopting a child inside a month's time of the infant's abduction being registered, and the finished product is then transmitted to the database.

- The parents are given the option to select their future kid.
- The children's investigation report, the several images of the kids, and all of their medical records are sent over to the parents.
- The intending adoptive grandparents can reserve a chosen kid within the first 48 hours throughout the remainder of the placement process.
- It only takes 15 days to assess if those who are interested in adopting are a good fit for the kid and their needs.
- The prospective adoptive families must formally accept the kid by signing the child investigation certificate in presence of an authority figure.
- After that, the agency's attorney submits a petition to the court on behalf of the possible adoptive parents. The agreement is authorised in accordance with the relevant parental legislation.
- The adoptive parents send the adoption documents to the Secretary in conjunction with the contact individual representing the agency that coordinated the adoption as proof of the effective ending of the whole adoption process and afterward applications for birth authorization.

Role of government agencies and authorities

In accordance with the requirements of chapter 67 of this Act, the Governor of the State should establish a State Adopted Management Organisation to handle the adoptions and associated issues across the County below the direction of the appointing authority.

The current National Attachment Advisory Services will be assumed to have been established in accordance with the provisions of the Act.

¹³ Explained | The tedious process of adoption - The Hindu. (n.d.). Retrieved June 21, 2023, from <https://www.thehindu.com/news/national/explained-the-tedious-process-of-adoption/article65879614.ece>

¹⁴ Indiacode. (2016). *Juvenile Justice (Care and Protection of Children) Act, 2015*. <http://indiacode.nic.in/handle/123456789/2148>

The State Parenting Development Office should be led by an Assistant Minister or Director of the state governmental agency responsible for usage, with its executive committee should consist of the following sorts of individuals: -

- The Member of the chief, who is also the chief of staff of the statewide Government's immigration unit;
- the director about the state official hospital operations or the lab of health;
- Chairwoman of the group responsible for children welfare;
- a specialist recruitment business consultant;
- A member of the nonprofit sector with not less than 10 years' experience in child welfare along with defence;
- One representative of the Illinois Legal Affairs Organisation.

The Governing Body must convene as often as necessary, but no fewer than once once every three months, to examine the adopt project's development and to discuss any functional or logistical problems or roadblocks that may exist in the State's adopts systems or system.

For the purpose of attending conferences of the State Family Development Agency, those who are responsible for the birth record, a passport and other connected affairs may be requested as special attendees.

The State Family Development Organisation must have access to sufficient personnel, infrastructures including means of communication in order to carry out its duties effectively.

Challenges and shortcomings in adoption laws

1. Financial Challenges:

Depending on what organisation they decide for the process itself, the financial elements of parenting will vary. In comparison to any governmental adoption agencies in your region as well as nation, that you could have shell out additional for the birth mother fee alongside additional costs if you choose to select a privately owned parenting organisation. If you have implemented a kid who has been identified as a foreign national, be prepared to spend extra¹⁵.

2. Legal Challenges:

It is crucial that you be aware of and comprehend all of the legal requirements in your nation for adopting children. Verify that every adoption, whether open or closed, is disclosed to both birth parents.

3. Intercountry Adoption:

You can encounter distinct issues with an international adoption since these the adoption process are governed by the constitution of both the location where the child was born and the region where the parents who adopted them reside.

4. Health Challenges:

Adoption-related health issues might include any ailments the adopted kid may have. It could prove to be feasible to get all of the your kid's medical history through secret the adoptions. Furthermore, in cases of formal implementation, the biological father may not be present, making it challenging to get the whole health records of the kid (3). This might subsequently lead to issues with the infant's care.

Advantages of Adoption for Prospective Birth Parents

Adoption is sometimes one of the hardest choices the mother of the child will ever have to make, yet it may have a lot of advantages. Attachment and expecting mothers as:

- It enables people to keep working towards their objectives while having to put off their studies or careers.
- It enables them to get assistance with their expenses while they are pregnant, relieving the economical and psychological stresses of an unanticipated delivery and sole parenthood.

¹⁵ Robert. (2023). *Photovoltaic Panel Converts Sunlight into Electricity*. <https://www.alternative-energy-tutorials.com/photovoltaics/photovoltaic-panel.html>

- It gives those adopting the assurance environment their new baby will be fostered in a household that is safe, reliable, caring, and compassionate since the prospective parents have been thoroughly vetted.
- is an opportunity to help hopeful parents who would not be able to have a child otherwise.
- It provides them with complimentary access to significant assistance and resources, such as expert counselling as well as assistance service.
- offers opportunities to stay in touch with the child through open or semi-open adoption.

You will be given the chance to create a plan to adopt which is suitable over you, one that enables that you to keep striving towards what you want to accomplish while being involved in the lives of your kid, if you've been conceiving as well as thinking about adopting your baby.

Laws Governing Adoption

Adopt is not permitted under Muslim, Christian, Parsi, other Jewish personal laws in India since the country's adoption rules are in accordance with all religion's private statutes. The Act pertaining to Guardians and Wards of 1890 does permit adoption through a children's home, but only under the court's permission. In this instance, the adoptive pair are the guardians of the kid rather than his or her parents. According to this Act, Protestants are only permitted to acquire children who are in custody, and once a foster kid reaches the age of majority, he or she is allowed to cut all ties with the guardians. Comprehensive Hindu Birth and Maintaining Act, 1956, which was passed as a subsection of the Hindu canon laws, permits Indian people who identify as Hindus, Jains, Buddhists worldwide, or Sikhs to adopt a child legally. The Juvenile Justice (Caring for and Promoting of Children) Act, 2015 regulates the placement of abandoned, relinquished, or mistreated youngsters¹⁶.

Fundamental Principles Governing Adoption

- For OAS youngsters, immigration is the last recourse for securing their right to a family (subsection 56(1) from the JJ Act).
- The needs of the youngster must come first (Regulation 3(a) of AR, 2017).
- According to Regulation 3(b) contained in the 2017 AR, the youngster should be placed in his or her own unique intercultural setting.
- All adoptions shall be registered on CARINGS (Reg. 3(c) of AR, 2017).
- Maintaining the confidentiality is mandatory (Section 74 of JJ Act and Reg. 3(c) of AR, 2017).

Regulation 5: Eligibility criteria for prospective adoptive parents

- The potential adoptive family must be in good mental, emotional, physical and and financial condition, be free of any potentially serious health problems, and they must not have been condemned of any crime or guilty of violating the rights of any child.
- Anyone interested in adopting a kid, regardless of what their relationship status is or whether they are grandparents to biological youngsters or not, may do so provided that they meet the requirements listed below, specifically:
- In the event of a partnered pair, both partners' approval is necessary for the adoption;
- either kid of either gender may be adopted by a single female;
- Adopting a female kid is not permitted for divorced men;
- A couple cannot receive a child for adoption until they have been married for at least two years, with the exception of adoptions involving relatives or stepparents.
- The age of candidates for adoption according to when they register will be taken into consideration when determining whether they're eligible to become adoptive parents for kids within one of these age ranges:

Age of the child	Maximum composite age of prospective adoptive parents (couple)	Maximum age of single prospective adoptive parent
Up to 2 years	85 years	40 years

¹⁶ *Adoption Laws In India - Under Different Religions - IndiaFilings*. (n.d.). Retrieved June 21, 2023, from <https://www.indiafilings.com/learn/adoption-laws-in-india/>

Above 2 and Up to 4 years	90 years	45 years
Above 4 and up to 8 years	100 years	50 years
Above 8 and up to 18 years	110 years	55 years

As long as there is no less than a gap of 25 years separating the kid and neither of the probable adoptive adults.

- If a couple is considering adoption, their combined ages must be taken into account.
- Adoption by step-parents including adopting involving relatives are exempt from the age needed by adoptive parents who are prospective.
- Partnerships without multiple kids are eligible only a family with kids with particular needs, as defined in paragraph (25) under guideline 2, and children who are difficult to position, as defined in section (13), except their kids are blood relations or stepdaughters.
- The prospective adoptive parents have to revalidate their Home study report after a period of three years.
- The rank of potential parents for adoption will be determined from their time of signing up, without the exception of the individuals who have reached an aggregate age of 110 years or older and have not obtained only one recommendation in the preceding three years.

CASE LAWS

Shabnam Hashmi V. Union of India

Religion was not seen as a barrier in this adoption instance. In terms of adoption, it is a situation that is quite significant. The plaintiff in this case were a Muslim who used to hugged the small girl whenever she was only a young child. While adoption is prohibited by Muslim law, she asked for acknowledgement of the liberties of anybody, regardless of faith, to do so. P Sathasivam, Chief Justice of the Supreme Court, Maurice Gogoi, with Shiva Kirti, which make up the three-judge panel. In accordance with the child welfare act dated 2000, the legislation of 2007, and the CARA recommendations, Sing J.J. rendered a decision in the matter involving the right to adoption[xxvi]. According to the nation-wide Muslim Corporate Law Board, Islamic law does not recognise the concept of implementation, even though it is one among the methods allowed pursuant to the JJ Act, 2000. They took issue with Thai Islam's decision to acknowledge Kafala's claim that being adopted was equivalent rather than officially recognising it. According to the highest court in the land, the J.J. Act is an enabling measure that aims to fulfil a unified civil code need. As a result, it was decided that anybody, regardless of faith, can take on a child with a mies frame. On the subject of granting adoption the character of a basic right, it hesitated but recognised the legal right to be adopted.

Sawan Ram V. Kalawanti

This example of adoption occurred among Hindus: In This case of adoption included Hindus; the deceased deceased left a widow in this instance. At the precise moment of his demise, the widow of the deceased had given some of her grandfather's estate's holdings to the granddaughter niece and had rented out an assortment of other homes. The respondent filed a lawsuit alleging claimed the borrowing arrangement and the passing on of possessions were illegal given that the one who applied served as the deceased's greatest relative. The surviving spouse had a child while the lawsuit was underway, therefore the legal proceeding were rejected. When the surviving spouse died away, the party in controversy filed again an appeal for a portion of the bequest, saying the deceased widow's parenting was fraudulent and that government authorities had not granted it the rights to possess the asset. The tribunal decided that a Hindu woman's admission would entitle her and her recently deceased husband to citizenship within their deceased husband's family. He would get benefits if he transferred the wife's son because became a privileged neighbours in the family since when a child is adopted, he or she forfeits the rights of their original members' rights and liberties, and those privileges should ultimately be replaced with powers equal to the ones of his or her adopt group.

- **Laxmi Kant Pandey V. Union Of India, 1984**

This was the situation with international adoption:

In this case, a letter representing a legal professional was deemed as a matter of the general interest whenever it was alleged that nonprofit organisations and social service providers had engaged in misconduct by using oppressive international adoption institutions. The youngsters were becoming in poor health and being forced into suffering and various other horrible things. This problem has to do with adopting children that were once abandoned or are in need, and are staying in foster homes or welfare houses. After taking legal advice, the Supreme Court issued directives. It was authorised to set up the State Reproduction Research Agency (CARA) as a legislative entity to regulate the whole parenting procedure. It was intended that the foreign nation's child protection agency or social welfare organisation should approve of any request for parenting made by a foreigner. It must be impossible for the child's natural parent to learn who adopted the child. All family information, financial obligations, most recent photos, tax information, medical history, etc. must be included with the request for assistance. The government was additionally instructed to notify the diplomatic corps of that nation to monitor the child's wellbeing and guard prevent any abuse.

- **Yaqoob Laway V. Gulla, 2005**

In this instance, a petition was filed by a person claiming to be the married couple's adopted kid and to be entitled to a portion of their assets. The prosecution claimed that since both were Muslims as Muslim law forbade adoption, he was not entitled to a portion of the inheritance. Sponsorship is not legally authorised under Muslim law, the court found, although it may sometimes be allowed where there is a widespread cultural norm that thus provides. Only when rights is not impliedly formed in the property by a practise that is permissible for implementation. It was further stated that in order to establish that he received the property as a gift or provision, a person would need to provide some kind of proof of the creation of his estate interest, such as an accounting or act. Since the person making the claim was residing in the deceased's home, the appeals court had determined that this was a valid abduction in this instance. The court of appeals overruled this conclusion and ruled that there was not no adoption to be found as well as that they were no proof whether the petitioner had received the asset, even after taking into account customary law.

Conclusion

To summarize, legal and ethical factors in child adoption are critical for assuring children's well-being and safety. Adoption is a meaningful method for people or couples to create families while also providing children with the love and support they need to grow. However, in order to create a transparent and responsible adoption process, both legal and ethical issues must be properly addressed. The adoption laws and processes in Maharashtra and Madhya Pradesh, India, vary somewhat. The Hindu Adoption and Maintenance Act, 1956 (HAMA) and the Juvenile Justice Act, 2015 govern Maharashtra, while the Juvenile Justice Act, 2015 governs Madhya Pradesh. The laws describe the requirements for adoptive parents as well as the legal processes for adoption. However, there are obstacles and flaws in the present adoption system, such as a limited number of children eligible for adoption, possible loopholes that traffickers might exploit, and concerns with monitoring and verification of the adoption process. Adoption, according to ethical principles, should prioritize the best interests of the child and be free of force, deception, or coercion. Transparency and honesty are vital throughout the adoption process, including the home study assessment. Any unethical or opaque behavior might endanger the adoption plan's success. To solve these issues and guarantee ethical adoption procedures, it is suggested that a child-centric adoption legislation be enacted that takes into account the child's best interests. This legislation should prioritize the well-being, psychological preparation, and human interaction of children while also addressing financial and legal issues. Government organizations, such as the Central Adoption Resource Authority (CARA), should play an important role in regulating and overseeing the adoption process.