CHAPTER - I

INTRODUCTION

“I shall be called by a new name,
Embraced by a fresh pair of arms
But I shall come and go, the eternal me.”

Rabindranath Tagore.

The question of rights of children has emerged as one of the most vibrant issues for discussion in this new millennium. The fact remains that children remain a part of the disadvantaged minority group even today as per realization of human rights and social justice are concerned. The main reason for this lacuna is that the children are still not complete political entity in true sense of the term. Besides they are generally physically, mentally and economically dependents. In this age of globalization where things are changing rapidly, taking care of child’s rights at every stage has taken a back seat. This not only affects their whole value system, but also their present social and economic needs. No doubt that the future of humanity depends on children to a large extent even then a very partial and parochial approach has been followed toward bringing them on the mainstream of social and political agenda.¹

Adoption means taking the child of another person as one’s own child and treating the child for all intents and purposes as one’s natural child. In India under Hindu Law, “adoption is the taking of a child of another as substitute for the failure of his own natural children of the same sex.” When a person adopts, what is presumed to have occurred is that a fictitious birth has taken place in the

family of the adopter. So a relationship of legitimacy is created between the parents and the child. In India, adoption as legal institutions exists only amongst Hindus.

In ancient civilizations as well as in the latter cultures, the purposes served by adoption differ substantially from those emphasized in modern times. Continuity of the male line in a particular family was the main goal of ancient adoptions. The importance of the male heir stemmed from political, religious or economic considerations, depending on the particular nature. The person adopted invariably was male and often adult, whereas contemporary adoptions involve infants of either sex. Roman Law permitted adoption to provide a heir to adult adopters, past the child bearing age. In addition the welfare of the adopter in this world and the next was the primary concern, little attention was paid to the welfare of the one adopted. While the desire to continue a family line or to secure rights to inheritance are still among the motives for adoption, interest now centers more on the creation of a parent child relationship between a married couple and a young child. This attitude partially developed in the period following World War-II because of the availability of a large number of children as war orphans and illegitimate births.

We made deliberate policy choices in our constitution through Article 14 and Article 15(1). But providing a law to children of only one religious community is gross violation of these constitutional

2 Derrett: A critique of Modern Hindu Law 1st Ed. 123.
3 Derrett: Introduction of Modern Hindu Law 18th Ed. 92.
4 Britannica Encyclopedia Chicago 201.1 P.165.
5 Article 14 - Equality before law – the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
6 Article 15 – Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth – (1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
7 Hindu Adoptions and Maintenance Act. 1956.
mandates and a blatant injustice to children. In India the adoption laws are religion based and that arguments based on culture, tradition and religion reinforce practices that lead to aggression and atrocities and injustice to children and prevent the formation of a uniform civil code. This research work aims at dealing with the problem of in-country adoptions from two angles, first make the adoption laws more child based rather than parent based and secondly propose a common secular law on adoption which would be acceptable to all communities as its main focus would be on the welfare of the destitute and orphan child.

The inter-country adoptions are comparatively a new phenomenon which began to develop on a large scale at the end of the Second World War. The western couples are resorting to adoptions from developing countries for non availability of children in their own countries because of family planning, change of morals, liberalized adoption laws and socio-economic pressures. Readiness of poverty stricken parents to part with their children, lack of laws and legal safeguards and dubious role of voluntary agencies operating in the area have all added up to make it a matter of concern for most of the national governments. In this the United Nations Report\(^8\) rightly states that;

"This is an area where it has been agreed that child’s interests must come first, but where in practice, that is not always the case. Other important facts are involved. Such expressions as in the child’s interests are subjective and lead themselves to different interpretation according to the context and the culture....."

\(^8\) Role of Govt. and Non-Govt. Organizations in supervising the placement in Europe of Children from third World. Strasbourg 1980 P.10.
In order to address this issue of malpractice indulged in by social organizations and voluntary agencies engaged in the work of offering Indian children in adoption to foreign parents, the Supreme Court gave certain guidelines in the case of *Laxmikant Pandey vs. Union of India & another*.\(^9\) Apart from these guidelines there is no special legislation dealing with foreign adoptions. Legislation of foreign adoptions or inter-country adoptions is the primary objective of the world which should be in consideration of the welfare of the child which is of paramount consideration and on all counts there should be justice to the child.

Child Adoption is a family experience found almost in every part of the world and which has existed throughout history. Adoption provides families for children who otherwise would remain parentless and permanently deprived of the physical and psychological benefits of family life. Adoption also provides an opportunity to adults to become parents, to care for a child and thus experience growth as a family.\(^10\) Thus Adoption is described as a way of conferring “the privileges of parents upon the childless and the advantages of having parents upon the parentless.”\(^11\)

In the ancient civilization as well as in the later cultures, the purposes served by adoption differ substantially from those emphasized in modern times. Continuity of the male line in a particular family was the main goal of the ancient adoptions the importance of the male heir stemmed from political, religious or economic considerations, depending on the particular nation. The person adopted invariably was male and often adult, whereas

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\(^9\) AIR 1986 SC 272.
contemporary adoptions involve infants of either sex. Roman law permitted adoption to provide a heir to adult adopters, past the child bearing age. In addition, the welfare of the adopter in this world and the next was the primary concern, little attention was paid to the welfare of the one adopted. While the desire to continue a family line or to secure rights to inheritance are still among the motives for adoption, interest now centres more on the creation of a parent-child relationship between a married couple and young child. This attitude partially developed in the period following World War-II because of availability of a large number of war orphans and illegitimate births.\textsuperscript{12} Adoption is the act of establishing a person as parent to one who is not infact or in law his child.\textsuperscript{13} Thus adoption signifies the means by which a status or legal relationship of parent and child between persons who are not so related by nature is established or created. The very purpose of an adoption proceeding is to give effect to this new status of relationship. As a result of a decree of adoption, the child for all intents and purposes becomes the child of the adoptive parent. Adoption is also defined as a process by which people take a child who was not born to them and raise him or her as a member of their family.\textsuperscript{14}

In almost all ancient law, adoption has been recognized as an institution. Under Roman law it was highly organized institution and one can trace the roots of evolution of adoption in society.’ The patriarchal family in ancient Rome rested upon the ancestral worship as in ancient Greece and in ancient India.\textsuperscript{15} The tie that united the members of the family was the Sacra. The ancient

\begin{footnotes}
\textsuperscript{12} Britannica Encyclopedia Chicago Vol.I P.165.
\textsuperscript{15} Hamid Ali, outlines of Roman Law, Asia Publishing House 3\textsuperscript{rd} Edition Bombay P.55.
\end{footnotes}
Romans regarded the family as the instrument for keeping up the peculiar rites upon the due observance of which depended the happiness of the dead. In Roman law, the object of which was the continuance of the family and its religious cult, there were two kinds of adoption. Adoption proper and Adrogation. Both Gains and Justinian used the word adoption to include the adoption of a person alieni juris and the adrogation of a person sui juris. Adoption proper was where a person under a potestas (parent) was given into another potestas as (parent). It therefore involved two acts, the extension of the agnatic tie in relation to the original family and the creation of an agnatic tie in relation to the acquired family. Adrogation which is an earlier institution than adoption proper took place when a person who was the juris became alieni juris by placing himself under the potestas of another citizen and this involved the extinction of the Roman family.

In Britishers blood lines were so important that legal adoption was not accepted until the Adoption of children Act, 1926. The clear preference in inheritance was a blood line successor, however distant in relationship. In extremely unusual cases it was absolutely imperative to provide a heir, illegitimate offspring of family members could through complicated steps, be made legitimate heirs. Defacto adoption had of course always taken place but they could have no effect on status. People were hesitant to rear a child as the natural parents could regain custody of the child at any time. A demand for reform arose and was strengthened during the period following World

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17 Ibid P.86.87
18 Pullock F and Maithand F.W., 1895, "History of English Law, Before the times of Charles-I, Boston; little Brown.
War-I due to a large number of War orphans in need of homes. In response to this demand, England passed its first adoption law, the Adoption of children Act, 1926 which came into force from 1st January, 1927. The motive for introduction was not as in Roman law, the strengthening of the family or facilitating the bequest of the property, but the idea was of conferring the privileges of parents upon the children and the advantages of having parents upon the parentless. The relationship of parent and child is firmly secured to the benefit of both.

The Adoption of Children Act, 1926 was to some extent experimental and was subsequently much amended in the light of experience and criticism. All earlier legislation was repealed and replaced by the Adoption Act, 1958. Dissatisfaction and criticism led to the enacting of the Children Act, 1975. All the statutory provisions concerning adoption were consolidated in the Adoption Act, 1976. The present act received royal assent on 7th Nov. 2002 and the adoption and children Act 2002 came into existence. The Act finally came into full effect on 30th Dec. 2005.

During the mid-nineteenth century United States adoption law used Roman laws as a guidelines to frame their personal laws. Roman law was based upon the needs and rights of the adoptive parents whereas the basis of the American law was a solution to protect the children who had been placed in unhealthy, uncaring homes. It was perhaps the commencement of the principle of "BEST

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INTEREST OF THE CHILD", a departure from the earlier legal forms which carried the all important rights of inheritance.22

Adoption like other aspects of family law in America is governed by State or territorial law rather than federal. Though adoption legislation is largely uniform but no two statutes are having identical provisions.23 In most States adoption has reciprocal validity, the current conception of adoption began to take shape in the second half of the nineteenth century, when it was introduced for the first time in some of the States where the legal system was based on English common law and reintroduced by others which had abolished it previously.24 In the latter States legislation was influenced by Roman law.25 Massachusetts was the first State to enact legal adoptions in 1851. It provided for social investigations and judicial supervision to safeguard the indigent children without home. Similar investigations concerning prospective adoptive homes were provided by most of the States. By 1927 all States had adoption laws.26 At first adoption concentrated on a relationship and rights of ‘ownership’ much like a transfer of a property from one owner to another. Later, the emphasis shifted proceedings and certain standards and policies were established by law. The purpose served by adoption vary from time to time. By the mid 1920’s in the United States, the goal was to find children for childless couples. A child having special problems was rarely considered appropriate for

23 Mortan, Law of Adoption 1979, (P.105) P.V. Montana and Oklahoma, the two State adopted uniform Acts have incorporated varying modifications.
24 In 1850 Texas and Vermont and afterwards a few other States enacted laws merely to make public record of private agreements of adoptions.
26 Mc Namara Joan “Adoption Advisor” 1975 P.34.
adoption. Today, the emphasis is on what is best for the adopted child. Meanwhile, adoption has become an increasingly acceptable method of starting or expanding the family.27

The Hindu Mythology contains several visions concerning adoption. Anthropologically and historically speaking attitude and value system of human history they may not be adoptions in the true sense but they represent the concept of adoption i.e. of bringing up someone else’s child as one’s own. The myth of ‘Shakuntala’ who was adopted by ‘Kanwa’ assumes importance because it can be regarded as a case of female adoption, which was not much in favour in later time. It is a parable of humanness and fellow feeling. The other myths are of Satyavati, Sita, Draupadi, Dhushtadyunma, Agni, Kunti and Karna28 Sonship has had a great importance in Hindu law. Every Hindu was enjoined to have his own natural born son (aurasa putra), failing which he could have some other types of son. Adopted son was one such type of son. Further some types of sons have been recognized under custom. To have a son was considered a ‘must’ for every Hindu. Begetting a son was one of the three debts that a Hindu was required to discharge in this world. Just as a marriage was never considered a purely secular act, so was sonship. Son is called a ‘put’ “because the son delivers his father from hell called ‘put’ Baudhyana declared;

“Through a son one conquers the world, through a grandson one obtains the immortality and through the great grandson one ascends to the highest heaven.”

It is a remarkable feature of Hindu jurisprudence that throughout the Hindu period, right from the Vedic age to this date,
Hindus have always desired to have an aurasa, natural born legitimate son for the spiritual benefit and the constitution of the family yet right from the Vedic age to this date, secondary sons have in one form or another existed and have been recognized. In the Vedic literature we find references to Kshetraja (soil born), Putrikaputra, Kanina (maiden born) and dattaka (adopted sons) yet, these were strongly disapproved. In the Rig Ved we find the following passages:

“O Agni, no son is he who springs from others”.

Another passage runs:

“A son begotten of another, though worthy of regard, is not to be contemplated even in mind as fit for acceptance, for verily, he returns to his house, therefore, let there come to us a son new born, possessed a good qualities and victorious over foes.”

Some consider it an astounding aspect of Hindu jurisprudence that, on the one hand, the sacredness of the institutions of sonship and marriage is emphasized, need for morality and chastity of the wife is emphasized in most unequivocal terms and on the other, recognition is accorded to as many as thirteen types of sons, most of them born outside the wedlock and more than half of them are called as sons at the sacrifice of morality and high principles.29 Under the old Hindu law predominant view was that the adoption is a Sacramental Act though there has been controversy not only among writers but also among judges whether in adoption the secular or the religions motive predominates. Under the old Hindu law there were many rules relating to adoption which could be supported only on

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the basis that adoption was a sacramental act. It is needless to say that apart from the religious motives, secular motives were also important, such as man's desire for the celebration of his name, for the perpetuation of his lineage, for providing security in the old age and for dying in satisfaction that one has left an heir to one's property. One thing is certain that different people adopt with different motives, sometimes the motive may be base, just as one may adopt to despise a prospective heir who could take the property in absence of a son. Whatever it may be, the main purpose of law of adoption is to provide consolation and relief to a childless person. In modern law its purpose is also to secure the helpless, the unwanted, the destitute or the orphan child and provide it with parents and a home. It's purpose is also to provide a richer family life.30

In India, there is no general law of adoption though it is permitted by statute amongst Hindus and by custom amongst a few numerically insignificant categories of persons. Among Hindus adoption had been in existence from ancient times for spiritual and temporal purposes. This customary law of Hindus were codified in the Hindu Adoptions and Maintenance Act, 1956. The Act however does not cover Muslims, Christians, Parsees and Jews. The personal law of these communities does not recognize adoptions except a section of Muslims. The guardian and wards Act, 1890 is indirectly invoked by other Communities to become guardians of the child during minority. The statute does not deal with adoption as such but mainly with guardianship, and is to be read along with the personal laws or the topic as ancillary/corollary to the latter. It may be indirectly involved in certain cases to confer legal guardianship of

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children during their minority. But the power is not equivalent to adoption, but would put the child as the ward.

The Hindu Minority and Guardianship Act, 1956, reforms and codifies the Hindu Law relating to guardianship of the minors. The Juvenile Justice (Care and Protection of the Child) Act, 2000 is a legislation that provides for the establishment of a children’s home, for the care and protection of neglected and abandoned children and their adoption. Institutional care still appears to be the largest service for the care of the destitute and orphan children.

In recent years, there has been a growing demand for a general law of adoption in India. Several Social Welfare Organizations and Social Workers pleaded for it. They seek to provide by adoption, proper homes and families to the destitute, abandoned and the neglected children. The basis of this demand and the nation’s commitment to achieve this social goal lies embedded in Article 39 of the Indian Constitution which imposes a duty on the State to protect childhood and youth against exploitation and against material and moral abandonment.

The Constitution of India in Article 44 declares “The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India”. This Article which is one of the directive principles of State policy is considered fundamental to the governance of this country. But inspite of attempts at bringing a uniform law on adoption, we do not still have a common law of adoption.

The first attempt at a general law of adoption emphasizing its secular character was the Adoption of Children Bill 1972 applicable to all communities. As it was opposed by the Muslims, this did not fruitify. They argued that adoption was against Qoran. Adoption
would through out of gear the Islamic Law of inheritance. Again on 16th December, 1980, the Adoption of Children Bill 1980 was introduced in the Lok Sabha. The statement of objects and reasons stated that “the Bill was meant to provide for an enabling law of adoption applicable to all communities other than the Muslims Community. But their attempt also did not materialize. This time the Bombay Zorastrian Jashan Committee formed a Special Committee to exempt the parsis from the Bill. This Bill also lapsed when Parliament was dissolved in 1984. The Adoption of Children (Regulation Bill, 2001 – is a bill to regulate the adoption of children and for matters connected therewith was introduced by a private member Shri Iqbal Ahmed Saradgi in the Parliament.

The sale of children in the garb of Adoption Bill, 2002 had been introduced in the Parliament. These were two of Bills with a view to check malpractices in adoption laws and for the provision of a uniform law on adoption for all communities.

We made deliberate policy choices in our Constitution through Article 14 and 15(1). But providing a law to children of only one religions community is a gross violation of these constitutional mandates and a blatant injustice to children. The decision of the Supreme Court in the case of Bommai vs. Union of India states that “Secularism is one of the basic features of the Indian Constitution while freedom is guaranteed to all persons in India from that point of view of the State, the religion, faith or belief of a person is immaterial. To the State all are equal and are entitled to be treated

31 Section 3(1) – Adoption of Children Bill 1980.
32 Article 14 – The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
33 Article 15(1) – The State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them.
34 JT 1994 (2) SC 215.
equally. This is a very significant decision in view of the fact that in India even adoption laws are religion based and that arguments based on culture, tradition and religion reinforce practices that lead to aggression and atrocities and injustice on children and prevent the formation of a uniform Civil Code.

There is no legislation providing for the adoption of an Indian child by a foreign parent. The only way in which a foreign parent can take an Indian child in adoption is by becoming a guardian of the child under the Guardians and Wards Act, 1890. The Guardian and Wards Act, 1890, applies to all minor children of any caste and creed though in appointing or declaring a person as guardian the court will take into consideration the personal law of the minor. Section 7 of the Act deals with the power of the court to appoint or declare a person as guardian. Therefore, a foreigner wishing to take an Indian child for adoption has to use the circuitous route under the Guardian and Wards Act, 1890. The order will appoint the person as guardian of the person of the child with leave to remove the child out of India and take it to his own country for the purpose of adopting it, in accordance with the law of his country. This procedure led to a lot of malpractices by social organizations and voluntary agencies engaged in the work of facilitating the adoption of Indian children to foreign parents. After hearing several social organizations and voluntary agencies engaged in placement of child in adoption, an exhaustive judgment was delivered formulating the normative and procedural safeguards to be followed in inter country adoption. This judgment was later followed by other judgments clarifying and supplementing the above norms and procedures.35

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The procedure for inter country adoptions laid down by the Supreme Court in Lakshmikant Pandey’s case\textsuperscript{36} can be treated as modern public interest litigations which have acknowledged inter country adoption as a means to rehabilitate abandoned children. These guidelines have put a stop to provide adoptions. All inter-country adoptions are adoptions directly by foreign parents through government recognized adoption authorities or agencies recognized by them in both sending and receiving countries. The judgments attempt to make every party in the adoption process accountable. There are certain regulating agencies recommended in the judgment like the Scrutinizing Agencies, the Voluntary Coordinating Agency and the Central Adoption Rescore Agency, recognized Child Welfare Agency (Placement Agency). The Child Welfare Agency processing the applications of the foreign parent must place sufficient material before the Court to satisfy it that the child is legally free for adoption.

The Supreme Court\textsuperscript{37} has recognized the Indian Council for Child Welfare and the Indian Council for Social Welfare as the agencies for the purpose of scrutiny of adoption cases. Scrutinizing agencies are appointed by the Court to facilitate the processing of applications as well as related documents with regard to the children being given in in-country and inter-country adoptions.

The Voluntary Coordinating Agency was established basically with the singular objective of promoting in-country adoptions. Establishment of Voluntary Coordinating Agency is based on the belief that in-country adoption is the best possible alternative for the


rehabilitation of an abandoned child and every child has a right to a family of its own, in its own social and cultural milieu.

In pursuance of the directions of the Supreme Court, the Central Government has set up a Central Adoption Resource Agency to act as a clearing house of information in regard to children available for in-country adoption and inter-country adoption and to regulate, monitor and develop programmes for the rehabilitation of children through adoption/guardianship. Central Adoption Resource Agency is now a part of the Ministry of Social Welfare.

The Writ Petition in the case of *Laxmikant Pandey vs. Union of India* was initiated on the basis of a letter addressed by an Advocate complaining of malpractices indulged in by Social Organization and Voluntary Agencies engaged in the work of offering Indian children in adoption to foreign parents, the letter referred to a press report based on “empirical investigation” carried out by the staff of a reputed foreign magazine called “The Mail” and alleged that not only Indian children of tender age are under the guise of adoption exposed to long horrendous journey to distant foreign countries at great risk to their lives but in cases where they survive and where these children are not placed in the shelter and the Relief Homes, they in course of time become beggars or prostitutes for want of proper care from their alleged foreign foster parents.

The Indian Parliament has failed in providing a legislative frame-work for adoption of Indian children in India and abroad. Article 32 of the Constitution of India gives any citizen the right to move the Supreme Court for the enforcement of the fundamental rights. Since in this case there was violation of Article 21 and 23 of the Constitution of India this was treated as a writ petition and normative and procedural guidelines were laid down by the Supreme Court.
Court to protect the exploitation of children, the guidelines laid are in conformity with the policy already laid down in Article 39(e) and Article 39(f) of the Constitution of India. Later a resolution was passed by the Ministry of Social Welfare to give effect to these guidelines. The need of the hour however is to have a legislation dealing with inter-country adoptions.

The status of children, who represent nearly 40% of the ‘Human Capital’ of India, not only reflects the quality of Life of people in the country, but also measures its Human Development Index. Today, investing in the requirements & priorities of children is considered to be sine qua non of a developed nation.

1.1 RESEARCH HYPOTHESIS:

‘Adoption’ is an institution which is recognized since the ancient times. This institution is not only recognized under the Hindu law but also Roman law, from there this institution spread to Babylonians, Greeks, Egyptians and States of USA and Japan. The basic purpose or objective behind the adoption is same i.e. to provide a child to a childless person and to continue the family line by means of artificial relationship of the parents and child. In India we have a specific statute the Hindu Adoption and Maintenance Act, 1956, an Act dealing with Adoptions. The present hypotheses rests on the presumption that even after the specific statute the two main thrust areas are still unchecked (1) It is applicable to Hindus only (2) It does not cover inter-country adoptions. For that matter, a comprehensive socio-legal study of the society is required and there is a need of legislation on above referred thrust areas.

1.3 RESEARCH METHODOLOGY:

The present Research work requires both theoretical and comparative study. The theoretical work deals with the literature
relating to rights of child on adoption. Various traditions and
custom, various support systems like constitutional, legal
government programmes and policies and also the International
Conventions and Conferences affecting the Adoptions laws are
discussed. The research work includes comparative study of the
foreign adoption laws of other countries i.e. Australia, Canada and
England and a critical analysis of how the system of adoption has
evolved and differentiation on the same basis. The research also
includes the recommendation to tackle the problem.

1.4 ANALYSIS OF LITERATURE

The literature resource for analysis is available in the form of
number of books, newspapers, magazines, internet sites, journals,
articles and conventions. The literature relating to adoption of
children, various customs and tradition, various support systems
like NGOS, Central Adoption Resource Agency, Child Welfare Agency,
government programmes and policy, international conventions and
conferences has been studied in detail. The internet had a
substantial effect to research work, without which the research
would have much more difficult. All sources of information, digital or
otherwise, have been cited in footnotes to the main text. One word of
cautions though: websites and Urls being rather transient in nature,
sometimes links might have lapsed. The footnotes only tell of those
sites that existed at the time of writing along with the date when they
were accessed.

1.5 UNIVERSE OF STUDY

A lot has been said about rights of the child in India. Most of it
emotional, some even poetic, but little of practical significance, child
adoption is a family experience found almost in every society of the
world and which has existed throughout history. There is a need for
comparative analysis of different societies to bring the ground root realities of this problem. Hence the present study is comparative. Analysis of adoption laws confined to foreign States i.e. Australia, Canada and England.

1.6 PLAN OF STUDY

The research has been presented systematically by dividing into Eight chapters detailed as under:

Chapter I gives the introduction of the topic, problem profile, universe of study, research hypothesis and literature analysis.

Chapter II gives the concept of adoption with focus on the welfare of the child’s interests which are paramount. In this chapter adoption in India is discussed as an institution of sonship, the ancient texts that speak of adoption have been well illustrated and the basic idea or reality of adoption in today’s society has been comprehended.

Chapter III deals with adoption under old Hindu Law
The decisions of Lords of Privy council have been illustrated and the ancient adoptions have been discussed in detail.

Chapter IV explains the entire Hindu adoption and Maintenance Act 1956 illustrating exactly what the adoption law in our country states so that a basic picture of what exists and what lacks in the law is presented.

Chapter V deals with the lack of adoption laws and its causes under Muslim law in India. It gives account of legitimacy, acknowledgement, concept of Hizanat quoting from various passages of the Holy Quran.

Chapter VI deals with adoption under other laws in India among Christians, parsis and jews and gives a comparative study of adoption laws of England, Canada and Australia to get an international perspective.
Chapter VII gives the historical background of inter-country adoptions, its causes, judicial guidelines, sale of children in the garb of adoption or the adopter racket emphasizing the problem and an international framework dealing with various conventions.

Finally based upon the analytical research, the conclusion has been drawn in Chapter VIII and few suggestions and recommendations have been submitted for implementation of child rights in adoption laws for the welfare and interest of the child.

“Adoption comes from the heart; but the adoption process from the law, You should follow your heart; but be sure you also follow the Law.”

Irina O’Rear