CHAPTER VII

Socio-Legal Consequences of Adoption
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SOCIO-LEGAL CONSEQUENCES OF ADOPTION

(a) Extinction of Adoptee's Relationship in the Natural Family:

An act of adoption produces consequences which have a great bearing on the adoptee's social, legal, religious and biological relationship with his father and other kins in the natural family. On his adoption his ties with the natural father are deemed to have been rescinded in general except his connections based on blood relationship, both lineally and collateral in the paternal as well as maternal line which are recognised to persist on an area of a fairly big amplitude. Most commentators and digest writers from the medieval down to the jurists of the modern times alike have drawn upon Manu's text on the subject, "A son given (in adoption) must never claim the family and the estate of his natural father; the funeral cake follows the family and the estate; (consequently), of the person who has given away his son, the funeral repast ceases."  

1. मात्र रिकान में जनितव मुख्यत जनि: कुल।
   मात्र रिकान : फिंदः, व्यापित दक्ष: लड़ा॥

   MS IX. 142.
Both the Dattakamimamsa and the Dattakacandrika draw upon the Smrticandrika to explain the import of Manu's text under reference here, affirming that from the mere gift of the son, his filial relation to his natural father is extinguished with the result that his right of ownership over the latter's estate and his relation through gotra to the family of the giver are annulled.\(^2\) The Dattakamimamsa refers to a text of Paithlnasi, viz., 'The sons given, purchased, and made and the son of an appointed daughter, who are here affiliated by another person through adoption, as propounded by an holy saint, are not sons of two fathers (being) unconnected to those of the (natural) family and propounds that those (sons), who are duly adopted according to the form laid down by an holy saint like Saunaka and the rest, are not connected to those of the family of the natural father and are, therefore, not sons of two fathers, viz., the adoptive and the natural.\(^3\) The implication is that the relation-

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2. \(\ldots\) दातृ-ने मृ दातृदेव युक्त-विनिवृत्ति दातल संविभ-निवृति-दातु-लौक-निवृत्ति व माती-अग्न श्रुती भविष्यादारः।

\(\text{DC}, p. 164, \text{DC}, p. 19.\)

The DC refers to this text of the Sm.C (II,p.289) without, however, naming the source.

3. \(\text{DC}, p. 160.\)
ship, as a kin, of the son given, with the natural father is terminated on the act of giving and adoption having been duly accomplished.

Explaining Manu's text under perusal here, Medhatithi states that since a son, on his adoption, does not inherit the gotra or the estate of his progenitor, he does not offer funeral cakes to him; a son offers funeral repast only to him whose gotra and property he participates in. In other words, the first hemistitch of the verse signifies the relinquishing of privileges by the dattaka son in

The S., admitting a different reading of Paithinasi's text here, holds that it may, alternatively, refer to the state where the son given, if various initiatory rites are performed by both the natural and adoptive fathers, is a son of two fathers, namely the dvāmusyāvāna:

In that case, would read as tā teṣāṃ jñātā nu gāyagatikā, implying the absence of extinction of kinship of the natural son, given, from the natural family.

Notwithstanding its retention of the reading, the DC (p. 27) takes this text as relating to the latter case where a son affiliated through adoption in accordance with the prescribed form, under an agreement between both the natural and adoptive fathers, belongs to both of them. It, however, bypasses an explanation as to how it would construe asāntetakulīnah in consonance with the interpretation which is put on the passage under review:

In that case, would read as tā teṣāṃ jñātā nu gāyagatikā. ...
the natural family where as, quite consistently with that, his natural father shall relinquish the privilege of receiving the funeral repast and other obsequial offerings from the son whom he has given away.

This has led modern jurists into constructing a fallacious and so, misleading legal fiction which has drawn courts on delivering contradictory and unwarranted judgements. Not realising that there were provisions, in several authoritative legal texts, subjoined to this text of _Manu_, investig it with adjustability to different sets of circumstances, they construed it literally and applied rigidly. A learned judge observed that the theory of adoption involved the principle of complete severance of the son given, from the family of his birth, both in respect to the paternal and maternal lines and his complete substitution in the adoptive family, as if he were born in it. The Privy Council also upheld

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the view expressed in this case. This legal fiction was stretched so far as to yield the result that the adopted son was 'treated as having been born from his birth in the adoptive family and as having never been in the natural family'. Again, Sir Asutosh Mukerji, citing Manu IX. 142, observed "an absolute adoption appears to operate as birth of the boy in the family of adoption and as civil death in the family of birth, having regard to legal consequences that are incidents of such adoption."

Construing the text of Manu in the same manner, the Bombay High Court held that a man, though he may be absolutely entitled to an estate as sole surviving co-parcener in a family, will, on his subsequent adoption into another family, forfeit that property which will then pass on to his heir as if he had died on the day of his adoption. 

8. Dattatraya v. Govinda 40 Bom. 429 (pp. 433-434 for MS IX. 142); Manikbai v. Gokuldas 49 Bom. 520.
decision in an intervening case, the same court held, quite inconsistently with the decisions in these two cases, that a separated coparcener, on his subsequent adoption, could not be divested of the estate which he had already taken at a partition of the ancestral property between his father and his sons on the plea that the share taken by him could not be said to be the estate of his natural father within the meaning of Manu, IX, 142. The Privy Council, as noted above, at first approved of the application of this construction put on the text of Manu, but later, thinking that matters were being stretched too far, sounded a note of caution, "As has been more than once observed the expressions 'civilly dead or as if he had never been born in the family' are not for all purposes correct or logically applicable, but they are complimentary to the term 'new birth'" and disapproved of the decision of the Bombay High Court decreeing the forfeiture of property already vested before adoption in Dattatraya v. Govind 40 Bom. 429. The Madras and Calcutta High Courts did not admit

of this interpretation of the text in question and held that an adoption did not divest any property taken by an adopted son 'by inheritance, gift or under any power of self-acquisition prior to his adoption' into another family'.\textsuperscript{11} As will be seen hereinafter, the Privy Council was right in adding a rider to this legal fiction.

It may be noted that the rule contained in Menu IX.142 rescinding relationship of the son given from the natural family and admitting him into the kinship of the adoptive family, is based on four terms, viz., gotra, riktha, pinde and svadhā which signify all those consequences connected with them and recognised by legal authorities. It will be found on examination of authorities that not an inkling even of the concept of 'civil death or birth' is associated with the law of adoption. The theory of complete severance of connection, through oblation of food and succession, is applicable only in a

\textsuperscript{11} Venkata Narasimha v. Rangavva, 29 Mad. 437; Behari Lal v. Kallas Chunder 1 C.W.N. 121; Shyma Charan v. Sricharan 56 Cal. 1135.

restricted sense and in a case no more than the one where the son given is an absolutely adopted one whose progenitor has, besides the one who has gone out of the family on his adoption by another, other son or sons and, not in a case where the progenitor either has no other son or dies sonless. Furthermore, some other related issues remain unaffected. Thus, it is held by various authorities that where the progenitor is sonless or dies sonless without a survivor entitled to perform his obsequial rites (putrādyāvāhāvē), his son, whom he has given away in adoption, performs funeral repast and other obsequies in honour of such father and his other ancestors and the rule of Manu does not obtain in such a case.12

12. तथा क्षुद्राधिकारिनः: घृणात्मकः पापः। एण्वन्यादिको गोऽ भृत्य: पुरुषः।

-Hrudraskandha on Khādira-grhā, III. 5. 16;

III. Uttarārdha. p. 389.

From what is attributed to Visnu in this passage of Sarasvativilāsa, it may be deduced that Visnu
The *Dattakacandrika* refers to the objection that technically speaking, only the son of the wife, viz., the *ksetrajja* can bear relation as a son to two fathers and that this relation cannot apply to the son given on account of Manu's rule that he does not inherit the *gotra* and estate of his progenitor. Obviating this objection on the grounds given hereunder, it affirms that the general adopted son may be son of two fathers. It further affirms that the general rules governing the *ksetrajja*, viz., that he is lawfully heir and giver of funeral oblations of food to both the natural and adoptive fathers, performs two funeral repasts or one even (designating both severally at each oblation) in honour of the progenitor and the adopter including two ancestors in immediate ascent above each and is related to both the families including the patriarchal saints (i.e., *gotra* and *pravara*), apply to the adopted son, too.

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does not admit of dattaka son's right to offer funeral repast to his natural father on account of Manu's rule, while Kane's inadvertent interpretation as Visnu enjoining upon the dattaka son to perform the obsequial rites of his natural father in this passage, viz., 'Sarasvativilasa quotes a text of Visnu that even the adopted should perform the obsequial rites of the natural father and explains that Manu IX. 142 applies when the natural has no issue at the time of his death', is wrong. Vide *HD*, Vol. III, p. 692.
1. Baudhāyana rules, 'what is declared in respect of one even, of many who are governed by the same law, is applicable to all of them, since they are considered of the same description'. Here, the son of the wife, the son given and the rest excluding the son of a remarried woman and one begotten on a woman of servile class (who, like the sūrṣe, are begotten by the man himself), are treated to be of the same description. So, what applies to the kṣetraṅga also applies to the dattaka son.

2. The following text in the Pravarādyaya of Sāṅkhvāyana has a general application to the substitute sons -

He should perform two funeral repasts (srāddha), or at one, contemplating them separately, he should designate at each oblation (ekaninde) both the adoptive and natural fathers.

3. The Setyāsādha, through its compendious rules 'of absolute dvīprāmyavāṇas, of both', propounds the relation of the kṣetraṅga sons to both the natural and adoptive families through praṣāra and etra, and applies the rules regarding these sons of the wife who are designated as 'absolute dvīprāmyavāṇa-s' to
the sons given and the rest who are called 'anitya dvyāmasyavānas' (not in all cases so) in virtue of the analogy contained in its other aphorism, 'of sons given and the rest, like the dvyāmasyavānas.'

However, the relation to both the families is restricted unto these only and not to issue beyond. In the case of descendants beyond the son given, the gotra, i.e., family is determined through him in the manner as under:

(a) Should there be a compact between the two [fathers] stipulating the relation of the son given to both, he will participate in the families (gotras) of both,

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13. नु ताजकस्य विदितातुल्य हैः। ... उपयोगस्यकः सद्य रिकाठा व आर्यतात्तिति। दस्तम् द्वैत तद्नवर्त प्रतिहृद् ताज्जवके ... दशमं: हुतः कति प्राप्यतमम् वयः तत्तितायार्यायमार्यायापिका कति दलादिश्चपि। 'संयात्यक्ष्यायीप्राप्तयात्यापि यथानै।
सौन्यायैम पत्तुयायात्मक्याः सि।।
हरति लोकायमन्ने नौकायमन्ना नाति। 'ब्रह्मवर्ते भूर्वीते हेताः क युकमदिनाय एकप्रियः क द्रातुकीये नैदृश्य प्रतिस्वतारं वोत्तोपातितारं बायती कातु पुरुसारं नैदृश्यायम प्रसारते तात्या रामायायेकार्यायेकार्यायायस्मात कार्यावर्ते दलितादिश्चपिदित।। उत्तरता दलितादिश्चपिदीः स्रिविद्याम् द्वारात्यक्ष्यापतान्त द्वैतं तत्तिताः कति प्राप्यतमम्। नवस्य मन्त्रायमन्ना द्वारात्यक्ष्यापतान्त न नवस्य मन्त्रायमन्ना नवस्य मन्त्रायमन्ना द्वारात्यक्ष्यापतान्त द्वैतं तत्तिताः कति प्राप्यतमम्।

(b) if all the initiatory rites have been performed by the natural father he will participate in the family of such father, but

(c) in the case of such rites having been performed by the adopter, he shares the family of the latter.\(^\text{14}\)

The *Dattakaśandrika* further propounds that the adopted son, under all circumstances, irrespective of whether a special compact (that the son shall belong to both), on the part of the adopter, is non-existent and the natural father has no other son, and whether there exists such compact on the part of that person and the natural father has other issue, the filial relation to both the natural and adoptive fathers does obtain.\(^\text{15}\)

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\(^{14}\) This is DC's interpretation of *Sabara's* gloss on the two compendious rules of *Satvāśādha*, namely, 'नियमानुसार इत्यादि यथा' and 'दलस्यानी यथासंबंधात'. See also fn. 3, p. 217.

\(^{15}\) नियमानुसार इत्यादि यथा तस्मात नियमानुसार पत्तंधोपदेशे तथा विपि नियमानुसारे व विप्पक विधिक विधिका। DC, p. 29.
Thus, in case the natural father has no other issue begotten on his wife, the adopted son (whom he has given away to another), will not only offer, in his honour, oblations of food (i.e., pinda), consecrated to three ancestors, but will also inherit his estate. However, where such issue of the natural father exists even, the adopted son, all the same, will offer oblations of food to both even, (but will not, as the text seems to suggest, participate in the estate of the natural father). Both the Dharmasindhu and Nirnavasindhu are declaratory of the same import.

DC, p. 29.

NS III Uttarāṇdhā, p. 389.
It has been noted that the Dattakacandrika considers every general adopted son as bearing relation to both the fathers and their families extending at least unto himself whereas the DattakamImamasa does not hold every adopted son to be so. Accordingly, should a son, directly on being born, be adopted - since his initiation under both the family names would be wanting - he would be related to the gotra only of the adopter. Unlike the Dattakacandrika, the DattakamImamasa treats the dvyamuskavyapasas, who are sons of two fathers, as of two descriptions, viz., nityavat or nitya dva.

It may be noted that the reading in the part of the text, viz., यथविर्यस्यार्थायामेव दयायः in DC (vide fn. 16 above, p.258) is better than the one in NS quoted herein above which reads as यथार्थ्यस्यार्थायामेव दयायः. It is obvious that under the general law itself a son given is affiliated only in case where the adopter has no other son and that the former performs his funeral repast and other obsequies. To include the same import in यथविर्यस्यार्थायामेव etc., i.e., in the event of the adopter having no son, the adopted son would offer funeral repast to him, would mean a needless repetition of the general rule and to restate what has already been said in the related part of the text preceding it, viz., यथविर्यस्यार्थायामेव 'should there be no other son of the progenitor or begotten on his wife', would be unmeaning. As a matter of fact, the first part of the text propounds a special rule and the premiss in the latter clause has to be in sharp contrast to the former. Therefore, the construction of the text in simple words should run as: Should there be no other son of the progenitor etc...
musvavanaś i.e., absolutely sons of two fathers and anivyavat or anitva dvāmusvavanaś i.e., those who are incompletely so. Where a son is given with the compact between the natural father and the adopter that 'he shall be a son unto us both', he belongs to the first category and if he is initiated by the natural father, in the ceremonies ending with that of cūda i.e., tonsure inclusive and by the adopter, in those beginning with that of the investiture of the characteristic thread, namely upanayana and the rest, he will be distinguished as the latter. The Dattakamāmāsā assigns initiation having been performed under the two family names as the cause of the state of being an anitva dvāmusvavana (tesām potradyavenā- pisāmsktatvat). The Dattakacandrikā also,

if the progenitor has other son or sons etc...
Thus, the construction of the text in the Dattakacandrikā, viz.,... is correct and preferable.

The text of ES cited above (in fn. 17), viz.,... occasions similar criticism.

18. DC, p. 26; (fn. 14).
19. Dvāraka tasyaśārāṇaḥ nā turamāyāyāt vā niḥsūra māyāyāt
   -śekita. Tasya nāturamāyāyāt vā niḥsūra māyāyāt vā
duḥānti?

Dvāraka māyāyāyāt vā niḥsūra māyāyāt vā duḥānti?

Dvāraka ṇiḥsūra māyāyāt vā niḥsūra māyāyāt vā duḥānti?

Dvāraka māyāyāt vā niḥsūra māyāyāt vā duḥānti?

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without however making any such distinction between
the *nitya* and *anitya dhyāmusyāyanaḥ*. treats a son,
whose initiatory ceremonies are performed by the
adopter beginning with or without or repeating even,
that of tonsure or with that of the investiture of
the sacred thread and the rest, as a son of two
fathers and as belonging to two families. But
according to the *Dattakacandrika*, performance of
initiatory rites by both the fathers is not the only
cause for producing the state of being a *dhyāmusyāyana*,
rather the legal stipulation, as described above.

20. For the repetition of the ceremony of tonsure -

* Janasatāyaṁ kūrputraṇaṁ kṣaśāyaṁ pucchaṁ nivāhitaṃ ārtīasteṇa anārtīasteṇe t tārāparśuṣu. | DC, p. 22 |

... *kūrputraṇaṁ kṣaśāyaṁ pucchaṁ nivāhitaṃ ārtīasteṇa anārtīasteṇe t tārāparśuṣu. | DC, pp. 24-25 |

sva upanīyasyāyaṁ pucchaṁ sādhuḥ-śrīkālm | ———

—- v such ca janasatāyaṁ kṣaśāyaṁ pucchaṁ nivāhitaṁ svātā suvāyuḥ kālaṃ sugedantīmātā gacchati | DC, p. 19 |

The DC's classification of the sons given is of
a broader nature; it characterises an absolutely
adopted son as *Suddhadattaka* and the one who is
between the two fathers is treated by It as the binding condition (ubhavorapi putrābhiscandhāne sati, DC, p. 19; tacca— abhisandhāne sati bodhavan, DC, p. 25). It may further be noted that in the explanation of a passage of Paithīnasi, the Dattakamīmāṃsā adds samaskārakatve, whereas the Dattakacandrikā does Svīkārene as the condition producing the state of dvvāmusvāvāna. The Dattakamīmāṃsā also differs with the Dattakacandrikā on its interpretation of Śabara’s gloss on the two aphorisms of Satvāṣādha and asserts that he alone, who has been initiated under the gotras of both the fathers, is related to the families of both and this relationship does not extend to his descendents. If his initiation unto the ceremony of tonsure inclusive is performed by the natural father, the family is his, where as, if his initiation is performed by the adopter in all the ceremonies beginning with the one for the male born, namely, jātakarma and the rest or at least with that

a son of two fathers as simply dvvāmusvāvāna. It seems to agree with the Satvāṣādha to christen the kṣetra as nītvā-dvvāmusvāvāna and the dattaka, in general, as anītvā-dvvāmusvāvāna, or, to be closer still, simply as dvvāmusvāvāna.

of tonsure and the rest, the family in the case of
descendants is of the adopter.\textsuperscript{22}

Thus, it has been seen that the adoptee's relationship is not completely extinguished from his natural family at least under all sets of circumstances as understood by the modern authorities, while in the case of an absolutely adopted son even, the ancient authorities, by and large, entitle such a son to inherit and offer funeral repast to his natural father and other ancestors where the latter either has no other real son or sons, or dies without such a one. That his biological relationship or ties of blood still persist will be discussed in the sequel.

\begin{itemize}
\item \textsuperscript{22} For the DC's interpretation see fn. 14, p. 227.
\end{itemize}
(b) **Transfer of the Adopted Son into the Adoptive Family**

Adoption brings about a substantially significant change in the socio-legal status of a child who, on his being given away, loses all his rights in the family of his birth and is transferred into another family which is naturally not his. He is treated as equal to a natural born son in the adoptive family and is invested with all the rights which a real son would have in virtue of his birth there except in a few well defined situations. Unlike as in the modern law, the ancient and medieval Hindu law does not treat the transfer of the adopted son as operating as an absolute and complete new birth in the adoptive family. As will be seen in the sequel, a situation may occur when he is treated as a second class member of the family, turned from prominence and relegated to a subsidiary status.

The locus classicus on the subject, here again, is the text of Manu IX. 142. The Dattaka-mimamsa reports Smriticandrika's deduction from this text that from the act alone (of giving), result the

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23. fn. 1, p. 216
creation of filial relation of the son—given (with the adopter), the ownership of the former on the estate of the latter and his connection to the adopter as belonging to the same family, viz., gotra. Manu’s text does not expressly declare the adopted son’s participation (i.e., bhāgītvam) in the family and estate of the adoptive father. However, since his participation in the family as well as the estate of, and the performance by him of the funeral repast in honour of, his natural father are barred, the adopted son’s partaking of the family and estate of the adoptive father is implied. This is the import of the author of the Sūrticandrika. According to the Mañjari, the act of gift, comprising two (distinct but inseparably connected) parts, on the part of the natural father, consisting in creating the property of another preceded by the extinction of the self, is productive of the filiation of the adopted son to the adopter. By the first part, namely 'extinction of the property of self’, through the

24. लोन पुष्पसापारः-क्षणमिश्र दस्त्यंपह धर्मजीवनेन रक्तश्च तदौ-भागीत्वं च महति। —— हस्ति वार्तालाकारः !

IM, pp. 163-164.

For the intervening text extinguishing such relationship of the adoptee in the natural family, refer to fn. 2, p. 247.
termination of relation of son, the property of the son-given in his natural father's estate and his connection to the family of the latter is annulled. And by the other part, namely, 'creation of the property of another', the adopted son's ownership over the estate of, and acquisition of the gotra of, the adopter, follow. This has been explained to be the import of the Srti Candrika on Manu IX, 142.25

Though, the Dattak Candrika omits the first part of the Srti Candrika's explanation of Manu's text as referred to above,26 an inference may be drawn that it admits the filiation of the son-given ensue with the adopter to his acceptance of the gift of such a son. It declares the incompetence of the

25. प्रतिलोकितं यथा पुत्रं तं दानार्थिकः या आयुर्वत्या नित्य दानहृदयः परं नैलोकत्मुक्तमात्रारतिक्षा बनक-पितृ-क्षेत्र दानश्रिया तत्वेतत्वः।

... वदुपुक्तगम्यं दक्षं प्रतिलोकितमात्रारतिक्ष्यं स्थायया नौर्तं तवार्थ जनाधिकारिकार्याणि विनिष्ठा कृताधिकारणां निजेऽर्थम् दक्षं प्रतिलोकितपञ्चाक्षरम् चं तत्त’भावाद्

- Manu, on Dv., pp.163-64.

adopter to perform those initiatory rites of the adopted son, which should have taken place prior to his adoption, since his authority to perform the initiatory rites results from his relation of father (to such a son) which takes place only subsequent to adoption.\(^{27}\) It seems to imply that the filiation of the adopted son to the adoptive father takes place on the extinction of the property of the former over the gotra and the estate of the natural father, since it is only subsequent to filiation that the adoptive father is called upon to perform his initiatory rites, the authority to do which is primarily vested in the father.\(^{28}\) In effect Dattakacandrika's uniformity of import with the DattakamImāṃsa may be seen.

The DattakamImāṃsa further adduces a text ascribed to Brhan-Mānu in proof of the acquisition,

\(^{27}\) त्यं प्रजायन्त्यात्र निर्यन्तु संसारमहिमनानात् कुस्मांविशेष
संस्कारेणु प्रतिश्रवेतु रसतिकारः।

\(^{28}\) तथा व गाँधातिसिद्धान्त नरीनात् सच्चारं स्वतं निर्देश्यति ति
सच्चारं प्रजायन्तयात्र व्याह्यात् यद्व विद्ययं संस्कारं प्रतिश्रवेतु
कायः।

etc. as in fn. 27. above.
by the adopted son, of the gotra of the adoptive father. Brhan-Manu rules that though the relation as sapinda, of the son given, purchased and the rest, to the natural father persists after adoption even, as extending to the fifth and seventh degree, the state of lineage to the adopter is attained by such sons. Another of his texts also is confirmatory of the same import where it states that sons given, purchased and the rest, who are affiliated from amongst those of the same general family acquire the state of lineage, though not the relation as sapinda. That the term gotrata in the phrase, vidiham gotratam vyanti, signifies 'the state of offspring' implying that sons given and the rest become sons of the adoptive parent is confirmed by two extracts, one from the Kālikāpurāṇa, and another from a Sanskrit Glossary called the Trikāndi or Astrapakṣa. The relation of sapinda here, refers

29. ... प्राप्तिता जनाधिङ्गास्ते तव जनाधिनः -
देश्योत्तरिन्युज्जिातः शेषस्याः सप्तिप्रत्या।
विभिन्नावृत्र तत्रां तत्पातस्य ॥

30. काठकृष्ण जूला तु हुसेनदेवादियः पुत्रः।
सिद्धिन्ता गौरवः यथादि न महापित्यं चिदार्ज्यः ॥
दत्तात्र वर्ष नव फिसलावेच सशास्त्रः ॥
आयातित पुत्रः सर्वप्राणवोक्तमथुयः ॥

रति कारककिरक्नाताय।
'काँग्रीमण्डल' शास्त्र किं शिक्षाय? शास्त्र किं शिक्षाय? ॥

DM, p.164

DM, pp.42-43.
to the kinship based on bonds of common blood and not to the one that obtains through oblations of food to common ancestors.

The great stress laid by the Hindu legal authorities on the consanguineal proximity of the adopted son to the adopter, in which is reflected a highly purist Aryan mind, is intended to effect the transfer of the adoptee in the adoptive family as much real and close as could be possible. The best choice would be, therefore, from amongst the sapindas belonging to the same general family. In all instances of adoption, however, the adopted son and the adopter must belong to the same tribe (or class i.e. jāti). In no case should an adoption be made from a different class. This is what Vasistha has been reported to

32. कथं तु न गा रूपिष्टिः। यथा सपिण्डः सपिण्डः स्वयः न संप्रवैत।
तथापि- ।
‘सपिण्डः सपिण्डः’ जातिकेव न वा=भन्।
कति वा कण्तकृतं सपिण्डः सपिण्डः नं क्यालोक्तवेन विशेषणास्तिकान्तिः-याः: सपिण्डः कर्मफळात्र या कलान्ते। -- तस्यादः तसां जातिकेव ।
न पूरोक्षयं तत्त्व सिद्धि। DM, pp.50-52.
जातिकेव न वा कण्तकृतं तत्त्व सिद्धि। कालांकण्ड्यासु रूपं सिद्धि।
विशेषणाः निर्दिष्टार्थाः: DM, p.7
ordain in his dictum, 'let him adopt an unremote kinsman (or) only a near relation of a kinsman.'

Should a doubt arise as to the lineage and disposition of one adopted, whose kindred are remote, on account of a great difference of country, language and the like, he should be set apart like a śūdra and be not initiated till the ascertainment of these particulars.
The rule of the same tribe, however, has not been held to operate as absolute. The relation, of one affiliated from a different tribe, as son of the adopter is legally conceded, but he is denied his rights in full as a son. His competence to present oblations of food and water and to inherit to the adopter is barred. He is held to perpetuate only the family line of the adopter, and, since he is beneficial to a small degree, he is entitled to receive only maintenance. Contending against the view of the Kalpataru, the Dattakarnikamsa holds that the relation of son is not produced in such a case.

35. अप्रतिकृतिभ्यस्त्रावृताविराशिति ग्रामेननायकितः तत्त्वाभिप्राप्तिः।

36. जूठोरूपी किं किं फलो राजसो जीरीताः बलिति || तद्दृढंग्राम-विवरणायपते सम्पर्वतम् || विण्डवी कर्षिणानि पशुभिः।
Three forms of procedure\(^{37}\) have been described to make the transfer of the son-given, complete, religiously, civilly and legally complete - one by Śaunaka, the other by Vasistha and still another by Baudhāyana. Each of these forms contains four important provisions, viz.,

1. Notice to the ruling authority - the king or the chief of the dominion where the parties reside - which gives legal sanction to the act of adoption;

2. The act to be completed in the presence of the kinsmen invited, who bear witness to the act of adoption; this has significance of civil and legal nature;

3. The ceremony of actual giving and receiving the child, which is the most important and essential part also in the modern law. Without this, no adoption is deemed legally complete; and

4. The performance of a burnt sacrifice, called the dattahoma. According to P.V. Kane, this religious ceremony is also one of the requisites in some cases.\(^{38}\)

\(^{37}\) DC, pp. 13-17; DM, pp. 146-153.

One of these modes of adoption is considered indispensable, for, otherwise, as the Dattakamīmāṃsā holds, the relation of the adopted person as son of the adopter is not established. If, however, one be adopted without observance of the rules of procedure ordained, he will be entitled only to assets sufficient for his marriage and not to partake of the estate, of the adopter.

Another requisite to complete the transfer and to create the filial relation of the adopted son to the adopter is the performance of the initiatory
rites or him by the adopter under his own family name. Should either of the ceremony of gift and reception of the son—given or the performance of dattahome and the like be wanting, the relation as son will not be produced at all. Hence, the filial relation must be completed by the performance of the ceremony of tonsure and the rest, preceded by the one for male issue, by one of the three regenerate tribes. In the case of a śūdra, such relation is produced by the ceremony of marriage even.

Even if the adoption were complete in all respects, should a real legitimate son be subsequently born, his rights as a successor to the adopter and his competence to perform the funeral repast and other obsequies are adversely affected. In such a situation, the adopted son receives a fourth of a share and not 4/4.

42. कन्याकृप युवयुक्ता वरी का गायत्रि का (किसानकिसा) प्राप्तीकोना रक्षाणी जम्मू राष्ट्रोत्तरतकिनिना वापादिति: संज्ञानैते
कृपाकृपानीय: पुलां प्राप्तकाल्ला यान्यकेलवेष: | DM , p.122;
तस्यादानाक्षाच्युत संज्ञानिनिः पृथ्वी पुत्रार्थमिति नियत |
दानप्रज्ञान-निवासनन्यतारसे तु प्रत्येकाप्रत्य रद्देति | DM , p.161.

43. पुत्रार्थमिति, कार्यवाहिता शावक रास्ते पुनोपस्वबुद्धाबिनम: पुलां सम्बन्धमाय | त्रिष्णा तु वहार निर्वापार्थमिति संस्करणात् | LC, pr.92-23.
an entire share from the estate of the adopter.44
But the Dattakarmāṇḍakā permits a moiety of a share in
case the adopted son should abound in virtues and
the real legitimate one be destitute of the same.45
Referring to a text of Saunaka that 'if other sons
are born subsequent to the adoption of a son—should
the father then divide his estate — let the adopted
son not partake of the share of an elder brother', it
bars the adopted son's right of primogeniture if a
real legitimate son is born subsequently.46 In the

44. तचन्दनके प्रविष्टिः कारेस उ पेश सदा इसकाँचिष्ठ जागते न
    स्वाणिष्ठगृः।
    तद्यथे प्रविष्टिः -- कुर्मालमानापि यदि नामवस्त्वेऽधिः प्रविष्टिः
    स्वाणिष्ठगृः।
    (i.e., provided the estate be not expended
    in acts of merits), DC, p. 41.

45. तदनु गुणावसृ यदिरेष्ट म वेष्टवर्षानेत्र वेषित ज्ञयतु --
    कुर्मालमानापि सत्याश्चिन्ता नर ज्ञयतु।

46. प्रविष्टिः उवाच
    वाताः यानाः गुणेऽधिः दशायत्प्रविष्टिः।
    यादवालास्मातिः तन्नामाज्ञानस्येऽधि।२२ तति
    वत्परिणामानवा तर्मास्मात्स्फोटानां न दलोऽ
    उवाचाश्चाभिः।२२ DC, p. 163.
same way, where a real legitimate son exists, the adopted son, though taken before the birth of the former, is not held competent to officiate in the sixteen funeral repasts ending with *sapindikarana* of his adoptive father, since his seniority on account of age is denied. Otherwise, that is, a real legitimate son not existing, the adopted son is treated like a real son in every respect, with the exception that, on the anniversary of the day of death, only a real legitimate son is entitled to perform a *pārvana* rite in honour of the mother and father, whereas an adopted son is competent to present a funeral repast dedicated only to a single ancestor. According to the *Dattakacandrika* the competence to offer a funeral repast of the *pārvana* form vests only in the legitimate son who preserves a consecrated fire. A funeral repast presented by

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47. तत्र वित्तुः सपिण्डिकरणात् तपोहते शाश्वे वर्तते पुनःशीतलवेष्ठिः पितृस्योऽसे नारिणीकारः। 'बौद्धे पुनःशीतलवेष्ठिः तेषु ज्योत्स्य न क्षये।।
जति देवति ज्योऽसे प्रियोतिष्टिणानात्। 'गुणदृष्टि: अहरस्ववर्णाणां पुष्पानानं धर: परि: परि: सत्तियाः पारस्तथाजनः। वन्याः वेदोऽसे कृष्णु।

DC, p. 28.
him in honour of three ancestors, while the one by the adopted son is dedicated to a single ancestor. 48

The consanguineal connection, called the avayavanvaya-sapindata of the adopted son, in general, as extending to the seventh degree, is considered to persist only in the family of his birth. But of the absolutely adopted son, characterised as the Sudhade-stetaka by both the DattakamImams and the Dattakacandrika, the relation as one connected by oblations of funeral cake is held to exist only in the adoptive family. This relation of sapinda which extends to three degrees in the adoptive family is considered to have terminated from his natural family on his being given away in adoption. However, in the instance of the son of two fathers, i.e., the dvayamusyavana, the relation as sapinda by oblations

48. तपासतः सनां तपासे पालापिण्यद्वारा पालापिण्यसापिण्याय। सापिण्यसापिण्याय राजास्वामिण्याय। अभिनवसर्वोपवर्तिनाय सापिण्यसापिण्याय सापिण्यसापिण्याय। ल.प. २५२।

तपासक्षे सु निराशी: द्वारा द्वारास्वामिण्याय राजास्वामिण्याय। अभिनवसर्वोपवर्तिनाय सापिण्यसापिण्याय। निराशी राजास्वामिण्याय। अभिनवसर्वोपवर्तिनाय सापिण्यसापिण्याय।

LC, p.28.
of funeral cake, is ordained as extending to two sets of three ancestors, i.e., one set of ancestors in each of the natural and adoptive families. Accordingly, an adopted son has to perform the rite of *sapinda-karana* as extending to three degrees, i.e., associate his deceased adoptive father by admixture of funeral cakes to two other deceased forefathers in immediate ascent over him; a *dvaamsa-vayana* son has to do the same in both the families.

Except in the case of the *dvaamsa-vayana* son, there is no reciprocal impurity occasioned by birth and death in the natural family of the adopted son.

49. वधारण सापिण्यम्। जन्म-कुल तत्वका-स्पु, प्रतिशिष्टयानु-कुले व 
पिण्डान्येन सियोऽ-पुत्रम्—प्रजानकय तु गोकुले—संगीतिः। 
पिण्डान्तिया-श्रेयसां प्रविष्टी-धरकुम र सापिण्यसंपत्तिः।

DC, pp. 32-35.

प्रजानकय तु प्रतिशिष्टीतैः पिण्डान्येन सियोऽ-पुत्रम्—सापिण्यसां 
सापतायेन श्रेयसा-वग-प्रशिष्टे श्रेयसां।


शशिमुन्नता तिपुह अपाकिः प्राप्यवाणानां तथा श्रेयसां।


The DC reads त्रु in place of त्रु and सचिवीकरण instead of सचिवीकरण of the DC’s text.
The adopted son has to observe mourning on an occasion of death, for three days only in the adoptive family, while the son of two fathers does not so in both families.  

(c) Recognition of Blood Relation or Consanguinity

As it is in every other social group, a man, a woman and their offspring form the nucleus of an Aryan family. The family further expands into larger groups of sapindas, sagotras, samâna-pravaras, samânaprakas and the rest. The persons related as sapindas are the result of the first extension of primary kinship of the mother, father and their offspring, while the sagotras and the rest are larger groups of kindred. The term sagotra is used 'in the sense of the group of descendants of a common rsi ancestor.' The names of these rsi ancestors who were

50. अथ दक्षारूणीपिन्यः। तत्व जन्मने परम्परा नास्ते।।

--- तत्मात्राकल्पकादेनो व परम्परा नाश्चाँ।।


5

तत् उक्तदेवू स जन्मने परम्परारूपे नास्ते, गौरवापिण्यपिन्येऽस्मात्

रज्जुविनित्यैर्प्रिसिद्धिच्छव्य। द्रापुष्पः प्राणस्य द्रापः कोलानां मिति।

DC, p. 34.
great men of eminence were used by such descendants as their family names which 'ultimately came to be known as gotra names after long generations had passed from the common ancestor.'\textsuperscript{51} Samāna-pravara connects the members in a still larger community, for, 'pravara is the name given to a number of rsi-s who are associated together, with the founder of the gotra and all of them are supposed to be ancestors.'\textsuperscript{52}

The two factors, which have played a very important role in the extension of kinship to gotra-s and the rest, are -

1. Recognition of blood relationship based on the concept of common descent from a rsi ancestor, and

2. A belief in the spiritual kinship created by their common sacrae in honour of their ancestors and other rituals like the eighteen initiatory rites, namely, samskāra-s, performed on the sons.

\textsuperscript{51} Sen-Gupta, N.C.: EAL, p. 165;

\textsuperscript{52} Sen-Gupta, N.C.: EAL, pp. 97-98.
An analysis of the term *sapinda*, which has been derived from *pinda*, will prove fruitful. It may be split as *samanah ekah pindah vesam te sapindah*, meaning that the term in question includes all those who are connected through common *pinda*. Again, on the basis of the meaning given to the term *pinda*, the relation of *sapinda* has been explained to denote kinship of two descriptions, viz., through consanguinity and through connection by oblation of funeral cake.53

Madanapārījata, Vijñānāvāra, Vācaspati and the rest have taken the word *pinda* to mean 'body' and explained the relation of *sapinda* to imply consanguinity. Accordingly, it includes all those who are connected with the same body by participating in the particles of the body of the common ancestor.54 The kinship of the son, who has been described to proceed from the virile seed of the father and the uterine blood of the mother is nearest and most patently physical. The son is further connected, by bonds of common blood, to his ancestors through his father and mother, who,

53. विनियोरे फै सापिंदाः दसांनां वेसम् ते सापिंदाः।

54. सापिंदाः व विनियोरे पृथिवीस्वर दसांनां वेसम् ते सापिंदाः।

M. nj., DM, p. 182.

M. nj., DM, p. 42.
in their own turn, are similarly connected. Thus, in this sense of the relation of sapinda, all descendants of common ancestors, both agnatic and cognatic, however remote would be included. But this sense has been excluded and limited only to the kindred agnaticis both of the father and the mother as extending to the seventh degree inclusive and to the fifth degree inclusive respectively.\textsuperscript{55}

The word pinda also means the lump or ball of rice or funeral cake presented to the deceased ancestors in the obsequial rites performed in their honour. Accordingly, the Candrika, Aparka, Medhatithi, Madhava, Jumut vahana and others explain relation of sapinda as kinship through offerings of funeral cake to the common deceased ancestors and includes all those who participate in such offering.\textsuperscript{56} Sen-Gupta explains

\textsuperscript{55} या व चपिंडा विकरोऽर्य पैलायामाहों संतमीति। पंपायोऽर्यों पंपायों। पंपायोऽर्यों पंपायों। चकपोऽर्यों। चकपोऽर्यों। चकपोऽर्यों। चकपोऽर्यों। चकपोऽर्यों। चकपोऽर्यों। चकपोऽर्यों।

\textsuperscript{56} सम्पिंड्या संस्कृतीमन्दिरयुक्तान्वितं विज्ञाप्तं विज्ञाप्तं। सम्पिंड्या संस्कृतीमन्दिरयुक्तान्वितं विज्ञाप्तं। सम्पिंड्या संस्कृतीमन्दिरयुक्तान्वितं विज्ञाप्तं। सम्पिंड्या संस्कृतीमन्दिरयुक्तान्वितं विज्ञाप्तं।
's pindas are offered to the three ancestors, these with the offeror himself and, on the other hand the three descendants who offer the pindas together constitute the seven members of the sapinda group.\textsuperscript{57}

The Matsyapurana has also been reported\textsuperscript{58} as describing the relation of sapinda through obsequial offerings as extending to the seventh generation, "The fourth in degree and the rest are partakers of the wipins (of the oblations). The father and the rest are participants of the funeral cake. The seventh in descent, is the offeror of the cake. Of these, the relation of sapinda extends to the seventh degree."

As implied in the second factor herein above, the religious ceremonies and rites are supposed to have supernatural effects making or breaking spiritual religious or even civil relationships. As a result of the marriage ceremony the wife becomes spiritually kindred, her gotra is changed to that of her husband.

\textsuperscript{57} Sen-Gupta, N.C.: EAL, p. 162.

\textsuperscript{58} तत्त्वमात्रपे: सापिंदा का सापिंदा पत्नी: सपथं बतावति गोरीता। ।

\textsuperscript{59} दिलीप, p. 197.

\textsuperscript{59} DC, p. 33.
and she becomes his kindred as a spinda, as she produces in concert with her husband a common body - their offspring. Similarly, the adopted son is made spiritually kindred, and affiliated to the gotra of the adopter on his due adoption according to the religio-legal form; his bio-physical relation, however, is excluded. 59

Thus the adopted son is admitted in the family of the adopter by permitting him to participate in the oblations of funeral cake to the deceased adoptive father and his other ancestors, but his consanguineal connection with him is, obviously, not established. Such relation is barred even if he were taken from amongst those of the same general family, viz., gotra, and unless he were related as such. 60

59. नर्देम भएकर तयालकारण धारितशुभारता प्रति धर्मार्थ घोषतुनि
धारितशुभाय गुरुमुक्त-प्रति तैदुः भैव। -- घिराकर्षण भवति न नौकर- राजराजेश्वरोऽसते न वर्तमानवालि राजपिवृति न क्षित्य आहुः विनाशयस्तु न प्रति झुमरा तथार्थाः। DM, pp. 167-68.

60. ताकेश्वरस्वः यथा रूढः कोऽतसां बुधवा। विधान गोकस्यां यात्सिनि न भाप्यदृष्य लिङ्गा करेषु।
विश्वस्य रूढः किले -- 'न धारिताशुभ विनाशायत' राजपिवृत्याः
पुत्री कथाः धारिताः शुभ न प्रतिविवृत्यः। यायाप्रांग्धर्षयां सांधक्षरणां न
निर्धारणम्। DM, pp. 42-43.
This relation of sapinda, through bonds of common blood, with the adopter is denied with still greater force if the adopted son did not belong to the same gotra as does his adopter and was not related as such to him.  

On the other hand, the bonds of blood are recognised to persist with the natural father and his family and are not snapped even on his gift in adoption in another family. This relation of sapinda, which may conveniently be characterised in simpler words as bio-physical connection, cannot be extinguished as long as the body lasts by reason of its consisting in connection through containing the portions of the body of the natural father. This relation, however, is expressly confined by the texts, as seen above, to

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61. ‘कालार्येनूः — विकृताः’ हति — ते: सम विकृताः सापिन्दुः

प्राप्ते हस्ते सत्यध्यात्मेऽपि— स्त्रोत्तेनिधिसमापिन्दुः।

62. — प्रभाषम्—

दक्षतार्यदिवः क्रोबध्योऽस्मिनाः सापिन्दोः

तत्तच सत्यध्यात्मेऽपि।

सत्यालेव प्राप्तसत्यध्यात्माः दक्षतार्यदिवः

प्राप्ते हस्ते सत्यध्यात्मेऽपि।

— सत्यालेव प्राप्तसत्यध्यात्माः।

सत्यध्यात्माः दक्षतार्यदिवः।

— सत्यध्यात्माः।

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62. — D. p. 32.

D. p. 164.
the seventh agnatic kindred on the father's side and
to the fifth agnatic kindred on the mother's side.
But the Dattacandrika narrows down this relationship
still further and confines it to three degrees in
the natural family. 63 The Dattakamalmasa quotes a
text of Manu in confirmation of this thesis and
asserts that the filial relation of the son being
here, overtly established with his progenitor is, in
fact, for the sake of propounding the relation of
sapinda by the body with him 64 and conclusively
propounds its position as above.

(d) Gi marriage of the Adopted Son

The sapinda relationship as well as the
gotra and, in some cases, also the pravara comprise
the instrument to identify the area where the matri-
monial alliance of the dattaka could not take place.
In the age of the Smrti's inter-marriage was for-
bidden between the sapindas both on the father's and

63. जनकुल्म्य कथान-वयन प्रतियुक्तकृतिं व फिंग्डा-वयन विराजयम्]

64. य सेंम्यारित्त: पुण्य: प्रसादात्माविवाह:।
यज्ञ ने कीलि जातस्मतं तैतरे यु: ॥ माः 18.130 ॥
ततस्य ने पुण्य शति पुण:प्रतियुपन्त सार्वकण्ठप्रतियुपन्तं न त पुज्ञावां-
पात्राविशुः।

DC, p. 32.

ML, pp. 165-166.
the mother's sides and also of persons belonging to
the same gotra or the pravara. Besides the agnatic
relations of the father within the seventh degree,
such relations of the mother extending to three or
five degrees were excluded by several texts. On this
subject Manu declares, 'he, who is neither related
as a saninda to his father and mother, nor belonging
to the gotra of either, is approved amongst the twice-
born (men) for espousal and connubial intercourse.65
Whether the saninda relation in this text refers to
consanguinity or connection through oblutions of food,
as understood by the Bhattakam Imāna and the Bhattak-
candrika respectively,66 the use of the term 'father'
is certainly intended to exclude from marriage a
female who bears the relation of saninda to, and

\[\text{KS. III.5.}\]
\[\text{ES, p.178; DC, p.37.}\]

65. 

\[\text{Saṅkarī vyākhya, DC, p. 77.}\]
belongs to the gotra of his real father.\(^{67}\)

Obviously, this includes such connection to his mother, too. The Dattacandrika affirms that the (special) relation of saoinda which is created with his adoptive father through oblations of food down to three kindred agnates of his, is not the one that is applicable to marriage. On the other hand, it is the general relation of the same denomination (obviously through obsequial oblations) extending to seven kindred agnates on the father's side and to five agnate relations on the side of the maternal grandfather.\(^{68}\) From this affirmation of the Dattacandrika and its use of the particle 'also' in 'to exclude (from marriage) a female who is related as a saoinda to and belonging to the gotra also of his progenitor\(^{69}\), it appears that it

\(^{67}\) '—— दत्तकां सर्वद्वारा सापिद्धा-सापिद्धा-कर्मच्यां समां सापिद्धा-दानां'।

\(^{68}\) 'तत्त्वां दत्तकां सर्वद्वारा सापिद्धा-सापिद्धा-कर्मच्यां समां सापिद्धा-दानां।

\(^{69}\) '—— दत्तकां सर्वद्वारा सापिद्धा-सापिद्धा-कर्मच्यां सापिद्धांस्य परिवाराणां परिवर्तित्वं न सापिद्धांस्य परिवाराणां परिवर्तित्वं न सापिद्धांस्य परिवाराणां परिवर्तित्वं न सापिद्धां'।
applies the same doctrine in the case of the marriage of the adopted son also in his adoptive family. Its reference to the general sapinda relationship extending to the seventh generation as described in a text of the Matsya-purana (viewed in the context of what it affirms on marriage above) in apposition to the assertion of the Dattakamimamsa that some authors construe the text of Manu under reference here to prohibit matrimony with a female sapinda of his adopter, may be adduced in confirmation of the above contention. This analysis of the doctrine of the Dattakacandrika (if it be correct), will certainly be in line with the observation made by Sen-Gupta, (after his reference to Umutavahana and other

70. "...हिंदू अध्यात्मिक धर्म के विपरीत, जो माता पुत्र के आदरण के निषेधन

DC, p. 33.

For the text of Matsya-purana, see fn. 58.

It will also be fruitful to refer, in this context, to the DC's interpretation of a text ascribed to Vrddha-gautama (for text see fn. 60), where the term sapinda of the text is considered as referring to the connection through obsequies extending to the seventh degree as in the case of a real son.

DC, p. 34.

71. कल्याण पुनः वाचनां -- ब्रजपंचादि-कल्याण पुनः वाचनां (III.5)

-- वर्तमानपुरुषप्रभृति कल्याण तहतकर्ष प्रतिप्रमुख-प्रतिप्रमुख-विषाणो या ध्यायुपरीतिनिरावधेऽसम्म।

EM, p. 178.
comentators understanding by sapinda persons who participate in that pinda, and who 'constitute the seven members of the sapinda group'). There can be little doubt that when the Sapti texts refer to sapinda, or connected through pinda, they refer to the offerings made at Sādūhās. Whether the sapinda relationship in the pivotal text (MS,III,5) here refers to the consanguineal connection or the one through obsequial offerings, in either case, the marriage of the adopted son with a female sapinda saagata of either of natural father or mother within the seven and five degrees respectively, is expressly barred. A girl beyond this scale alone is approved as a bride.

On the marriage of the adopted son with a female of his adopter's family, the Dattakaśāmasa

73. गौतमोपि - उपैः सप्तासागरं स्वरूपम् कोकिलस्य प्राच्य-प्राच्यः:
    एकं दिति। IM, p. 165.

This passage of Gautama is explained by the Maniari as:

गौतमोपि तीर्थक्रमशः दन्तधूलादिकं सप्तासागरं अनवरिष्टतादीः
    देवानां शास्त्राः प्रतिष्ठित। तत्तवते। तत्ततिष्ठिते ज्ञेयः प्रतिष्ठित। तत्र मार्गविधाय निष्पक्ष
    पितु गौतमसंख्याः। IM EAL, p. 166.
asserts that it cannot be approved on account of the former's participating in the gotra of his adoptive father. In this instance, since he bears no consanguineal relation with his adopter, his connection to him through the oblation of pinda down to three degrees, as enjoined by Hemädrī and Kārsnājīnī, will operate as the determining factor. The relation of saripda as described by the Matsyarā-purāṇa text referred to above is excepted by this special rule.

Since the adopted son, who bears filial relation to both the natural and adoptive fathers, namely the dvvemusyavāna belongs to both the gotras (of these fathers) with connection to their paravara-s, a female belonging to either gotra with

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74. नैवेद दत्तकय प्रतिष्ठापुरुषे सापिष्ठापार्ले कर्तु प्रतापले न स्वाधिति थाई। प्रताप | स्वाधित स्वाधित थाई।

75. तत्रावयवस्मकाय प्रतिष्ठापुरुषे हर्षे प्रति हवायलाय प्रायीमुः प्रकायमुः प्रतिष्ठापुरुषे प्रति पुनःप्रायीमुः नातिनिर्धारी। तत्र न कायार्थिनः- ' यावनः--
    क्योऽर्थे प्रृत्तं जैसे तस्माद चाः- त्रिपार्थार्थी--- हतिदत्तानामाये प्रिम्णा-कामप्रवतान्तपमृतमृत्यूजिकां नभृत्ये-प्रकायमुः नातिनिर्धारी।
    न कैत्र्याः... सांस्कृतिकुपरं अथवं हति पार्थामपर्यंता सापिष्ठापार्ले कर्तु प्रतापले न कैत्र्याः।

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EK, pp. 182-187.
connection to the pravara must be avoided on the occasion of marriage. A text of the Parijata, which is confirmatory of this rule, cites the case of a rsi called Sunga-Saisira who was the son of two fathers, viz., Sunga Bhāradvāja, the owner of the seed, and Saisira Vaiśvāmitra, the owner of the soil. The persons belonging to the family of this rsi on the one hand and those to that, either of the Bhāradvāja-s or of the Vaiśvāmitra-s on the other, did not inter-marry. And hence the bar.

76. प्रवर्षसंव्यासिणेन्द्रां प्रायोगम् कदन्त्र-भ्रम-पुत्राः-
पुत्राणि वातस्मान गौड़ां प्रवर्षसंव्यासिणीस्वतां
गौड़ गौड़वान विवाहे कपीलिति।


77. दुष्क्युगाकालेऽति रजस्या कृतीत्वादः।

गौड़वाने भयुदाः जौहराणिनयो वां।।

M, p.194, DC,p.27.

78. Vide Mani, on DM, p. 194 for details of the case.
An elder brother existing, in an unmarried state, if a younger brother marry or if he establish a consecrated fire while the elder one may not have done the same, he incurs the guilt of a privetra. But this rule does not apply in the case of an adopted son. If a younger whole brother in the natural family marries, while the elder one, who has been given away in adoption, may not have done so, he does not incur the offence of parivedana and vice versa.\[79\]