the term adoption given under any legal system of the world. In English law and adoption has been defined as, “a legal process whereby a child’s legal parentage is entirely and irrevocably transferred from those family having parental rights, usually the natural parents, and vested in the adoptive family. Under the ancient religious and legal texts of India, adoption was a purely parent based legal fiction. D. N. Aggarwal in his book Hindu Law defined adoption as a, “fiction of Hindu law by virtue of which the necessary legal requirements and formalities are fulfilled, a person ceases to be child of his or her natural parents and becomes the son or daughter of his or her adoptive parents.” According to J.D.M. Derett under Hindu Law adoption is the taking of a child of another as substitute for the failure of his own natural child of the same sex. The Hindu Adoption and Maintenance Act, 1956 only states that an adoptive child shall be the child of his or her adoptive father or mother for all purposes with effect from the date of adoption and all the ties of the child in the family of his or her birth shall stand severed and replaced by those related by the adoption in the adoptive family. So the views and opinion expressed by various authorities clearly show that no one has attempted to give an acceptable definition of the term adoption.

Adoption, therefore, in a legal parlance means complete severance form one’s natural family or group, with the promise of allegiance and total loyalty to the new family or group.

The child’s adoption is certainly not a new concept. It dates back to our ancient mythology. The objectives and purposes underlying earlier adoptions differ substantially form those of modern times. During ancient period, adoption originated under the religious belief according to which male issue was essential to
procure spiritual benefit in the life hereafter by offering 'Pindas'. A
person must have a son, natural born or adoptive one. The
adoption was considered as sacrament act. Study of the codes and
commentaries as in their historical order shows most clearly that
the institution started as merely secular and later on with the
progress development of religion and religious philosophy and
finally the institution became more secular than religious. This
character never lost and is retained to the present day.

In Amarendra Vs. Man Singh the Privy Council recognized
religious motives as dominant and the secular motive as
secondary. The view was confirmed by the Supreme Court in V. J.
Kartar Singh both objects of adoption have been recognized. But
which of motive religious or secular were important or dominant
need not detain as here. One thing is certain that different people
adopt with different motives. Whatever be the motives, the court
need not inquire into them.  

In view of the key role played by a son in the socio-religious
life of a man it was but natural for the shastric law to make some
provision whereby one who did not have a natural son could
acquire an ‘artificial’ one. The adoption law prevailing prior to
1956 was the law laid down by the ‘smritikars’ and modified by the
custom and usage and as interpreted and applied by judicial
decisions. However, the law varied and was uncertain according to
different schools exercising their influence in different parts of
India.

2 AIR 1963 SC 185  
3 AIR 1966 Ounj. 258  
4 Shirpal Vs. Salim, AIR 1971 SC 874.
natural born son in the adoptive family except that he could not marry those in his natural family whom he could not have married if he had remained unadopted.

About the ancient law of adoption critics were of the opinion that the Hindu law of adoption primarily anxious to protect the rights of parents i.e. natural and adoptive, and the law was not at all concerned with protecting the adopted child. In fact when we consider that law prohibited adoption of orphans, illegitimate children, while permitting of even grown up married men, it is clear that the idea of protecting destitute children or giving them a house and family was totally absent. 5

Adoption has also received recognition in almost all ancient legal systems of the world. In Roman law its objective remained continuation of the family and its religious cult. In Britain the basic objective of this law was of conferring the privileges of parent on the childless and benefits of having parents upon the parentless. The Adoption of Child Act, 1926 was the first legislation in Britain which accorded legal recognition to adoption. This law was later on replaced by the Adoption Act of 1958 and further led to enactment of the Children Act, 1975. In the United States of America almost all the States have adoption laws and at present the Adoption and Child Welfare Act, 1980 is a national legislation governing the subject matter. In China adoption is primarily through the customary modes and the same continued. In Greece adoption existed right from the ancient time. So the system of adoption have remained preset in one form or the other in almost all recognized legal systems of the world more particularly in India, Rome, Greece and the Chinese legal systems.

In India there is no general law of adoption. Adoption as a legal institution exists only amongst Hindus, which include Buddhists, Jains, Sikhs and other sub-sects of these religious groups. But the term Hindu does not include Parsis and Jews.

The Hindu Code Bill which was drafted in the early years of independence also consolidated the law regarding adoption. It suggested the simplification of the law, removal of the restrictions as to the person to be adopted and also the adopter. In fact, the adoptions were considered as secular in all aspect. On the basis of Hindu Code Bill, the Parliament enacted the Hindu Adoption and Maintenance Act, 1956, to remove the uncertainties and to resolve the conflicting judicial dicta in the pre 1956 law of adoption in India. The social concept of adoption has now undergone a momentous change. Now adoptions are guided by the principles of social reform, equity, justice and welfare. It is now realized that a child deprived of a family environment is always fatally hampered physically and mentally and such a child develops an attitude of indifferences. The law of adoption is put on a more secular footing than the religious one under the present Act. Even a religious ceremony like Datta Hamam is not required under the present Act. It is different matter that a Hindu while exercising his right of adoption may still adhere to old notions but that should not detract us from the essential secular nature of adoption under the Act.

However, secularization of adoption does not mean that the Hindu Adoption and Maintenance act, 1956 makes a total
departure from the old law, but some aspects of the old law which should have been rejected are still retained.6

Unlike the old law of adoption, the present Act allows not only an adult person, married or unmarried to adopt a child, but even gives unmarried, widows or divorced, a right to adopt or give a child in adoption. This child should be less than 15 years of age unless custom or usage permit of such adoption.7 Where the child is of opposite sex, the age difference between the child and adoptive should be at least 21 years. Same child is not adopted simultaneously. The ceremony of giving and taking child in adoption is the essence of the present Act, no other ceremonies are required to validate and act of adoption. The caste restriction is prohibited under the Act. Now the Hindu adoptions are generated by the statutory requirements maintained in the Act. The Act prescribed conditions for a valid adoption, the only legal effect of a valid adoption which the Act contemplates and provides or is that the child is transplanted into the adoptive family and loses all ties with the natural family. On adoption the position of an adopted child in the adoptive family is the same as if he was a natural born child of the family and all his ties in the natural family are severed, so much so that its position as if it was never born in that family.8 The only tie which shall remain is that it can't marry any person in the natural family whom it could not have married had it continued to be a child in that family.9

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6 For example, adoption continued to be a private act without any supervision by the State. The order of the court is necessary for an adoption except when guardian gives he child in adoption. Even now not more than one son or daughter can be adopted. For further details see Paras Diwan, Modern Hindu Law Codified and Uncodified, (5th edn., 1981), p. 187.
7 Hindu Adoption and Maintenance Act, 1956, sec. 10
8 id. sec. 12.
9 Ibid.
It may also be noted that the ties which are created in the adoptive family will depend upon the nature of the family whether a child is adopted by a bachelor or widower. The legal position is that the adopted child has not only adoptive father and such child will have no adoptive mother. Similarly, where adoption is made by widow or spinster the adoptive child will have no father. The provision of the Act clearly lays down if a Hindu is having more than one wife the consent of all the wives to the adoption is necessary unless the case is covered under the proviso to section 7 of the Act.10

The guardian's right to give a child in adoption is a limited right where both the father and mother are dead or have completely or finally renounced the world or have abandoned the child or have been declared by a court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the court. Section 9(4) of the Hindu Adoption and Maintenance Act, 1956 was amended by the Amendment Act of 1962 so as to facilitate the adoption of orphan/destitute/surrendered or neglected children. Another aspect of the provisions is that the guardian can himself adopt the ward.

Under the present Act, an adoption does not divest any person of any state vested in him or her before adoption.11 Adoption once validly made becomes irrevocable by the adoptive

10 The provision reads as: "Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption: Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely or finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind."

11 Hindu Adoption and Maintenance Act, 1956, sec. 12(c).
parents. The adoptive child cannot enounce the adoption. The Act further prohibit any payment of money or other reward in consideration of adoption and for violation of this rule punishment is prescribed.\textsuperscript{12}

The Hindu law is always applied subject to any custom to the contrary. The Act provides that custom and usage must be a rule which having been continuously and uniformly observed for a long time and has been obtained the force of law among the Hinds in any locality, community or family and which is certain and are not unreasonable and not opposed to public policy. So customs have also continued to receive recognition from time to time in different judicial decisions as well.

When we are talking about the social concept of adoption which has undergone a process of remarkable transformation from providing a childless couple a child to providing a family and a shelter to neglected sections of Indian populations, we are yet to see a regulatory uniform code for the same. Religion has no place in determining the eligibility of an 'uncared for child' in getting an environment for a meaningful growth he has no religion to identify with, rather a touch of humanity, a secular law of adoption protecting and regulating the interest of the child is the need.

As we have seen that in India there is no general law of adoption though it is permitted by statute among Hindus (in its broad legal sense) and by custom among a few numerically insignificant categories of persons. To recapitulate, as the law stands now, among the various religious communities living on this soil only the Hindu community possesses a law of adoption.

\textsuperscript{12} \textit{id.} sec. 17.
But even in that system of law there are many limitations and restrictions.

All other communities, namely Muslims, Parsis and Christians who may be bracketed together, have no laws of adoption of their own. When the person of other religion whether Indian or foreigner wish to adopt a child they find many difficulties and have to adopt circuitous methods. They have to resort to the **Guardians and Wards Act, 1890** which provides inadequate protection to Indian children sent abroad. The procedure of adoption in the country at present is time consuming and difficult and often unnerving to parents. In recent years there has been a growing demand for a general law of adoption in India, particularly form several social welfare organisations an social workers. The basis of this demand lies embedded in Art. 39 of the Constitution of India.13 There is no law to cover such cases. It is difficult to understand as to why the state has completely failed in it role of displaying a powerful and effective governmental action in the direction of said Article of the country law.

Regarding the adoption of Hindu children by the foreigners which is more significant particularly in the context of orphans/abandoned and refugees or neglected children the Act is silent in this regard. But as early as in 1982, the Gujarat High Court in **Rasik Lal Chagan Lal Mehta case** made some observations. The court said, “In order that court can satisfactorily decide on inter-country adoption case, the court should issue notice to the Indian Council for Child Welfare, independent reputed and officially recognised social welfare agency working in the field

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13 Article 39 provides *inter alia* that the state shall direct its policy towards securing the childhood and youth are protected against exploitation and against material and moral abandonment.
in that area and request it to render assistance in the matter." The Hon’ble Supreme Court of India in **L. K. Pandey Vs. Union of India**, took note of these observations and observed that such a procedure will save the child from maltreatment and exploitation by the adoptive parents. More clarifications on the matter were issued by the Apex Court in 1986 and consequently Government of India issued certain guidelines through Ministry of Welfare on 4th July, 1989. However, the Supreme Court issued some more clarification and on this, task force headed by Justice (Retd.) P. N. Bhagwati, former Chief Justice of India and consisting of a cross section of representatives of agencies involved in adoption and revised guidelines to regulate matters relating to adoption of Indian children were issued on 28.8.1993. The guidelines has since been further revised keeping in view the developments on in-country and inter-country adoptions of abandoned/destitute and neglected children in the years 2004 and 2006 respectively. Voluntary Coordinating Agency has now been named as Adoption Coordinating Agency (see Appendix 5 and 6).

The law of adoption has passed through different stages. The enactment of the **Hindu Adoption and Maintenance Act**, 1956 by our Parliament was a milestone in this direction. The law of adoption governing the Hindu has received a fair treatment from judicial hands right form the time of Privy Council till date. Under the old law religious considerations predominated whereas under the present Act secular considerations have gained prime importance. The courts have maintained hat the substitute of a son of the deceased for the failure of the male issue or spiritual reason is the essence of the adoption and the devolution of property is a mere accessory to it. As regard the essential
requirement so adoption the Apex Court laid down that physical act of giving and taking is essential. As regard the right of the adopted child in the coparcenary property the courts have said that such a child can be admitted into the coparcenary in real sense when the adoptive fathers dies. In case of customary mode of adoption courts are of the view that such adoption are valid provided they do not contravene the provisions of the Act. Stepmother has no capacity to give the child in adoption.

Theory of Relation Back is still with us though slightly in a different context. The divestiture principle is legally recognized to the extent of the rights of the adopted child. The child cannot deprive a widow from the property to which she became entitled in her own right under the law. Regarding the consent aspect of adoption by the widows the basic thrust of the consent of the kinsman aims at an assurance that the adoption has been bonafide in all respect. On the point where there are two widows one of the deceased and other his predeceased son, the law is well settled and the father's widow's rights to adopt come to an end in the presence of her widowed daughter-in-law. Regarding the adoption by a minor widow the courts have maintained that the adoption will be valid provided that the widow has attained the age of discretion.

As regards the customary mode of adoptions the courts have taken the view that such adoptions are valid provided they do not contravene the provisions of the Act. The ruling of the court in this regard shows that the customs governing the parties in matters of adoptions cannot be interpreted as derogatory to the written provisions of the law which in all cases are mandatory.

To adopt is no more an in-country phenomenon. It has acquired international dimensions. The concept has totally
transformed from 'a child for a family' to 'a family for a child.' Inter-
country adoption have come to stay, which involves a change in
the child habitual country of residence. It involves parents of
nationality other than that of the child. Since there is no specific
law in India governing inter-country adoptions, a writ petition filed
in the Supreme Court led to the emergence of a legal framework
approved by our Supreme Court for regulating inter-country
adoptions in L. K. Pandey case. The purpose of the judgement
was to provide certain guidelines and lay down principles, norms
and procedures for adoptions with the object of ensuring the
welfare of the child. This was a fairly comprehensive judgement
and directives and in the absence of a uniform law, this provides
guidelines in processing adoption under the Guardian and Wards
Act, 1890. The judgement regulated several aspects of the adoptive
situations in terms of the destitute/abandoned/neglected or
surrendered child, the natural parents, adoptive parents and social
welfare agencies, with a view to promote adoption among Indians.

Subsequent to the judgement, the Government of India
formulated a new set of guidelines called Revised Guideline to
Regulate Matters Relating to Adoption of Indian Children. The
aims and objectives of these guidelines were to provide a sound
basis of adoption within the framework of the norms and principles
laid down by the Supreme Court judgement. It recognises that
adoption undoubtedly offers an important avenue for the care and
protection of an abandoned, destitute or neglected child in a family
setting and provides an atmosphere of happiness, love and
understanding for the realization of his/her talents and potentials.
It carries with it all emotional, physical and material security
necessary for the proper development of the child and also serves
as the most reliable means of preventing situations associated with the abuse, exploitation and social maladjustment of abandoned/destitute and neglected children. The guidelines incorporated within them adoption procedure, the process to be followed and the role of various agencies in the field of adoption.

In pursuance to the Supreme Court’s judgement the Government of India has established a Central Adoption Resource Authority (CARA) to act as a clearing house of information with regard to children available for adoption and to regulate, monitor and develop programmes for rehabilitation of children through adoption. The matter has to be processed through the court under guardian and Wards Act, 1890 which makes the guardian responsible for the custody, support, health, education of the ward. As per the guidelines no destitute or neglected child could be presumed to be abandoned and free for adoption/placement unless certified by the Juvenile Welfare Board (J.W.B.). The procedure is not required if the child has been relinquished by the biological parent/parents in which case a 'Deed of Surrender' is signed by the surrendering party and the relinquishing parent/parents were given a reconsideration period of two months, during which time the child could be claimed and after that period, the child can be considered legally free for adoption.

As per the guidelines every destitute child who is free for adoption should be first offered for adoption to Indian parents and only then considered for inter-country adoption. For this very purpose the Voluntary Co-ordinating Agency (VCA) has been established. The Central Adoption Resource Authority and the State Government have introduced a licensing system of the institutions for in-country as well as for inter-country adoptions of
abandoned/destitute or neglected children. The Agencies are also trying to bring more children form the State-run-homes/trust and the juvenile system in the fold of adoption. The other important aspect that deserve mention here is that the adoption of Indian children placed with Indian families living abroad is treated as in-country adoption/placement. The child can be placed for inter-country adoption only through the recognized agency and such agency should have the custody of the child for a period of at least one month before it can process the matter. As per record available with Central Adoption Resource Authority (CARA) between the years 1988 to 2004 - 20,329 abandoned/destitute or neglected children have been given in inter-country adoption and 24,461 children have been given in in-country adoption.

It is also mandated that the enlisted foreign agency should maintain contact with the adoptive family so as to safeguard the interest of the child till the child attains the age of majority. Cases of handicapped children being adopted by foreign parents have also been reported as their country provide support to such children.

Thus inter-country adoption is also emerging as a solution for the better protection of the abandoned/destitute or orphaned children. The Convention on Inter-Country Adoption and Protection of Children, 1993 has also highlighted the fact of ensuring proper safeguards for inter-country adoption/placement so that the interest and welfare of the child vis-à-vis his or her fundamental rights receive adequate protection in international law. As already submitted that in India there are communities like Muslim, Parsis and Christians who have no law of adoption and hence a better solution to deal with the problem in its totality
would be the enactment of a uniform law of adoption covering both in-country as well as inter-country aspects of adoption.

Chapter VII of the present study makes an overview of the adoption laws of some of the legal systems of other countries including that of America and United Kingdom. A comparative overview would show that traditional approach which had genesis in custodial care has given way to holistic development of the child. There is a growing interest in the contemporary international community for providing uniform law regarding adoption and its effects. International Conventions and Treaties of various types contribute to the international human rights norms and standards for adoption. The United Nations Convention on the Right of the Child, the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption and ICSW Guidelines on In-country and Inter-country Adoptions and Foster Family Care are some of the reference points for evolving legislation, policies, procedure and practices relating to adoptions. The United Nations Convention on the Rights of the Child clearly declares that every country must first make exhaustive efforts to ensure that the child grows up within his/her own social-cultural milieu and with parents of the same ethnic origin because this is in the best interest of the child. The Convention also provide that there should be no discrimination of any kind irrespective of the child's or his/her parent's or legal guardian's race, colour, sex, language, religion, birth or their status. International adoption involves the universal issue of evolving ethical practices that ensure the best interest of the child in the receiving country. The governments and societies shall commit themselves to provide families, policies and programmes shall be formulated on the basis
of equity and compassion. The child, biological parents and the adoptive parents have a right to confidentiality and the adoption of children shall not be a source of improper financial or other gains. Inter-country adoption or international adoption are becoming increasingly frequent in the modern world and concept of adoption is used more and more for the benefit and the welfare of the orphaned/destitute/abandoned and neglected children who can be adopted. The adoptions are regulated by legislations and there are special procedure for legitimating children under various legal systems of the world. In many countries particularly in Europe and America, no longer have a sufficient number of children available for inter-country adoption because domicile, residence and nationality is an essential qualification for adoption. In most of the legal systems adoption proceedings are to be held in camera and registration of adoption is compulsory which itself is a proof of adoption. Almost in all legal systems of the world which recognise adoption, the child is given all rights as a natural born child including inheritance rights and adoption can be revoked under certain circumstances.

The prime emphasis of the present study has remained on orphaned/destitute or abandoned children in the State of Punjab, Haryana and Himachal Pradesh. An effort has been made to study in some details the administrative framework as well as legal procedure evolved on the guidelines of Central Adoption Resource Authority as well as decisions of the Apex Court in L. K. Pandey’s case (1984). The study has been undertaken by adopting an articulated methodology aiming at finding answers to the specific issues involved in the adoption work. The visit of the researcher to the offices of Child Welfare Councils/Institutions in the respective
States shows that the placement agencies/institutions which are functional in these States more particularly after the guidelines laid down by the Supreme Court in L. K. Pandey's case are performing their role within the approved framework. The managements of the institutions/agencies visited by the present researcher and as per the information elicited in form of the of structured questionnaire is in the hands of a group of professional individual both males and females. All these institutions/placement agencies have been duly registered under the appropriate law and recognised by their respective States as Adoption Placement Agencies as per the CARA guidelines. The surveyed institutions/agencies have brought-up orphaned/destitute or abandoned children with a view to rehabilitate them. The financial assistance to these institutions/agencies depend upon donations by Social Welfare agencies and Central/State governments. These institutions are providing basic facilities and amenities to these children. The collected data shows that these institutions/agencies are observing the CARA guidelines in matters of adoption. The researcher also observed that the principal reason for the adoption of these children in the States under study is childlessness and very few couples in the States of Haryana who adopted have their own child. Similarly, the statistical data shows a considerable preference for a girl child. Some of the institutions/placement agencies laid down additional guidelines with respect to the age, health, financial and educational status of the adoptive parents. In the State of Punjab and Himachal Pradesh no case of inter-country adoption came into light whereas in the State of Haryana inter-country adoption has found a due place. The overall analysis of
adoption practices as exhibited in Chapter VIII of the present study shows that the adoption practice is on the increase, more particularly that of destitute/abandoned and neglected children between the age group of 0-6 years and the greater part of this increase has been in-country adoptions. The overall picture that emerges from the analysis of data shows that out of 345 cases of adoptions in the three States under study 258 females were adopted despite gender bias existing in our social set-up. Similarly, 88 professionals belonging to elite sections of the society came forward for adoptions of the abandoned/destitute and orphaned children. Businessmen also did not lag behind and 94 of them also came forward. This is a significant move and exhibits the emergence of a new thinking process in the day to day changing environment. The inter-country adoption of 53 abandoned/destitute children in Haryana is also another milestone in the emergence of new family set-up in the global context.

It is a matter of great concern that in our country, especially with regard to adoption of abandoned/destitute and neglected children, all such children don't receive equal treatment due to deficiencies in the law of adoption. The absence of a common law of adoption is resulting in denial of basic human rights to these children and have led to unjust treatment. Hence the State must look into this matter as every child should be given an equal chance of achieving the best in life. The religious consideration should give a way to the universal principal of the best interest of the child. So legislative response could provide solution to the problem.
II. Suggestions

The present study demonstrate that the attitude towards adoption has undergone a significant change in recent years. The adoption of abandoned and destitute children is now receiving acceptance in the Indian society. The sensitization and awareness of the society to this issue has also helped to create a more positive climate for adoption. Prospective adoptive parents have now began to understand the legal and social process of adoption and recognise the need to go through child welfare agencies, since it ensures legal security, both for the adopted child and the parents. Child welfare agencies are playing a commendable role in the adoption process. The trend towards in-country adoption has definitely improved in the last decade. However, considering the magnitude of the problem of abandoned/destitute children more efforts are required to promote domestic adoption. Central Adoption Resource Authority (CARA) and State Government have laid down guidelines and licensing system for in-country adoptions and more children from State-run-homes or institutions being managed by professional and also the juvenile justice system are being brought into the fold of adoption. The researches undertaken on adoption in India do not provide any significant data regarding the trends and outcome of adoptions. Therefore, it is imperative that the institution of adoption needs a second look in its totality in the present day set-up.

Therefore, for protecting the rights of the children as well as for promoting the best interest of every child being given or taken in adoption the following suggestions deserve special consideration:
(1) Adoption in India is at present governed by the personal law and therefore, the Hindu Adoption and Maintenance Act, 1956 is applicable only to a Hindu by religion. Personal law for Muslims, Christians, Parsis and Jews do not recognise complete adoption and hence persons belonging to these communities can do so only under the provisions of the Guardian and Wards Act, 1890. This does not provide the child the same status as that of a child born to the family. The Act confers only a guardian - ward relationship. All Inter-country adoptions are also processed under this law. A recent development has been the enactment of the Juvenile Justice (Care and Protection of Child) Act, 2000 which incorporates within it a special provision on adoption. The Supreme Court's judgement in L. K. Pandey's case in 1984 as well as the subsequent guidelines laid down by the Central Adoption Resource Authority (CARA) have to a great extent contributed in conferment of a status on abandoned/destitute children being adopted in India as well as by foreign parents. This leads us to the most vital question that there is the need for a uniform adoption law both for in-country and inter-country adoptions. The law when enacted should cover all aspects including rights of child and make the adoption process simple and transparent.

(2) The other important aspect that needs to be addressed is that the adoption must put the child at the centre of work and the best interest of the child should be the paramount consideration. The adoption focus must move
from a 'parent centred' to 'child centred' adoption and form the concept of 'a child for a family' to 'a family for a child'. Since a child adjust best in his/her own social-cultural milieu, it is essential that maximum efforts are made to rehabilitate the child through in-country adoption. The Child Right's Activism needs to bring attention to the marginalized neglected group of abandoned/destitute and orphaned children. A new concept of justice to the child must be the central theme for reforms in the sphere of child welfare.

(3) It is essential that the process of adoption is to be streamlined so that there is no undue delay and it does not deter prospective parents from coming forward to adopt. Focus should be on expediting adoption procedures so that the child can be with the parents in the shortest possible time, but of course without compromising on thorough investigation. Sometimes limits should be laid down in the law for adopting the total process of adoption.

(4) Three is a need to have an uniformity in adoption documentation, requirements, procedures and costs all over the country both for in-country and inter-country adoptions. We need to evolve clarity stated norms and criteria for selection of adoptive parents both for in-country and inter-country adoption to ensure that the adoption placement is in the best interest of the child. Therefore, there is an imperative need for a clear interpretation of the Supreme Court's judgement in L.K. Pandey's case as well as the adoption guidelines of
Central Adoption Resource Authority (CARA). Despite polarity, differences in cultures and practices in different States of the country, uniformity in interpretation of guidelines is must.

(5) Better networking between adoption agencies is essential so as, to prevent any malpractices and discourage private adoption. This is possible if there is sharing of knowledge, resources and discussion on all aspects of adoption matters. Matters concerning counseling of adoptive parents so as to prepare them for adoptive parenthood should be given prime consideration.

(6) There is a need for developing training and orientation modules for all adoption functionaries and those associated with the adoptive process to develop a code of ethics in adoption practice. It goes without saying that ethical practices and transparency in the adoption process is essential for adoption professionals.

(7) During the interaction of the researcher with the placement agencies in the States of Punjab, Haryana and Himachal Pradesh, it is revealed that the process of obtaining a birth certificate for adopted child is complicated process under the existing legal procedures. Therefore, the new law when enacted should take care of this aspect and ensure that the adopted child gets a birth certificate and adoptive mother gets special child care leave like maternity leave at the time of adoption if she is in the service of government or semi-government organisation.
It has already been stated that the **Hindu Adoption and Maintenance Act**, 1956 is the only available legislation providing for adoptions among the Hindus. Further, it has also been highlighted in the earlier part of this discussion that there are many legislative loopholes in the existing laws which need to be plugged before we go in for a uniform law of adoption. For example, adoption of more than one child is not permitted under any circumstances. It is, therefore, suggested that adoption of more than one child should be allowed in special circumstances and for that suitable amendment be introduced in the parent Act.

The Act does not prescribe any upper age limit for the adoptive parents. It is submitted that an upper age limit say between 45 to 50 years should be laid down in the law so as to ensure better protection as well as advancement of welfare of the child. In other words the child should be in a position to avail of best opportunities for the advancement of his/her career and settlement in life.

The provision regarding the age of the adopted child needs reconsideration. In fact it goes against the very concept of adoption by prescribing age limit, more particularly in the Hindu context. Three is no doubt that there should be an difference between the adopter and adoptee but it should not be cut down on sex consideration. Hence, the provision needs reconsideration as this does not exist in the foreign legal system.

The **Hindu Adoption and Maintenance Act**, 1956 enables any two competent parents to give or take a child
in adoption through a private agreement. Though we are not against the practice, but there should be some independent agency which should take care of the long time interest of the child being taken or given in adoption. It is therefore, suggested that the Family Courts should be established for dealing all such matters and conduct adoption proceedings in a time bound framework evading inconvenience to the parents.

(12) Media as well as some other agencies have brought to light facts alleging children being given in adoption by nursing homes, hospitals and unrecognized agencies/institutions without taking into consideration the wires of law as well as the welfare of the child. It is, therefore, suggested that all such institutions should be debarred from giving children in adoption whether within or outside India. The law when enacted/amended should provide penalties for violation of this provision.

(13) The Hindu Adoption and Maintenance Act, 1956 makes no provision for revocation of an adoption once validly made. Similarly, an adopted child also cannot be readopted under the existing law. It is, therefore, suggested that in special circumstances adoption should be made revocable through the courts. Similarly, in circumstances when adoptive parents have died or are not in a position to look after the adopted child, re-adoption should be allowed through the same process.

(14) It has been seen that more particularly in inter-country adoptions grown up adoptees are now returning to India to search for roots in the country of their origin. This is
an emotional issue and needs to be addressed. Therefore, it is suggested that Central Adoption Resource Authority (CARA) must reconsider this aspect and revise its guidelines which takes into account the socio-cultural realities of India, right of the adoptees to the information and the right of the birth parents to the confidentiality. Taking this matter with a humanistic approach, the child should be given priority after studying all implications. Hence, adoption agency will be required to take a more detailed history of birth-mother/parents including their photographs vis-à-vis reframing of documents of surrender/relinquishment and also encourage birth-mother to keep some message for the child.

In India the role of Central Adoption Resource Authority (CARA) has been defined in the Supreme Court judgement in L. K. Pandey’s case of 1984 and the guidelines laid thereunder. Its major role is to monitor and regulate inter-country adoptions and facilitate in-country adoptions. CARA has been ensuring through inspection and surveillance visits/reports that all the recognized agencies/institutions work with integrity, honesty and transparency. The researcher found that the monitoring mechanism being adopted in case of inter-country adoptions has many missing links. Follow up reports are not being received periodically as contemplated in the CARA guidelines. It is, therefore, essential that the Indian Embassies abroad should play a more active role in strengthening the hands of CARA. Hence, the role of these bodies needs to be redefined.
(16) It is further submitted that there is an imperative need to focus on the development of post-adoption services where counselling can be made available to adoptive parents and adoptees to cope with their life situations. Adoptive parents association can play a vital role in providing motivation and support to families and also help in promotion of in-country adoptions. Emphasis should be on the emotional aspect of adoptions as prior to adoption there is a tendency to remain pre-occupied with the paper work and procedure.

III. Future of Adoption

The specific study conducted by the researcher relating to adoption of abandoned/destitute and neglected children in the States of Punjab, Haryana and Himachal Pradesh shows that prospective adoptive parents have now begun to understand the legal and social process of adoption and recognize the need to go through child welfare agencies as it ensures legal security both for the adopted child and the parents. Similarly, the recognised child welfare agencies are also thoroughly preparing Home Study Report (HSR), Child Study Report (CSR) and other relevant documents for legalization of adoptions through courts. Adoption Scrutining Agencies (ASA) as well as Voluntary Coordinating Agencies (VCA) now known as Adoption Coordinating Agency (ACA) as per revised guidelines 2006 are also performing their roles to the best of their ability in placement of children for adoption both in India and abroad. Despite of all what has been stated above, the challenges in adoption are many and it is important that there is a spirit of partnership, collaboration, cooperation trust and transparency in
the adoption work. The adoption programme in India is currently at a stage when there are many issues and concerns that need to be addressed. There have been same malpractices that have come to light raising question on our adoption programmes. These issues needs to be resolved in a way in which the best interest of the child is protected and at the same time justice is done to all who are involved in the process. A thorough overhauling of the guidelines and procedures needs to be undertaken with a long term perspective and vision and to ensure ethical practices in adoptions.

The researcher would like to conclude the discussion in the words of Nilima Mehta when she said:

Joy and pain are two sides of the same coin.

In this world, there exists beautiful things alongside human tragedy. Among the most heart-breaking tragedies are those that involve vulnerable children.

There are thousands of destitute children who need the love and security of a family and many couples who have love in their hearts to share and crave to be parents.

Adoption brings them together.14

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