

## ***RIGHT TO FAMILY CARE***

Every parent is legally bound to provide the care, protection, and development of a child to the extent that is feasible for them. Even in the event of parents getting separated due to marital discord, all our civil and family Laws support orders for payment of maintenance by the parent who does not have custody of the child. In the event of a child being abandoned by its own parents and family or voluntarily surrendered, placement of such children in childcare institutions should be considered as a last option after exhausting all possibilities of alternate family care, such as adoption or foster care.

### **Foster Care:**

In India, Foster care is a system where a child lives with a family that is not their biological or adoptive parents, often on a temporary basis. This offers a family environment for children who are unable to live with their own parents, whether due to neglect, abuse, or other circumstances. ( clause 3 of Section 40 – J.J.Act)

### **Child Adoption**

Child Adoption is a legal act through which the rights and responsibilities of a child are permanently transferred from birth parents to adoptive parents.

Child adoption can be of different types: It could be a family adoption where one set of biological parents / legal guardians willingly place a child in adoption to

another set of parents, or it could be an adoption of an abandoned or a surrendered child being placed in adoption by a qualified third party.

Such adoptions could be further classified as **'In-Country Adoption'** if the adoptive parents are Indian Citizens living within India, or **'Inter-Country Adoption'** if the adoptive parents are Non-resident Indians, Overseas Citizens of Indian origin, or foreign nationals.

**The Supreme Court judgment in the case of Lakshmikanth Pandey v. Union of India, delivered on September 19, 1986, remains a landmark to date in establishing a well-laid-out process for In-Country and Inter-Country Adoptions.**

After this judgment, extensive Rules, regulations, and guidelines were brought out, especially for the adoption of parentless children who were either abandoned or surrendered and were placed in adoption by a third party.

Currently, **the Hindu Adoption and Maintenance Act of 1956 and the Juvenile Justice (Care & Protection of Children) Act of 2015** are the two Acts available for adopting a child in India.

Those who are not eligible under the above two Acts could take the Guardianship of the child alone under the ***Guardian and Wards Act of 1890***

## **Hindu Adoption and Maintenance Act of 1956**

Even though Child Adoption has been in practice since time immemorial among Hindus, the above is the first codified Law that came into practice throughout India.

Under this Act, only a Hindu parent can adopt a child who is born as a Hindu or brought up as a Hindu.

If parents themselves directly place a child in adoption to another set of parents, the adoption deed can be registered in a competent registration office. When both parents are dead or certified they be of unsound mind, then a legal guardian could give a child up for adoption with the permission of a competent court.

Once an adoption order is issued, it becomes irrevocable, and the child gains all the rights as if they were a natural-born child of that family. that includes inheritance rights to self-earned as well as traditional Hindu Joint Family Properties.

## **The Juvenile Justice (Care & Protection of Children) Act 2015**

This is an enabling Act for all persons, irrespective of their religion, to adopt any abandoned or surrendered child who is declared as **‘legally free for adoption’** by the **Child Welfare Committee, which is the competent authority under the Act.**

As per Section 2(2) – **“adoption”** means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges, and responsibilities that are attached to a biological child.

Chapter VIII of the Act deals with the procedures to be followed while placing children in Adoption. While Section 58 deals with procedures for adoption by Indian prospective adoptive parents living in India, Section 59 deals extensively with adoption by Indian citizens /persons of Indian origin or foreign nationals.

**Central Adoption Resource Authority (CARA) is a body created by the Government of India to monitor the entire process of adoption of abandoned or surrendered children in India under the above Act.**

The same Act also has provisions for family adoption, where a child from one member of the family can be placed in adoption with another, subject to certain limitations.

However, there are still some types of adoption placements that are not possible in India today due to a lack of legal provisions under any existing Act. For example, if one set of Non-Hindu parents wants to place their child in adoption to a family member or a friend who does not come under the definition provided under the J.J.Act, then they can only give the guardianship rights over the child under the Guardian and Wards Act of 1890, and such legal rights would last until the child completes 21 years of age.

The ***Central Adoption Resource Authority (CARA)*** is an autonomous body under the Ministry of Women & Child Development, Government of India. It functions as the nodal body for the adoption of Indian children and is mandated to monitor and regulate in-country and inter-country adoptions.

The child will not have any legal claim over the properties of such guardians.

**CARA** primarily deals with the adoption of orphaned, abandoned, and surrendered children through its associated /recognized adoption agencies. The entire process is done online, wherein nationwide details of all available children for adoption and details of all certified parents wishing to adopt a child are uploaded to the specified CARA website. Matching of children with adoptive parents is done centrally through this website.

Click the link below to learn more about CARA

- <http://cara.nic.in/InnerContent.aspx?Id=16#About> CARA

***Eligibility of a child for adoption*** - With reference to Abandoned / Surrendered Children

- Only those children who are certified as **“Legally Free for Adoption”** by a *Child Welfare Committee* (CWC) could be placed in adoption
- A child could be certified as **“legally free for adoption”** When its own biological parents voluntarily surrender their child for adoption by executing a *Document of Surrender* in the presence of CWC;
- or After due process of enquiry, it has been proved beyond doubt that a child was genuinely *abandoned* by its own parents/family.

***Eligibility of Prospective Adoptive Parents*** (S. 57 J.J.Act .2015) (Rule 5 of *Adoption Regulations 2017*) – to adopt a child

Prospective Adoptive Parents shall be physically fit; financially sound; mentally alert; and highly motivated to adopt a child & give a good upbringing to the child.

- ✓ Must have had at least two years of stable married life
- ✓ Age criteria to be followed
- ✓ Age criteria, existing no. of children- not applicable to Relative / Step Parent Adoptions
- ✓ In case of a couple, consent of both parties is required
- ✓ A single female can adopt a child of any gender
- ✓ A single male shall not be eligible to adopt a girl child
- ✓ The minimum age difference between an adopter and the adoptee shall not be less than twenty-five years.
- ✓ A couple with more than three children is not eligible to adopt, except for a special needs child

Agencies involved for adoption of surrendered or abandoned children by Indian Citizens living within India (In–Country Adoption)

- **CWC** - Child Welfare Committee under J.J .Act
- **SAA** - Specialised Adoption Agency
- **CCI** - Child Care Institution
- **DCPU** – District Child Protection Unit
- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- District Magistrate

Agencies involved in Inter-Country Adoption of Indian Minors

- **CWC** - Child Welfare Committee under J.J Act
- **SAA** - Specialised Adoption Agency
- **SARA** - State Adoption Resource Agency
- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- **CARA** - Central Adoption Resource Authority
- **AFAA** - Authorised Foreign Adoption Agency
- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- District Magistrate

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Guideline on Foster Care by CARA

## PARENTING AND CHILD DEVELOPMENT

Science is telling us today what our ancestors knew thousands of years ago: every child's development is a miracle and needs nurturing.

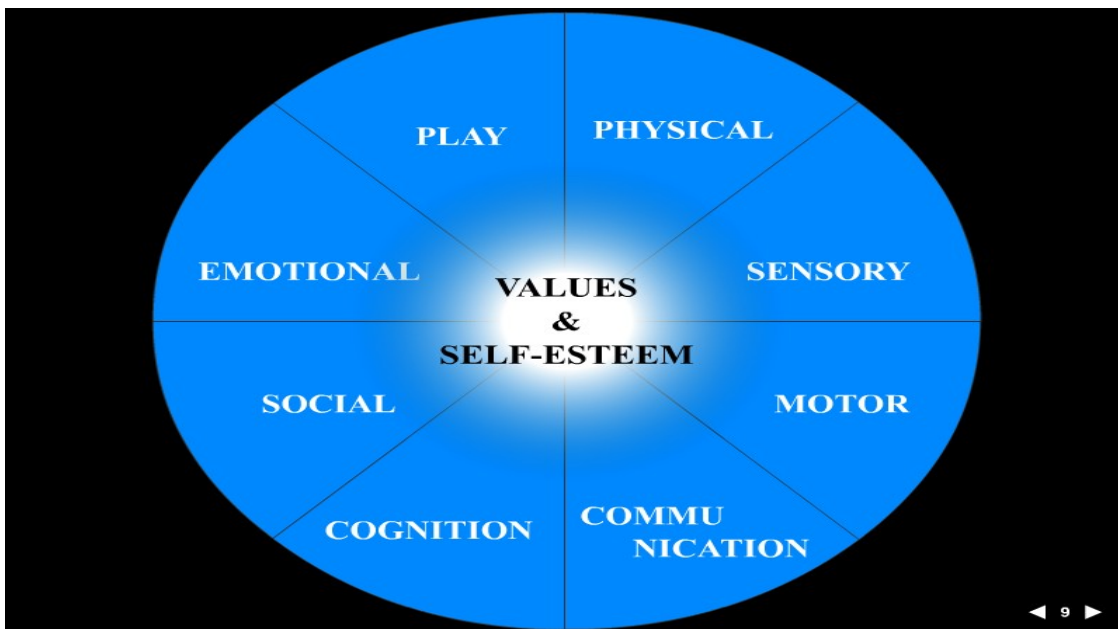
### Introduction

Every child is born with a unique potential. Very importantly, these potentials need nurture and support to develop!

**The child and potential require parenting, which involves understanding a child holistically and responding appropriately and lovingly to needs that are different at different ages ... they greatly enhance the child's development**

Children develop their potential and well-rounded personalities when ALL areas of development are considered and nurtured holistically. A child's physical, sensory, motor, understanding, social, emotional, and communication are different areas of development.

**They are interrelated, equally important, and weave together to form the child's personality. At the core is the child's self-esteem: feeling loved and capable.**



Parents, caregivers, play an important role in supporting and enabling development.

They need information and skills to effectively parent their child or teen

Community workers need information and skills that will help them include ALL children in their realm of work effectively

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### PARENTING STYLES IN INDI

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### RESEARCH STUDIES ON PARENTING IN INDIA

[https://www.researchgate.net/publication/349462985\\_Gendered\\_parenting\\_and\\_returns\\_from\\_children\\_in\\_contemporary\\_India\\_A\\_study\\_of\\_IIT\\_students\\_and\\_their\\_parents](https://www.researchgate.net/publication/349462985_Gendered_parenting_and_returns_from_children_in_contemporary_India_A_study_of_IIT_students_and_their_parents) \*\*\*

RESEARCH GATE

### POSITIVE PARENTING – A READY RECKONER

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AUTHOR: BY PNEUMA SOLUTIONS TEAM APRIL 28, 2023

10 Tips for Parents of Children with Visual Impairments

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