

Adoption of children is not a new phenomenon in India. It dates back to ancient days when children (specially boys) were adopted into families and given the recognition of natural children. For instance, Shanta, the daughter of King Dashratha and elder sister of Sri Rama was adopted by Ramapada, the King of Auga. As Ramapada had no children and as Dashratha expected to have more children Shanta was given away in adoption. Ancient Indian texts are replete with such instances where a family denied a child particularly a male child, resorted to adopting a son of the nearest kith and kin. In the prevailing norms of those days three types of male children were recognised — DATTA or the adopted son and DASIPUTRA or the illegitimate son, normally borne by a concubine (Planning Commission, 1968: 4-5).

The practice of adoption in ancient times was not strictly motivated by the natural desire to have a child as an object of affection or as an act of compassion, but rested on certain extensive considerations, of which the most important were (1) old age protection (2) perpetuation of family name and continuance of family lineage (3) security of the family property and (4) solemnisation of last rites of the father.

Owing to Brahmanical influence, Hindus attached a very special religious significance to a son, since he ensured of heavenly bliss to the parents. In order to liberate one's soul from the bondage of existence it was considered necessary that certain last rites should be performed by the son. This custom motivated families to adopt a son with the aim of achieving spiritual

salvation. On the whole introduction of a male child meant strengthening the family economically, socially and spiritually. Hence, boys had a special social significance.

In spite of the fact that adoption was well established in Hindu society in the past, this was restricted by the caste system and the institution of the joint family. The hierarchical caste system restricted adoption of children from one caste to another. Adoptions were thus arranged in a narrow social perimeter.

In Hindu society it was conceded that the adopted child enjoyed the rights and privileges of a natural born child. He was given the protection of a home, economic security and could eventually become the heir to the family property. In stray cases where there was competition between the legitimate and the adopted son in the matter of succession — the legitimate son was entitled to a larger share.

The SMRITIS contained rules and conditions for valid adoptions but they could not be universally adopted as they prescribed different conditions for different regions and different castes. For instance, a bachelor or widower could adopt a child, married women were not entitled to adopt a child, but in some places like Madras, a 'Devdasi', a woman of the dancing girl community, could adopt a girl. In Bombay a widow was permitted to adopt provided prior permission of the husband before his death had been sought or it was in his will. In South India a widow could adopt either with the consent of the husband or with the consent of SAPINDAS. In the case of the upper three castes of Brahmin, Kshatriyas and Vaishyas, adoptions were solemnised by

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a ceremony known as DATTA HOMAM. The Sudras or lowest caste were not obligated to conform to any ceremony.

A significant fact to be noted is that in all cases the adoption consisted of a symbolic ritual of bodily transferring a child from one family to the other on mutual consent. This practice, backed by religion and social sanctions continued and in the then existing social conditions, nothing more appeared to be needed. Abandoned and orphaned children did not reach such huge proportions as in modern, increasingly urbanised society.

Urbanisation and the consequent break up of joint families has caused increasing suffering and deprivation of children, without parents and families. The order changed but there were no new measures to meet the needs brought about by the change. The religious and philanthropic institutions which once served as sanctuaries to the abandoned were also inadequate.

Under the new social order voluntary action whether individual or collective became inadequate to meet the increasing needs, and thus orphaned children in most cases became abandoned children. Other factors which brought about abandoning of children were:

- (a) the worsening economic conditions of families coupled with no change in the breeding patterns of rural and urban families. This is highlighted by the 1971 census of India which lists 228 million children under 14 years, of whom 46 million are estimated to be below the poverty line; and
- (b) the increasing incidence of children born out of wedlock, a phenomenon which followed as a natural consequence when an element of permissiveness emerged in large cities.

Hence, we also have the problem of children whose parentage is not known. Faced with the demands for rehabilitation of a large section of such children, the need for state action became imperative.

One way in which this huge need was met to some extent was through institutionalisation. Children who do not have parents or guardians or have been abandoned by their parents or have got lost and also those whose parents are incapable to provide for their accommodation, maintenance or upbringing were placed under institutional care. Institutional care under laws passed in 12 States was practically the only form of care that was available to children along with a few orphanages and private charities.

Institutionalisation is however, not a panacea for the ills of children. The children need a home and mothering. The day in an institution tends to be regimented and personal wants and needs become group wants and needs. A child's identity gets submerged and he generally remains emotionally starved.

According to the report of the Working Group set up by the Planning Commission on policies and programmes for destitute children at the time of formulation of the Fourth Development Plan, a conservative estimate indicated that 0.5 per cent of Indian children are destitute. This places the number between 1.05 and 1.15 million. This is more likely to be a conservative estimate than otherwise. Unfortunately, there has been no study to gauge the true magnitude of the problem. These children are tucked away in institutions with varying standards and run under official and non-official auspices. There is no statistical information to estimate the number of children's homes in the country. According to available reports received from organisations, approximately 30,000 children are under institutions set up under Children's

Acts, about 55,000 cared for charitable/religious trusts and private charities and national and international sponsorships and 20,000 under the institutions covered under the grant-in-aid programme of the Central Social Welfare Board. These figures account for about one million children, thereby clearly indicating a rationale for an extensive study to know what is the magnitude of this problem. Majority of these institutions do not possess even the minimum physical facilities, leave alone the congenial atmosphere of love and security. The financial input in most of the homes is very low. For instance, the homes run under the CSWB grant-in-aid programme spend on an average of Rs. 22/- per child per month on food and Rs. 9/- per child on medicine. (This was revealed in a survey conducted by the CSWB in 1970). (Chhabra, 1973). The financial input though an important factor, does not make a home what it should be. In most of our homes, the children grow up deprived of love and care. A number of them give up the struggle even before they are one year old. The unfortunate ones who survive the hazards of first years, grow up prematurely into adults. They have no childhood since all that connotes childhood is denied to them. To add to this are the under-paid, untrained workers in whose care the children are placed. They are selected to the jobs with absolutely no concern regarding their aptitude to work for children. Nor is the worker-children ratio what it should be. The effect of this on children is deplorable and needs immediate intervention. Otherwise we are working contrary to the basic elements of social justice and out of tune with the principles of the declaration of the rights of the child to which our country is a signatory.

Another measure taken for rehabilitating abandoned and orphaned children was the foster care programme. Under this programme, children are placed in families

where they receive personal care and attention and the feel of a home and family which are absent in an orphanage. The scheme which was started by various states of India provided for paying foster parents allowances to cover the maintenance of the child under their care. The foster home is an ordinary household in which the child is placed for its upbringing for a given period of time with responsibilities on the foster parents similar to those of the natural parents. This can be a long or short term contract with the foster parents. Such care is considered preferable to institutional care since it provides a comparatively natural and secure environment conducive to a child's physical, emotional and social development.

In 1967 a new movement, the SOS Children's Villages of India based on the International Movement of SOS, was started and has now expanded to Maharashtra, Gujarat, Haryana, Bengal, Jammu and Kashmir and Delhi. Children's villages try to retrieve a child traumatised by constant changes from institution to institution by wars and refugee damage, and those who are abandoned and put them into a permanent setting they can call their own home. This system depends mostly upon mother love and personal care; a woman abandoned or widowed herself finding a new family of nine children of all ages and both sexes to bring up as her own, who only leave this home when they marry or can support themselves.

The whole object of the village complex is to establish a definite identity for the child, yet with every means of belonging to the whole community like any normal child. SOS villages have cottages where the mother and children do their own work, have their own kitchen and their small functions like birthdays and festivals, but play games and make friends with the children of adjacent cottages while their

schooling, marketing, hospital care etc. are in the wider community. The village is a cluster of friendly homes. In the pilot project just outside Delhi, 40 children of the Greenfields Children's Village go to their own nursery school as there is no balwadi nearby, but all the older 130 children go by bus to some of the best schools in Delhi. Despite a bad educational background, every child passed last year, some with distinction and many in the top ranks which only proves the capacity of these formerly unwanted children, given love and trust.

Even if we make human improvements in our orphanages and even if we introduce more and more new social measures to rehabilitate these children, one can hardly claim that we are doing the optimum for our abandoned and orphaned children as long as they are denied natural homes and families. The best of orphanages and institutions and the finest foster homes cannot give the child what a natural family can offer. Therefore, providing children with families in which they can grow and develop like natural born children has to be considered as the most effective instrument of social action for a child deprived of its own family.

However, unfortunately we do not have proper legislation to make it possible for children to be placed in adoption. The existing legislations for children are not universal in application. The Hindu Adoption and Maintenance Act covers only Hindu children.

Other acts like the Children's Act 1960 of Union Territories and Guardians and Wards Act of 1890 can only place children in families on a guardianship basis. Neither the parents nor the children have any security since there is no adoption deed signed and the child does not have any rights like a natural child. Another factor that is alarming is the preference of most of the Indian

parents for boys. On the other hand incidence of boys coming to orphanages is rare as compared to girls. Consequently girls remain in orphanages and many families remain disappointed. Hesitancy on the part of the parents to take girls springs from various reasons. In a society where marriages are still arranged, parents are afraid that their daughters whose parentage is not known may not get married. This, coupled with the native preference for male children, goes against the interest of the girls in orphanages. This is detrimental since prolonged stay in orphanages has grave consequences. As mortality rate in some of the orphanages range from 65 per cent to 75 per cent. girls who are left behind either die or are shifted from one orphanage to another as they grow up.

An important factor that has influenced the Indian scene in this area is the demand for Indian children by foreign nationals.

The reason for this demand for inter-country adoption finds its roots in the drastic social change which the western world is undergoing, the result being the decline in the social stigma attached to illegitimate children and very few such children being abandoned to orphanages. The numbered few who do find themselves homeless gain protection in foster homes. Foster care also enfolds into its mantle the children of homes where poverty, neglect, alcoholism or drug addiction has made it necessary. The result is that there are almost no children available for bonified parents who truly desire to adopt a child. These parents, therefore, turn to countries like India where homeless and foundling children abound in ever increasing numbers.

The ICCW has been assisting parents (both Indian and foreign) to take orphan children under foster care in the absence of an adoption deed. Ninety-nine foreign families took children under foster care between the years 1963-1970. This action

was legalised under section 16(1) of the Children's Act 1960. Since year 1970-71, however, hardly any case of foreign parents has been processed, as the orphanages in Delhi under instruction of the Administration authorities have stopped considering applications from foreign adoptive parents. The reason for this action was attributed to the lack of proper supervision and follow up of the children going overseas.

In fact in all the cases of children placed in families outside the country a regular follow up through progress reports is maintained. The ICCW, the Indian Council of Social Welfare and the Association of Promotion of Adoption have consistently investigated cases of inter country care of children under the Guardians and Wards Act 1890 and have found every child to be loved, cared for, integrated and wanted in the new family. Moreover, every child adopted abroad comes under the local laws which protect the child. The Ministry of External Affairs reports that to their knowledge there has been no case of complaint against foreign adoptive parents.

The Indian Council of Social Welfare has been meanwhile assisting parents to take children under the Guardians and Wards Act 1890 with a view to ensuring their welfare by streamlining the procedure and bringing in an element of professional evaluation of home studies and well-being of the child. The High Court of Bombay has already amended its rules to consult the ICSW on all cases of guardianships that come before it.

Among the other Indian agencies which are responsible for promoting the cause of adoption, the All India Women's Conference and the Indian Association for Promotion of Adoption need to be mentioned. The former is a national organisation working for the welfare of women and has contributed to the cause of adoption by guiding

the parents to select children and contacting agencies where children are open to adoption.

The Indian Association for Promotion of Adoption was established in 1970 and has endeavoured to create a social climate for the promotion of adoption.

In spite of the efforts of the agencies concerned with the programme, so little is achieved due to the lack of a common code in adoption. Hence, the future of many an unwanted and abandoned child lies embedded in the Adoption of Children Bill 1972. The Bill is on the anvil and is being widely discussed in social work circles and amongst the persons who have adopted or wish to adopt and those who wish to promote the interest of the child. The most heartening feature of the Bill is that it seems to create a uniform law of adoption applicable to all communities. Unfortunately, the Government's decision to enact a secular law of adoption has caused a feeling of resentment and disapproval among some of the minority groups of India. The cause of this resentment stems from the belief that the Bill violates the tenets of their religious beliefs. Such claims have hampered the process of the Bill, being enacted by Parliament. Adoption of Children Bills were introduced by members in the Parliament (Rajya Sabha) since 1955. The course taken is given below:—

1955: The first attempt to have a uniform legislation on adoption was made by Mrs. Jayashree Raiji who introduced to the Lok Sabha the Adoption of Children Bill 1955. She was requested to withdraw the bill by the then Law Minister since the Government wanted to pass the Hindu Adoption and Maintenance Act first. She was assured that the adoption bill will be reintroduced after passing the

Hindu Adoption and Maintenance Act. However, this did not happen since Smt. Rajji and the Law Minister retired from Parliament before that.

1965: The Indian Council for Social Welfare (then Conference of Social Work), in collaboration with other welfare agencies, drafted the Adoption of Children Bill which was sent to the Minister of Law and distributed among the members of Parliament.

1967: Smt. Tara R. Sathe introduced the Adoption of Children Bill 1967 to the Rajya Sabha.

1970: Smt. Mangla Devi Talwar introduced the Adoption of Children Bill 1970 to Rajya Sabha.

1972: The Minister of Law, Shri H. R. Gokhale introduced the Adoption of Children Bill in 1972.

When the Bill was introduced by

the Law Minister himself one expected a speedy passage of the Bill. However, in 1974 — we were yet uncertain when the Bill will be taken for discussion. It is for this very purpose that the ICCW constituted an Adoption Committee along with the Indian Council of Social Welfare, All India Women's Conference and the Indian Association for Promotion of Adoption to consider at length the various issues involved, especially inter-country adoptions.

The Committee had various sittings and submitted a memorandum to the Prime Minister urging the speedy passage of the Bill.

This is the Indian scene today. Till the Adoption Act comes through the programme will be carried out by various agencies, under various provisions and with or without proper documentation and follow up. Exploitation of would-be adoptive parents also cannot be ruled out. The only redeeming feature is that some children are finding parents in families within and outside the country.

REFERENCES

Chhabra, Rani
1973

"They want Love and Security", *Sunday Standard Magazine*,
November 25.

The Planning Commission,
Government of
India
1968

Encyclopedia of Social Work, Vol. 1, pages 4-5.