

ABSTRACT

FUNDAMENTAL RIGHT TO ADOPT: A CRITICAL ANALYSIS OF COMPETENCY OF PERSONS IN ADOPTION PROCESS

***ASTHA GARG¹**

Adoption is the process by which a child is acquired into a new kinship, foregoing all bonds with the previous, biological family to form new ties, social and legal with the new, adoptive family. On the face of it, the various personal laws in India seem to have drastically differing takes on the concept of adoption and its practice. These differences have in turn brought the emergence of a long debated topic, which has to be resolved for better understanding of adoption in India. Thus, with evolving of jurisprudence in this area and the emergence of a plethora of cases, the author intends to understand the practice of adoption among the major religions in India, namely, Hinduism, Islam, and Christianity through their specific personal laws along with a comparison with the secular law with respect to the same. The major focus throughout the paper is on the qualifications to be satisfied by potential adoptive parents to adopt a child and the differences between these qualifications among various personal laws. Heavy emphasis is placed on the differences between the varying personal laws in comparison with the secular law, that is the Juvenile Justice (Care and Protection of Children) Act, 2015. The Right to Adoption as a fundamental right is discussed in depth via the landmark judgment of *Shabnam Hashmi v. Union of India*. The author's ultimate aim is to conduct a wholesome study on the process of adoption in various personal laws with focus on the competence of persons of that religion to adopt and how it differs from other religions.

¹ Student, 4th Year, B.B.A LL.B, Symbiosis Law School, NOIDA