**SHOULD ADOPTED CHILDREN BE ALLOWED TO CONTACT THEIR REAL PARENTS?**

**Raj Yadav,**

Student , Indore Institute of Law

**Abstract**

This paper tries to dive into the complexities of the laws whether the adopted children is allowed or not allowed to contact their relationship. This is the best way I can express that extremely complicated question. No adopted should never feel pressured to meet or reunite with their biological family. Every adopted has experienced a different journey. Only they can decide what is best. One can feel pressured to participate given the DNA testing for adopters' rising popularity. In this paper, we are discussing adoption through various laws according to Hindu, Muslim, Christian, and many other cultures' laws. and some other points relating to the adopted child, such as whether they know about their biological parents or not. If they so want, children should have the right to be able to find out who their biological parents are. Children who do not wish to know who their biological parents are typically have a good reason. Children who are unaware of their biological parents should do so in order to make contact with them. On the one hand, some kids are dead on when they say they don't want to find out who their birth parents are, but on the other hand, some kids actually do. All adopted children should have the freedom to identify their biological parents. In order to prepare for what is ahead in life, a youngster should learn who their biological parents are for a variety of reasons. It might be beneficial for both a child and their biological parents for a child to know who their parents are. If the child is likely to develop a sickness as an adult, they should be aware of the type of disease they will deal with all their lives. It is crucial that the child is aware of their family's medical and even genetic history.

**Introduction**

Adopting a child is a contentious act that needs to be handled carefully and addressed in order to successfully respond to any inquiries that might be raised. The practice of child adoption involves permanently transferring the parental rights of the biological parents to the adoptive parents, who are frequently referred to as foster parents. Adoption is thoroughly vetted in many nations to make sure the adoptive parents are suitable and have good reasons for doing so. Even though it may resemble guardianship, adoption is very different because the biological parents do not get involved in the care or development of the child, and the transfer itself is a long-term event. In contrast, guardianship may be a commitment to help the kid's biological parent who is struggling to care for the child. Unlike guardianship, adoption may include legal or religious issue she numbers of child adoption cases in the United States of America is thought to be around 125,000 annually. Children with disabilities were not frequently adopted in the past. However, things have changed in recent years, and all children—disabled or not—are now highly adopted. A child may be adopted for a variety of circumstances or motives. Some of them include situations when the child's biological parents are deemed incapable of providing the child with the proper care. For instance, the adoption procedure might be started when the biological parents are unable financially to provide for the child's basic requirements, such as food, shelter, clothes, health care, and education. Also, when the biological parents are no longer living or when they are health-wise challenged. This creates room for child adoption. The age of the parent can also form the basis for child adoption from the biological parent to adopting parents.[[1]](#footnote-1) Since adoption typically occurs when a child is still a young child and includes the transfer of parental rights from biological parents to adoptive ones, the adopted child typically has no idea whether they were adopted or not. Whether or if the adopting parents inform the adopted child of their adoption will determine this. Adoption concerns are quite delicate and may commence psychological agony to the child especially when the information about adoption is revealed at tender age. Children are typically not given access to such sensitive information until they are deemed mature and independent enough to make informed decisions. Some people could have the desire to learn their adoption story and the identities of their biological parents.

**Background**

In accordance with Hindu mythology, an only son may be adopted in order to preserve the family line and carry out funeral rites. Even the Dharmasastras only discuss the requirements for adopting male children. A child was typically adopted for temporary and

Adoption is now also done for the adopters' emotional and parental needs, as well as for spiritual reasons. It was necessary to invite relatives to the adoption ritual (Dattahoma), which was considered the most significant witness to the adoption in ancient India.  
The adopted child is still entitled to the property even if a boy is born after his adoption, according to Smrtikaras, if a person adopts a child, he will be the authority or successor of the entire property inherited. Discussions about the search for their biological parents have generated controversy. These discussions center on whether or if they should look for their parents. Adoptive parents may believe it is unnecessary to look for the child's biological parents because they have complete control over the child's development. When these children or people learn who their biological parents are, the biological parents may also feel uncomfortable and embarrassed. From these foundations, adoptive parents have severely prohibited their adopted children from contacting their birth parents. Due to the value Hindus place on a male kid, adoption traditionally developed among the Hindu people. In the absence of having his own natural child, a Hindu is only allowed to have his secondary son, according to the scriptures. A natural-born child was believed to be the only representation of a man in historical events, and it was thought to be wholly incorrect to accept a secondary son through adoption. As a result, Hindu scriptures never recognized a son other than a man's natural son as legitimate. Early Hindu philosophy does not accept female adoption.[[2]](#footnote-2) The fact that the scriptures forbade the wife or a daughter from officiating at a man's burial or reciting sacred passages is proof of this. It was thought that a female child couldn't save the dead from hell or the pain of the after life.

**Why An Adopted Child Know Their Biological PARENTS?**

Everyone who has been adopted ought to have access to their birth certificate. Adopters have a right to know their origins and the identities of their biological parents Period. It is not only their right, but also a fundamental human right.

Everyone who has been adopted ought to have access to their birth certificate. Adoptees have a right to know their origins and the identities of their biological parents. Period. It is not only their right, but also a fundamental human right. A child has a right to know they are adopted, but sometimes biological parents prefer to remain anonymous. A small fraction of adoptions today is still closed, meaning the biological and adoptive parents have never met and have never shared any personal information. They don't communicate in any way either before or after the birth.[[3]](#footnote-3) Even though they may not be acquainted, the adopted family is frequently informed of the medical history of the birth parents. Birth parents must complete medical background paperwork for domestic adoptions, which are frequently made available to the adoptive family.

Additional non-identifying details could be:

General appearance

Race

Religion

Profession

Type of the Adoption

Education

Medical History

Adoption Agency

Meanwhile, in an open adoption, the biological parents and adopted parents communicate frequently and exchange personal information. This kind of connection has become increasingly common over time and is typically quite advantageous for everyone involved. open or semi-open adoptions now account for 95% of adoptions., "open adoption is on the rise, and we're finding how important it can be to share what we can with our kids."

**Why Does An Adopted Child Not Locate Their Biological Parents?**

Those who are against the idea of searching for biological parents claim that doing so will hurt both the adopted person and their biological parents. For instance, a disabled child who was adopted because the biological parents felt that having the child would be a burden on them might shame and make the parents uncomfortable about the reason, they decided to start the adoption process. In certain situations, it could have detrimental effects on both the birth parents and the adopted person. The youngster could feel stigmatized and unappreciated by society as a result of this.

It's possible that the adopted person has secret goals and intentions against their biological parents for allowing them to be adopted. They might intend to cause them physical or psychological harm. For instance, some newborn kids' lives are put in jeopardy due to the parents who bore them. There have been instances where parents have dumped their young children in dumping pits and pit latrines.[[4]](#footnote-4) When an adopted child learns such private information, they may begin to plot or consider retaliation. The adoptive parent shouldn't enable them to look for their biological parents in order to prevent such situations.

A child's rights are legally transferred from the biological parents to the foster parents when they adopt the child. The biological parents have absolutely no connection to the adopted child because this adoption is a legally acknowledged transfer. Because of this, the foster parents should keep their identities and whereabouts a complete mystery. Being a biological parent does not entail being completely responsible for the welfare and upbringing of the child. The adoption procedure is similar to marriage, when those opposing are asked to keep quiet until they pass away after the bride and groom exchange vows. When the adopted child returns home to their birth parents, the adopted carers could feel duped or undervalued. For instance, the foster parent may have made significant investments to ensure the welfare of the child. For the benefit of the child who eventually moved in with other families, the care could have required sacrifice in terms of finances, social issues, and even time commitment.

CHILD ADOPTION LAWS IN INDIA- ACT

India doesn't have a general rule governing adoption of persons of different religions. The Hindu Adoption and Maintenance Act, 1956, which allows Hindus to adopt a child lawfully, governs all adoption-related laws in India. In India, only those who identify as Hindus and those who belong to Other religions that wish to adopt a child are only permitted to do so under the terms of The Guardians and Wards Act, 1890.

**Indian Constitution.**

The Indian government is working to ensure the welfare and full rights of children. The Indian Constitution Chapter III outlines Fundamental Rights. Article 21[[5]](#footnote-5) of the Constitution guarantees one of these rights, which is as follows: "No one shall be deprived of his life or personal liberty except in accordance with procedure." regulated by legislation. Article 21 so guarantees that every child can live in dignity. The right against child exploitation is provided in Article 24[[6]](#footnote-6) of the "Fundamental Rights of the Citizens" document.

The State shall Endeavor to obtain for the citizens a Uniform Civil Code across the territory of India, according to Article 44[[7]](#footnote-7) of the Constitution. This objective has not yet been fully attained. According to Article 39, the State must focus its policies on giving children a healthy environment and making sure that the facilities are available. Give them a feeling of independence and respect. Youth are safeguarded from exploitation, forced labour, and abandonment on both a moral and material level.

**The Hindu Adoptions and Maintenance Act (HAMA)**

Hindus, Jain, Buddhists, and Sikhs are all covered under the HAMA. According to this law, the adoption is final and grants the kid the same legal rights as a child who was born into the family naturally, including the right to inherit property. The only limitation in HAMA is that parents cannot adopt a kid of a specific sex if they already have one of that sex.

adoption or having a child of the same sex. In accordance with the GAWA, children who reach 21 ceases to be wards and take their independent identities. They are not necessarily entitled to inherit property.

Adoptive parents must leave their children whatever they choose through a will, which any 'blood' related child may oppose. Regarding the orphan, abandoned, and turned in children, nothing is written in the aforementioned enactments. There was no formal law governing the adoption of the categories' offspring. As a result, there were a number of misunderstandings or irregularities regarding the custody, guardianship, or adoption of these kinds of kids that were detrimental to the kids' best interests.

**Guardians and Wards Act (GAWA)**

The GAWA is applicable to Christians, Muslims, Parsis, and Jews because their personal law do not recognize complete adoption. Under the GAWA, the relationship which is established after adoption is only of guardian and ward respectively. Adoption under GAWA does not confer status of the child on the adopted child, it is different from the HAMA.

**The Juvenile Justice (Care & Protection of Children) Act 2000**

All citizens of India are subject to the Juvenile Justice (Care & Protection of Children) Act 2000. It permits the adoption of two identical twins. It grants parental and child status rather than guardian and ward. Additionally, it grants the adopted child the same rights as a child. Justice for Children (Protection and Care of 6 Ibid. 4 Children) Act 2000 is intended for the care, protection, development, and rehabilitation of juveniles in conflict with the law and children in need of care and protection, as well as the adjudication and disposition of certain matters related to them. It was published in the Articles section of www.manupatra.com.[[8]](#footnote-8) Similar to the Special Marriage Act of 1954, which makes it possible for anyone who resides in India, regardless of the religion they practice, to get married under that Act. 7 This statute applies to minors up to the age of 18, and it provides a uniform foundation for justice across the nation. There was no codified law prior to the JJ Act.

**Conclusion**

Absolutely, at some point. The child will learn about the adoption eventually, so it's unfair to avoid bringing it up when you think the timing is right. There are laws, of course, and some States won't disclose the parents' identities. For personal reasons, some parents who have put their kid up for adoption do not wish to meet with the child. Call them to talk about it and set up a meeting with your child and their birth parents if you know the mother, father, or both[[9]](#footnote-9). Foster parents and the child's biological parents enter into a formal agreement known as adoption in which the foster parent receives the child's parental rights. Even though the foster parents now have the legal responsibility for raising the child, this shouldn't be used as justification to deny a child or individual access to vital information that will enable them to trace their family history. When an adopted person is considered to be an adult, the information should be made available to them because finding one's biological parents requires people who are psychologically capable of making wise choices. This will provide the three parties. the adoptee, their foster parent, and their birth parents. Youngsters who discover their biological parents have less psychological trauma as a result of their adoption's status or causes than children who are aware of their adoption but are unable to find their parents. An individual attempts to solve the adoption puzzle in order to learn the crucial details. This demonstrates that finding biological parents has more advantages than when they are hidden.

1. https://www.lawteacher.net/free-law-essays/family-law/should-adopted-children-be-allowed-to-seek-their-biological-parents-law-essay.php (visited on 20 January at 23:13) [↑](#footnote-ref-1)
2. https://www.scribd.com/doc/20167904/ADOPTION-IN-ANCIENT-INDIA#scribd(visited on 20 January at 23:44) [↑](#footnote-ref-2)
3. https://www.adoptionmakesfamily.org/blog/should-an-adopted-child-know-their-biological-parents/ (visited on January 23 at 00:05) [↑](#footnote-ref-3)
4. https://www.lawteacher.net/free-law-essays/family-law/should-adopted-children-be-allowed-to-seek-their-biological-parents-law-essay.php(visited on 23 January at 01:42) [↑](#footnote-ref-4)
5. Article 21, Constitution of India [↑](#footnote-ref-5)
6. Article 24, Constitution of India [↑](#footnote-ref-6)
7. Article 44, Directive Principles of the State Policy, Constitution of India [↑](#footnote-ref-7)
8. http://docs.manupatra.in/newsline/articles/Upload/E8EFE493-114B-4E5B-A014-682EB1729301.pdf (visited on 23 January at 23:45) [↑](#footnote-ref-8)
9. https://www.adoptionmakesfamily.org/blog/should-an-adopted-child-know-their-biological-parents/(visited on 25 January at 23:16) [↑](#footnote-ref-9)