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Religion and Adoption in India: Toward a Uniform Adoption Law

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ABSTRACT

India's adoption laws reflect layers of history and belief. In 1890, the Guardians and Wards Act created a guardianship route for non-Hindu families, leaving the child tied to birthline inheritance. Sixty-six years later, the Hindu Adoptions and Maintenance Act established a clear path for Hindus, Sikhs, Jains, and Buddhists to adopt—and to grant full inheritance rights. A more open option emerged with the Juvenile Justice (Care and Protection of Children) Act in 2015, inviting any citizen to take in an orphan or abandoned child. Yet the old Hindu statute remains alive, producing two parallel systems. That gap affects who can adopt, how quickly a child finds a home, and which rights a new family enjoys. This study traces each law's origins, unpacks the holes they leave, and looks at how outcomes vary by community. It brings together a doctrinal analysis to build a single, cohesive adoption law- one that honors India's constitution and its international obligations.

KEYWORDS

Adoption Law, CARA, Guardianship, HAMA, Juvenile Justice Act, Legal Pluralism, Uniform Civil Code.

1. INTRODUCTION

India stands at a crossroads in its approach to adoption. Two streams of law flow side by side. One stream consists of the Hindu Adoptions and Maintenance Act of 1956, crafted to codify centuries of Hindu custom and secure lineage, inheritance, and child welfare within that community. The other began with the Guardians and Wards Act of 1890, offering guardianship rather than full legal parentage, and matured into a secular adoption

regime under the Juvenile Justice (Care and Protection of Children) Act of 2015. These parallel tracks fragment legal certainty, extend waiting periods, and deepen disparities in outcomes for children and parents. Adoption among Hindus once relied on Smritis and local custom, with courts piecing together rules from ancient texts (Garg, 2023). That patchwork yielded contradictory interpretations and left children vulnerable. In the mid-1950s, lawmakers resolved to create a unified code for Hindus, Jains, Sikhs, and Buddhists. They wrote formal entry barriers: eligibility tied to religious identity, absence of a living son of the same gender, written spousal consent and full inheritance rights for the adopted child. The new law brought clarity where custom had faltered, but it also cemented religion as the key to legal parentage. Other communities received no such remedy. Christians, Muslims, Parsis, and Jews could become guardians under the 1890 Act, but they could not terminate ties to birth parents or confer equal succession rights on the cared-for child. The global shift toward secular adoption only reached India in 2015. Lawmakers created a universal adoption framework under the Juvenile Justice Act that applies to any citizen, regardless of faith. It outlines home studies, Child Welfare Committee approvals, centralized matching through the Central Adoption Resource Authority, and post-adoption monitoring.

Despite the promise of a single, inclusive pathway, Hindu adopters may still elect the older, familiar process under the 1956 Act. Non-Hindus lack that choice, facing quotas, longer wait lists, and discretionary scrutiny. The most recent CARA data reveal some 30,000 approved applicants awaiting a child and only 2,131 children declared eligible for adoption in 2022–2023 (Central Adoption Resource Authority, 2023). Two thirds of those children carry special needs or are older than five. The average wait from application to placement stretches beyond three years and often climbs higher in states with fewer accredited agencies. These statistics expose more than procedural backlog. They highlight a deeper divergence in rights. Adopted children under the Hindu law enjoy immediate citizenship recognition, clear succession, and unfettered name change. Those placed under the Juvenile Justice Act encounter fragmented documentation, legal ambiguity in inheritance, and social stigma in communities unaccustomed to secular adoption. Guardianship cases under the 1890 Act slip through judicial cracks, with some courts treating guardians as adoptive parents on equitable grounds and others denying claims of inheritance. The fragmentation works real harm. Prospective parents grow weary of red tape. Many withdraw applications or abandon plans to adopt. Children languish in institutions longer, missing crucial years of family life and attachment. Minority faith families seldom pursue adoption. Domestic adoption rates among

Christians and Muslims hover below ten percent, even though these communities represent close to a quarter of the population. Adoption remains largely a promise unfulfilled for those outside the Hindu fold.

A systematic inquiry can untangle this knot. It must start with the constitutional mandate of equality under Article 14 and the right to personal liberty and dignity under Article 21. A Uniform Adoption Act, drafted through a parliamentary committee with religious-community representatives, child-welfare experts, and legal reformers, can replace the trio of statutes with one comprehensive law. That act will anchor eligibility rules in the best interests of the child, not the adopter's faith. It will merge competing procedures into a single home study, central registry, and fixed timelines for matching and placement. Practical application of a uniform law demands clear provisions. It should declare any Indian citizen, including single persons, LGBTQ+ individuals, non-resident Indians, and foreign nationals, eligible to adopt under the same standards of fitness and readiness. It should remove all remnants of the guardianship model, granting adopted children immediate rights to citizenship, succession, and identity documents. It should mandate at least three years of post-adoption follow-up by accredited agencies, funded through a central corpus that draws on intercountry adoption levies and corporate social responsibility commitments. CARA's intercountry adoption protocols require streamlining along Hague Convention lines. Routine approvals must shift from discretionary judgment to administrative deadlines. Online dashboards should manage document uploads across diplomatic missions and domestic authorities. Anti-discrimination training must become compulsory for all personnel in adoption agencies and child welfare committees, backed by complaint mechanisms and penalties for bias.

This research paper will map the legal terrain, chart adoption statistics across religions, and test these reform proposals through doctrinal analysis and stakeholder interviews. It will evaluate how other nations—South Africa, Ireland—have integrated personal-law diversity and secular adoption under one statute. The ultimate aim is to offer a blueprint for legislation that upholds every child's right to a secure family, respects cultural identities without elevating them above the child's welfare, and fulfills India's promise of equality under law. Threads of history, data, and lived experience will converge in the discussion that follow, leading toward a clear, actionable path for reform.

2. HISTORICAL EVOLUTION OF ADOPTION LAW IN INDIA

• Pre-Independence Foundations

Under colonial rule, adoption of Hindus took place through custom and judicial interpretation of Smritis. Interpretation of Manusmriti and local practices varied across provinces. Non-Hindu communities had no statutory mechanism to sever biological ties; they relied on GAWA's guardianship provisions, which left inheritance and family identity unresolved.

- **HAMA and the Hindu Code Bills (1956)**

Post-1947, legislative reforms aimed to codify Hindu personal law under Jawaharlal Nehru's government. The Hindu Adoption and Maintenance Act, 1956 achieved four objectives:

1. Create a uniform adoption procedure for Hindus, Jains, Sikhs, and Buddhists.
2. Safeguard the welfare and inheritance rights of the adopted child.
3. Clarify consent requirements—spousal consent for adopters.
4. Amend gender biases by permitting the adoption of both sons and daughters.

HAMA preserved religious norms by making adoption possible only within Hindu communities. It granted adopted children full inheritance rights but required complex conditions: adopters must be of sound mind, childless or without a living son of the same gender, and must secure spouse's written consent if married.

- **Guardians and Wards Act (1890)**

GAWA provides for appointment of guardianship without creating a permanent parent-child bond. Its purpose was welfare rather than affiliation. Guardians under GAWA cannot pass on inheritance rights by default; they must execute a will or apply for a special order. Christian, Muslim, and Parsi families thus lacked any pathway to full adoption until 2015.

- **The Juvenile Justice Act (2015)**

The Juvenile Justice (Care and Protection of Children) Act, 2015 introduced religion-neutral adoption. It defines adoption as an irrevocable transfer of parental rights, breaking legal ties with biological parents. The Act:

1. Applies to orphaned, abandoned, or surrendered children.
2. Regulates domestic and intercountry adoption under CARA.

3. Requires home studies and Child Welfare Committee (CWC) clearances.
4. Uses a centralized portal for matching and tracking placements.

Amendments in 2021–22 tightened processes to ensure children's best interests, codify post-adoption follow-up, and streamline intercountry cases. Nevertheless, HAMA remains in force, creating dual pathways and jurisdictional overlap.

3. WHY HAMA, NOT JUST A SECULAR STATUTE?

Secular frameworks existed under the name of Guardians and Wards Act, 1890 which allowed guardianship but not full adoption. Before 2015, non-Hindu communities lacked statutory adoption rights; Muslims, Christians, Parsis and Jews could only become guardians. HAMA filled that gap for Hindus while preserving religious doctrine around filiation and inheritance.

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), introduced a religion-neutral adoption process. Yet it coexists with HAMA, leaving pluralism intact. Critics argue this duality:

1. Perpetuates inequality between religious groups.
2. Complicates adoption procedures for non-Hindus.
3. Contradicts Article 44's Uniform Civil Code aspiration.

4. LEGISLATIVE LOOPHOLES AND INEQUITIES

- ***Parallel Statutes and Procedural Complexity***

Multiple statutes lead to confusion. Prospective parents must choose between HAMA and JJ Act when they meet HAMA's strict criteria. Non-Hindus can adopt only under the JJ Act, subject to quotas, waiting lists, and CARA's discretionary powers. Overlapping jurisdiction between state CWCs and CARA complicates inter-state and international placements.

- ***Religious Disparities in Access and Rights***

HAMA limits adoption to Hindus and prohibits post-adoption name change except under explicit court order. GAWA provides only guardianship, leaving adopted children vulnerable in succession disputes. Cases show non-Hindu adoptees frequently lose inheritance rights when biological families challenge guardianship orders.

- ***Gender and Lineage Bias***

Despite HAMA's reforms, conditions still favor male lineage. A married Hindu must have no living son of the same gender. Single women can adopt but face stigma and bureaucratic hurdles. Research shows lesbian and single LGBTQ+ applicants encounter informal discrimination and restrictive interpretations of "family environment" under the JJ Act, notwithstanding its secular text.

- ***Delay and Bureaucratic Bottlenecks***

The average adoption process exceeds three years. CARA data reveal 30,000 registered applicants but only 2,131 children available, of whom most have special needs or are older than five. Delays skew demand toward infants, leaving institutionalized older children in limbo. NGOs cite understaffing, paperwork, and protracted legal vetting as root causes.

5. COMPARATIVE OUTCOMES ACROSS COMMUNITIES

- ***Adoption Rates by Religion***

CARA figures stratified by adopter religion show Hindus account for 70 percent of domestic placements, reflecting HAMA's legacy and community awareness. Christians and Muslims represent under 10 percent each. Parsis, Jains, Sikhs, and Buddhists adopt exclusively under the JJ Act; their numbers remain negligible, suggesting procedural barriers and community norms suppress uptake.

- ***Inheritance Disputes***

Judicial review of inheritance suits involving adopted children under GAWA shows mixed outcomes. Courts have sometimes equated guardianship with adoption, granting inheritance—contrary to statute—when equitable. But inconsistent pronouncements leave non-Hindu adoptees legally insecure, with litigants exploiting legislative gaps.

- ***Child Welfare Outcomes***

Studies in Andhra Pradesh and Gujarat comparing outcomes for children adopted under HAMA vs. JJ Act reveal higher post-placement stability in HAMA cases. Extensive pre-adoption counseling, entrenched community support networks, and clear inheritance rights under HAMA contribute to integration. JJ Act placements show higher incidence of post-adoption legal challenges.

6. PROPOSED FRAMEWORK FOR A UNIFORM ADOPTION LAW

Drawing on these recommendations, a uniform adoption statute should:

1. Abolish Religion-Based Eligibility

Permit any Indian citizen to adopt under identical criteria, rooted in best interests of the child.

2. Unify Procedures

Merge HAMA and JJ Act mechanisms into one streamlined process: single home study report; centralized online registry; fixed timelines for each stage.

3. Guarantee Full Parental Rights

End GAWA's guardianship-only model. Adopted children must have unconditional inheritance, name change rights, and social security entitlements.

4. Expand Eligibility

Include single persons, divorced or widowed individuals, LGBTQ+ persons and couples, non-resident Indians, and foreign nationals under uniform criteria.

5. Ensure Post-Adoption Support

Mandate minimum three-year follow-up by SAAs, with psycho-social counseling and legal aid for inheritance disputes.

6. Simplify Intercountry Adoption

Adopt the Hague Convention model for reciprocity, reducing diplomatic clearance to an administrative process.

7. Embed Anti-Discrimination Safeguards

Prohibit any refusal based on religion, caste, gender, marital status, or sexual orientation. Institute penalties for administrative bias.

8. Empower Child-Centric Decision-Making

Incorporate children's views when age-appropriate. Mandate age-sensitive counseling about rights and identity.

DISCUSSION

India's adoption framework operates under three separate laws that overlap in practice. The Hindu Adoptions and Maintenance Act of 1956 governs adoption for Hindus, Sikhs, Jains, and Buddhists, while the Juvenile Justice (Care and Protection of Children) Act of 2015 creates a secular pathway open to all citizens. The Guardians and Wards Act of 1890 offers guardianship but does not sever a child's legal ties to birth parents. The persistence of HAMA alongside a secular adoption pathway contradicts India's constitutional commitment to equality. Triple regimes impose inefficiency. Navigating these parallel routes generates confusion and delay. Families outside the Hindu community encounter more hurdles and higher withdrawal rates. The 1956 Act retains gender-and-lineage conditions even as it aimed to modernize tradition. Guardianship under the older law leaves children in legal limbo. The 2015 Act promises inclusion yet falters under procedural inertia, leading minority applicants to abandon the process (Katta, 2024).

Pilot projects in select states eliminated duplicate home visits by introducing a single, accredited assessment and shifting matching online. These reforms cut the average placement time by nearly thirty percent (Katta, 2024). Dedicated outreach to Christian and Muslim organizations in targeted districts increased adoptions within those communities by forty percent over two years (Sangwan, 2025). Mandating follow-up support counseling and legal aid for two years after placement corresponded with a fifty percent drop in custody and maintenance petitions (Swetha, Rao, & Mehta, 2023).

Internationally, South Africa's Children's Act of 2005 removed faith-based eligibility rules and imposed firm timelines at each stage (Department of Social Development, South Africa, 2015). Ireland's Children and Family Relationships Act of 2015 created a single route for every family, including same-sex couples, and required aftercare services (Department of Children and Youth Affairs, Ireland, 2016). These examples offer a blueprint for India to replace three fractured statutes with one cohesive law that streamlines procedures, guarantees equal rights, and secures every child's future (Law Commission of India, 2021).

CONCLUSION

Indian adoption law sits at the intersection of religious tradition and secular mandate. The 1956 statute brought Hindu ritual into statute, yet it excludes non-Hindus from full adoption rights (Government of India, 1956; Garg, 2023). The Guardians and Wards Act of 1890 provides care without creating an irreversible

legal bond or secure inheritance for the child (Government of India, 1890; Kumari & Mourya, 2025). The Juvenile Justice Act of 2015 extended adoption to every citizen but remains bogged down by lengthy approval processes and discretionary hurdles (Ministry of Women and Child Development, 2015; Katta, 2024). These overlapping statutes cause uneven access, protracted waits, and legal uncertainty. A single, cohesive adoption law would honor the Constitution's equality guarantee, streamline assessment and placement, and confer clear parental and inheritance rights from the adoption order (Law Commission of India, 2021). Drawing on proposals from Garg (2023), Sangwan (2025), and Swetha et al. (2023) will ensure the new framework combines doctrinal precision with empirical insight. Such reform promises faster placements, wider participation across communities, and firmer protection for every adopted child.

RECOMMENDATIONS

1. Legislate a Uniform Adoption Act under Parliament's UCC mandate.

Drafting a Uniform Adoption Act will require bringing together HAMA, GAWA, and JJ Act provisions under one umbrella. Lawmakers should form a joint parliamentary committee composed of legal scholars, child-welfare experts, and representatives of religious communities.

2. Merge HAMA and JJ Act Procedures, adopting single-window clearance.

A single, time-bound process must replace the duplicative steps now split across HAMA, JJ Act, CARA, SAAs, and CWCs. The Uniform Adoption Act should mandate one comprehensive home study conducted by an accredited agency, using standardized forms and checklists. That report will cover the applicant's socio-economic standing, family environment, and readiness for parenthood. Once the home study clears, applicants register on a central online portal. Algorithms match them with children based on medical profile, age preference, and special needs.

3. Ensure Equal Rights for all adopters and adoptees regardless of religion.

Eligibility rules must eliminate religious or caste-based bars. Adoption must reflect society's diversity. The eligibility should extend to single persons, regardless of gender; divorced or widowed applicants; LGBTQ+ individuals and couples; non-resident Indians; and foreign nationals. Each category will

meet the same criteria: stable income, clean criminal record, mental fitness, and absence of a living biological child of the same gender, unless waived for older or special-needs children.

4. Adopt Fixed Timelines: 6 months from registration to matching; 3 months for pre-adoption foster care; 3 months for final order.

By law, matching decisions must occur within six months of registration. If no match arises, applicants can express flexibility on child age or special needs. The Act should require that placement orders be issued within three months of match confirmation. Birth parents' consent, where relevant, must be recorded electronically. Centralized timelines will prevent arbitrary delays and ensure accountability among adoption officers at every level.

5. Mandate Post-Adoption Follow-Up for at least three years, funded by central and state budgets.

Monitoring the child's welfare cannot end with the final order. The Uniform Adoption Act should mandate at least three years of follow-up, carried out by accredited agencies supervised by CWCs. These follow-ups will assess the child's physical health, emotional adjustment, and educational progress. Counselors trained in attachment theory will visit annually, offering guidance on parenting strategies and addressing any emerging challenges.

6. Institute Anti-Bias Training for CARA, SAA, and CWC officers.

The Act shall ban any form of discrimination in adoption processes. Officials at CARA, SAAs, and CWCs must undergo certified training in cultural sensitivity and unconscious-bias mitigation. These sessions will draw on case studies of LGBTQ+ applicants, single mothers, and minority community members who faced rejection. Each agency must maintain complaint mechanisms with statutory timelines for resolution. By making discrimination a punishable offense under the law, the Act ensures that policy ideals translate into respectful practice.

7. Harmonize Intercountry Adoption with Hague Convention norms, delegating routine approvals to designated authorities.

India's intercountry adoption process must align with the Hague Convention's administrative model. The Uniform

Adoption Act will designate CARA as the central authority for incoming and outgoing adoptions. An online dashboard will allow foreign accredited bodies to track application status and upload required documents. By integrating diplomatic liaison officers into CARA's workflow, the law will reduce the months of back-and-forth that now stall many cases. Clear service-level agreements must specify response times to each request.

8. Monitor Implementation via an independent review board with civil society representation.

An independent National Adoption Review Board will monitor implementation of the Uniform Adoption Act. The board will include judges, child-psychologists, social workers, and civil-society representatives. It will publish annual reports on adoption rates, demographic breakdowns, and case studies of best and poor practices.

9. Engage Stakeholders

Children, adoptive parents, NGOs, religious bodies in drafting the new law to ensure cultural sensitivity.

10. Expand SAA Network in rural, tribal, and minority regions with public-private partnerships.

Implementing these recommendations demands political will and inter-agency cooperation. Each step translates directly into legal provisions, administrative protocols, or institutional structures. Together, they reshape adoption from a tangled web of religious exceptions and procedural hurdles into a coherent, child-centred system. India can thus fulfill its constitutional promise of equality and secure every child's right to a loving, legally protected home.

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LIST OF ABBREVIATIONS

- CARA: Central Adoption Resource Authority
- CWCs: Child Welfare Committees
- GAWA: Guardians and Wards Act
- HAMA: Hindu Adoptions and Maintenance Act

- JJ Act: Juvenile Justice (Care and Protection of Children) Act, 2015
- SAAs: State Adoption Agencies
- UCC: Uniform Civil Code
- UNCR: United Nations Convention on the Rights of the Child