Subject Name: Hindu Law
Topic Name: Effect of Adoption

Table of Content:-

Introduction..... 1
Rights and Status of the Adopted Child..... 1
Severance from Biological Family..... 1
Marriage Restrictions..... 1
Property Rights Before and After Adoption..... 2
Continuation of Personal Relationships..... 2
Adoption Rights and Property Disposal..... 2
Determining the Adoptive Mother..... 2
Proof of Adoption..... 2

Introduction

Under the current Hindu law, an adopted child is equated with a biological child for nearly all purposes. This understanding is primarily based on Section 12 of the Hindu Adoption and Maintenance Act (HAMA), which outlines the legal effects of a valid adoption.

Rights and Status of the Adopted Child

Upon adoption, the child assumes the status of a son or daughter to the adoptive parents from the date of adoption. This includes entitlements such as inheritance rights to the adoptive parents' property.

Notably, if a male child is adopted by a single surviving coparcener, the child becomes a coparcener, sharing legal rights with him in property matters. Legal precedents, such as in **Basarargiappa v. Gurubasamma (2005)**, further clarify that the adoptive child retains certain rights from his original family, including caste-based reservations, if applicable (**Khazan Singh v Union of India, 1980).**

Severance from Biological Family

The adoption process legally severs the child's ties with their birth family, replacing them with new familial bonds in the adoptive family. Consequently, an adopted son cannot marry a daughter of the adoptive parents due to their new familial relationship.

Marriage Restrictions

Despite the adoption, certain marriage restrictions remain based on the original family connections. The child cannot marry anyone from the birth family who is considered a sapinda or falls within prohibited degrees of marriage, thus maintaining certain ties to the biological family for marital purposes.

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Property Rights Before and After Adoption

Adopted children retain rights to any property they possessed before adoption, with all accompanying obligations. The abolition of the "doctrine of relation back" ensures that the adopted child does not affect the property rights that vested before the adoption. This doctrine previously allowed adopted children to have retrospective claims on property, creating legal uncertainties which have now been resolved to provide clarity in inheritance matters (Namdev Gbadgev Chandrakant Ghadge, 2003).

Continuation of Personal Relationships

Section 12, with its proviso (c), clarifies that while personal relationships through adoption are recognized (such as a widow's adopted child being considered her deceased husband's son), these do not impact inheritance rights. This distinction helps delineate personal relationships from legal property rights.

Adoption Rights and Property Disposal

Section 13 specifies that adoption does not restrict the adoptive parents' rights to manage or dispose of their property, barring any contrary agreements. Thus, adoptive parents maintain full control over their assets, with legal provisions supporting agreements that may limit property transfer.



Determining the Adoptive Mother

Section 14 addresses the designation of the adoptive mother under different circumstances, ensuring clarity in family relationships post-adoption. This includes specifications for situations involving multiple wives, widowers, and unmarried individuals adopting children.

Proof of Adoption

The process of proving adoption adheres to general legal standards under the Evidence Act. Adoption documents, though their registration is optional, provide presumptive evidence of adoption if executed properly. However, these are subject to legal scrutiny and can be contested (Section 16 of the HAMA).