Adoption Process in India

Why in news?

A report has been recently tabled on "Review of Guardianship and Adoption Laws" in Parliament by the Parliamentary Standing Committee on Personnel, Public Grievances and Law and Justice.

What is the scenario of orphaned/abandoned children in India?

> *The Lancet study defines orphanhood as the death of one or both parents or the death of one or both custodial grandparents.*

- According to the United Nations Children's Fund (UNICEF), India has 2.96 crore orphaned or abandoned children.
- In its annual report 2020-21, the Ministry of Women and Child Development noted that 2.56 lakh children were living in 7,164 child care institutions (CCIs) in the country.
- According to Central Adoption Resource Authority (CARA) data, India recorded the lowest number of cumulative adoptions between 2020 and 2021 (3,559) since 2013, due to the coronavirus pandemic.

What is the adoption process in India?

- Adoption is the formal process through which a child is permanently separated from his biological parents to become the lawful child of his adoptive parents.
- In India, two legislations deal with the adoption of a child.
    1. The Hindu Adoption and Maintenance Act, 1956 (HAMA)
    2. The Juvenile Justice (Care and Protection of Children) Act, 2015, Model Rules, 2016 and Adoption Regulations, 2017
- A database of children and registration of prospective parents is done on a centralised Child Adoption Resource Information and Guidance System (CARINGS), which is maintained by CARA.
- **Who can be adopted**
    1. An orphan, abandoned, or surrendered child who has been declared legally free for adoption by Child Welfare Committee (CWC) can be adopted under the provisions of the JJ Act 2015.
    2. A child of a relative (paternal uncle or aunt, a maternal uncle or aunt or paternal and maternal grandparents)
    3. Children of the spouse from earlier marriage surrendered by the biological parent(s)
- **Who can adopt**
    1. Physically, mentally stable, financially capable and should not have any life-

threatening medical condition
2. Married couple- 2 years of stable marital relationship and consent of both spouses, composite age of the married couple should not exceed 110 years
3. Single- A single woman can adopt a child of any gender but a single male is not eligible to adopt a girl child, age of a single parent should not exceed 55 years
4. Minimum age difference between the child and either of the prospective adoptive parents should not be less than 25 years
5. Age criteria is not applicable in the case of adoptions by relative or step-parent
6. Couples with three or more children are not considered except in case of adoption of children with special needs or hard-to-place children

What has the Parliamentary panel noted?

- **Issues-** The waiting time for adoption has increased to three years from one year in the past five years.
- Sometimes children in homes don't want to go into adoption because of their own experience with their biological families.
- There are disruptions when children are adopted but are returned to homes.
- There are reports of rampant malpractices and inter-country adoption rackets.
- There is huge mismatch between the number of people wanting to adopt children and the number of children legally available for adoption.
- There were 27,939 prospective parents registered with the CARA as on 2021, but only 2,430 children were declared legally free for adoption by Child Welfare Committees.
- **Recommendations-** The panel has noted that it is not appropriate for an administrative authority (District magistrate), instead of a judicial body, to issue adoption orders.
- There is a need to bring out a uniform and comprehensive legislation that is more transparent, accountable, verifiable, less bureaucratic and applicable to all irrespective of religion.
- The new legislation should cover LGBTQ community.
- New legislation should avoid using the term 'illegitimate' and adoption law should be same for all children whether born within or out of wedlock.
- Monthly meeting chaired by the DM should be held to ensure that orphan and abandoned children are produced before Child Welfare Committee and made available for adoption at the earliest.

References

1. https://www.thehindu.com/todays-paper/tp-opinion/finding-a-home/article65781702.ece
2. https://www.thehindu.com/news/national/india-adoption-rules-detail/article65317981.ece
3. https://www.newindianexpress.com/nation/2022/aug/17/judges-can-best-handle-adoptionparliamentary-panel-2488262.html

Quick facts

CARA

- The Central Adoption Resource Authority (CARA) is a statutory body of the Ministry of Women and Child Development (MoWCD) that was set up in 1990.
- CARA functions as the nodal body for the adoption of Indian children and is mandated to monitor and regulate in-country adoptions.
- It is the central authority to deal with inter-country adoptions as per the provisions of the **Hague Convention on inter-country Adoption, 1993**.
- India became a signatory to this convention in 2003.

