



BHARATI VIDYAPEETH'S

**NEW LAW COLLEGE,
KOLHAPUR**

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**YASHWANTRAO CHAVAN
LAW COLLEGE, KARAD**

(Affiliated to Shivaji University Kolhapur,
Recognised by Bar Council of India and Accredited by NAAC)

A Peer Reviewed Research Journal

VIDHI-BHARATI

(ISSN: 2321-6271)

MAY 2026 VOL - XIII



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ABSTRACT

Inter-country adoption in India is governed by a structured legal framework aimed at safeguarding the welfare of children through regulated placement procedures. Instruments such as the Hague Convention on Intercountry Adoption and domestic regulations administered by the Central Adoption Resource Authority emphasize the principle of the “best interests of the child.” However, the post-adoption phase critical to ensuring long-term welfare remains under-examined and weakly enforced.

This paper argues that India's adoption regime disproportionately prioritizes pre-adoption scrutiny while relegating post-adoption monitoring to a largely procedural formality. Relying on doctrinal analysis of the Juvenile Justice (Care and Protection of Children) Act and associated guidelines, alongside a socio-legal evaluation of implementation practices, the study identifies systemic deficiencies in follow-up mechanisms. These include reliance on foreign agencies, absence of enforceable accountability measures, and lack of transparent data on post-adoption outcomes.

The paper further highlights how jurisdictional limitations and fragmented international cooperation weaken India's ability to ensure continued child welfare after placement abroad. A brief comparative analysis demonstrates that more robust monitoring frameworks exist in other jurisdictions, underscoring the gaps in India's approach. The study concludes by proposing targeted reforms, including enhanced bilateral cooperation, digital monitoring systems, and enforceable compliance mechanisms, to realign the framework with its foundational commitment to child welfare.

I. INTRODUCTION

Inter-country adoption has emerged as a significant mechanism for providing family-based care to children who are unable to find suitable adoptive homes within their country of origin. In India, this process is regulated through a combination of international commitments and domestic legal frameworks, most notably the Hague Convention on Intercountry Adoption



and statutory provisions under the Juvenile Justice (Care and Protection of Children) Act. The regulatory architecture, implemented through the Central Adoption Resource Authority, is designed to ensure that inter-country adoption occurs in a manner consistent with the principle of the "best interests of the child," while preventing trafficking, exploitation, and procedural irregularities.

Existing scholarship and policy discourse largely focus on the pre-adoption phase, emphasizing safeguards such as eligibility screening, documentation, and institutional oversight prior to the child's placement with adoptive parents. While these safeguards are undoubtedly essential, they have resulted in a regulatory imbalance in which the post-adoption phase receives comparatively limited attention. The assumption underlying this imbalance appears to be that once a child has been placed in an adoptive family abroad, the objectives of the legal framework have been substantially fulfilled.

This assumption is both legally and empirically problematic. The principle of the "best interests of the child" is not confined to the moment of placement but extends to the child's long-term welfare, identity, and development. Despite this, post-adoption monitoring mechanisms within India's inter-country adoption framework remain largely dependent on periodic reports submitted by foreign agencies, with minimal scope for independent verification or enforcement. The absence of robust accountability structures raises concerns regarding the effectiveness of these mechanisms in ensuring sustained child welfare.

This paper examines the structural limitations of post-adoption monitoring in India's inter-country adoption regime. It argues that the current framework reduces monitoring to a procedural requirement rather than a substantive safeguard, thereby creating a significant gap between legal intent and practical outcomes. By adopting a socio-legal approach, the study situates the legal framework within its operational context, highlighting how institutional constraints, jurisdictional limitations, and fragmented international cooperation contribute to this gap.

The paper seeks to address the following research question: whether India's inter-country adoption framework adequately safeguards child welfare in the post-adoption phase, or whether existing monitoring mechanisms are insufficient in practice. In doing so, it contributes to the broader discourse on child rights by foregrounding an often-neglected stage of the adoption process and proposing reforms aimed at strengthening long-term protection mechanisms.

II. LEGAL FRAMEWORK GOVERNING INTER-COUNTRY ADOPTION IN INDIA

Inter-country adoption in India operates within a layered legal architecture combining international obligations and domestic statutory regulation. At the international level, the Hague Convention on Intercountry Adoption establishes minimum safeguards to ensure that such adoptions take place in the best interests of the child and with respect for their



fundamental rights. The Convention emphasizes subsidiarity, mandating that inter-country adoption should be considered only after efforts to place the child domestically have been exhausted.² It further requires cooperation between sending and receiving states through designated central authorities to prevent child trafficking and ensure procedural integrity.

India, as a signatory, has incorporated these principles through statutory and regulatory mechanisms, primarily under the Juvenile Justice (Care and Protection of Children) Act. The Act provides the legal basis for adoption, recognizing it as a means of rehabilitation for children in need of care and protection. Section 56 explicitly permits inter-country adoption, subject to prescribed safeguards and procedures.

The operational framework is administered by the Central Adoption Resource Authority (CARA), which functions as the nodal body overseeing both domestic and inter-country adoptions. CARA issues detailed Adoption Regulations that govern eligibility criteria, procedural requirements, and the roles of specialized adoption agencies and foreign authorized agencies.

Within this framework, post-adoption monitoring is formally recognized as an essential component. The regulations require periodic follow-up reports on the child's well-being after placement in the receiving country. These reports are typically prepared by authorized foreign adoption agencies and submitted to CARA within specified timelines.⁹ The stated objective is to ensure that the child's adjustment, health, and overall welfare are adequately monitored after adoption.

However, despite this formal recognition, the legal framework does not provide a robust enforcement mechanism to ensure compliance with monitoring requirements. There are no clearly defined sanctions for delayed, incomplete, or non-submission of follow-up reports. Moreover, the framework relies heavily on the cooperation of foreign agencies, thereby limiting India's capacity to independently verify the accuracy of reported information.

This structural reliance introduces a critical vulnerability: while the legal regime appears comprehensive on paper, its effectiveness in safeguarding post-adoption welfare is contingent upon actors outside India's jurisdiction. As a result, the framework risks reducing post-adoption monitoring to a procedural obligation rather than a substantive safeguard.

III LITERATURE REVIEW AND EMPIRICAL CONTEXT

Scholarly engagement with inter-country adoption has largely focused on the legality and procedural safeguards governing adoption processes, with comparatively limited attention to the post-adoption phase. Existing literature reveals a consistent emphasis on preventing child trafficking, ensuring valid consent, and regulating adoption agencies, while long-term welfare monitoring remains underexplored.



Early scholarship on inter-country adoption primarily framed the issue within the context of **child protection and anti-trafficking concerns**. Authors have highlighted the importance of international cooperation under the Hague Convention on Intercountry Adoption, emphasizing its role in establishing procedural safeguards and preventing illicit practices. However, these analyses tend to concentrate on the **pre-adoption stage**, particularly the verification of adoptive parents and institutional compliance, rather than examining outcomes after placement.

Subsequent research has adopted a more critical perspective, questioning whether legal frameworks adequately capture the lived realities of adopted children. Socio-legal scholars have pointed out that adoption is not merely a legal transaction but a **long-term social process** involving identity formation, cultural integration, and psychological adjustment. In this context, the absence of sustained monitoring mechanisms raises concerns regarding the ability of legal systems to ensure continued child welfare beyond the point of adoption.

Empirical studies conducted by international organizations further reinforce this concern. Reports by the Hague Conference on Private International Law indicate that while most contracting states have established formal monitoring requirements, the **quality and consistency of post-adoption reporting vary significantly across jurisdictions**. In many cases, follow-up reports are treated as administrative formalities, lacking depth and critical evaluation. This observation aligns with the Indian context, where post-adoption monitoring is structured but weakly enforced.

Within the Indian scholarship, attention has largely been directed toward the regulatory role of the Central Adoption Resource Authority and the implementation of the Juvenile Justice (Care and Protection of Children) Act. These studies typically assess procedural compliance, institutional coordination, and delays in the adoption process. While they provide valuable insights into systemic inefficiencies, they rarely extend their analysis to the post-adoption phase, thereby leaving a significant gap in the literature.

Policy reports and governmental data offer limited but important insights into post-adoption realities. CARA's annual reports indicate that thousands of children are placed through inter-country adoption each year, with follow-up reports mandated for a specified period. However, these reports provide minimal detail regarding the qualitative aspects of child welfare, such as emotional well-being, social integration, or identity development. The lack of granular data makes it difficult to assess whether the monitoring system is effectively safeguarding children.

Another important strand of literature focuses on **identity and cultural displacement in inter-country adoption**. Scholars have argued that children adopted across national and cultural boundaries often face challenges related to identity formation, particularly in transracial and transnational contexts. While this body of work highlights the long-term



implications of adoption, it also underscores the need for continuous support mechanisms an aspect that is insufficiently addressed in the Indian framework.

In addition to academic literature, media reports and case studies have occasionally brought attention to instances of post-adoption distress, including cases of abuse, neglect, or disruption of adoption placements. Although such cases may not represent the norm, they reveal the limitations of existing monitoring mechanisms in identifying and addressing welfare concerns in a timely manner. The absence of systematic data collection further complicates efforts to evaluate the scale and nature of these issues.

Taken together, the existing literature reveals a clear pattern: while the legal and institutional dimensions of inter-country adoption have been extensively examined, the **post-adoption phase remains comparatively neglected**. This gap is particularly significant from a socio-legal perspective, as it highlights the disconnect between formal legal safeguards and lived experiences.

The present study builds upon this body of work by shifting the analytical focus to **post-adoption monitoring**. It contributes to the literature by integrating doctrinal analysis with **socio-legal insights**, thereby providing a more comprehensive understanding of the adoption process as a continuum rather than a discrete legal event. By foregrounding the limitations of existing monitoring mechanisms, the study seeks to address a critical gap in both scholarship and policy discourse.

IV. STRUCTURAL LEGAL GAPS AND ACCOUNTABILITY FAILURES

The deficiencies identified in the implementation of post-adoption monitoring are not merely **administrative lapses** but reflect deeper **structural gaps within the legal framework governing inter-country adoption in India**. These gaps undermine the effectiveness of **safeguards intended to uphold the best interests of the child and expose systemic weaknesses that remain unaddressed**.

1. Accountability Deficit

A central limitation of the current framework is the **absence of enforceable accountability mechanisms**. While the Adoption Regulations mandate periodic submission of post-adoption follow-up reports, they do not prescribe meaningful consequences for non-compliance.¹³ Foreign adoption agencies that fail to submit timely or adequate reports are rarely subjected to sanctions, and there is no clear escalation mechanism for persistent violations.

This lack of accountability dilutes the normative force of the law. In regulatory theory, compliance mechanisms are effective only when accompanied by credible enforcement measures. The absence of such measures in the Indian context reduces post-adoption monitoring to a largely voluntary exercise, dependent on the goodwill of foreign agencies rather than binding legal obligation.



2. Jurisdictional Constraints

A second major gap arises from **jurisdictional limitations inherent in inter-country adoption**. Once the adoption is finalized and the child is relocated, the receiving state assumes primary jurisdiction over the child's welfare. While this arrangement aligns with principles of sovereignty and international cooperation under the Hague Convention on Intercountry Adoption, it simultaneously restricts India's capacity to enforce compliance with monitoring requirements.

In cases where concerns regarding child welfare arise post-adoption, India's ability to intervene is minimal. The Convention encourages cooperation between central authorities, but it does not create binding enforcement mechanisms that would allow the sending state to compel action within the receiving state. This creates a **regulatory asymmetry**, where responsibility is diffused but accountability is unclear.

3. Over-Reliance on Foreign Agencies

The framework's dependence on foreign authorized agencies constitutes another critical vulnerability. These agencies act as intermediaries responsible for conducting follow-up assessments and reporting to CARA. However, their functioning is governed primarily by the legal and regulatory standards of the receiving country, not India.

This creates a **conflict of regulatory alignment**, where Indian standards for child welfare monitoring may not be uniformly applied or enforced. Furthermore, the absence of independent verification mechanisms means that CARA must rely almost entirely on the accuracy and integrity of reports submitted by these agencies.

In effect, the Indian legal framework outsources a crucial aspect of child protection to external entities without establishing robust mechanisms to ensure reliability or accountability.

4. Data Transparency and Monitoring Deficit

Another structural issue is the **lack of transparency and accessible data** on post-adoption outcomes. While follow-up reports are submitted to CARA, there is limited public access to aggregated data regarding compliance rates, welfare outcomes, or instances of post-adoption distress.

From a socio-legal perspective, this lack of data hinders both academic scrutiny and policy reform. Without empirical insight into how the system functions in practice, it becomes difficult to assess whether legal safeguards are achieving their intended objectives. Transparency is a critical component of effective regulation, particularly in areas involving vulnerable populations. The absence of systematic data collection and dissemination reflects a broader institutional gap in the monitoring framework.



5. Child-Centric Deficit in Legal Design

Perhaps the most fundamental gap is the **failure to fully operationalize a child-centric approach in the post-adoption phase**. While the principle of the “best interests of the child” is repeatedly invoked in legal instruments, its practical application remains limited to the pre-adoption stage.

Once the adoption is completed, the legal framework shifts focus from substantive welfare to procedural compliance. This transition reflects a narrow interpretation of child welfare that prioritizes placement over long-term well-being.

A genuinely child-centric approach would require continuous engagement with the child's developmental, emotional, and social needs beyond the point of adoption. The current framework, however, lacks the institutional mechanisms necessary to support such an approach.

V. COMPARATIVE PERSPECTIVE: STRENGTHENING POST-ADOPTION MONITORING

A comparative analysis highlights that stronger post-adoption monitoring mechanisms are feasible and have been implemented in other jurisdictions. In countries such as the United States and the United Kingdom, inter-country adoption frameworks incorporate more structured follow-up systems, including standardized reporting formats, defined timelines, and clearer accountability mechanisms.

In the United States, for instance, post-adoption reporting requirements are often embedded within state-level regulations and are enforced through accredited adoption agencies. Compliance is linked to agency accreditation, creating a regulatory incentive for adherence. Similarly, the United Kingdom maintains a more centralized approach, with local authorities playing an active role in post-adoption assessment and support.

These systems also place greater emphasis on post-adoption services, including counselling, social integration support, and periodic welfare assessments. Such measures reflect a broader understanding of adoption as a continuing process rather than a one-time legal event.

In contrast, the Indian framework lacks comparable institutional depth in the post-adoption phase. While procedural safeguards exist, they are not supported by equally robust enforcement or support mechanisms. The comparative experience demonstrates that effective monitoring requires not only legal mandates but also institutional capacity, inter-agency coordination, and sustained policy attention.

VI. RECOMMENDATIONS

Addressing the identified gaps requires targeted reforms that strengthen both the legal and institutional dimensions of post-adoption monitoring.



First, there is a need to introduce **enforceable accountability mechanisms** within the regulatory framework. This could include clearly defined penalties for non-compliance with reporting requirements, as well as provisions for suspension or de-recognition of non-compliant foreign agencies.

Second, India should pursue **bilateral agreements with receiving countries** to enhance cooperation and enforcement. Such agreements could establish standardized monitoring protocols, facilitate information sharing, and provide mechanisms for intervention in cases of concern.

Third, the adoption framework would benefit from the development of a **centralized digital monitoring system** managed by CARA. This system could track submission of follow-up reports, flag delays, and maintain a comprehensive database of post-adoption outcomes. Greater transparency in reporting would also support academic research and policy evaluation.

Fourth, there is a need to incorporate **independent audit mechanisms** into the monitoring process. Periodic third-party evaluations of post-adoption outcomes could enhance credibility and reduce reliance on self-reported data from foreign agencies.

Finally, the framework should be reoriented towards a **child-centric, long-term welfare approach**. This includes recognizing that adoption does not conclude at placement but continues to require institutional support. Integrating post-adoption services, including counselling and identity support would align the framework more closely with the principle of the best interests of the child.

VII. CONCLUSION

Inter-country adoption in India is supported by a comprehensive legal framework designed to ensure that the process operates in the best interests of the child. However, this paper has demonstrated that the post-adoption phase remains a critical weak point within this framework.

Despite formal provisions for monitoring, the system suffers from significant structural limitations, including lack of accountability, jurisdictional constraints, reliance on foreign agencies, and limited transparency. These deficiencies create a gap between the normative commitments of the law and its practical implementation.

The analysis underscores the need to reconceptualise post-adoption monitoring as a substantive safeguard rather than a procedural requirement. Ensuring the long-term welfare of adopted children requires not only legal mandates but also institutional capacity, international cooperation, and sustained policy attention.



By addressing the identified gaps through targeted reforms, India can strengthen its intercountry adoption framework and better align it with its foundational commitment to child welfare. In doing so, it would move closer to realizing the true meaning of the “best interests of the child” beyond the point of adoption.

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