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Conflict of Laws in Inter-Country Adoption: Recognition and Enforcement of Foreign Adoption Orders in India

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Abstract

The recognition and enforcement of foreign adoption orders in India sits at the intersection of private international law, child welfare, family law, statutory interpretation international cooperation. In India, inter-country adoption has historically developed through judicial innovation rather than a fully codified conflict-of-laws framework. The Supreme Court's landmark intervention in *Laxmi Kant Pandey v. Union of India* created procedural safeguards in the absence of legislation the Juvenile Justice (Care and Protection of Children) Act, 2015 later incorporated a statutory structure for inter-country adoption, while also acknowledging the relevance of the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993. Even so, substantial uncertainty remains where an adoption order is passed abroad and recognition is sought in India for purposes such as status, inheritance, identity, guardianship, immigration, passport documentation parentage. India has no single comprehensive statute governing recognition of foreign adoptions across all personal laws this gap generates doctrinal and procedural inconsistency.

This paper examines the conflict-of-laws issues arising when foreign adoption orders are presented before Indian authorities or courts for recognition and enforcement. It analyzes the normative foundations of recognition, the interaction between Indian statutory law and private international law principles, the role of public policy and child welfare the practical significance of apostilled foreign documents in Indian proceedings. It argues that Indian law recognizes inter-country adoption primarily through a child-centric welfare approach, but lacks a coherent legislative framework for automatic recognition of foreign adoption decrees. The paper further contends that the present legal position creates avoidable uncertainty for adoptive families and children, especially where the adoption originates in a foreign jurisdiction and later requires domestic acknowledgment in India. The paper concludes by proposing legislative and institutional reforms, including a dedicated statutory chapter on recognition of foreign adoption orders, clearer evidentiary rules, harmonized treatment across personal laws stronger implementation mechanisms through CARA and designated courts.

Keywords: Adoption, CARA, Juvenile Justice, Child Welfare, Foreign Adoption

1.1 Introduction

Inter-country adoption is one of the most sensitive areas in private international law because it concerns not merely the movement of a child across borders but the legal transplantation of personal status from one jurisdiction to another. Questions of domicile, habitual residence, nationality, jurisdiction, capacity, consent, best interests' public policy arise simultaneously. The issue becomes more complex in India, where adoption is regulated through multiple legal pathways, including the Hindu Adoptions and Maintenance Act, 1956 for Hindus and the Juvenile Justice (Care and Protection of Children) Act, 2015 for children in need of care and protection, while older practice in foreign adoptions often relied upon guardianship orders under the Guardians and Wards Act, 1890.[12]

Conflict of laws in adoption is fundamentally concerned with whether a status validly created abroad should be recognized domestically. Unlike purely contractual or commercial disputes, adoption creates a lasting legal relationship affecting identity, succession, custody, maintenance civil status. Recognition of a foreign adoption order thus raises at least four central questions: first, whether the foreign authority had jurisdiction; second, whether the procedure complied with due process and consent requirements; third, whether recognition would violate Indian public policy or personal law; and fourth, whether recognition promotes the best interests of the child. Indian law has not yet answered these questions in a single code or authoritative statute.[19]

The problem has contemporary urgency. India is a Hague Convention country and regulates outgoing inter-country adoptions through the Central Adoption Resource Authority (CARA), yet Indian families residing abroad, foreign adoptive parents, overseas citizens of India adopted children later returning to India often require recognition of foreign adoption orders for routine legal purposes. The absence of a uniform recognition mechanism leads to administrative hesitation, fragmented litigation avoidable hardship for children whose legal identity should not remain uncertain.[1][23]

1.2 Research Questions

This study is guided by the following research questions:

1. What is the current legal framework in India governing recognition and enforcement of foreign adoption orders?
2. How do Indian courts and authorities address conflict-of-laws issues in inter-country adoption, especially regarding jurisdiction, public policy, personal law child welfare?

1.3 Scope and Limitations of the Study

The scope of this paper is confined to inter-country adoption and the recognition and enforcement of foreign adoption orders in India. It focuses principally on Indian statutory law, Supreme Court jurisprudence, select doctrinal materials the operational role of CARA. It also examines conflict-of-laws concepts only to the extent relevant to adoption status, parental rights the enforceability or acceptability of foreign orders and documents in Indian legal processes.

The paper does not attempt a full comparative survey of all foreign jurisdictions, nor does it provide an exhaustive analysis of adoption law under every Indian personal law system. It also does not cover surrogacy, custody disputes unrelated to adoption, or criminal trafficking issues except where they directly illuminate the legal safeguards governing inter-country adoption. A further limitation is that Indian law on recognition of foreign adoption orders remains partly uncodified and dispersed across judicial decisions, administrative practice statutory provisions. As a result, some areas must be reconstructed analytically rather than derived from a single definitive enactment.

1.4 Research Methodology

This paper adopts a doctrinal and analytical legal research methodology. Primary materials include the Juvenile Justice (Care and Protection of Children) Act, 2015, judicial decisions of the Supreme Court of India publicly accessible materials reflecting India's inter-country adoption framework. Secondary materials include academic commentary and institutional summaries that assist in identifying doctrinal trends and implementation challenges.

The method is qualitative rather than empirical. The study proceeds by interpreting statutes and precedents, identifying private international law principles embedded in the Indian framework evaluating the adequacy of those principles for recognizing foreign adoption orders. The paper also uses normative analysis to assess whether the present law sufficiently protects the child's best interests while ensuring predictability and legal certainty for adoptive families.

2.0 Conceptual Framework: Adoption, Recognition Conflict of Laws

In private international law, adoption is generally classified as a question of personal status. Recognition of a foreign adoption order means that the forum state treats the child-parent relationship created abroad as legally valid within its own territory. Enforcement, in this context, does not always mean coercive execution as in commercial judgments; rather, it often means giving legal effect to the foreign order by acknowledging parentage, recording status, permitting succession rights, enabling travel documents, or allowing administrative acts based on the adoptive relationship.

Conflict-of-laws analysis in adoption usually involves three layers. The first is jurisdiction: whether the foreign authority that made the adoption order was competent according to internationally acceptable connecting factors such as habitual residence, domicile, nationality, or presence. The second is choice of law: whether the law governing adoptive capacity, consent the child's adoptability was properly applied. The third is recognition: whether the forum state should give effect to the foreign order, subject to exceptions such as fraud, lack of natural justice, lack of jurisdiction, or violation of fundamental public policy. In adoption cases, public policy is inseparable from the best interests of the child.[21]

Unlike matrimonial decrees or money judgments, a foreign adoption order affects a child's identity and lifelong legal status. Therefore, a mechanistic recognition approach is undesirable. At the same time, excessive insistence on relitigating undermines stability and harms children. The challenge is to build a recognition model that is neither automatic in a formalistic sense nor unnecessarily burdensome in a way that leaves the child's status in limbo.

3.0 Evolution of Inter-Country Adoption Law in India

Historically, India had no dedicated statute on inter-country adoption. The legal vacuum became apparent when Indian children began to be placed with foreign families, often through charitable or social welfare agencies.[2] In the absence of an express law, courts relied on the Guardians and Wards Act, 1890 to appoint foreign guardians who would then take the child abroad, where a final adoption could occur according to the law of the receiving state. This arrangement did not amount to adoption under Indian law, but it became the practical route through which inter-country placements were facilitated.[10][7]

This fragmented system prompted judicial intervention in *Laxmi Kant Pandey v. Union of India[1]*, where the Supreme Court responded to allegations of abuse and malpractice in inter-country adoption. The Court treated child welfare as paramount and laid down elaborate procedural safeguards, including scrutiny of sponsoring agencies, preference for domestic placement, proper inquiry into the suitability of adoptive parents careful supervision to prevent trafficking or commodification of children.[21] The decision became the foundational authority governing inter-country adoption in India for decades, effectively filling a legislative vacuum.

Subsequent legislative developments moved adoption into a more structured framework. The Juvenile Justice (Care and Protection of Children) Act, 2015 recognizes adoption as a permanent legal process through which the child becomes the lawful child of adoptive parents with rights equivalent to those of a biological child. The Act expressly defines "inter-country adoption" and includes procedures for adoption by non-resident Indians, persons of Indian origin foreigners, while also establishing the Central Adoption Resource Authority under statute.[7] The Act's preambular reference to the Hague Convention is significant because it confirms that Indian adoption law is intended to operate consistently with international standards on inter-country adoption.[16]

4.0 Statutory Framework in India

4.1 Juvenile Justice Act, 2015

The Juvenile Justice Act, 2015 is the principal statutory framework for adoption of orphaned, abandoned surrendered children in India. Section 56 recognizes adoption as a means of permanent rehabilitation and expressly states that adoption of a child from a relative by another relative, irrespective of religion, may be governed by the Act and regulations framed by the Authority. Section 57 prescribes eligibility for prospective adoptive parents, while Sections 58 to 60 regulate adoption by Indian residents, inter-country adoption of legally free children inter-country relative adoption.[5]

Most relevant to the present topic, the Act defines inter-country adoption as adoption of a child from India by a non-resident Indian, person of Indian origin, or foreigner. It also defines a "no objection certificate" issued by CARA and recognizes "authorised foreign adoption agencies," which creates an institutional mechanism for transnational coordination. Section 63 provides the effect of adoption, namely that the adopted child becomes the lawful child of the adoptive parents with all rights, privileges responsibilities attached to a biological child.[16] This status-based effect is critical when considering recognition of a foreign adoption order, because once the adoptive relationship is validly established, the question is whether India will fully accept that status for domestic purposes.[4]

4.2 CARA and Adoption Regulations

CARA is a statutory body under Section 68 of the Juvenile Justice Act, entrusted with central coordination in adoption matters.[16] Its institutional significance in conflict-of-laws matters lies in its power to process inter-country adoptions, issue no-objection certificates, recognize authorized foreign adoption agencies ensure compliance with the safeguards applicable to outgoing adoptions from India.[16][1] CARA thus functions as India's practical bridge between domestic child protection law and the transnational adoption system.[3]

The regulatory structure indicates that India does not treat inter-country adoption as a matter of unrestricted private arrangement. Instead, it is a supervised, child-centric process embedded in public law. This is important for recognition analysis, because a foreign adoption order that bypasses Indian statutory channels may be viewed with greater caution than one emerging from a Hague-compliant or CARA-linked process. In other words, recognition in India is not merely a matter of formal foreign validity; it is also a matter of procedural integrity and welfare review.[21]

4.3 Continuing Relevance of Guardianship Pathways

Before the current statutory framework matured, foreign parents often obtained guardianship rather than adoption orders in India, with the actual adoption being completed abroad. Materials discussing the historical legal position note that the Guardians and Wards Act, 1890, though never designed for inter-country adoption, was pressed into service to facilitate placement of children with foreign parents.[10] Even state rules such as the Inter Country Adoption of Child by Foreign Parents Rules, 1998 emphasized the child's overall interest and the preference for Indian parents or parents of Indian origin in order to preserve culture and heritage.[7]

This historical legacy matters because present recognition disputes sometimes arise from mixed legal histories: an Indian guardianship order followed by a foreign adoption decree, or a foreign adoption order involving an Indian-origin child where Indian authorities later seek proof of legal status. The law must therefore address not only contemporary Hague-style adoptions but also older hybrid arrangements.[2]

4.4 The Hague Convention and Its Relevance in India

The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993 aims to ensure that inter-country adoptions occur in the best interests of the child and with respect for fundamental rights. The Juvenile Justice Act expressly notes the Convention among the international instruments informing the legislation.[16] India's adoption practice, including CARA's central role, reflects Hague-style central authority coordination and documentary controls.[1]

However, the Convention's relevance in India extends beyond outgoing adoptions from India. In principle, the Convention supports mutual confidence between states regarding properly certified inter-country adoptions. Yet India still lacks a clearly codified domestic provision stating when and how a foreign adoption order from another country will be recognized automatically, presumptively, or conditionally within India. The absence of a dedicated recognition chapter weakens the full conflict-of-laws value of Hague participation because administrative and judicial actors may still default to ad hoc scrutiny rather than rule-based recognition.

A useful related development appears in the Supreme Court's later order connected with *Laxmi Kant Pandey*, where the Court directed Indian courts dealing with adoption or guardianship matters to accept documents authenticated by apostille under the Hague Apostille Convention and to dispose of such cases within the earlier time frame. This did not create automatic recognition of foreign adoption orders, but it significantly reduced evidentiary and procedural barriers by affirming that apostilled documents executed abroad should be accepted in Indian proceedings.[23] The order is important because recognition problems often begin as documentary problems: if foreign orders, home studies, consents, or agency certificates are not readily accepted, the child's legal status is delayed. [9]

5.0 Recognition of Foreign Adoption Orders in India

5.1 The Core Legal Problem

Recognition of a foreign adoption order in India can arise in several contexts: an Indian citizen or overseas Indian family adopts abroad and returns to India; a foreign adoption order concerning an Indian-origin child is presented for passport, visa, or inheritance purposes; a child adopted abroad seeks recognition of parentage or succession rights in India; or Indian authorities must determine whether a foreign order validly altered the child's civil status. Indian law does not contain a single, express statutory formula comparable to an automatic registration-and-recognition mechanism. Consequently, the legal inquiry is reconstructed from statutory policy, general private international law principles child welfare jurisprudence.[10]

In practical terms, Indian recognition tends to depend on whether the foreign adoption appears legally valid, procedurally fair, welfare-oriented not inconsistent with Indian public policy. Where the adoption traces back to the Indian inter-country process under the Juvenile Justice Act and CARA, the case for recognition is stronger because the process already contains Indian oversight. Difficulty is greatest where the adoption was concluded wholly abroad and Indian law is later asked to acknowledge it.

5.2 Recognition Through Status Rather Than Mere Execution

A foreign adoption order is not usually "enforced" in India like a money decree. Rather, it is recognized as a status judgment. Once recognized, it shapes legal incidents such as custody, maintenance, inheritance, identity documents parental authority. This distinction matters because status judgments in private international law often receive recognition when the forum is satisfied about jurisdiction, natural justice, authenticity compatibility with public policy.

Indian law is relatively clear that adoption under the Juvenile Justice Act produces full filial status.[16] The unresolved issue is whether India accords equivalent effect to such status when it has been created by a foreign court or authority. The answer is not uniformly codified, but judicial materials suggest that Indian law is prepared to acknowledge foreign-authenticated documents and to facilitate inter-country adoption-related proceedings where child welfare is secured.[23][21]

5.3 Personal Law Complications

Personal law has historically complicated recognition. Under the Hindu Adoptions and Maintenance Act, 1956, adoption is a substantive institution available to Hindus and creates full legal affiliation. But communities outside HAMA traditionally lacked an equivalent general statutory adoption regime until the Juvenile Justice legislation increasingly became the secular route. As a result, foreign adoption orders can raise questions about whether Indian recognition depends on the adoptive parents' religion, the child's religion, the law under which the foreign order was made, or the purpose for which recognition is sought. The stronger modern view is that where adoption concerns a child in need of care and protection, the Juvenile Justice Act provides a secular, status-based framework that should reduce personal-law conflict.[16][13] Nevertheless, because India still maintains multiple adoption-related legal pathways and has no specific "foreign adoption recognition" statute, authorities may respond inconsistently when asked to map a foreign decree onto domestic personal law categories.

6.0 Conflict-of-Laws Principles Applicable to Foreign Adoption Orders

6.1 Jurisdiction of the Foreign Court or Authority

A central recognition question is whether the foreign authority had jurisdiction. In adoption, internationally accepted connecting factors include the child's habitual residence, the adoptive parents' habitual residence or domicile, nationality in some systems, or the child's lawful presence within the forum. Indian law has not articulated an exhaustive jurisdiction test for recognition of foreign adoption orders, but any responsible framework would require that the foreign authority exercised a legitimate and not exorbitant jurisdiction.

If, for example, a foreign court granted an adoption with no real connection to the child or adoptive parents, an Indian court would have strong reason to refuse recognition. By contrast, where the child or adoptive parents were habitually resident in that state, the adoption proceeded through a central authority or competent court due consents were obtained, the case for recognition becomes far more persuasive. The emphasis on authorized foreign adoption agencies and no-objection certificates within the Juvenile Justice Act reflects an institutional preference for clearly accountable jurisdictional pathways.

6.2 Best Interests of the Child

The best-interests principle is the governing norm of Indian adoption law. The Juvenile Justice Act expressly defines the "best interest of child" as the basis for decisions that secure the child's rights, identity, social well-being physical, emotional intellectual development.[16] The Supreme Court in *Laxmi Kant Pandey* also built the inter-country adoption regime around welfare, supervision protection against abuse.[21]

For recognition purposes, the best-interests principle serves a dual function. It operates both as a positive reason to recognize a stable foreign adoptive status and as a negative reason to refuse recognition where the foreign process appears abusive, commercialized, or inattentive to the child's rights. Therefore, Indian conflict-of-laws analysis in adoption cannot be understood through classical vested-rights theory alone; it is a welfare-filtered recognition model.

6.3 Public Policy

Public policy remains a residual ground for refusing recognition. In adoption, Indian public policy includes protection of the child from trafficking, insistence on genuine consent, prohibition of sale or procurement of children rejection of procedures that bypass statutory safeguards. The Juvenile Justice Act expressly criminalizes adoption outside prescribed procedures and penalizes sale and procurement of children, signaling that recognition cannot be granted to foreign orders tainted by illegality or exploitation.[16]

However, public policy should be applied narrowly and with sensitivity to child status. A broad or moralistic use of public policy would produce limping status, meaning that the child is considered legally adopted in one jurisdiction but not in another. Such limping status can harm the child's identity and inheritance rights. Accordingly, Indian law should treat welfare-based stability as part of public policy rather than as something opposed to it.

6.4 Natural Justice and Valid Consent

Recognition also depends on procedural fairness. A foreign adoption obtained without notice to relevant parties, without informed consent where required, or in violation of due process should not be recognized. This principle is not peculiar to adoption; it is a standard element of private international law. But in adoption, the consent inquiry is uniquely sensitive because the child's relinquishment, the role of biological parents or guardians institutional declarations of adoptability are all central to legitimacy.

The Supreme Court's jurisprudence and the statutory framework emphasize structured oversight, institutional scrutiny proper documentation.[21][16] These elements imply that an Indian court considering recognition would examine whether the foreign process met equivalent standards of fairness and authenticity, especially where the child originated in India.

6.5 Documentary Authenticity and Apostille

Recognition disputes frequently turn on whether Indian authorities accept foreign documents. The Supreme Court's order directing courts to accept apostilled documents in adoption and guardianship matters is therefore a major development.[23] It reduces transactional friction and supports a more facilitative recognition environment. Though apostille does not establish substantive validity by itself, it streamlines proof of authenticity and removes unnecessary consular barriers.

For inter-country adoption, this is crucial. Families often need to produce adoption decrees, home studies, agency licenses, consent forms post-adoption reports. By directing Indian courts to accept apostille-authenticated documents, the Supreme Court made it easier for foreign orders and related materials to enter Indian legal proceedings as evidence.[23]

7.0 Relevant Case Law

Laxmi Kant Pandey v. Union of India

This is the cornerstone of Indian inter-country adoption jurisprudence. The Supreme Court intervened in response to concerns that Indian children were being exposed to abuse and exploitation through poorly regulated foreign adoption practices. The Court framed detailed safeguards designed to ensure that inter-country adoption remained a measure of child welfare rather than a market-driven transaction.[1]

The case is significant for conflict of laws because it established the normative basis on which India engages with foreign adoptive parents and agencies. First, it affirmed that child welfare is paramount. Second, it created a structured gatekeeping model using recognized social and child welfare agencies. Third, it implicitly treated inter-country adoption as an area where domestic oversight must remain strong even when the ultimate adoptive relationship may be completed abroad. In effect, the Court laid the groundwork for a public-policy-oriented recognition framework.[21]

***Laxmi Kant Pandey* (Missionaries of Charity application; apostille order)**

In the later order, the Supreme Court addressed practical difficulties caused by Indian courts refusing to accept documents executed and authenticated abroad. The Court held that adoption and guardianship courts in India should accept documents authenticated by officers competent to issue an apostille under the Hague Apostille Convention and should dispose of cases within the time frame earlier fixed in *Laxmi Kant Pandey*.[23]

This order matters directly to recognition and enforcement of foreign adoption orders. It shows judicial willingness to reduce formal barriers to transnational family status recognition. Although it stops short of declaring all foreign adoption orders automatically enforceable in India, it acknowledges that reliable foreign authentication should be accepted and that procedural delay is contrary to child welfare.[23]

***R.C. Mehta* and Earlier High Court Practice**

Materials discussing the legal history of inter-country adoption in India note the Gujarat High Court's engagement with adoption by foreign parents and its reliance on judicial innovation under existing laws.[10] These decisions illustrate how courts used available legal tools, including provisions under the Hindu Adoptions and Maintenance Act and the Guardians and Wards Act, to facilitate cross-border placements before Parliament enacted a fuller framework.[10]

The significance of these cases lies less in their precise holdings and more in their demonstration of a recurring pattern: when the legislature left gaps, courts attempted pragmatic solutions. That historical pattern continues to shape present recognition issues, where courts and administrators often improvise around a missing statutory rule for foreign adoption decrees.

Marggarate Maria v. Dr. Chacko

Historical materials on India's legal position note reliance on *Marggarate Maria v. Dr. Chacko,* a Kerala Full Bench decision, in developing principles relevant to foreign adoption and private international law.[10] Although discussed in secondary institutional material rather than extracted here from the full text, the case is frequently associated with the broader proposition that personal status validly created under the proper law may, subject to limitations, deserve recognition.[10]

Its relevance to the present topic lies in showing that Indian courts have long been aware that family status cannot be resolved solely through rigid domestic categories. Conflict-of-laws sensitivity has always been necessary, though it has not yet crystallized into a dedicated modern statute.

8.0 Recognition and Enforcement in Practice

In practice, recognition of foreign adoption orders in India is often fragmented across institutions rather than resolved in one proceeding. A passport authority may ask for proof of legal parentage. A revenue or municipal authority may demand birth or adoption records. A succession dispute may require a civil court to determine whether the adoptee is a lawful heir. A family court may confront the issue indirectly in custody or guardianship proceedings. This decentralized reality magnifies the cost of doctrinal uncertainty. Where the adoption is routed through the Indian statutory process, documentary continuity through CARA tends to ease recognition. But where the child was adopted abroad without prior Indian processing, authorities may hesitate because there is no simple statutory command telling them what to do. Families may then be compelled to seek declaratory relief, supplementary guardianship orders, or repeated administrative validation.

This uncertainty can be especially harmful to the child. Adoption status should be stable, portable intelligible across borders. A child who is fully adopted abroad should not encounter recurring doubt about identity, parentage legal belonging upon entry into India. The present system does not fully guarantee that stability.

9.0 Key Challenges in the Indian Legal Position

Absence of a Specific Recognition Statute

The most serious challenge is the absence of an express Indian law on recognition of foreign adoption orders. The Juvenile Justice Act regulates adoptions from India and defines inter-country adoption, but it does not comprehensively state the conditions under which an adoption order issued by a foreign court or authority will be recognized domestically for all legal purposes.[16] This omission leaves a significant conflict-of-laws gap.

Fragmentation Across Personal Laws and Institutions

Adoption in India continues to reflect plural legal histories. HAMA remains relevant for Hindu adoptions, while the Juvenile Justice Act provides a broader pathway. Guardianship law historically played a major role in foreign placements. Because recognition issues can surface before different authorities, each may approach the question through a different legal lens. This fragments legal status rather than consolidating it.

Overdependence on Welfare Discretion Without Predictable Rules

A child-centric approach is normatively sound, but pure discretion is not enough. Without defined jurisdictional and recognition rules, welfare language can mask inconsistent decision-making. Similar foreign adoption orders may be treated differently by different authorities, not because children's welfare differs, but because legal criteria remain underdeveloped.

Documentary and Procedural Delay

The apostille order reduced some evidentiary barriers, but delay persists wherever authorities are unfamiliar with foreign adoption documents or uncertain about their legal effect.[23] Because family status questions often affect schooling, travel, inheritance identity records, delay itself becomes a substantive harm to the child.

Legacy Cases and Non-Hague Situations

Not all inter-country adoptions involving India occurred through the current CARA-centered framework. Older cases, kinship adoptions adoptions from non-Hague contexts may not fit cleanly within modern categories. Indian law lacks a transitional framework for such legacy situations, increasing the risk of limping status.

Analytical Assessment

The Indian legal position has notable strengths. It places child welfare at the center, rejects private trafficking-like arrangements, recognizes adoption as full filial status under the Juvenile Justice Act provides an institutional architecture through CARA.[16][21] The Supreme Court has also shown sensitivity to practical transnational barriers by directing acceptance of apostilled foreign documents.[23] These are substantial achievements.

Yet the framework remains incomplete from a conflict-of-laws perspective. A modern legal system needs more than procedural safeguards for outgoing adoptions; it also needs clear rules on inbound recognition of foreign adoptive status. Without such rules, India risks maintaining two inconsistent postures at once: robust cooperation when a child leaves India through regulated channels, but uncertainty when a valid foreign adoption order later seeks domestic effect in India.

Recognition doctrine in this field should move from ad hoc accommodation to structured conditional recognition. The proper model is neither blind automaticity nor cumbersome relitigation. Instead, India should adopt a presumption of recognition for foreign adoption orders that satisfy certain minimum criteria: competent foreign jurisdiction, valid consent and due process, compliance with child welfare norms, authenticity of documents absence of manifest public policy violation. Such a model would protect children while promoting legal certainty.

10.0 Suggestions and Recommendations

a) Enact a Dedicated Statutory Chapter on Foreign Adoption Recognition

Parliament should insert a separate chapter in the Juvenile Justice Act, or enact a stand-alone law, specifically governing recognition of foreign adoption orders in India. The statute should define when recognition is automatic, when it is presumptive subject to limited objections when a declaratory proceeding is required. It should also clarify the domestic legal effects of recognition, including parentage, custody, succession, maintenance, nationality-related documentation civil records.

b) Adopt a Clear Test for Recognition

The statute should provide that a foreign adoption order shall be recognized where:

- the foreign court or authority had jurisdiction based on habitual residence, domicile, nationality, or another substantial connection;
- the child was legally adoptable under the law of the originating state;
- required consents were free, informed valid;
- the adoption process satisfied natural justice;
- the order is final and authentic, with apostille or equivalent proof where applicable; and
- recognition is not manifestly contrary to Indian public policy or the best interests of the child.

This would replace uncertainty with principled decision-making.

c) Create a Presumption for Hague-Compliant Adoptions

For adoptions certified under the Hague Convention framework, Indian law should create a rebuttable presumption of recognition. Hague certification should not be treated as absolutely conclusive in cases of fraud or exploitation, but it should significantly reduce the burden on adoptive families seeking recognition in India.

d) Establish a Single Recognition Forum

India should designate a single judicial or quasi-judicial forum, preferably a family court or district court with specialized jurisdiction, to determine recognition questions. A uniform forum would avoid conflicting approaches by municipal officers, passport authorities, civil courts miscellaneous administrators. CARA should be empowered to provide expert assistance or verification in such proceedings.

e) Harmonize Recognition Across Personal Laws

The effect of a recognized foreign adoption should not depend on the religion of the adoptive parents or the child. Once a foreign adoption order is recognized under a secular statutory framework, its legal effect should be uniform across India. This would align with the status-based logic of Section 63 of the Juvenile Justice Act and reduce doctrinal conflict.[16]

f) Codify Evidentiary Rules for Foreign Adoption Documents

The Supreme Court's apostille direction should be translated into clear statutory or regulatory rules. Apostilled decrees, agency certificates, consent forms post-adoption reports should be explicitly admissible without further consular legalization, subject only to ordinary proof of relevance and authenticity.[23] This would reduce delay and inconsistent objections.

g) Provide for Registration of Recognized Foreign Adoptions

After recognition, the adoptive relationship should be capable of entry into a centralized registry or civil record system. Such registration would help the child obtain school admission, travel documents, bank records, inheritance entries identity documentation without repeated litigation.

h) Develop Transitional Rules for Legacy and Non-Hague Cases

The statute should include special provisions for adoptions completed before the present CARA-centered framework and for adoptions from non-Hague jurisdictions. These cases should not be left in perpetual uncertainty. A child-focused declaratory route with relaxed evidentiary requirements, coupled with careful scrutiny against trafficking and fraud, would be appropriate.

i) Capacity Building for Administrative Authorities

Many recognition problems arise not from legal hostility but from administrative uncertainty. Targeted training should be provided to passport officials, district magistrates, registration authorities, family courts child protection officers on the legal effect of foreign adoption orders and apostilled documents. Institutional literacy would prevent routine hardship.

j) Move Toward a Unified Adoption Code

Recent policy commentary has noted the continuing multiplicity of guardianship and adoption laws and has recommended a single law on adoption applicable to everyone irrespective of religion.[13] A unified code would not solve every private international law issue, but it would significantly reduce domestic fragmentation and make recognition of foreign adoption orders more coherent.

11.0 Conclusion

Conflict of laws in inter-country adoption exposes one of the clearest tensions in Indian family law: the law strongly values child welfare and increasingly embraces structured international cooperation, yet it still lacks a comprehensive doctrine for recognizing foreign adoption orders. Judicial intervention in *Laxmi Kant Pandey* transformed a legal vacuum into a welfare-centered regulatory framework the Juvenile Justice Act, 2015 gave statutory shape to inter-country adoption while embedding CARA and acknowledging the Hague Convention. The later apostille-related order further eased evidentiary barriers by directing Indian courts to accept duly authenticated foreign documents.

Even so, recognition in India remains more implicit than explicit. There is no single statutory route that tells courts and authorities when a foreign adoption order must be recognized, when it may be questioned what precise legal consequences follow from recognition. This produces uncertainty in matters of status, identity, inheritance parental authority. The resulting limping status is especially harmful because adoption concerns a child's stable legal belonging, not a temporary commercial right.

A principled Indian solution should therefore rest on five pillars: welfare of the child, competent foreign jurisdiction, procedural fairness, documentary authenticity narrowly tailored public policy review. Foreign adoption orders that satisfy these standards should be recognized promptly and given full domestic effect. Legislative codification of this framework would strengthen child protection, reduce administrative inconsistency align India's private international law with its constitutional and statutory commitment to the best interests of the child.

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