HINDU ADOPTION AND MAINTENANCE ACT

This Act deals with only two aspects relating to Hindus,
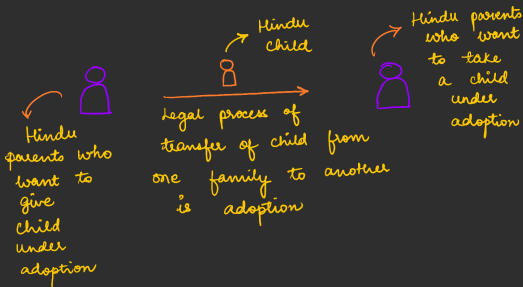
I. Hindu Adoption

II. Hindu Maintenance

* Definition of 'Hindu' is the same as in the case of Hindu Marriage Act

* Definition of maintenance remains the same as well. However, clear cut definition is provided under Section 3(b) of HAMA.

* Maintenance is available to a lot more parties under Hindu Adoptions and Maintenance Act in comparison to Hindu Marriage Act.
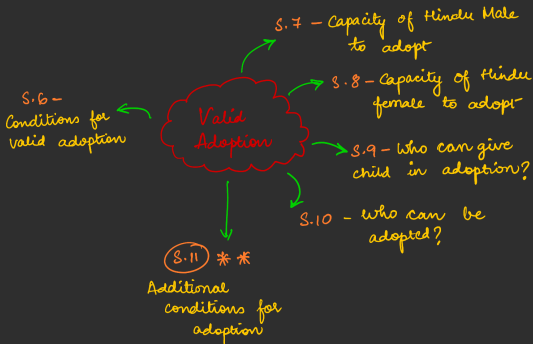
HINDU ADOPTION

Hindu parents who want to give child under adoption

Hindu child

Legal process of transfer of child from one family to another is adoption

Hindu parents who want to take a child under adoption

Effects of Valid Adoption

1) Child stops being connected with the parents of old family and new bonds and relationships are formed with new family;

2) If adoption is void, then no new bonds are formed with new family.

3) Post 1956, adoption among Hindus will be valid only if done as per conditions under HAMA.

What is VALID ADOPTION?

Valid Adoption

- S.7 – Capacity of Hindu Male to adopt
- S.8 – Capacity of Hindu female to adopt
- S.9 – Who can give child in adoption?
- S.10 – Who can be adopted?
- S.6 – Conditions for valid adoption
- S.11 ** Additional conditions for adoption

Section 6
↳ all parties must have **legal capacity** to adopt / give in adoption

Section 7 → Single Hindu male can adopt either son or daughter

→ Consent of wife / wives is necessary for valid adoption

Section 8 → Single Hindu woman can adopt either son or daughter

→ consent of husband is necessary for valid adoption

Section 9 → only three people can give child in adoption

1. Mother ⎫
⎬ If both are alive, then
2. Father ⎭ consent of both is needed

3. Guardian — on death of both parents, guardian can give child in adoption with <u>court permission</u>

Section 10 → who can be adopted ?

1) <u>Girl or Boy</u> both can be adopted

2) Must be <u>Hindu</u>

3) Should <u>NOT</u> be married

4) Age <u>NOT</u> more than 15 years

Condition 1

Cannot take boy in adoption if you already have Hindu son, grandson, great grandson alive

BOY

21 years gap

Condition 2

Cannot take girl in adoption if you already have Hindu daughter or grand daughter alive

GIRL

21 years gap

Condition 3

MOTHER

Age gap of 21 years needed between boy and adoptive mother

Condition 4

FATHER

Age gap of 21 years needed between daughter and adoptive father

Condition 5

Parents giving child

✓

✗

✗

Same child cannot be adopted by simultaneously by different parents

<u>Condition 6</u> ✳ ❄ → physically child must go to new home
→ cannot stay with old parents

OLD/PREVIOUS FAMILY → NEW FAMILY
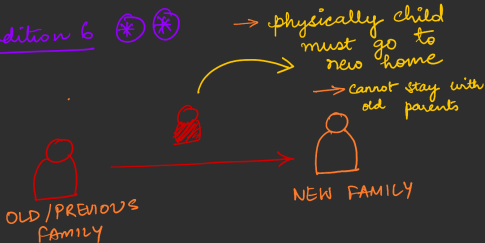
✳ ❄ | DATTA HOMAM | is <u>not</u> essential for valid adoption

<u>Section 14</u> — who is adoptive mother?

(1) Man already married and then adopted a child, wife is adoptive mother

(2) Man has more than one wife, and he adopts a child,
FIRST WIFE/SENIOR WIFE — adoptive mother
OTHER WIVES — Step mother

(3) Man adopts child, then he marries. The new wife is STEP MOTHER, NOT ADOPTIVE MOTHER.

(4) Woman adopts child, then she marries. The new husband is STEP FATHER, NOT ADOPTIVE FATHER.

Section 15

Valid adoption <u>cannot</u> be cancelled