

Title	Legal framework on child adoption in Myanmar: Some proposed outlines*
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Legal framework on child adoption in Myanmar: Some proposed outlines*

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Abstract

The need of all young children for a family and for a sense of security and permanency in their relationships is recognized in most parts of the world. Adoption is a welfare and protection measure that enables an orphaned or definitively abandoned child to benefit from a permanent family. It is an honoured institution among Myanmar families and is recognized and practised in Myanmar society for a long time under Myanmar Customary Law. However this is the law for the persons only to whom Myanmar Customary Law applies. The present work proposes to introduce a new legal framework on child adoption together with some proposed outlines mainly based on the current adoption practice of Myanmar. The new child adoption law would be applicable to every one without any discrimination and would also be more in line with the ratified convention of the Convention on the Rights of the Child for the best interests of every child in the Union of Myanmar

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Introduction

Adoption is a legal, social and psychological method of providing a family for children who have lost their natural parents or who cannot be reared by them under sound conditions. Through adoption, the child, in effect, becomes a permanent member of the adoptive family. The practice of adoption can be subdivided into domestic (or in-country, or national) adoption¹, intercountry adoption² and international adoption³. A Myanmar Buddhist can adopt a child according to the Registration of Kittima Adoptions Act which is part of Myanmar Customary Law as customary adoption. It is a well established principle of Myanmar Customary Law that the Kittima adopted child loses all rights of inheritance in its natural family and acquires rights in the new family.⁴

Materials & methods

In drawing up this research, principles and legal norms of Myanmar Customary Law and other relevant provisions relating to adoption under various statutes, namely, the Registration of Kittima Adoptions Act, Myanmar Child Law (1993) and the Rules related

¹ A domestic adoption is an adoption that involves adoptive parents and a child of the same nationality and the same country of residence. This type of adoption in Myanmar is the primary consideration of the present work.

² An intercountry adoption is seen as one that involves a change in the child's habitual country of residence, whatever the nationality of the adopting parents. Because of possible abuses, such as trafficking in person, sexual exploitation, forced labor, Myanmar has prohibited inter-country adoption at present.

³ An international adoption applies to an adoption that involves parents of a nationality other than that of the child, whether or not they reside — and continue to reside — in the child's habitual country of residence.

⁴ Daw Than Khin vs. Daw Nwe Nwe Zin, 1990 MLR 119.

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to the Child Law, adoption provisions under the Convention on the Rights of the Child and rules and regulations laid down by the Department of Social Welfare, are studied together with leading cases and not leading but prominent cases.

Customary adoption under Myanmar Customary Law

Adoption is recognized and practiced in Myanmar society for a long time under Myanmar Customary Law. Though the Dhammathats mention several classes of adoptive children⁵, there are only two which have practical importance today: the Kittima⁶ and the Apatittha⁷. Kittima adoption is the primary consideration in this work and the Registration of Kittima Adoptions Act also applies to this type of adoption only.

Adoption under Myanmar Customary Law is in the nature of a contract. Therefore any person who is competent to contract and of age can adopt a child. The age of majority for the purpose of contractual capacity is 18 years of age. Therefore any Myanmar Buddhist who has completed the age of eighteen can make a valid adoption. As an exception, a Buddhist monk being bound by the Vinaya not to have natural children cannot adopt a child.⁸ It can, therefore, be said that a bachelor, spinster, widow, widower, married couple and one of a married couple with the consent of his or her spouse can adopt another as his or her child notwithstanding the existence of his or her own child or adopted child. There, however, cannot be a joint adoption of a child by two strangers who are not connected with each other either by relationship or by marriage.⁹

Dhammathats did not mention the age restriction for which he or she shall not be adopted. Although children of tender ages are usually adopted, even an adult may be adopted with his or her own consent.

No Kittima adoption under Myanmar Customary Law is permissible for those who are subjects to Mohammedan, Hindu and Christian personal law. However, there is nothing in Myanmar Customary Law to prevent a Myanmar Buddhist from adopting another, who is not a Myanmar Buddhist, as his or her child. Even adoption of a pure foreigner is also not against the sentiment of the Myanmar Buddhist.

⁵ Kittima, publicly adopted son with a view to inherit, Apatitha, casually adopted son or picked-up son, Chatabhatta, hunger-stricken son, who has been adopted during a famine or scarcity, and Sahodda, son obtained by purchase.

⁶ The word Kittima comes from the Sanskrit word Kritrima or Pali word Kittima which means fictitious. The Kittima is the full adoption of a son or daughter with the intention that the child shall inherit.

⁷ The word Apatittha comes from the Sanskrit word apabiddha or the Pali word apabidda which means rejected. An Apatittha child is one who has been adopted casually and without any intention expressed on the part of the adoptive parents that the child shall inherit.

⁸ Ma Kyin Sein vs. Maung Kyin Htaik, 1940 RLR 783.

⁹ Ma On Kyi vs. Ma Thaug May, AIR 1939 Ran173. Daw Hla Tin and one vs. U Aung Myint and two others, 1994 MLR Special Appeal Case No.103.

Ordinarily residence of the adopted child with the adoptive parents is not of the legal ingredients of valid adoption. But in the case of very young child, it is normal characteristic of adoption that the upbringing of the child adopted shall be undertaken by the adoptive parents.

Since adoption under Myanmar Customary Law is in the nature of a contract, the adopter can sue for cancellation of the Kittima adoption if only there is some breach of the principles prescribed under the Contract Act.¹⁰ Therefore adoptive parents cannot cancel a Kittima adoption and disinherit the Kittima child with their own consent.¹¹

However adoption may be revoked through the intentional severance of the family tie and the mutual consent of the parties to the adoption contract. Adoption can also practically be revoked when adoptive parents give away their adopted child in adoption to another person who takes the child with the intention that the child shall inherit from him. If the child is a minor, no consent of any person on behalf of the child is necessary for the validity of the second adoption. And just as the adoption from the natural parents has the effect of severing all ties of the child with its natural family, so too would a second adoption have the effect of bringing to an end the relationship between the child and his original adoptive parents.¹²

The Kittima child is entitled to all the rights of a natural child of the adopter except in three cases.

1. A Kittima child cannot be an orasa.¹³
2. He cannot sue for a quarter share of the adoptive parent's estate on the death of one adoptive parent from the surviving adoptive parent, because the Kittima child is not by every means regarded as being on equal footing with one's own child.
3. A Kittima child loses the right to inherit if the adoptive parents forsake their Buddhist faith and embrace Christianity or any other faith which does not recognize adoption.¹⁴

Moreover the child cannot become a Myanmar citizen automatically as a consequence of adoption.¹⁵ An adopted child is not entitled to claim maintenance from its adoptive father under Section 488 of Criminal Procedure Code.¹⁶

¹⁰ U Tin Aung vs. U Zaw Win Zaw (a) U Zaw Win and 3 others, 2003 MLR 226.

¹¹ San Paw vs. Ma Yin, 12 BLT 207.

¹² Ma Kyin Sein vs. Maung Kyin Htaik, 1940 RLR 783.

¹³ Maung Thein vs. Tha Byaw, AIR 1939 Ran 197 (FB), Maung Po An vs. Ma Dwe, 4 Ran 184 (FB).

¹⁴ Ma Khin Than vs. Ma Amar, 12 Ran 184.

¹⁵ Ma Woung Shwe Lin vs. Union of Myanmar, 1970 B.L.R (CC) 222 (Full Bench).

¹⁶ Ma E Mya vs. U Ko Ko Gyi ,AIR 1937 Ran: 370.

Myanmar Customary Law itself requires neither any particular method to be followed, nor any ceremony to be performed, nor any document to be drawn up and executed to constitute a valid adoption. However adoption in Myanmar is related not only to the parent-hood but also the property right. As a consequence, it is very hard to prove Kittima adoption in most disputes about the rights of any person to inherit as or through an adopted child after the death of the adoptive parents. To stop such difficulties and to facilitate the proving of Kittima adoption, the Registration of Kittima Adoptions Act, operative from 1st April 1941,¹⁷ was passed. Section 1 of the Act provides the extent of the Act as “It shall extend only to those areas in which the Registration Act is in force”. Therefore, the Act shall not apply to those areas in which the Registration Act is not being in force.

This Registration of Kittima Adoptions Act is to be considered as part of the Myanmar Customary since the customary law relating to Kittima adoption has been crystallized in the Act. Once a deed of adoption duly executed, attested, and registered under the Act is produced, the fact of Kittima adoption is established. The intention of the Act is clearly to clear away the clouds of doubts and uncertainties of Kittima adoption that often surround family matters in Myanmar Customary Law.¹⁸

Section 2 of the Act provides that “The Act applies only to Kittima adoptions by persons to whom the Myanmar Customary Law applies”. Therefore no adoption under Myanmar Customary Law is permissible for those who are subjects to Mohammedan, Hindu and Christian personal laws.

Section 4 of the said Act defines that “A Kittima son or daughter is one who is adopted with the express intention that he or she shall inherit according to the Myanmar Customary Law”.

Section 5 states that “No dispute as to the rights of any person to inherit as or through a Kittima son or daughter shall be entertained by any Court unless the fact of the adoption, effected after the 1st April 1941, is evidenced by an instrument:

- i. executed by the person making the adoption (a) by the person who is adopted if not less than 18 years of age at the time of such execution aforesaid, or (b) if less than that age, then by the person or persons, if any, whose consent to the adoption is required by Myanmar Customary Law, and
- ii. attested by at least 2 witnesses, and

¹⁷ Section 3 of the Act.

¹⁸ Ma Kyaing vs. Ma Ohn Kyi and four others, 1963 B.L.R (CC) 184.

- iii. registered in Book 4 of the books referred to as sub-section (1) of the section 51 of the Registration Act”.

**Adoption provisions under the Convention on the Rights of the Child,
Myanmar Child Law (1993) and the Rules related to the Child Law**

United Nations Convention on the Rights of the Child¹⁹ variously described as a "Magna Carta" or "Bill of Rights" for children was adopted by the General Assembly of the United Nations on 20 November 1989, and it entered into force on 2 September 1990.

Under the Convention, children’s rights should be implemented *without discrimination* of any kind and all actions and policies should be guided by the *best interests of the child*. In this regards, *non-discrimination* identified by Article 2(1) is a general principle of fundamental importance for implementation of the whole Convention. It contains the basic obligation of States Parties to respect and ensure the rights set forth in the CRC to each child within their jurisdiction without discrimination of any kind. Article 3 (1) states that the *best interests of the child* shall be a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. This article is of major importance and an umbrella provision of CRC.

Article 20 of the CRC mentions adoption as one of the possible options for the care of children without families. Article 21 of the Convention addresses the rights of children who are adopted which views adoption as a method of providing alternative care for a child in the context of a new adoptive family. It says that -

“States Parties, which recognize and/or permit the system of Adoption, shall ensure that the best interests of the child shall be the paramount consideration and they shall ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child’s status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;”

Myanmar has always fulfilled physical, mental, spiritual, moral and social rights of every child emphatically. It acceded to the CRC on 16th July 1991 and became a State

¹⁹ Hereinafter referred to as CRC.

Party to the Convention on 14th August 1991.²⁰ The Child Law²¹ and the Rules related to the Child Law²² mainly reflect the principles and spirit of the CRC in Myanmar. Section 17 conforms to CRC Article 21.

Section 17 of Child Law

- a. Every child shall have the right to be adopted in accordance with Law;
- b. The adoption shall be in the best interests of the child;
- c. The adoptive parents shall be responsible for the care and custody of the child to ensure that there is no abduction to a foreign country, sale or trafficking, unlawful employment, maltreatment, pernicious deeds and illegal acts.

Rule 61 of the Child Rules says that any person who is interested to adopt a child in the custody of the Department of Social Welfare, he shall put up an application in the prescribed form.

Rule 61 of the Child Rules

Those who would like to adopt a child in the custody and care of the Department of Social Welfare shall apply to the same Department under Form 22 (application form for adoption) in accord with stipulations.

Rule 62 of the Child Rules

The Department of Social Welfare –

- a. shall scrutinize the application submitted under rule 61 with reference to adopter's age, income, economic status, marital status, availability of own offspring and their environment;
- b. shall scrutinize whether or not adopter is able to abide by the rules of adoption laid down by the Department and provisions of other existing laws;
- c. may permit or reject adoption of the child as an inheritor;
- d. shall take necessary steps to perform the adoption in accord with provisions of existing laws and prescribed rules of adoption if the adoption is permitted under sub rule (c);
- e. shall regard the parents as disqualified parents and shall take back the child if it is investigated that they are not in the situation to serve the best interests of the child;
- f. shall take back the child from the adopted parent who fails to abide by any responsibility under section 17 (c);

²⁰ Although Myanmar made reservations on articles 15 and 37, these were withdrawn on 15th October 1993.

²¹ The Child Law (1993), SLORC Law No 9 of 1993 dated on 14th July 1993.

²² Rules Related to the Child Law, Ministry of Social Welfare, Relief and Resettlement Notification No 1/2001 dated on 21st December 2001.

- g. shall perform arrangements not to lose the inheritance right of the child who is taken back under sub rules (e) and (f).

Rule 63 deals with the responsibilities of the adoptive parents to observe the rules in connection with adoption to take care of the education, health and social welfare and to abide by the rules for all round development of the child.

Rule 63 of the Child Rules

The adopted parent/ parents shall:

- a. abide by the adoption rules stipulated by the Department of Social Welfare and provisions of the existing laws;
- b. carry out for the best interests of the adopted child;
- c. carry out for the development of the adopted child in his education, health and social life and provide all other entitled opportunities under any existing laws;
- d. be taken action under existing laws if they fail to abide by any responsibilities under section 17 (c).

Adoption through the Department of Social Welfare

Government adoption services are provided for those who are taken care of at the Government Residential Nurseries to have an opportunity to grow up and develop in a normal home environment with full legal rights under the 1941 Registration of Kittima Adoptions Act. People having following qualifications prescribed by the Department of Social Welfare²³ can apply to the Department to adopt the child under the protection and care of Government residential nurseries. The applicants-

1. must be citizen/citizens of the Union of Myanmar;
2. must be Buddhists;
3. must be married for at least three years, if they are a couple; preferably must be first marriage;
4. must give consent of both spouses to the adoption;
5. must be at least 30 years of age but must not complete 50 years of age;
6. must be of sound and sane mind;
7. must be able to provide proper physical and mental care for all round development of the child;
8. should not have natural child preferably but, if any, the child must not be an infant;
9. must show that fostering is welcomed and accepted by all other family members;

²³ Hereinafter referred to as Department.

10. must have clear intention to adopt the child as Kittima after completion of probation period;
11. must submit the recommendation letter for their good character approved by the authorities concerned.²⁴

The Department, as a guardian of the child, scrutinizes applications for adoption, and may permit the applicant to be the foster parents for six to one year probationary period or reject the application if the Department believes that the adoption will not serve the interests of the child. While no authority can be expected to foresee the future, a careful examination of all the circumstances is required, leading to a reasonable belief that the adoption will serve the best interests of the child. Therefore the Department has established a foster care program before giving final permission to adopt the child.

There is a set of terms and conditions to be followed by the foster parents. The foster parent/parents shall-

1. accept and follow the supervision and advice given by the Department of Social Welfare;
2. not recover the expenses incurred for food and custody of the child, if, for any reason, the child is taken back by the Department of Social Welfare;
3. make monthly visit with the foster child to the Administrator of the Child Nursery;
4. not give the foster child away to any other person;
5. apply to the Department of Social Welfare for adoption of the foster child , if they wish to adopt the said child at the end of the probation period.²⁵

In selecting the suitable foster family for the children under the care of the Department of Social Welfare, the Department as a responsible authority shall perform the following measures for the best interests of the child. The department shall-

1. give priority to those who are able to meet the physical and mental needs of the child;
2. permit prospective foster parents to select a child of their choice and to alter their choice not more than two times;
3. fix the time from six months to one year as probation period for fostering;
4. require twins to be cared for by the same foster family and for brother and sister to be cared for separately;
5. choose the foster family after carrying out relevant investigations and enquiries;

²⁴ Terms and conditions for fostering of children under the care of Social Welfare Department as contained in the prescribed application form issued by the Department.

²⁵ Ibid.

6. choose as foster parents only those who are willing to follow the conditions contained in the adoption deed;
7. execute the adoption deed after foster period if only the Department is satisfied with the love and care given by the foster parents during the probation period.²⁶

If the Department is satisfied with the fulfillment of the foster family during the probationary period, the contract of adoption will be made. In making the adoption deed, the Department has laid down another set of following terms and conditions for compliance of adoptive parents for the best interests of the adopted child.

1. Adoptive parents shall adopt the child as their heir and shall execute the deed of adoption in accord with the Registration of Kittima Adoption Act, 1941.
2. Adoptive parents shall be held responsible for all the good and bad actions of the adopted child.
3. Adoptive parents shall bear the expense in executing an instrument for adopting the child as their heir son or daughter.
4. A formal report on what name is given to the child shall be sent; if the child is renamed, a formal report shall also be sent.
5. The adoptive parents shall inform the Department of Social Welfare in person or by letter once a year on the health and education progress of the child until the child has attained the age of 18.
6. The adoptive parents are not allowed to give, hire and sell the child to another person; nor are they allowed to have the child adopted by another person.
7. Adoptive parents shall inform the Departments of Social Welfare at State/ Division concerned and the residential nurseries, as soon as possible, the name of person to whom the adopted son/ daughter married and the date of marriage with relevant documents; and date and cause of death with death certificate if he or she passed away.
8. Until the child has attained the age of 18, he or she shall not be sent abroad on temporary basis or permanent basis without prior permission of the Department of Social Welfare.
9. If the Department of Social Welfare or residential nursery knows with firm evidence that adoptive parents fail to do parental duties and proper care, actions shall be taken

²⁶ Terms and conditions for fostering of children under the care of Social Welfare Department as contained in the prescribed application form issued by the Department.

against adoptive parents and the child shall be taken back to the custody of the Department of Social Welfare.

10. If address mentioned in the application is changed, the new address shall be informed to the Department of Social Welfare or residential nurseries.²⁷

These additional rules of the Department of Social Welfare are aimed to prevent adopted children from abuse, trafficking, sale or kidnapping. At present, the Department has allowed the child adoption under the age of five years only for the sake of children; but not allowed foreigners to adopt a child from residential nurseries. Though this is the best idea to prevent child abuse, it may obstruct adoption by a foreigner who has an honest intention to provide orphans. However, it is assumed that it might be the second step.

Findings

Generally speaking, there are two possible ways to adopt the child in Myanmar, one is adoption of the children under the guardianship of his or her own parents or guardian, and the other is the adoption of the children from residential nurseries under the supervision of the Department of Social Welfare. Therefore child may come to the attention of the prospective adopter with or without the assistance of officials.

In the former case of private placements (adoption of the children under the guardianship of his or her own parents or guardian), the adoptive parents must fulfill the conditions laid down by the Myanmar Customary Law and also the Registration of Kittima Adoptions Act for the purpose of registration and proving of such Kittima adoption. There is no official assistance in private placements. Children are brought to the attention of potential adopters by a variety of private introduction. The potential adopters act as they see fit from that time onwards. It is only when the prospective adopters are going through the proceeding at the Registration Office for the publicity and notary purpose under the section 5 of the Registration of Kittima Adoptions Act for Kittima adoption that there is any official scrutiny. Sometimes unfair treatment and risks could happen to the adopted children being lack of investigation and follow up procedures and sound background authority especially for this purpose.

By contrast, in the latter case of placements by official intervention (the adoption of the children from residential nurseries), the adopted parents must abide not only by the above mentioned laws but also by the Child Law and the Rules related to the Child Law

²⁷ Rules and regulations for adoption of children under the care of Social Welfare Department as contained in the prescribed application form issued by the Department itself.

and conditions laid down by the Department of Social Welfare itself as additional requirements. In this placement, people who want to adopt the child under the care of residential nurseries have to apply to the Department of Social Welfare by stating their reasons. The Probation Officer of the Department investigates and enquires about the future foster parents for the interest of the child. The Department, after being satisfied with investigation made by the Probation Officer, permits the applicants to foster the child. The adoption made under the supervision of the Department of Social Welfare has a foster care program for the prescribed probationary period in order to see their suitability as parent and child relationship. If the Department satisfies with the fulfillment of foster family during the probationary period, the contract of adoption will be taken place. The Department has given permission to adopt the children aged between newly born and five. The reason for this age restriction is that the fact of adoption is secret. Although it was regarded as the best possible arrangement for the adopted child, views do change. It has begun to think that the adopted child is entitled to know basic facts about his or her birth and birth parents. However, the Department may give permission to adopt the child who is over five years old if the adoption will serve the interest of the adopted child.

Both practices base upon the well established principle of the Myanmar Customary Law, i.e., the Kittima adoption is the full adoption of a son or daughter with the intention that the child shall inherit. It could be said, however, that the whole process of adoption made under the supervision of the Department of Social Welfare has stricter formal procedures and official intervention than that of the private placement of adoption.

The Registration of Kittima Adoptions Act is the legislation that regulates Myanmar Buddhists adoption. The main idea of this Act is to facilitate the proving of customary Kittima adoption. The intention of the adopter that the child should inherit is the principal requisite of the Act. The principle that the adoption shall be for the best interests of the child is the primary consideration of CRC and the Myanmar Child Law. Child Law and Rules mainly regulate the practice of child adoption and foster caring without mentioning detailed mechanism or procedure for practice. Although section 17 of the Child Law guarantees that every child has the right to be adopted, adoption is available only to Myanmar Buddhists. Therefore it may be said that these laws are not directly related to the primary objectives of adoption according to CRC i.e., the creation of an alternative system of child care.

Recommendations

It is suggested with respect that the Government should introduce a legal procedure for child adoption into a separate enactment especially at this period of enhancing the legislation. The followings are some proposed outlines for new legislation of child adoption law: -

1. Concerning the extent of the Law, the Law extends to the whole of the Union.
2. Regarding the applicability,
 - This proposed outlines apply to the adoption of child only.
 - This type of adoption is applicable for every citizen of the Union of Myanmar residing in Myanmar who makes a declaration that he/she is prepared to be bound by the Law irrespective of his/her religion and family law.
 - This proposed outlines do not affect the validity of adoption of person who has completed the age of eighteen years made under the Registration of Kittima Adoptions Act and that of the operation of the Act.
3. Regarding the definitions,
 - Child means a person who has not attained the age of eighteen years and has never been married.
 - Adopted son or daughter means the child who is adopted with the express intention that he or she inherits as same footing as natural child of the adoptive parents.
4. Regarding the aims of the present proposed outlines,
 - Every child has the right to be adopted in accordance with Law.
 - The best interests of the child are the first and paramount consideration whenever an adoption order is made.
5. Regarding the nature of adoption,
 - It takes the form of a decree of competent Court having adoption jurisdiction.
6. Regarding to the persons who can adopt whom,
 - A child can be adopted as an adopted son or daughter.
 - The adopted child must be at least 18 years younger than the adoptive parents.
 - One cannot be adopted by two persons jointly together; unless they are connected with each other either by relationship or by marriage.
 - Adoptive parents must be of sound and sane mind.

- A married couple must contemplate a joint adoption. Their wedded life must have been for five years and both have reached the age of 30 but have not completed the age of 50.
 - An unmarried person can adopt singly, provided that that person must be at least 30 years of age.
 - The adoptive parents should not have natural child preferably, but, if any, the child must not be an infant.
 - A priest from any religious faith cannot adopt a child.
7. Regarding the consent,
- A married couple must adopt the child with the consent of both spouses.
 - The adoption requires the consent of both parents or the surviving parent of adopted child, or the guardian who takes all responsibilities of such child in the absence of both parents. If the adopted child is from residential nurseries, the Social Welfare Officer concerned can give consent for the adoption as a guardian of such child.
 - If the child is of sufficient maturity and understanding to give his or her own view, his or her consent is required for the adoption.
 - If the adoptive parents have natural child, that natural child's attitude towards adoption is also to be considered.
8. Regarding the restriction,
- The adoptive parents are not allowed to have the child adopted by another person; nor are they allowed to give, hire and sell the child to another person with or without any consideration.
 - Both the adoptive parents and the natural parents or the guardian, in the absence of natural parents, are prohibited to receive any payment or other reward in consideration of the adoption of child to ensure that there is no transaction, sale or trafficking, unlawful exploitation, unlawful employment, maltreatment and illegal acts.
9. Regarding the jurisdiction and procedure,
- The court having adoption jurisdiction under this Law is the District Court.
 - The court, on receiving the adoption application from the potential adopter, requires the Social Welfare Officer concerned to investigate all essential circumstances. In particular, there are to be investigated the personality and

healthiness of both sides, their mutual relations and suitability, motives for adoption and living condition and financial status of the adopter.

- The court, being satisfied with the investigation made by the Social Welfare Officer, makes an interim order to entrust the care and custody of child to the future adoptive parents for a period of one year upon such terms and conditions as it thinks fit.
- The court does not dispense with above mentioned investigation procedure made by the Social Welfare Officer and fostering procedure in the case of adoption of child under the care and custody of his or her natural parents or guardian.
- Adoption order is permissible after the adoptive parents have cared for the child at least one year probationary period.
- The court, after being satisfied with the fact that the adoption will serve the best interests of the child, passes an adoption order in the form of a decree.
- The court, in passing an adoption order, imposes terms and conditions upon the adoptive parents as the court thinks fit.

10. Regarding the registration of adoption,

- The court, after the adoption order has been made, forthwith sends to the High Court of the Region or the State concerned a notice to that effect in a prescribed form and prescribed manner for the registration purpose. It is to be kept in the Registrar Book of the High Court concerned.
- In the case of adoption of the child under the care of residential nursery, the Department of Social Welfare and the nursery concerned also keep the registration record respectively.

11. Regarding the effect of adoption,

- Upon an adoption order being made, the child grows up in a family environment, in an atmosphere of happiness, love and understanding for the full and harmonious development of his or her personality.
- The adopted child acquires the legal rights and duties of a child of the adoptive parents as a natural one does. Adopted son or daughter owes same reciprocal rights and duties to the adoptive parents.
- The adopted child loses all rights of inheritance in its natural family, and acquires full rights of inheritance on the same footing as natural child in the new family in accordance with law.

- Adoption has no consequences for the nationality and citizenship of the adopted child.
- Adoptive parents' embrace of new faith does not affect the validity of the adoption.

12. Regarding the revocation of adoption,

- Action to revoke the adoption can be brought by parents of either side or by the Social Welfare Department in the case of child adoption from the residential nursery if there is any good and sufficient ground for revocation.

Conclusion

Adoption has a long history not only in the world but also in Myanmar. Its use has changed considerably over time with its focus shifting from adult adoption and inheritance issues toward children and family creation. Modern systems of adoption in the world tend to be governed by comprehensive statutes and regulations. It is believed that by enacting a new child adoption law, Myanmar can provide sounder adoption system for the purpose of providing child care.

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