



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE:**

**Semester**

**SUBJECT:**

**SUBJECT CODE:**

**NAME OF FACULTY:**

# Lecture-1



## LECTURE 1:

### Who can Adopt a child?

In order to adopt a child, the person must be a Hindu and have the capacity to adopt it. A Hindu male who wishes to adopt a child must meet the requirements provided in [Section 7](#) of the act and a Hindu female wanting to adopt shall abide by [Section 8](#) of the same.

#### The capacity of a Hindu male to adopt.

[Section 7](#) states that a male Hindu who is willing to adopt a child must fulfil the following conditions:

- Attained the age of majority; and
- Be of sound mind.
- Must have a wife that is alive whose consent is absolutely necessary.
- It can be overlooked if the wife is incapable of giving consent due to insanity or other reasons.
- If a person has multiple wives, the consent of all the wives is necessary for adoption.

In [Bhola & ors v. Ramlal & ors](#), the plaintiff had two wives and the validity of adoption was in question as he had not taken the consent of one of his wives before adopting.

It was the contention of the plaintiff that his wife had absconded and could be considered as good as dead.

The High Court of Madras observed that the wife of the plaintiff had run away but could not be considered dead unless she had not been heard from for at least seven years. It was held that as long as the wives are alive, the consent of each wife is necessary for a valid adoption.

If the wife has converted to some other religion or renounced the world, her consent isn't necessary for adoption. But, the existence of a living wife is an essential requirement for a Hindu male to adopt children.

#### The capacity of a Hindu female to adopt.

[Section 8](#) of the act states that a Hindu Female willing to adopt a child must:

- Have attained the age of majority;
- Be of sound mind;
- Be either a widow;
- Divorced, or
- Unmarried in order to adopt.

If she has a husband who is alive, she will not have the capacity to adopt a child.

## Who can give a child for adoption?

No one but the parents and guardian of the child can give them up for adoption as per [Section 9](#) of the [Hindu Adoption and Maintenance Act](#).

As per the act:

- Only the biological father of a child has the authority to give him up for adoption;
- The consent of the child's biological mother is necessary.

A mother will have the capacity to give the child up for adoption if:

- The father is either dead;
- Of unsound mind;
- Has renounced the world; or
- Converted to some other religion.

The section clearly mentions that the father and mother mean biological parents and not adoptive parents. **Adoptive father or mother can not give the child up further for adoption.**

### SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()