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International Adoption in the Humanitarian Discourse: An Indian Perspective

Abstract

The process of adopting a child from another nation is referred to as transnational adoption, sometimes called international adoption. It entails establishing a parent-child bond between two people who are typically not connected by blood or marriage. International adoption made its way into Indian society in the late 1960s in the form of humanitarian intervention by Christian missionaries of Belgium which culminated into the first wave of international adoptions from India. Problem of overpopulation rather than the impact of colonialism and capitalism present in the newly decolonized countries such as India was used to provide an interventionist cure to the problem of poverty gripping India and other Third World countries by the Western European countries, the United States, Australia etc. Humanitarian intervention in newly decolonized countries like India took the form of international adoption. However, the cross-border transfer of children, seemingly quiet, private and humanitarian, can be traced to the cold war geopolitics whose legacy continues in the 21st century geopolitical framework, represented by monetary rather than territorial influence. The political economy of international adoption that dominates the geopolitical framework of the developed countries in the post-cold war era rests on the supply of children of developing countries like India, as valuable resources or privileged migrants catering to the demands of childless or infertile couples under the garb of humanitarian intervention; lifting orphans out of the clutches of poverty. This paper shall try to explore and analyse the trajectory of geopolitics international adoptions from India under the guise of humanitarian intervention by the developed countries.

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1. Introduction

Adoption refers to the process of establishing a relationship between parents and child through legal process and not by virtue of birth. It was in the era of 1950s that the relation of international adoptions backed by a broader background of geopolitics was seen. The letters from American spouses to the American representatives from Korea signified how egotistical tendencies gave way to humanitarian ambitions along with American attitude of entitlement and cultural superiority which further highlighted both American and Korean preference of Korean children for adoption reflecting each other's geopolitical objectives (Kim, 2021). Whether it was South Korea's interests to spread its blood in the western world or the USA's carefully calculated foreign policy to keep South Korea under its influence is not to be ignored if not said with conviction. In India, children are often being forcefully alienated from their birthplace under humanitarian grounds and as saviour from poverty. In order to simplify the process of adoption the Government of India constituted Centre Adoption Resource Agency (CARA) in 1986. The constitution of CARA increased transparency in international adoption, especially the assignment of a scrutinizing committee to assist the courts in assessing if a child had been given sufficient opportunity to find Indian foster parents. This led to significant rise in domestic adoption and fall in international adoption (Saras et al).

According to the official data by CARA, out of 4009 adoptions in India in 2023-24, 449 were for international adoption. It is true that every child has a right to family life and when it comes to international adoption India has been a desired destination for availability of monetarily cheap adoption facilities. The Indian government has recently passed the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021. It gives the authority of issuing orders related to adoption to the District Magistrate (DM) and not a judicial body like the courts, which ultimately means that the competency of the authority in this case is questionable. So, the question remains whether India is knowingly participating in the process of neo-colonialism so as to lessen demand on the country's welfare resources and economic burden because the adoptees are mostly picked up from shelter homes or is it a broader question of geopolitics that once was applied by the USA in South Korea.

2. Understanding Humanitarianism

As the word suggests, humanitarianism essentially is associated with respect for the lives and dignity of human beings out of moral or altruistic reasons and involves saving humans from

suffering and pain. Further, humanitarianism refers to organizations and governments' efforts to alleviate suffering after natural disasters and aid populations during war or civil turmoil. (Douzinas 2007: 5). Humanitarianism is recognized as an acceptable type of moral concern in current international discourse, allowing it to serve as a point of reference and negotiation for a diverse variety of factors, including NGOs, social movements, companies, nations, and military forces. (Redfield 2015: 452).

According to Talal Asad, the term humanitarianism and its accompanying conceptions and practices especially "emerged in the nineteenth century with the consolidation of the European nation states, the expansion of European colonial empires, and the global development of capitalism. (Asad cited in Edmonds and Johnston 2016: 2).

India has continued to embark upon the colonial legacy of humanitarian missions and has been proactive in humanitarian efforts and assistance to alleviate sufferings throughout the world that now it has become a component of its soft power (Meier 2011). In the past India has been involved in political humanitarian actions in China in 1938 by sending a medical mission to China to help the wounded during the second Sino-Japanese war, intervened during the large-scale civil war in Sri Lanka in the 1990s and in recent years it has actively participated in medical humanitarianism and providing relief during natural disasters here and there.

The rights of the children are well respected by India both in official documents (Article 24 of the Indian Constitution prohibits child labour, Article 21-A mandates the compulsory education of children from 6-14 years and gives it the status of Fundamental right of a child under the right to life) to international bodies (signatory to The Hague Convention for the rights of the Child). This automatically establishes the fact that the right to live in a peaceful environment (family) cushioned by care and nurture is also the right of a child. This also means an orphan brought into the house of her adoptive parents should eventually find herself home in the comforting love of her new parents which has been reiterated in the Child Rights Convention and The Hague Convention on Inter country Adoption.

Locating International Adoption in the Humanitarian Discourse: An Indian Perspective

UNICEF and many other organisations support the retaining of unparented children in their home country and not being in institutional care but also promote the strengthening of institutions as alternative to international adoption through financial and social support of poor parents, domestic adoption etc. (Bartholet, 2010). While

adoption today is considered as a humanitarian initiative, its roots can be traced to the 1870s to 1960s when Britishers transferred orphans from colonies as a part of social reform (Murdoch, 2006), inter country adoption (ICA) can be located to Second World War when Korean children were transferred to USA to save them from the perils of war (Kim, 2021), during the USA- Vietnam war of 1970s in 'Operation Babylift', Cold War in Operation Pedro Pan in Cuba etc. It was believed that a child undergoes a lot of trauma post losing his parents and gets thrown into the gallows of poverty and hence the child stood waiting to be rescued and placed in a new home. According to Cheney, the misidentification of orphaned children as a category for humanitarian interventions reached a crucial stage in the 1990s during the AIDS pandemic in Sub-Saharan Africa. The concept of rescue of orphans is ultimately considered to be based on voluntarism and universal kindness.

The experience of India under British colonialism brought significant changes in the administrative, political, cultural and economic system. Many laws designed by Britishers continue to function in the Indian system even now. Adoption has existed in India since the ancient times as depicted in the epics the Ramayana and the Mahabharata but question on adoption became contested in the 'Doctrine of Lapse' initiated by James Broun Ramsay, the first Marquess of Dalhousie in 1834 and popularised by Lord Dalhousie from 1848 to 1857. Even before 1834, in 1824, the Rani of Kittur, was deprived of her adopted son by the East India company, after the death of her husband. Before the advent of the East India Company, India allowed adoption of boys by Kings in the princely states as their legal heir. The doctrine of lapse negated this policy and gave the English rulers power to veto the succession of an adopted heir and subsequently annex the kingdom. This is how the kingdom of Satara, Jaitpur, Jhansi, Nagpur, Udaipur etc. were forcefully annexed and went on to be a driving factor for the revolt of 1857. Study of each of these kingdoms reveals the underlying imperialist intentions of the Britishers in India- to expand its kingdom of influence so as to increase its revenue and political supremacy.

It must be mentioned that once adoption in India was considered a social stigma, people questioned the purity of blood of the unknown child and adoption agencies were considered to be driven by money mindset. Subsequently in India adoption laws have been put into practice mainly to protect children and the processes got further boost after India signed the Hague Convention of 1993 that specified the rights of the child. International adoption

is allowed in India governed under the Juvenile Justice Act as well as Hindu Adoption and Maintenance Act that are both regulated by the Adoption Regulation of 2021 by CARA. But in India,

absence of uniform laws and caste related stigma and prejudice restricted domestic adoption and promoted international adoption. International adoption made its way into India during the 1960s when Belgium Christian missionaries first came to India.

In the era of post colonialism, colonisation appears as a crucial ordering mechanism of the contemporary state system characterised by concentration of power relations seen from the redrawing of boundaries between the normal and the strange or the unacceptable which has implications for the identity of a state (Epstein, 2014). According to Epstein there is a shift from the 'norms' to the dynamic 'normalisation'. India's identity as a state that justifies international adoption for humanitarianism for children in need and care is also one such feature in the post-colonial system.

India passed the Juvenile Justice (Care and Protection of Children Act) in 2006 in which adoption was defined as the process through which the adopted child is permanently separated from the biological parents and becomes the legitimate child of the adoptive parents and is entitled to all the rights, privileges and responsibilities associated with a parent-child relation. This act also introduced the expression '**child in need of care and protection**' which has been used in recent times by countries in the first world as the reason for adopting a child from a third world country like India for humanistic reasons. But, it is through 'technologies of intimacy' including legislation, transportation, financial sponsorships etc. that paternalistic tendencies developed between the USA and South Korea and facilitated transfer of children for adoption from South Korea to USA (Kim, 2021) and the amendment brought in the Juvenile Justice (Care and Protection of Children) Amendment Act, 2015 questions the intent of the Indian government whether this legislation is a catalyst to facilitate transfer of Indian children to address its increasing pressure on welfare policies by the poor. The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021 states that instead of the court, the district magistrate (including additional district magistrate) will perform such duties. The competency of the district magistrate in decisions as sensitive as adoption of a child itself is a matter of questionable intention of the government. In the 2012 conference in Addis Ababa, the African Child Policy Forum (ACPE), mentioned in its report 'The New Frontier for Intercountry Adoption that ICA is 'modern day imperialism' which allows dominant and developed cultures to strip a developing country from its most precious resource, its children. India is a young country with a high demographic dividend, hence depriving it from its Human Resource curtails its trajectory for human capital formation and economic growth and benefit the foreign country. According to Kristen

and Stephen, a large number of orphanages are formed throughout the world to protect children amidst different types of global crises as a mark of humanitarianism. These agencies

also promote international adoption to address so-called 'orphan crises' by promoting international adoption albeit repercussions like cost inefficiency and unsustainability. The countries in the western world are involved in adoption of children from the developing world which is directly associated with the international market and flow of international capital, which eventually leads to an 'orphan industrial complex'. Whereas the military industrial complex is fuelled by the geopolitics of fear, the orphan industrial complex draws on the political economy of love as the need to help in the Global South (Malkki, 2015). Hence, India becomes that attractive destination for the Global North to showcase their Christian love for orphans as authorised by the Bible (Matthew 25:40). This has led to many orphanages receiving foreign capital from global north that eventually culminates into institutionalisation of orphanages which is considered detrimental for a child's emotional, social physical development as recognised by UNICEF. Institutions like schools, churches, even tourism (orphan tourism) has boomed as a result.

3. Geopolitics of Humanitarianism and International adoption in India

The child is the epitome of moral compassion especially an orphan whose vulnerability to the world extols universal attention and security. The adoption of children from orphanages and homes run by various Non-Governmental Organisations (NGOs) has been in place since long. India, seen as a country plagued by poverty and discrimination is considered a place

for humanitarian intervention to rescue children and give them a better future. Various safeguards and laws exist in the Indian political discourse for the betterment of children starting from Article 15 Clause (3) of the Indian Constitution that enables the state to make special provisions for children, Article 24 that strictly prohibits the employment of children in hazardous factories to the Hindu Adoption and Maintenance Act (HAMA) of 1956. When it comes to ICA, landmark judgments have been declared in the *Rasiklal Chhaganlal Mehta Vs State* in 1981. The section 9(4) in the judgment read that the adoptive parents must fulfil the requirements of law of adoptions in their country and must have the requisite permission to adopt from the appropriate authority thereby ensuring that the child would not suffer in immigration and obtaining nationality in the adoptive parents' country. (Ibid). *Laxmikant Pandey Vs Union of India* in 1984, led to the passing of The Juvenile Justice Act, 1986 to bring uniformity in the Children Act and later formation of CARA that mediated

international adoptions.

The understanding of geopolitics of humanitarianism involves bypassing the principles of humanitarianism namely neutrality, impartiality and universality as the concept of humanitarianism is based on moral responsibility of saving strangers is not based on the geopolitical or historical context of international law (Moore, 2012). Martti Koskenniemi stated that the international 'legal argument proceeds by establishing a system of conceptual differentiations and using it in order to justify whatever doctrine, position or rule (that is, whatever argument) one needs to justify'. Hence study of scope and capacity of international actors becomes important. According to Bellamy, the term 'humanitarian' is linked to activities as diverse as the pursuit of universal human rights, the prosecution of those guilty of offending the "conscience of mankind", the delivery of emergency aid for human subsistence, and the use of military force in a variety of circumstances' (Bellamy, 2003).

The geopolitics of transnational adoption or moving children from one country to the other mainly from the global north to the global south is based on cultural construction of child, children, kin and how global restructuring of society impacts the livelihoods of children (Wichelen, 2015a). The humanistic pity as shown toward the child is often masked under humanitarianism when the underlying motive is to cut the child from her kin because of a superior construction of the institutions of family and childhood of which the global north believe themselves to be in a higher position to understand. Probably this is why transnational adoptees have been found to have grown up seeking to establish their connection with

their birth nation so as to explore their identities only to be caught up in both the worlds (Ahluwalia, 2007). In the process the child-objects become individualised and singularised that culminate them into subjects with agency and into western, liberal subjects where nurture prevails over nature (Wichelen 2015 b) and children are often used to depoliticise highly political contexts as seen in the case of USA and South Korea (cited in Bornstein 2011). Again, the South Korean policy for advocating adoption of its kids to the USA

was also a means to regulate mixed blood population and thus involved selection of which existence was legitimate to save (Kim, 2009) which in hindsight looks like the strategy used by Hitler in Germany to prevent intermixing of German blood with the Jews.

Historically, India inherited the characteristics of economic dependence and lack of social cohesion which made it vulnerable to internal dissension and external interference (Ayooob, 2004). This external influence can be seen in the eagerness of the Global North in

theadoption related issues. Whether it was South Korea's interests to spread its blood in the western world or the USA's carefully calculated foreign policy based on geopolitics to keep South Korea under its influence is not to be ignored if not said with conviction. As discussed in the previous section, the Doctrine of Lapse gave the colonial masters access to unlimited resources in the annexed kingdoms. It also not only gave the Britishers the financial strength to fight wars in India and abroad but also highlighted the geopolitical importance of India by virtue of its location and resources. This also envisages the policy of intervention into the third world as an excuse of humanitarian compassion and reflects the geographical aspect of the geopolitics of the third world especially for a country like India. Modern day Inter-Country Adoption (ICA) practices are meant to serve as a corrective to disastrous social and political upheavals in sending countries as seen in the opening up of ICA around the fall of Communist regimes from China to Romania (Cheney, 2014). The easy and cheap facilities provided by India and the NGOs become one of the factors determining the geopolitics of ICA.

According to Wichelen when it comes to child adoption, geography matters in assessing which child body deserves what kind of moral concern. The presence of a geopolitical factor in this kind of equation is related to the question of access to human resources (the children) given the fact that India is a young country with a high democratic dividend that would benefit the adopting country in actuality. This is driven by a less altruistic and more geopolitical agenda of pursuing neo-colonial supremacy and power in the world. In other words, the transnational movement of children underlines the gross inequality that exists between the global north and south. Often the adopted children are not actually orphans but had living parents who abandoned them. This is a question of domestic regulation that has to be strengthened by the Indian government to take strict action against such parents and not a question that requires international adoption of these children, unless the Indian government considers these children as liability and seeks to benefit economically from the foreign country. This can also be a careful diplomatic strategy of the government to pursue ICA for maintaining relations with a particular country.

4. Conclusion

In the post-colonial countries like India, South Korea, Vietnam, etc. the western hegemonic discourses and practices continue to manifest in intercountry or international adoption practices. However, the humanitarian motivations have often shifted from altruism to acculturation

nandcolour-blindpracticesbytheadoptiveparentstowardstheadoptedchildren, thereby contesting notions around the ideal of a multicultural family. For India, which stood against imperialism, the vicious cycle of 'white saviourism', culminating into the well to do families from the Global North adopting children from Global South reflects the broader geopolitics of humanitarianism premised upon unequal power relations between the countries of Global North and Global South.

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