

Chapter 15

Regarding Adopted Son

No. 1 : While adopting a son, he should be from among the offspring of the brothers born from the same mother, if such offspring does not exist he should be from among the offspring's of step mother's sons, if such offspring also does not exist he should be from among the offspring's of the same grandfather, if such offspring also does not exist he should be from among the sons of daughters, if such the daughters also do not have sons he should be from among the offspring's of the great grandfather, if such offspring also does not exist he should be from among the sons of sisters, if the sons of sisters also do not exist he should be from among the brother's sons of the one's own clan. As long as such relatives exist, no adoption should be made from other clans. If the first person concerned does not allow to adopt a son when asked in the above serial order, a document to that effect should be received from him and if he does not provide a document, the next from him in the serial order should be adopted having a member or a representative of the concerned VDC or municipality as witness. If adoption is made against this serial order or without fulfilling the necessary conditions, such adoption proves to be unlawful. Such a son will receive the share of property from his own father.

No. 2 : A man who has sons and a woman whose husband is alive or who has sons from herself or from her co-wife should not adopt a son. If adopted, it proves to be unlawful.

No. 3 : If a son is born to the person entitled to adopt a son after he/she has adopted one making a lawful document, the adoption cannot be canceled. He will receive share of property as equal to the rightful brother.

No. 4 : Even if a person is entitled to adopt a son in accord with law and if he/she has taken care of a child under five years of age having found him somewhere on the path, he/she can adopt him as a son if he/she likes. If such a child is not adopted as son he will receive property only as much as is mentioned in the document if it exists, and if not only as much as is given by the one taking care of him out of his/her compassion. Even if he is not given anything out of compassion, he should be provided with food and clothing until he comes of age accord with the social standing of the one who has taken care of.

No. 4 a. : Even if a person is entitled to adopt a son in accord with law, he can adopt a child under the age of sixteen who has no father or whose father has not been identified with the consent of his mother if she exists and if she does not exist, with the approval of the person who has taken care of the child or with the approval of the orphanage if he has been taken care in an orphanage approved by His Majesty's Government.

No. 5 : One who has no sons but only daughters can without adopting a son keep his daughter as girl adoption before she is given in marriage. The husband of such girl adoption cannot claim the movable and immovable property of his wife. He can have only what is given to him by his wife as she likes. He will receive share of property only from the side of his father.

No. 6 : If the daughter who has become girl adoption does not have heirs, the property from girl adoption will go to the lawful heir on the side of the one who has kept girl adoption. If she has only daughters, the mother can hand her in addition to the document concerning girl adoption another document stating she can use it as girl adoption, the daughter can use it as girl adoption. The claim of the one entitled to have it will not be valid. If there does not exist a written document concerning it, she will get wedding expenses and up to ten percent of the property as dowry. The rest will go to the one entitled to it.

No. 7 : If the woman who has become girl adoption and who has no sons and daughters makes a document in the name of her husband after she is over forty-five, the husband will receive it.

No. 8 : The daughter who becomes an adopted son and a girl adoption will lawfully have the right of her father to keep an adopted son and girl adoption.

No. 9 : If one has become an adopted son of somebody else with a document of share of property from his own father, it should be accordingly.

No. 9 a.: Those except for a man having a daughter or a woman whose husband is alive or who has a daughter can adopt a girl child under ten years of age, having prepared a lawful document.

No. 9 b. : There should be an age difference of at least twenty-five years between the one who adopts a girl child and the one who is adopted.

No. 9 c. : An adopted daughter will have the right as equal to a real daughter. An adopted daughter cannot claim any right on the side of her real father.

No. 9 d. : Even if, a daughter is born to one who is entitled to adopt a daughter after she has already adopted one, the adoption cannot be cancelled. She will be equal to the real daughter.

No. 10 : If the ones who have thrown away a child are identified and if it is known that the child was thrown away by both the father and the mother, the share of property of both of them and also that of the child should be given to the one who is taking care of the child. If only one of them is involved in it, the share of property of the one involved in throwing her away and that of the child should be given to the one who is taking care of. If a child is born after the elopement of the mother, the share of property of the father and the mother as well as her dowry and exclusive property should be given to the one who is taking care of. If the child does not prove to be an adopted son in accord with No. 4 of this chapter, the property given thus will be the child's.

No. 11 : After having adopted a son in accord with law, he will not be canceled unless he breaks the terms and conditions as mentioned in the document concerned. If the one adopted as son does not provide food and clothing for the one who has adopted him according to his means, if he carelessly spends the family property, land etc. without consultation, if he beats or leaves home without consultation and with proper arrangement for the care of the one who has adopted him as son, then such an adopted son can be canceled. The adopted son whose adoption is canceled will get share of property from his real father. If the one who has adopted a son does not provide food and clothing for him or drives out the adopted one, breaking the terms and conditions as mentioned in the document, then the son will be entitled, in accord with law, to have share of property from the one who has adopted him, as equal to his legitimate son.

No. 12 : Even for those entitled to give and receive a son to adopt, a person having only one son and no other offspring's cannot give him to adopt and the one wishing to adopt a son cannot adopt him. If he is given or received for that purpose, this act will be unlawful.

No. 12 a. : If a foreign national wishes to adopt a Nepali citizen as a son or a daughter from among those who can be lawfully adopted, considering the character and economic condition of that foreign national and at the recommendation of the embassy concerned His Majesty's Government can give approval and receiving a son or a daughter to adopt under appropriate terms and conditions.

No. 13 : If a complaint is not fielded within two years after having the knowledge of a son or 'a daughter being unlawfully adopted, the complaint will not be valid.