

Episode 7: Flipping the Coin (Part 1)

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Priya:[00:00] Dear Pari, we knew when we adopted that we may never know the full story of how you came to be in the adoption pool. We knew we would perhaps not have all the answers to the questions you may have. But we will thought we will do everything we could to find those answers for you or with you, if and when you wanted them.

The purpose of starting this podcast was initially to break the stigma around adoption and break the myths linked to it. But we also realised that this podcast wouldn't be complete if we didn't discuss the one aspect that leaves many many adoptive families especially parents uncomfortable. The question of how a baby comes into the adoption pool is something that every parent worries about but not many discuss openly. In this part of this episode, we spoke to Arun Dohle, a child rights activist in the who has unveiled many scandals in the adoption system in India and other countries. He has been termed an extremist, an anti-adoption advocate and has been banned from many many adoptive parents groups.

Rakesh:[1:38] Arun Dohle was adopted by a German couple from an Indian orphanage. Like many adoptees, he started to search for his roots in his late teens. The Indian orphanage did not want to provide access to his file. Arun addressed the Indian Courts and it took 17 years to finally obtain access to the desired information.

During his struggle to obtain his right to know the identity of his mother, Arun teamed up with Indian child rights activists. This was the beginning of his advocacy on children's rights work. Following a major trafficking scandal that came out in 2005, Arun took up the cases of several Indian families whose children were kidnapped, sold to orphanages and adopted abroad. The media reporting about his own case led many Indian adoptees to contact him. He advised them on their searches and eventually organised searches in India with the help of his Indian network of social workers and lawyers. Arun believes in taking a rights-based approach to understanding adoption and believes that the current system of adoption across the world including in India has led to commodification of children.

Priya:[2:53] I just want to understand, what you think is going wrong in you know across the adoption system whether it's in India or countries where you are working and why you and your organisation feel so strongly about adoption not being you know the right mechanism for children to be placed in care?

Arun:[3:15] If you read the articles of the UN convention there is a right of the child to education, healthcare, non-discrimination and what so ever i mean they are really broad and the children are becoming individual right holders and these rights have to be fulfilled by the states and if you read for example article 20, this article talks about continuity and not about permanency so this was all this discussed during the negotiations so if you really look into the UN convention on rights of the child in relation to adoption the agencies of the adoption did not really like that so they came up with another convention they started negotiating another convention under private international law and it is called the hague adoption convention so the hague adoption convention law prefers a little bit more of permanency and regulates the business and tries to keep out you know the adoptions from the purview of criminal law, so the hague convention really differs from the UN convention and rather the convention basically it says adoption is not a child protection measure even a domestic adoption it is rather a civil order] or private then in relation to the inter-country adoption it said inter-country adoption is only permissible if a child

cannot be kept in any other suitable manner and of course inter-country adoption should not be a child protection measure so if you what now in the child protection world is called continuum of care which is totally wrong or the way how they present it but if you really look in hierarchy how the child should be cared by the state because article 20 says recognize that some children cannot be care by their parents but then care is being organized by the state so article 20 also lays all the responsibility, kinship, care, kafala even essentially informal care even though explicitly mentioned and of course residential care so there is nothing wrong with residential care from a policy point of view. What is clear from international law that United Nations convention is public law and is much higher in standing than Hague adoption convention so if there is a conflict between these two conventions it is very clear the Hague convention overwrite UN convention very clearly.

Rakesh:[5:52] He further explained how the policy has been changed making adoption the main pillar of child care and protection system which actually has led to further commodification of the children. His view point is at odds with what is being presented to parents seeking to adopt.

Arun:[6:08] India is implementing the Hague adoption convention i consider unconstitutional violation of article 21 in fact which was children cannot be commodified in any way and the children if they cannot be cared by their parents, have to be cared by the states of course so appropriate care has to be given to the children but the state cannot sell the children, which the state is actually doing by domestic adoptions or inter-country adoption.

Around 2009 and 2010, the courts started using the Juvenile Justice Act and with the Juvenile Justice Act of course adoption became a main pillar or the whole child care system what to say children in need of care protection and the whole policy on child care in India is essentially so you know built around adoption and of course the demand now is incredible we have 20,000 Indian parents waiting and just 2000 children in the so called pool what the CEO calls, the pool of available children but the government is doing is essentially linking up all child care institutions and also trying to get and I of course agree with registering under registered institutions I see of course no children who are not registered but what comes with this is that every child and every children gets put into the CARINGs system and then we have linkages between the CWCs and the residential cares so every child in residential care is at a risk to be freed for adoption and I say has a price tag on his head. Is it 40,000 or 70,000 rupees which essentially India parent are now paying or 5000\$ if the child goes abroad and this is commodification of children and I object to it.

Now we come to the very important point so if you adopt under HAMA it is usually family to family adoption so we see now currently of course trafficking is now happening under HAMA you can just actually legally trafficked children because basically it is a doctor of the gynaecologist just establish a contact between you and the family, between the adoptive parents so called adoptive parents in the let's say unwed mother that is a typical case, the family of the unwed mother you go outside of their office and you give some money to the unwed mother I mean under the so then make payment and adoption deal and register. Most of the parents say adoptive parents say this was a legal adoption, the mother couldn't take care of the child, the unwed mother is sixteen how can she take. But this is a gross human right violation and yeah i mentioned the monetary transaction because in international law, trafficking is defined i mean has certain conditions and of course once you pay money through even 1 euro even 1 cent if you pay money to the biological parents this is clear cut trafficking, this is a punishable offence. so, the whole regulation of adoption when there was a direction to put you know put agencies in the tree, the agencies are much better that is the problem but this is also what the Supreme court tries to regulate the agencies and what the hague convention tries to regulate all

these agencies. so, now regulations became more and more stricter, more and more yeah more and more checks and balances were there but did not really help as you could see and it was always mostly that adoptive parents and specifically foreign adoptive parents would never know where the child comes from.

So the adoptive parents had and have no chance of checking the background of the children and they can only rely on the paper. so i know what is written in the paperwork is not necessarily what the real story is. The court currently only gets a package from the child welfare committee, the court has essentially no time to look into anything anymore, they have the judges under very high pressure to pass orders within two months, all the scrutiny with the ICSWs, the BCAs and all that all removed. And now Maneka Gandhi, the minister goes even there and wants to make these district magistrates the one passing adoption order. So, this is gonna be really a mess and then the prospective adoptive parents has no chance absolutely in this system has no chance at all to verify to be sure that this child was really legally free and ethically free for adoption.

According to the CARA guidelines also in the section 44, 45 you are entitled to get assistance from the agency with the so called root search whether that they actually then give you the information, i have my doubts because it is the biggest problem in our work for the adult adoptees to get the information from the agencies and then also of course i understand the social stigma attached to unwed mother so searching in case of unmarried mothers is direct complicated and it should only be done by professionals where experienced and don't just go and knock on the mother who is now married and has a living family secrets and we can't just reveal it so that is clear. it is very uncomfortable truth for many adoptive parents

Priya:[12:22] We came across one of your posts and the adoption groups talking about this very uncomfortable truth and I remember all the prospective parents getting really angry on you saying are you saying we shouldn't adopt children? are you saying children should be left to die but clearly you are not saying that so yeah.

Arun:[12:41] There are children sometimes children who are actually found abandoned it does happen and in country like 1.3 billion people lots of things happen and children are abandoned, if these children after really due inquiry you know I mean there has to be a police complaint registered and the police actually investigate because we have also having cases where children who are kidnapped to get rid of heir . Kidnapped and abandoned. There has to be a due inquiry and if after the inquiry nothing could be found I wouldn't have any problem if really abandoned child gets adopted in country.

Then it is this very very clear that under section 317 of the Indian penal code, abandonment of the child is a crime and in India interesting enough apparently couldn't just abandon the child through the state because essentially every surrendered child is abandoned to the state but nobody is really held responsible. Being a parent giving birth, being a father being a mother comes with responsibility. You cannot legalize the abandonment of children. We also understand the discrimination of girl children so it is very easy for family if the government legalize discarding was a baby girl that should not be done, should not be encouraged and this is also not the answer to the gender discrimination at all. So I am really really against it I am really saying one day some stronger group should file a criminal complaint and fight it up to the supreme court and gets it abolished.

Priya:[14:26] The people who support the cradle scheme support it by saying isn't it a better alternative and the baby girls even the boys I don't think but of course often in India it is the girl child who is discriminated isn't that a better thing to do than leaving the child in

a gutter or in a garbage bin or you know in a railway track for instance. So lot of people to say that the cradle scheme offers an alternative to child's families and also a chance to the child but one hears you, you think that well know you in fact feel like those parents who are abandoning because of whatever reason teenage pregnancy, sexual assault, poverty whatever might be the reason you actually feel that there should be I mean are you saying therefore these parents should be penalized or the state in that should be penalized for encouraging abandonment.

Arun:[15:26] There is a lot of emotions involved in adoption and there is a lot of childless couple which actually is doing well and there is family or you know child in difficult circumstances. So, lets match them. it is a fairy-tale so it is a wonderful emotional story the child has finally found a permanent and a loving family otherwise who would have landed up in a garbage bin this rescued child and I really object to this rescuing or rescuing the orphan whatever again lets go back, the children have rights parents have obligations I am not saying necessary that unwed mothers should be punished you know when the family actually abandons the child. Here I am saying the Indian government instead off setting up of an abandoned baby cradle scheme so that one can discard with the baby easily should set up a support system for unwed mothers. so I am saying there should be a very very thoroughly investigation and the government essentially does way now the new adoption system essentially tries to do away with the police investigation and not necessarily in FIRs filed anymore and the state realize the abandonment of the children so what is the society are we becoming if they day abandoning a child is okay ? abandoning a baby is okay? no its not.

Priya:[16:57] You just said that the regulation the new regulation systems are actually sort of doing a wave with the filling of the FIR but from what i understand from having read the regulations and also from what we were told as a part of the counseling that we underwent it was that all these children you know they are basically now in three categories : surrendered, abandoned and orphan and with regards to the abandoned children there the police has to you know do a search, try to find the closest family and do everything possible to place the child with that family and in the case of surrendered children, the parents are given two months to sort of change their mind and with the orphan children again all attempts are made to place the child back with the closest biological family, this is the reason that is being put out as why the number of children who are legally free for adoption is only say 2000 or 3000 as opposed to 18,000 prospective parents waiting. What is your take on that?

Arun:[18:01] Basically here we speak about black box so we don't know what the child welfare committee and residential care institution, child care institution are doing. As adoptive parents you don't really know how the child came in the system so you rely on the child welfare committee on executing this work. here in Maharashtra for example many of the child welfare committee members are running their own are linked to the residential care institutions so there is clear cut case of conflict interest is also clear cut by the way juvenile justice care rules but this is happening all over the country so you just simply cannot know because conflict of interest is nicely set essentially you can also call it differently its corruption. it is not so clear that there should be an FIR should be registered but unfortunately is not done anywhere so abandoned children it happens as explained is really after due inquiry the child is being adopted in country I would never say dont do it. then we had the orphan children well but what are orphan children I mean most of the children are born in large families and with assistance the family can take care of the children and even if the child is orphan then the child has the right to care by the society by the state not to get new birth certificate not to get a new identity not to get his identity totally changed not losing all the relations to cousins, grandparents, great grandparents. Also the family ties are cut with adoption so it is like a transplantation like the heart

transplanted. Let the orphan child retains his identity, let him retain his culture, let him grow up in a family in bio organised by the state this is what the UN convention on the rights of the child says, the state has to take care and of course the child should not be put in a jail like institution where the child gets abused i mean this goes out without saying so the government has to really ensure if the residential care or the care for children are properly organised but the government has no business selling these children

Rakesh:[20:29] Arun Dohle told us that in his vast experience of working alongside birth families and adoptees alike across countries, he has come across many parents who were tricked into signing relinquishment deeds.

Arun:[20:40] Poverty can never be another reason for adoption but I think in many cases poverty of the parents and the lack of social support system and here I mean also financial support leads to parents and distressed families surrendering..signing surrender deeds not knowing what they actually signed

This whole process of surrendering I really object to also because studies show that parents and mothers who surrender children don't even really understand the final consequences so that this child which is surrendered is no more a member of the original family and if you sign something which you don't really understand it can also be duress so if you are tricked into signing this so I really really contest the causes of surrendering

Priya:[21:46] He says it's important to improve residential care for children and to also look for alternate options such as kinship care, small family type units to look after children whose biological families are alive but unable to look after them. He insists governments and organisations must support families who are unable to look after their children by helping them through their time of crises. And most importantly he stresses on the need to have a rights based approach to combat child trafficking apart from proper implementation of UNCRC. He further spoke to us about the need for strengthening root search mechanism so that adult adoptees rightfully find out more about their birth story if they want to.

Aun:[22:27] What concerns me as an adult adoptee is that, our work is blocked by authorities in the receiving countries as well in the accepting countries. So, CARA has been doing since years trying to put roadblocks and road blocks. So, the current regulations say that only the agencies can conduct the search. But they wouldn't bring out fraud. You see, there is no independent organisation even in the adoption rules mentioned who would conduct a search. There is also absolutely zero funding put for that. Even if SARA and CARA and other stakeholders actually mentioned in the adoption rules they don't have any funding to do that. Nor do they have the training. So, the state doesn't even have social workers, who will be capable to go out like our social worker does in the field. So, there is no concern. Yes, this makes me angry. There is no concern for those like us who were once children, adopted children. No concern for us. And I will need a lot of support from adoptive parents. Once you are an adoptive parent you are an adoptive parent, I understand, you cannot put your child back but I have quiet some adoptive parents who support our work morally or financially. But what I don't find is adoptive parents supporting their now adult children in search cases for example. No adoptive parent pays for a search. They say you pay now, you are an adult. Well, it is very complicated. Young adoptee of 21-23 doesn't have the financial resources. I am talking here about intercountry adoptee.

I was told you know that adoption records in India are sealed. Listen, can you show me these laws? Nobody showed me these laws. I said Ok Ok. Can you show me the law that says that this is also confidential? Right, then I came under the partner of activists. I was told that I was entitled to that information. I was like what? You can have that information according to the law in India. What? I was told there is a law that bars us. No, No, it's not

like that. Can you send me the law. Go back to the 1984 AK Pandit judgement, Supreme court of India, section 23, read it, read it. The famous Bhagavati judgement which regulated adoption in India from 1984 is called the A.K. Pandit case, I can send it. It says very clearly, you know, the adoptive parents should be given the information, and it is up to them, specifically the court here says after the age of maturity but doesn't bind adoptive parents giving the child information earlier. So the adoptive parents are entitled under the supreme court judgement. And it should be mentioned in the child study report and if not they can actually request from the agency. So, we have been all fooled.

Ya, Ofcourse I understand the resistance, I fought myself for 17 years. I started actually searching in 1993 and I found my mother only in 2010 after 7 years of litigation. Let that sink in. I had to give up my career to fight to find my mother. And in 1993, the orphanage told me there were no files. Get over it, time heals all wounds. That's what they told. So, I came to India in 1996, Came too many times. So, This is an essential thing. Could have taken the orphanage 10 minutes or half an hour to trace back the file. And in 2001 I actually got them to get the file and they put it right in front of my nose. And that Angered me. So, It took me 7 years of litigation and the right of the adoptees are now in part of CARA guidelines in adoption rules because of my fight. You see. So, Ya, my concrete advice also to adoptive parents and to adoptees always is to not try and reinvent the wheels.

Priya:[26:48]

Conclusion: Rakesh and I are adoptive parents by choice and during the course of making of this podcast series-we have often had to take a breath when we read adoptees struggles. It goes straight to, "am I a terrible person because I adopted? And sometime wondering if they are talking about me?" We can only imagine how much more tougher this reality is for those who have been adopted. While we are aware that there are well-adjusted adoptees to whom adoption is just part of their story, we as parents are also aware that this isn't the case with every adoptee. We can't speak for them and don't want to also. We love our Dear Pari with all that's within us. We wish we could look into the future and tell ourselves that it would all be ok. We can hope for the best of course and pray that we can spare her of any and all heartbreak. For now, we will continue to learn and have an open mind and hope that one day she will be able to tell us if we did the right thing or not. We didn't do this podcast to encourage or discourage people from adopting. We did this as a way to share all that we learnt with others so that they can make informed choices on how they would like to deal with this. We do hope voices like Arun aren't curbed by adoptive parents or labeled as 'extremists'. If we truly want the best for children- not just ours but every child in this country-then we do believe we need to think from what truly is the best for the child. Who are we to decide if children shouldn't be raised by unwed mothers? When single parents can adopt-why can't we be more accepting as a society of unwed mothers? Why do we speak ill of the birth parents and assume that they are the worst? Why don't we adopt special needs children? And why are we so scared of our children looking for their birth parents? And how far do we as a society have to come in terms of accepting adoption as norm? We don't have answers for these questions but we do hope the questions lead us all to think more, reflect more.

In the next part of this episode, we will talk about the inter-country adoption specifically linked to the tragic case of Sherin Mathews, a 3 year old girl who was adopted by NRIs and was murdered.

Pari:[31:18]

Amma, Nanna Pari