

# **Child Adoption Policies in India- A Review**

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## **Introduction**

The Government of India is fully sensitized and committed to the rights and welfare of children. The Constitution of India under Article 24- Chapter on “Fundamental Rights of the Citizens” provides the right against exploitation of the children below 14 years. Article 45 of the Directive Principles of the State Policy in the Indian Constitution envisages for free and compulsory education of children.

## **Basic Indian Policy**

At the International level, India has ratified the convention on the Rights of Child and the Hague Convention on inter- country adoption of children. At national level, India has prepared a National Policy for children in 1974 under which Ministry of Social Justice and Empowerment (now known as Ministry of Women and Child Development) has got the mandate to enact laws regarding welfare of children. The Juvenile Justice (Care and Protection of Children) Act 2000 is a landmark in this regard. **This Act has incorporated the provision of adoption of child as an alternative to institutional care.**

Adoption provides a very important function in Indian society. India has long tradition of child adoption. In olden days, it was restricted within the family and was covered by social and religious practices. But with the changing times, adoption beyond the contour of family has been institutionalized and legalized.

What Government of India and State Governments is providing necessary support and guidance through its policies and programmes, the Non- Governmental Organizations (NGO's) provide necessary delivery system for the process of adoption which is above board and transparent.

## **Implementation of Policy -- Central Agency**

To strengthen adoption rules and facilitate adoption without any hassles, Government of India under advice of Supreme Court constituted a Central Agency- Central Adoption Resource Agency [CARA] with New Delhi as base to set up guidelines for adoption time to time safeguarding welfare and rights of children while granting adoption or guardianship under Hindu Adoption and

Maintenance Act 1956, Guardians and Wards Act 1890 or Juvenile Justice Act of 2000.

### **Scrutiny Agency**

To safeguard malpractices and deviations from prescribed guidelines for adoption notified by Government of India, Supreme Court of India has appointed an independent NGO with experience in child adoption – “The Indian Council of Social Welfare” with head quarters in Mumbai and branches in all state as Scrutiny Agency. This agency verifies all the relevant documents and authenticity before orders are issued by Judicial Courts for the formal adoption..

### **Guidelines for adoption**

CARA has issued separate policy guidelines for inter- country and in- country adoptions. The main policy adopted is placement agencies involved in adoption should strictly follow and comply with the guidelines of CARA and register with respective state governments. No Objection Certificate [NOC] from CARA is made mandatory in case of all inter- country adoption, before placement agency process the application in competent Judicial Courts.

### **Agencies approved for adoption**

For safe guarding interest and welfare of child, India Government has recognized following agencies.

1. Indian Placement Agencies - 73 (in various states)
2. Foreign Placement Agencies Enlisted - 254 (in foreign countries)
3. Voluntary Co- ordinating Agency in India - 13 (in various states)
4. Scrutiny Agencies - 13 (in various states)

More than 2000 children are given for adoption within India while above 1100 children are sent outside India for adoption.

<b>Year</b>	<b>In- country</b>	<b>Inter- country</b>
2003	2150	1384
2004	2350	1310
2005	2454	1266

### **Implementation of Hague Convention Recommendations**

India Government has notified various adoption policies consistent with Hague Convention as shown below.

- ◆ Central Authority (Art.6)
  - Central Adoption Recourse Agency (CARA)

- Setup as a Wing of the Ministry of Welfare on 28.06.1990
  - Made an autonomous body on 18.03.1999
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- ◆ Child is declared adoptable (legally Free for Adoption) by the concerned public authority, such as, Child Welfare Committee, etc. (as required under art. 4.a.)
  - ◆ Priority is given to in-country adoption before a child is proposed for inter country adoption through the VCA's & State Governments concerned (as required under art. 4.b. & 16.b.)
  - ◆ All authorities/agencies including CARA apply the principle of 'Best Interest of the Child' to an adoption case (as required under art. 4.b. & 16.d.)
  - ◆ Necessary consents of biological parents, adoptive parents and the older Childs are obtained before an adoption is effected. (As required under art. 4.b. & 16.d.)
  - ◆ Adoption is permitted only through recognized placement Agencies with professionally trained Social Workers. (as required under art. 11)
  - ◆ Adoptive parents are required to escort a child from India for the secured transfer of the child as required under 19.2
  - ◆ Any improper financial or other gain is prevented (as required under art. 8 & 32) through:
    - Fixing adoption costs.
    - Prohibition of direct contact between Prospective Foreign adoptive parents and Indian Agencies.
    - Prohibition of middlemen.
    - Giving recognition to those Indian Agencies for working under the Convention who work with non-profit motive.
    - Financial Returns furnished by the inter-country adoption Agencies to charity commissioners, local state government & Ministries.

**Procedure followed for inter country adoption are:**

I. Child is made legally free for adoption

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| <ul style="list-style-type: none"> <li>• By relinquishment deed from biological parents</li> <li>• No legal claim certificate from child welfare committee formed by state after making legal enquiry</li> </ul> |
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## II. Adoption Agencies

### *Step I*

For adoptive parents:            Pre- adoption counseling  
Application and Registration  
Home study report- Identifying the  
child needs.

### *Step II*

Identifying a child to meet the needs of adoptive parents.

Making arrangement to see the child by adoptive parents.

Take the child for medical check up.

File documents to court for adoption order.

## III. Voluntary Co- ordinating Agency (now known as Adoption Co- ordinating Agency)

- Registration of adoptive parents
- Registration of child available for adoption
- Home study reports (by foreign enlisted Agency for VCA)
- Furnishing data to CARA to create a data a bank

## IV. CARA- Central Adoption Recourse Agency

- To issue NOC to agencies to match child with foreign adoptive couple.

## V. Scrutiny Agency

- Verifying documents and child and give its recommendation to judicial courts.

## VI. Judicial courts

- Court examines the documents filed by placement agency, Adoptive parents and Scrutiny agency and satisfies itself everything is in order before issuing order for guardianship. A double check is made by the court about composite age, attitude and income of the adoptive couples.
- When orders are issued child is free to be taken outside country for adoption.

## **Conclusion**

To conclude the trust of national policy of India for welfare of children is:

To protect abandoned and destitute children, goal is to find a family for as many orphan children as possible and to safeguard their interest as visualized in the UN Convention on child rights and Hague Convention on Inter country adoption ratified by India government. The 'Best Interest of the Child' is the guiding principle behind all adoption laws in India and social awareness programmes has helped to change the attitude of society and people towards adoption in India.

The nation's children are supreme important asset. Their nurture and solitude are responsibilities of nation. Children's programmes should find a prominent part in national plans for the development of human resources so that children grow up to become robust citizens; physically fit, mentally alert and morally healthy endowed with the skills and motivation needed by the society. Equal opportunities for development to all children during the period of growth is the aim, as this will serve larger purposes of reducing inequality and increasing social justice.

## **References**

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