

ADOPTION AND PUNISHMENT FOR ILLEGAL ADOPTION

India is a multi religious, multicultural country having many different languages. Children form about one third of the population of India. It is estimated that there are 400 million children in India under the age of eighteen years and 4 % are estimated to be orphans and over 1, 000,000 are in the institutions. Apart from the poverty and natural calamity, many children are added to the institution because of the abandonment of the child by unwed mothers.

The private and non-governmental sectors provide most of the institutional care. In Odisha, about 105 orphanages are providing institutional care to the children and only 17 organisations are engaged in non-institutional care like child adoption.

The Govt. Of India considers adoption as the best non-institutional support for rehabilitation of orphan, abandoned and surrendered children, because only family environment can provide them the best opportunity to fulfil their potential.

For the best interest of the child, on 11th December 1992, India ratified the United Nations Convention on Rights of the Child (UNCRC) and acquired an obligation to ensure that the rights enshrined under the Convention are protected in the country by enacting laws. The UNCRC states that the child should be ideally brought up in a family environment. When the child's own family can not look after him/her, substituted family based care should be arranged. Then Juvenile Justice (Care and Protection of Children) Act, 2000 came in to force. On January 2003, India also signed the Hague Convention on Inter country adoption.

Under J J Act, "Adoption" means the process through which the adopted child is permanently separated from his biological parents and becomes the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.

The Guidelines Governing the Adoption of Children, 2011 says some principle governing adoption. They are

- a) the child's best interest shall be of prime importance while deciding any placement;
- (b) preference shall be given to place the child in adoption within the country;
- (c) adoption of children shall be guided by a set procedures and in a time bound manner;
- (d) no one shall derive any gain, whether financial or otherwise, through adoption.

Children competent to be adopted:

- a) who does not have parent and no one is willing to take care of
- b) Abandoned children
- c) Surrendered children
- d) Missing and run away child and whose parents cannot be found after reasonable inquiry

In accordance with the provisions of sub section (5) of section 41 of Juvenile Justice (Care and Protection of Children) Amendment Act 2006

No child shall be offered for adoption

- a) until two members of the committee declare the child legally free for placement in the case of abandoned children
- b) till the two months period for reconsideration by the parent is over in the case of surrendered children, and
- c) without his consent in the case of a child who can understand and express his consent

In accordance with the provisions of sub section (6) of section 41 of Juvenile Justice (Care and Protection of Children) Amendment Act 2006, the court may allow a child to be given in adoption-

- a) to an individual irrespective of marital status
- b) to parents to adopt a child of the same sex irrespective of the number of living biological sons or daughters or
- c) to a childless couple

Through adoption, an orphan, abandoned/ surrendered child will get her rights and privileges like a biological child. Adoption serves the double purpose of giving a child a home and giving parents a child. It is a wonderful experience.

Illegal adoption of baby will be treated as illegal procurement & confinement which is a criminal offence and there would be punishment under law.

NORMS OF PAP, CONTACT OF SAA

Who can Adopt

As per Juvenile Justice (Care & Protection of Children) Act 2000 as amended from time to time , the court may allow a child to be given in adoption -

- a. to a person irrespective of marital status; or
- b. to parents to adopt a child of the same sex irrespective of the number of living biological sons or daughters, or
- c. to a childless couple

Additional Eligibility Criteria:

- a. 2 years of stable relationship in case PAPs are married
- b. To adopt children in the age group of 0-3 years, the maximum composite age of the PAPs should be 90 years wherein the individual age of the PAPs should not be less than 25 years and more than 50 years.

- c. To adopt children above three years of age, the maximum composite age of the PAPs should be 105 years wherein the individual age of the PAPs should not be less than 25 years and more than 55 years.
- d. A single PAP desiring to adopt should not be less than 30 and more than 50. The maximum age shall be 40 years to adopt children in the age group of 0-3 years and 50 years for adopting children above 3 years.
- e. PAPs should have adequate financial resources to provide a good upbringing to the child;
- f. PAPs should have good health and should not be suffering from any contagious or terminal disease or any such mental or physical condition which may prevent them from taking care of the child;
- g. A second adoption is permissible only when the legal adoption of the first child has been finalised;
- h. Single male is not permitted to adopt a girl child

DOCUMENTS REQUIRED FOR ADOPTION

The following documents are required to be produced in original along with two self attested copies by the PAPs.

- a. Proof of identity(voter card/pan card/passport/driving license)
- b. Proof of address indicating residence in India exceeding 365 days
- c. Marriage Certificate
- d. Family Photograph
- e. Health certificate by a registered medical practitioner certifying that the PAPs are not suffering from any contagious or terminal disease or any such mental or physical condition which may prevent them from taking care of the child.
- f. Three recent postcard sized photographs of the adoptive family.
- g. Two letters of recommendation from persons who know the family well. Such recommendations should not be from immediate relatives of either spouse.
- h. If the PAPs are self-employed, IT statement for the last three years and if they are employed, Income Certificate from the employer also indicating the date of superannuation.
- i. Financial statement including copies of bank statement for the last six months, details of movable and immovable property owned by the family and details of loans taken by the PAPs.
- j. Written consent of the biological and/or adopted child/children and if they are above 7 years of age.
- k. Adoption decree, if the couple have adopted child/children earlier.
- l. Divorce/legal separation decree in case of single PAP if applicable.
- m. Letter from close relative of single PAP stating that in the event of any unforeseen circumstance, the relative would take care of the child.
- n. Proof of Birth (Matriculation/10th Pass Certificate)

(It is clarified that infertility certificate is not required from the PAPs wishing to adopt a child)

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