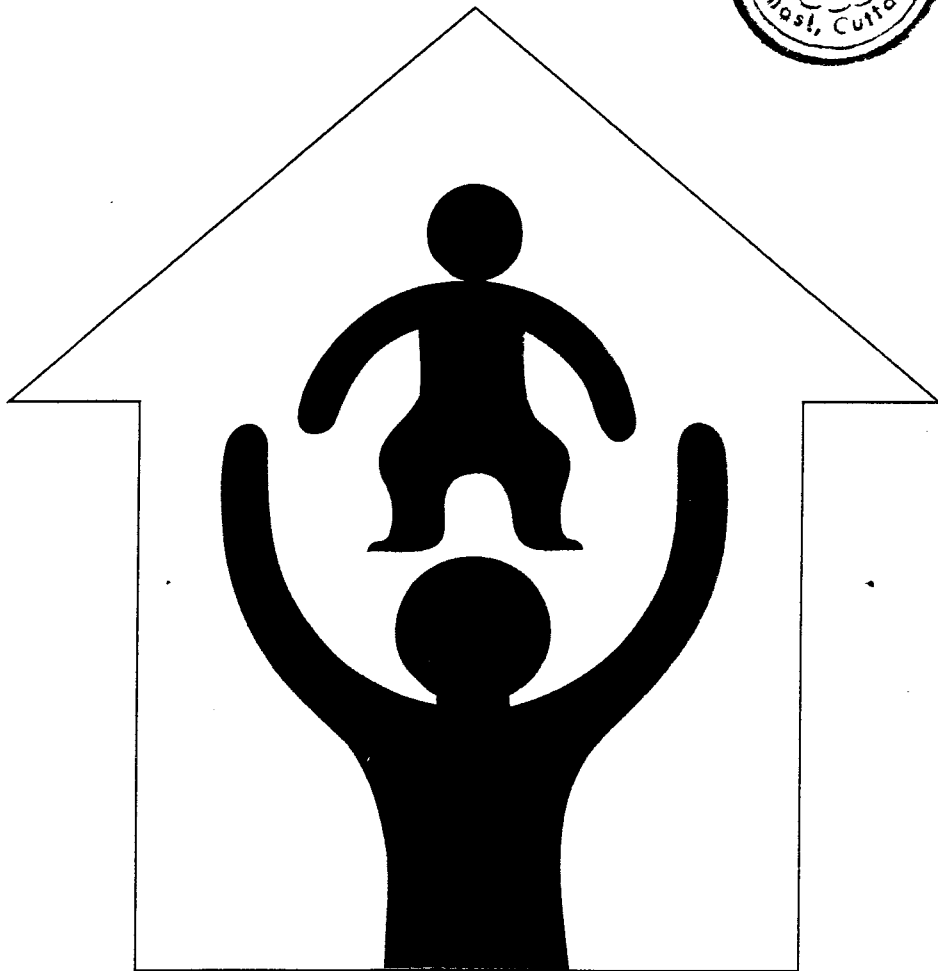
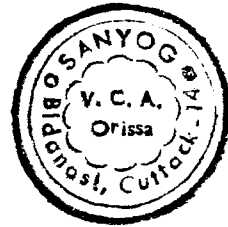


Brijayani Das

# GUIDELINES FOR IN-COUNTRY ADOPTION 2004



**CENTRAL ADOPTION RESOURCE AUTHORITY**

(An autonomous body under the Ministry of Social Justice & Empowerment, Govt. of India)

# GUIDELINES FOR IN-COUNTRY ADOPTION – 2004

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# **Ministry of Social Justice & Empowerment Notification**

**New Delhi, The 1st June, 2004**

S.O. 711(E). - In-Country adoption Guidelines were earlier circulated for the first time to all State Governments vide letter No. 1-4/98-CARA dated 14.9.1998. Subsequently, circulars have been issued to State Governments from time to time on matters relating to licensing of residential homes, setting up of state adoption Units, State Advisory Boards and monitoring of activities of adoption agencies etc. Instructions have also been issued to adoption agencies, so that common adoption practices are followed throughout the country.

It has been felt that there is a need for a revised set of guidelines to regulate in-country adoptions so that common practices and norms can be ensured for adoption all over the country. The new set of guidelines cover issues relating to adoption fees, age criteria for adoptive parents, home study etc. It is hoped that these guidelines will facilitate in-country adoption of children who are abandoned, destitute or orphaned so that they get the opportunity to develop in a loving and caring home environment that is the right of every child.

**[No. 18-8/2003-CW]  
Mrs. Rajwant Sandhu, Jt. Secy.**

## **CHAPTER-I**

### **INTRODUCTION & PROCEDURES**

In pursuance of its constitutional mandate, the Government of India has evolved a National Policy for the Welfare of Children. The thrust of this policy is summed up in the following words:

“The Nation’s children are a supremely important asset. Their nurture and solicitude are our responsibility. Children’s programme shall find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice.”

Following upon the above mandate, the Govt. of India has evolved several programmes to ensure the betterment of children and their development in a wholesome manner. The Ministry of Social Justice & Empowerment, Govt. of India has been mandated, amongst others, with the welfare of children in difficult circumstances. The rehabilitation of such children through adoption is one of the major planks of the Ministry’s policies for children. This policy keeps in mind the fact that the full and wholesome growth of a child is possible only in an atmosphere of parental love and guidance. It recognizes the family as the Central fulcrum around which both mental and physical development of a child is given full opportunity to blossom.

In pursuance of land-mark judgement of the Supreme Court of India in the Laxmi Kant Pandey Vs. Union of India case of 1984, the Central Adoption Resource Agency (CARA) was established by the Ministry and subsequently the Revised Guidelines for the Adoption of Indian Children were issued in 1995 to provide a frame work of Rules for regulating and monitoring inter-country adoptions. These Guidelines are now applicable all over the country and they provide a uniform mechanism for processing cases of Inter-country adoptions. Of late the Ministry has been contemplating the need to provide a similar framework of Guidelines for monitoring and processing of in-country adoptions. Both the Supreme Court in its above judgement and the Convention on Rights of the Child adopted by the General Assembly of the United Nations in 1989 as well as the Hague Convention on Inter-country adoption of 1993 clearly lay down that the best interest of the child without a family is served by providing it an opportunity to be placed with a family within its own socio- cultural milieu. Thus every child has a right to be considered for placement with a family belonging to its own national and cultural background within the country. Inter-country adoption is therefore, to be seen as an option, which is to be considered only when the above is not possible. This is also prescribed in the Guidelines governing inter-country adoptions.

The importance of In-country adoption is, self-evident. There is need to ensure that not only In-country adoption is actively encouraged and propagated throughout the country, but also a well formulated procedure is followed for the purpose. The Ministry of Social Justice and Empowerment, Govt. of India has now decided to issue common Guidelines for the procedure that needs to be undertaken by adoption Homes/Institutions before filing adoption petitions under Hindu Adoption and Maintenance Act, 1956 (HAMA), Juvenile Justice (Care & Protection of Children) Act, 2000 (JJ Act) and also Guardianship Petitions under Guardian & Wards Act, 1890 (GAWA). These Guidelines do not affect the provisions in the existing Acts and laws but serve to provide a procedure for processing adoption cases before they are actually brought before the competent authorities/courts under the aforementioned Acts for orders. The Guidelines will also ensure that the best interests of the child are protected and all adoptions are legally processed through licensed Homes/Institutions only.

The Central Adoption Resource Authority is the nodal body of the Ministry of Social Justice & Empowerment to deal with all adoption matters. After due consideration of all aspects and consultations with experts in this

field, the Government of India, hereby issues the Guidelines for In-country Adoption that shall come into effect immediately and will supercede this Ministry's earlier Circular No.1-4/98 (CARA) Dt. 14.09.1998. The Ministry of Social Justice & Empowerment, Government of India, reserves to itself the power, at its discretion to make such amendments, additions, deletions or alternations in these Guidelines as are deemed necessary from time to time.

**AIMS & OBJECTS :**

The Guidelines for In-country adoption aim:

- to regulate and facilitate a common procedure for In-country adoptions throughout the country;
- to encourage adoption of destitute & orphan children within the country.

**1.1 ADOPTION HOMES**

**1.1.1 Role & Functions of LAPAs**

- (i) All such Licensed Adoption Placement Agencies for In-country adoptions will be registered under the Societies Registration Act, 1860. They will adhere to any guideline or rule laid down by the State Government/Central Government governing in-country adoption from time to time. As such they will obtain license from the State Government to run child care homes and recognition/permission to place children in adoption within the country and will be known as Licensed Adoption Placement Agencies (LAPAs). Adoption Homes which have been recognised to undertake inter-country adoption by the Govt.of India will be called Recognised Indian Placement Agencies (RIPAs)
- (ii) Details of all Children admitted by LAPAs will be entered in the admission register in the format prescribed at **Annexure-I**.
- (iii) All LAPAs will be members of the nearest Adoption Coordinating Agency.
- (iv) They will maintain a separate list of Indian couples/individuals registered with them as prospective adoptive parent(s).
- (v) All the LAPAs must have a high standard of child care facilities and observe prescribed & adequate standards in child care as per the broad criteria placed at **Annexure-IV**. For children, between 3 and 6 years proper recreational and pre-school educational facilities must be provided.
- (vi) It will be mandatory for all the LAPAs to have qualified staff. The following staff should be available in a home for 10 children:

1. Superintendent	–	1
2. Nurse-cum-supervisor	–	1
3. Full time or part time Doctor preferably paediatrician	–	1
4. Social Worker	–	1
5. Ayas	–	4 for 10 children
6. Accounts and Administrative staff	–	1
7. Chowkidar	–	1

The above is the recommended staff structure and it may vary in proportion to the number of children and size of the Home. The professional staff such as Nurses and Social Workers should have the relevant qualifications such as Degree/Diploma in Nursing and MSW/BSW respectively.

- (vii) Every LAPA has a moral and legal responsibility to function within the ambit of the law and in the best interest of the child. While admitting an orphan or destitute child, the Home will give a name to the child, record briefly the social background of the child, record identification marks of the child, record height and weight of the child, conduct medical examination of the child and get the child photographed. In case of all new arrivals, the local authority should be informed within 24 hours and in case of admission of any abandoned child, the Home will file FIR with the nearest Police Station and inform the local authority and the CWC within 24 hours.
- (viii) A monthly report on the number of children available will be submitted to the State Adoption Cell of the State Govt. The death of any child will also be reported to the local authority, ACA & State Adoption Cell immediately, giving details, within 48 hours. The Death Certificate alongwith the photograph, shall be kept in the personal record file counter signed by the Office bearer of the LAPA. Every LAPA shall maintain a separate file for each child with the child's complete case history. Every child should have a Child Study Report which shall be shown to the prospective adoptive parents. Format of such a report is placed at **Annexure-V**.
- (ix) All registered prospective adoptive parent(s) may avail counseling facilities which is to be given free by the LAPA. They should be counselled in detail and made aware of the legal obligation to be placed upon them once a child has been adopted, the rights of the child itself, the various Acts under which a child can be placed with the family, procedures for obtaining birth certificate etc.
- (x) The LAPAs will submit a list of children available with them with relevant information every month to the ACA and State Adoption Cell to facilitate search for suitable adoptive parent(s) who may be registered with them.
- (xi) While filing an application for adoption or placement of a child in the appropriate Court, the LAPA will also be a co-respondent. The child will be in the custody of the LAPA until the final placement takes place through the Court order. Therefore, parent(s) cannot directly file a petition and the details of the biological unwed mother cannot be disclosed to the parent(s) as a part of the petition. If violation of these provisions come to notice, action will be taken against the LAPA by the State Government. The surrender document should be treated as confidential and submitted only to the court. The LAPA must ensure that adoption petitions are filed in the court expeditiously and render all cooperation to the court for obtaining early orders.
- (xii) The LAPA will send a monthly report to the ACA and the State Adoption Cell as per **Annexure II**.

### **1.1.2 Mode of Admission of children to LAPA**

A child can be admitted to the LAPA by two modes:

- (i) Direct surrender by biological parent(s)/unwed mother.
- (ii) Child abandoned in the LAPA or abandoned elsewhere & brought by a third party or police or referred by the Child Welfare Committee.

### **1.1.3 Surrender of a Child by biological parent (s)**

- (i) In the case of surrender of a child, the biological parent(s) should be counselled and duly informed by the LAPA concerned of the effect of their decision and the alternatives available for the care and maintenance of the child. No LAPA will directly or through agents, attempt to persuade the biological parent(s) to surrender their children with monetary or other incentives.

- (ii) The surrender document should be executed truly by the biological parent(s) with no compulsion, payment or compensation of any kind by anyone.
- (iii) The parent(s) should be informed by the LAPA of their right to reclaim the child within 60 days from the date of the surrender. They should be made aware that after the period of 60 days the surrender documents will become irrevocable and the child will be considered free for adoption and the LAPA will be free to place the child in adoption or guardianship.
- (iv) The surrender document should be executed on stamp paper in the presence of two responsible witnesses of whom one should be responsible person who is not an employee of the organization. The documents will also be signed by a Notary/Oath Commissioner. The LAPA should be able to produce these witnesses if the necessity arises. The responsibility for the authenticity of the surrender document would be on the LAPA. In case of a minor surrendering a child, at least one signature(s) of parent(s)/relative(s) of the minor should be obtained in the presence of the minor. The State Govt. will have the right to cross check all surrender documents and copies of these are to be sent to the Adoption Cell/Department. During the surrender process, the LAPA should ensure that:
  - (a) If a child born in wedlock is surrendered, both parents sign the surrender document and in case a parent(s) is dead, proof of death is furnished. Where the death certificate is not available, a certificate from local Sarpanch/Panchayat/Govt. Authority should suffice.
  - (b) In case of a child born out of wedlock, the mother herself and none else can surrender the child. If she is a minor, the signature of an accompanying relative will be obtained on the surrender document.
  - (c) If the surrender is effected by any person other than the biological parent(s), the same procedure is followed as that for an abandoned child under the JJ Act 2000, since the child will be treated as abandoned.
  - (d) When a child is born to a married couple but is surrendered by one biological parent and the whereabouts of the other are not known the same procedure is followed as that for an abandoned child.
  - (e) If the document of surrender is considered invalid/incomplete by the State Govt. it may direct the concerned Agency to follow the same procedure as under the JJ Act-2000. Any such direction should however, be communicated to the Agency within 15 days of receiving the copy of the surrender documents.

#### **1.1.4 Abandoned Child**

- (i) The procedure regarding abandoned children is prescribed by the Juvenile Justice (Care & Protection of Children) Act-2000. While the CWC (Child Welfare Committee) is the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children (Section 31.1 of the said Act), a child can be produced before the Committee by the following persons (Section 32.1 of the said Act):
  - a) any police officer or special juvenile police unit or a designated police officer;
  - b) any public servant;
  - c) Childline, a registered voluntary organisation or by such other voluntary organisation or an agency as may be recognised by the State Government;
  - d) any social worker or a public spirited citizen authorised by the State Government; or
  - e) by the child itself.

(ii) Wherever a LAPA receives an abandoned child under its care it will immediately file a First Information Report in the concerned Police Station and make an application to CWC within 24 hours seeking permission to keep custody of the child.

(iii) The LAPA may initiate the process of clearance from CWC (Child Welfare Committee) at the earliest, in the case of abandoned children and the Child Welfare Committee will make all possible efforts within a period of two months to declare the child legally free for adoption.

(iv) In the case of abandoned children the procedure for declaring such children as legally free for adoption as laid down under the Juvenile Justice (Care and Protection of Children) Act, 2000 shall apply. An abandoned child can be given in adoption only when the Child Welfare Committee under the Juvenile Justice (Care and Protection of Children) Act, 2000, declares such a child to be legally free for adoption. An abandoned child will be legally free for adoption when such an order is signed by at least two members of the Child Welfare Committee as per Sec. 41(5)(a) of the JJ Act. 2000. On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32 of JJ Act-2000, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer. The inquiry under this section will be completed within such shorter period as may be fixed by the Committee.

(v) Where there is no CWC functioning, the District Collector or any other authority empowered by the State Government for the purpose may issue the Certificate of Abandonment.

#### 1.1.5 Procedure For Incountry Adoption:

##### Stage I

- Prospective adoptive parent(s) should register themselves with the local RIPA/LAPA or Adoption Coordinating Agency or with the State Adoption Cell.

##### Stage II

- A home study report of the prospective adoptive parents will be prepared by the social worker of the Agency. To allay the fears and apprehensions of the prospective adoptive parent(s), pre-adoptive counseling sessions will be undertaken by the social worker during the preparation of the home study report. Assessing the ability of a couple to parent a child not born to them is of crucial importance in a successful adoption. Therefore, their suitability to care for an unrelated child is assessed through this home study and counselling. Documents relating to the financial and health status of the prospective parent(s) will be part of the Home Study Report.

- In case of Inter-State adoption applications by parent(s), they will be accompanied by Home Study prepared by a qualified social worker working in a RIPA/LAPA. Where State Govt.'s have officially delegated such work for its Officials, the Home Study Report could be prepared by the concerned Official.

- Criteria for eligibility of parent(s) will be adhered to, as stated in Para 1.1.7.

- The Agency will make a suitable reference from amongst the admitted children legally free for adoption. If no suitable child is available, the family will be referred to the ACA.

##### Stage III

- After a Home Study has been accepted and approved, a child will be shown to the parent(s). The agency will take care to match a child meeting the description, if any, desired by the parent(s).

- In case of placement of older children (above the age of 6), both written and verbal consent of the child will be obtained.

#### Stage IV

- Once a successful matching has been done, the agency will file a petition in the Court/JJB for obtaining the necessary orders under the relevant Act. The above process will normally be completed in 6-8 weeks.

#### **Adoption Act**

The child can be legally placed with the parent(s) under HAMA/GAWA/JJ-Act 2000. The prospective parents should be informed about the different Acts available and the ramifications of each one. It would be left to them to decide as to which Act they would like to file their petition under, provided that they are eligible to do so under the chosen Act. As stated above, the prospective parents must be made to fully understand the status of their adoption under each Act.

#### **Follow up visits**

Once an order has been issued, it should be followed by regular follow-up visits and post adoption counseling by the social worker till the child is adjusted in the new environment. The follow up should preferably be for a period of one year at-least or as directed by the Court/JJB. Copies of the follow-up reports will be sent to the District Social Welfare Officer/concerned State Government Department, concerned, Scrutiny Agency and the Court/JJB from where the order was obtained.

#### **1.1.6 Adoption Costs**

Maintenance charges shall not exceed Rs. 15,000/- at the rate of Rs.50/- per day from the date of admission to till the child is placed in pre-placement foster care. In case of special medical care, hospitalization charges subject to a maximum of Rs.9000/- may be claimed on production of actual bills. Legal fees and scrutiny fees will be charged on actuals. **NGOs and Government Homes getting Grant-in-aid from the Central Government under Sishu Greh Scheme can claim maintenance and legal fee from the adoptive parents only as per the provisions laid down in Para 5.4 of the Scheme.** The Fee structure for in-country adoptions has also been drawn up to establish a uniform base for the whole country (The prescribed fees will however be subject to any direction given in this regard by the Court issuing the Adoption Order). In addition to the above charges the agency can claim Rs.200/- as registration charges in each case from adoptive parents and Rs.1000/- for preparing Home Study Reports.

#### **1.1.7 Criteria for Prospective Adoptive Parents:**

- a) Marital Status, Age and Financial Status with reasonable income to support the child and clear police record should be evident in the Home Study Report.
- b) Prospective adoptive parents having composite age of 90 years and less and where neither parent has crossed 45 years can be considered for adoption of Indian children. These provisions may be suitably relaxed in exceptional cases for reasons clearly stated in the Home Study Report. However, in no case should the age of the prospective adoptive parent(s) exceed 55 years.
- c) In case of Special Needs children with medical problems, the age limit of adoptive parent(s) may be relaxed by concerned State Government.
- d) Single persons who have not crossed the age of 45 years and who fulfill the other criteria can also adopt.

- e) The prospective parent(s) should have a regular source of income with a minimum average monthly income of at least Rs.3000/- per month. However, lower income will be considered taking into account other assets and support system i.e. own house etc.
- f) All the criteria mentioned above for adoptive parents will also apply to **single parents** with the additional requirements given below:-
1. Age: Age of the adoptive single parent should be above 30 years and below 45 years.
  2. Age Difference: The age difference between the adoptive single parent and adoptive child should be 21 years.
  3. Family: The single parent should have additional family support system.

#### 1.1.8 Criteria for eligible children:

- The child should be legally free for adoption.
- Siblings/twins/ triplets etc. should not be separated.
- The consent of children above 6 years should be taken for the adoption.

#### 1.1.9 Procedure for Home Study Reports (HSR)

The adoption agencies or ACAs may follow the following procedure for preparing the Home Study Reports:

1. It should be prepared only after Registration of the parent(s).
2. It should be prepared by a qualified Social Worker or designated Officer of the State Govt. after interviewing both parents individually and together.
3. Other members of the family, if they live in a joint family should also be interviewed.
4. Parent(s) should be counselled on adoption issues including open adoption.
5. All necessary documents, marriage certificate, proof of income etc. should be checked and annexed to the Report.

#### 1.1.10 Safeguards

The following safeguards should be ensured while placing the child in In-country Adoption:

- a) The child should be legally free for adoption.
- b) The two months reconsideration period should be observed for a relinquished child.
- c) All efforts to trace the biological parent(s) should be made as per the prescribed framework for abandoned children
- d) Priority should be given to applicants already registered with the Agency and they should be regularly informed of the status of their applications.
- e) **The Child Study Report** along with PER should be signed by both adoptive parents.
- f) **The parent(s)** should be advised to have the child assessed by their own doctor in case of doubts.

- g) A receipt should be issued for the adoption fee.
- h) Older children above 6 years – special clearance from State Government should be obtained.
- i) In case of prospective adoptive parent(s) willing to adopt a child with disability/health problem, a document stating the same shall be obtained.
- j) Placement of girls with a single male is not allowed as also placement of children with same sex couples.
- k) Siblings and twins etc. should not be separated. Prospective Adoptive Parent(s) should be made aware of this.
- l) The prospective adoptive parent(s) may take the child on pre-adoption foster care signing a Foster Care Affidavit only when the case is filed in the Court.
- m) The prospective adoptive parent(s) should fulfill the laid down criteria of age, income etc.
- n) Above all, the Agency must satisfy itself that the proposed adoption is in the best interest of the child.

*Take care Affidavit*

**1.1.11 Court Procedure:**

- (i) The adoption petition along with the relevant documents should be filed before the concerned Family Court/District Court/JJB as the case may be by the Adoption Agency.
- (ii) The Court/JJB at its discretion may refer the petition to Scrutiny Agencies in their respective jurisdiction.

*read (i) scrutiny (ii) Agency*

**1.1.12 Birth Certificate:**

The date of birth of the abandoned child being given in adoption will be recorded in the order of the Juvenile Justice Board. In all other cases where the child has not been adopted or its adoption has not been carried out under the JJ Act and its date of birth has not been recorded officially anywhere, the Adoption Agency concerned must make an application to the local Magistrate along with any other material which the Adoption Agency considers relevant in the form of an affidavit made by a responsible person belonging to the Adoption Agency. The local magistrate will then pass an order approving the particulars to be entered in the birth certificate and on the basis of the magisterial order, the requisite certificate will be issued by the local birth certificate issuing authority of the city/town/area where the child has been found. This process shall be initiated only after the adoption is finalized, so that the particulars of the adoptive parents are available for inclusion in the certificate. In case the child has attained the age of three, and the adoption has still not been finalized, the Agency may obtain a birth certificate, if it is found necessary, after informing the court in the form of an affidavit:

- (a) That to the best of its knowledge the child has attained the age of three years;
- (b) That his/her adoption has not been finalized and is likely to take some time or may never be finalized in all probability;
- (c) That a certificate is required for educational/medical/legal purposes or any other reasonable purpose which may be specified; and
- (d) That person(s) will stand in as local parents to the child (this person/these persons shall be a responsible person/responsible persons belonging to the agency) till such time he/she attains majority, or is adopted, whichever is earlier. In such cases a second birth certificate may be issued after adoption to provide for a change in the name/names of the child and the adoptive parent(s) after obtaining an order to that effect from the court, which had passed order for issuing the original birth certificate.

### 1.1.13 Records and Documents to be maintained by the LAPA

Every registered LAPA will maintain the following records and registers:

- (i) Admission register – All details pertaining to the child including its arrival date of birth, procedure, for making the child legally adoptable, pre adoption foster care, adoption and post placements etc. (Annexure-I)
- (ii) Attendance register of the children and staff present.
- (iii) Register of prospective adoptive parents with details. The copy of the same will be submitted to ACA and State Adoption Cell every month.
- (iv) Register of children showing their arrival, departure, admission into hospitals, restoration to their parent(s) and death, if any.
- (v) Medical case file of each child and individual case files. Wherever possible medical records of the biological parent(s) will be maintained.
- (vi) Registers pertaining to maintenance of the Home.
- (vii) Monthly reports in the prescribed format. (Annexure-II)
- (viii) Follow-up register of children placed with the adoptive family prior to legal placement and after legal placement.
- (ix) The annual report of the organization together with the necessary details and statistics.
- (x) Registers pertaining to vouchers, cashbook, ledger – expenditure statement, Annual Accounts, payment registers, records of Minutes of Meetings, Grants Utilization Register and Audited Statement of Accounts.
- (xi) Documents of promotional activities.
- (xii) Other records stipulated under the relevant Law and Licensing Act.

### 1.1.14 Transfer of Children:

- (i) For transfers of children from one agency to another whether within the city, district or inter-district, the prior permission of the authorized Official of the State Government such as District Social Welfare Officer/District Magistrate/Adoption Cell of the State Government is required. This is applicable in case of transfer of children from branches of the same organisation also. Wherever applicable, the procedure of transfer will be followed as laid down in JJ Act. 2000.
- (ii) The transfer of the child should be accompanied by available documents pertaining to its admission, preliminary case history, documentary evidence to prove that the child is legally free for adoption, and a letter of transfer. In addition, the photograph of the child, CSR, PER and other relevant documents should be sent. The accepting Agency should verify all the facts before accepting the child, as it will be legally responsible for it, once the child is admitted.
- (iii) In the case of inter-state transfer of children, the following procedures should be followed:
  - a) Children from any orphanage/agency may be transferred to another State with the permission of the State Government in whose jurisdiction the child is originally residing.

- b) A child should be legally made free for adoption in the place of origin.
- c) The child should be registered with the nearest ACA and State Adoption Cell within 15 days of its arrival in the new Agency.
- d) If a child cannot be placed in adoption with a suitable Indian family within 2 years of his or her admission into the Agency, he or she may be transferred to the nearest Recognised Indian Placement Agency(RIPA) with the prior permission of the competent authority of the State Government. The State Government, while examining such requests may take into consideration such aspects that may be prescribed by CARA from time to time.

#### 1.1.15 Follow-up

The follow-up of children placed within the country will be as follows:

- (i) If any pre-adoption foster care is effected, there will be regular monitoring and evaluation of the foster care. A professionally trained social worker shall visit the family regularly. The Adoption Order should be obtained within 6 months of the foster placement.
- (ii) The copies of the follow-up reports of the children shall be submitted by the Agency to concerned State Government and ACA.
- (iii) The Agency shall see that legal adoption is effected at the earliest, thereby safeguarding the interest of the child.
- (iv) After legal adoption, the Agency shall maintain a follow-up with the family for a period of at least one year or as stipulated by the Court.
- (v) Post-adoptive counseling shall be provided by the agency to the adoptive parent(s) and the adoptee.

#### 1.1.16 Minimum standards in Child Care Homes:

Each adoption agency has to maintain Quality Child Care in the institution as per **Annexure-IV**.

- 1.1.17. In the case of RIPAs, the procedures and other matters relating to In-country adoptions laid down in the preceding Paras will apply to them whenever they process cases for in-country adoptions.

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## CHAPTER II

### ROLE OF STATE GOVERNMENT/UNION TERRITORIES

#### 2.1 List of Children's Home

The State Governments (the term "State Government" will also include Union Territory Administration wherever applicable) will maintain a list of all children's homes being run for the maintenance of destitute, abandoned, orphaned, delinquent or neglected children by Govt./voluntary/private organisations which are registered, recognised or licensed under various Laws.

#### 2.2 List of Adoption Agencies

The State Government shall also separately maintain a list of all Agencies handling in-country and inter-country adoption of children and will identify all children who are legally free for adoption in these institutions.

2.3 The State Governments shall recognise Indian adoption agencies for in-country adoption as per the procedure laid down herein. State Governments should send a list of the Licensed Adoption Placement Agencies (LAPA) to CARA once a year.

#### 2.4 Role and Functions of State Governments

The State Govts. will monitor both the in-country and inter-country adoption programme within their jurisdiction and coordinate the activities of RIPAs, LAPAs, ACAs and Scrutinizing Agencies. They will also undertake to:

- (i) Encourage and promote placement of eligible children in adoption or guardianship with families within the country.
- (ii) Scrutinise with ACA applications for declaring a child free for inter-country adoption.
- (iii) Enforce the Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960 and/or Juvenile Justice (Care & Protection of Children) Act, 2000 and/or formulate suitable alternate rules in order to maintain certain minimum standards for child care in child welfare institutions. Homes not licensed/recognised by the State Governments should not be allowed to carry out adoption work.
- (iv) Receive all applications for fresh recognition and renewal of recognition for inter-country adoption and after due verification give its clear recommendation or otherwise with supporting documents as prescribed.
- (v) Form an Advisory Committee on adoption with the following members:
  - (a) Secretary, Women & Child Development or the Administrative Department for Adoption Programme 1 Chairman
  - (b) Director, Women & Child Development or the concerned Directorate for Adoption Programme. 1 Member
  - (c) Two representatives of Adoption Placement Agencies. 2 Member
  - (d) One representative of ACAs 1 Member

- (e) One representative of Adoption Scrutinising Agencies. 1 Member
- (f) Three experts in the field of Social and Child Welfare. 3 Member

The Committee will meet periodically to discuss child welfare measures and ways & means to promote in-country adoption of children. The tenure of such committee will be three years.

- (vi) The State Government should also set up an Adoption Cell in the Directorate of Social Welfare to co-ordinate, monitor and develop the work of adoption and ~~render secretarial & administrative assistance~~ to the Advisory Committee on Adoption. The Adoption Cell should consist of at least one Officer and an Assistant or more based on the number of agencies licensed and recognized in the State.
- (vii) Evolve suitable criteria for licensing/suspension/termination of License of Social/Child Welfare agencies for in-country adoption.
- (viii) Ensure that the provisions of the Supreme Court Judgements in the L.K. Pandey Vs. UOI case of 1984 and the Guidelines for Adoption issued by Govt. of India from time to time are adhered to.
- (ix) The State Government will receive data on new arrival and death of the children from all the adoption agencies and Children Homes.
- (x) The State Government will maintain list and register of prospective adoptive parents.
- (xi) The placement of children from Nursing Homes/Hospitals is illegal and prohibited. The Supreme Court directive in this regard should be strictly enforced and action should be taken against those who violate these guidelines by the State Government concerned.
- (xii) Wherever necessary, the State Government may also prepare Home Study Reports of prospective adoptive parents by its designated officers as per Guidelines placed in the **Annexure-VI**, which will be acceptable to all the adoption agencies.
- (xiii) Consider relaxation of age criteria for parents wishing to adopt special needs children within the country.

## 2.5 Inspection of Adoption Agencies.

The State Government will periodically and at least once a year, inspect or cause to be inspected, all RIPAs and LAPAs as also their papers, documents and activities connected with the service for children, generally, in order to verify the following:-

- (i) That adoption as an activity is being pursued by the organization as a welfare measure in the interest of children and not as a commercial activity.
- (ii) That proper records are being maintained for children admitted to the homes.
- (iii) That the children admitted are provided with quality child care and basic minimum facilities for their care, education and development in the institution.
- (iv) That the lists of persons interested in adopting a child or taking a child under guardianship are being maintained by the organisation regularly.

- (v) That the accounts of the organisation are being maintained and audited annually without delay and that the auditor's reports confirm that the accounts are fair and accurate; that any organisation which is in receipt of foreign funding is duly registered with the Ministry of Home Affairs and has otherwise complied with the provisions of the Foreign Contributions (Regulations) Act, 1976.
- (vi) That the organisation is receiving regular progress reports about the well-being of children given in adoption.
- (vii) That qualified staff are employed by the Agency to supervise the care of children.
- (viii) That in the case of children placed in pre-adoption foster care with the prospective adoptive parent(s), the cases have been legalized within 6 months of such placement.
- (ix) That a Central Register of prospective adoptive parent(s) is maintained.
- (x) A separate register is kept for children given in preadoption foster care in all cases.

### **Monitoring of Performance**

The State Government will call for information and data every quarter from all RIPAs/LAPAs engaged in adoption in order to monitor the functioning of these agencies. The data will be called for in a Proforma to be prescribed by the Central Adoption Resource Authority. An annual report and audited statement of accounts will be received from all Licensed Adoption Placement Agencies.

### **Suspension/termination of recognition/license of RIPA/LAPA**

In case of a report of malpractice by a LAPA/RIPA, the State Governments shall inform CARA and take appropriate action. It will make a suitable rehabilitation plan for the children affected by any action taken against defaulting Agencies. Normally such children should be transferred to other Agencies. The State Governments should ensure that no organization either RIPA or LAPA, indulge in any illegal activity or practice which is both against the law and not in the interest of the child. It is therefore, essential that the State Governments exercise full caution & vigilance in monitoring the activities of the adoption agencies in their respective states.

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