

PRESS CONFERENCE

Simplifying the Adoption Process: A Landmark PIL by Temple of Healing

"Every Child Deserves a Home"



Temple of Healing (ToH)

Established: 2010 by Dr. Piyush Saxena

Mission: Promote social justice reforms and improve the lives of orphaned children in India.

Focus Areas:

- **Advocacy for simplified adoption processes.**
- **The welfare of marginalized communities.**

"Transforming Lives Through Advocacy."



An Orphan – A Deprived



Orphan according to the J J Act, 2015

According to the Juvenile Justice (Care and Protection of Children) Act, 2015-

- An orphan is "a child who is without parents or willing and capable of legal or natural guardian."
- Chapter I, section (42) defines an "orphan" as a child—
 - (i) who is without biological or adoptive parents or legal guardian; or
 - (ii) whose legal guardian is not willing to take, or capable of taking care of the child.
- Apart from above, an abandoned or surrendered child can also be categorized as an orphan.
- As per Section 2(1), Chapter I of the J J Act an "abandoned child" means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;
- Section 2(60), chapter I, of the act defines a "surrendered child" who is relinquished by the parent or guardian to the Committee on account of physical, emotional, and social factors beyond their control and declared as by the Committee.



Family -Father and Mother



- **Fathers** play a vital role in the development of a child's emotional well-being. Children also look up to their father for security, both physical and emotional. Children want to make their father proud, and an involved father promotes their inner growth and strength.
- **A mother's** role is to love her children with all her heart and to understand and help the child. One of the most meaningful roles that a mother plays is the role of a nurturer. When a mother nurtures her child well, love and goodness are awakened in the child's heart.
- In this petition we have mentioned "Orphan" which covers "**Orphan, abandoned and surrendered child**"
- **An orphan has neither of the two and is a deprived one.** The legislature appreciates the difference between a poor child and an orphan and has, therefore, purposely segregated them.



Orphans Statistics – UNICEF Data

- According to United Nations Children’s Fund (UNICEF), India has 29.6 million orphaned and abandoned children since 2018. This is more than the population of Sri Lanka. Only a fraction of these children is ending with a family due to low adoption rates in India.
- UNICEF report further says almost 10,000 children become orphans everyday.
- There are about 140 million orphans in the world.
- The 2020 Orphan Report of IHH Humanitarian and Social Research Center (INSAMER) places the figure for India at 31 million

In India, Orphaned and abandoned children since 2018	29.6 million
Number of children becoming orphans everyday.	10,000
Total orphans in the world.	140 million
The 2020 Orphan Report of IHH Humanitarian and Social Research Center (INSAMER), Orphans in India	31 million



ONE HUNDRED EIGHTIETH REPORT ON REVIEW OF GUARDIANSHIP AND ADOPTION LAWS

*(Presented to the Raj a Sabha on 8th August, 2022)
(Laid on the Table of Lok Sabha on 8th August, 2022)*

- The 2022 parliamentary report on orphans in India provides significant insights into the status and challenges faced by orphans in the country.
- It highlights that there are approximately 29.6 million orphaned and abandoned children in India. These children often face severe challenges, including a lack of access to education, healthcare, and a stable family environment.



The Legal Process of Adoption in India



“While the joy of adoption is undeniable, the process itself may seem daunting.”

There are two primary types of adoption in India:

- Domestic adoption for Indian citizens
- Inter-country adoption for foreign nationals or Non-Resident Indians (NRIs).

For prospective adoptive parents, the process includes:

1. Registration: Prospective parents must register on CARA's online portal.
2. Home Study: A social worker visits the home to assess the suitability of the family.
3. Matching: Once approved, parents are matched with a child based on their preferences and the child's needs.
4. Adoption Order: After fostering the child for a few months, an adoption order is passed in court, finalizing the legal relationship between the parents and the child.



Low Adoptions in India

► THE PROBLEM:

- 3 crore orphans, but only 4,000 adoptions annually.
- Lengthy and inefficient adoption processes discourage prospective parents
- The Government of India has no official count of orphans.

► THE REAL QUESTION:

- "At what number of orphans will the Ministry wake up, acknowledge the harsh reality, and finally amend its policies?"
- Or are we waiting for the numbers to become too inconvenient to ignore?



Poor Adoption Rates in India

The reasons for low levels of adoption in India

- Firstly, there aren't enough children available in the adoption pool due to lengthy and tedious procedures.
- Also, the ratio of abandoned or orphaned children (29.6 million) to children in institutionalised care (500,000) is highly unbalanced
- Many of the children in care are not eligible for adoption.

Some other reasons for poor adoption rates in India:

- Complex Social Norms
- Outdated Adoption laws
- Lack of financing for background checks
- Failing systems and infrastructure



Adoption Statistics in India

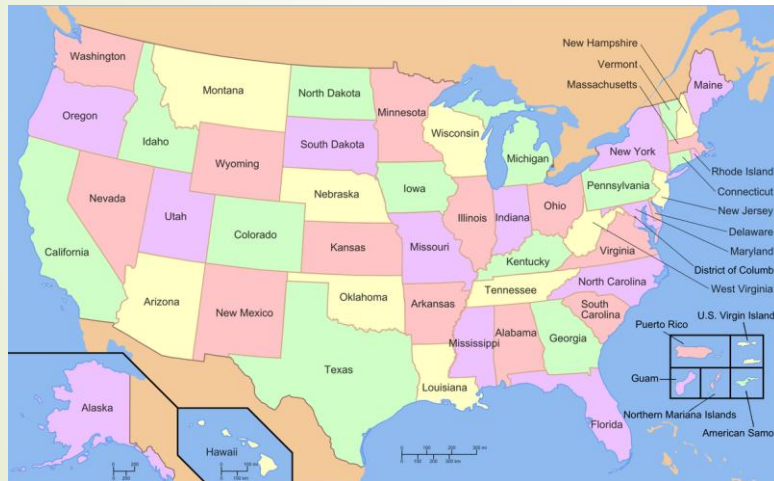
Year	In-country Adoption	Inter-country Adoption	Total
2020-21	3142	417	3559
2021-22	2991	414	3405
2022-23	3010	431	3441
2023-24	3580	449	4029

https://cara.wcd.gov.in/resource/adoption_Statistics.html



Adoption numbers in other countries

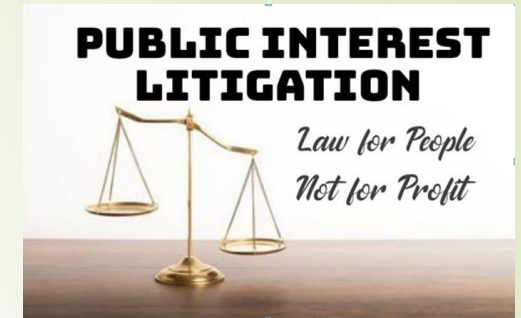
- In contrast, the USA, with a population of almost one-fourth of India, adopts 1,35,000 children per year.



PIL (1003/202) filed by Temple of Healing in Hon'ble Supreme Court

The PIL, filed in early 2021, aimed at:

1. Simplify and digitize adoption procedures, reducing delays and bureaucracy.
2. Encourage transparency through the establishment of a centralized database for adoptable children and prospective parents.
3. Promote awareness campaigns to educate society on adoption's benefits and dismantle associated stigmas.
4. Ensure inclusivity, allowing single individuals, LGBTQ+ persons, and others to adopt without discrimination.
5. **Last but not the least – Adoption under HAMA (Hindu Adoption and Maintenance Act, 1956) for Hindus, which is independent of regulations 2022 laid by CARA, to be encouraged.**



Difficult Process of getting Legally free for adoption (Section 38 J J Act)

- ▶ In case of an orphan and abandoned child, the Committee shall make all efforts to trace the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:
- ▶ Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age:
- ▶ Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no first information report shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.

<https://indiankanoon.org/doc/196277985/>



Difficult process of declaring a child medically fit for adoption

Schedule III Page 178 of Notification dated 23rd September 2022

https://carings.wcd.gov.in/Login/pdf/Regulation_english.pdf

From: -

THE GAZETTE OF INDIA: EXTRAORDINARY [PART II—SEC. 3(i)]

MINISTRY OF WOMEN AND CHILD DEVELOPMENT NOTIFICATION



Medical Examination Report of the child

- Schedule III
- Page 178 to 189
- So many tests

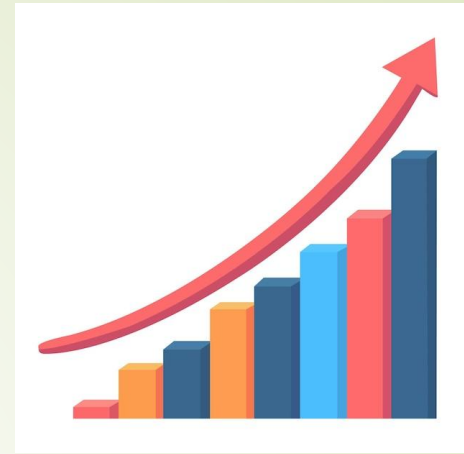


Legally free for Adoption

- Section 38 J J Act– Procedure for declaring a child legally free for adoption.
- The process to be completed in two months / four months depending on the age of the child



Progress So Far.....



Since the PIL's filing, several promising steps have been initiated:

- The Supreme Court has sought responses from the central and state governments, emphasizing the urgency of reform.
- Some states have begun reviewing their adoption policies.
- Public discourse around adoption has gained momentum, with NGOs and activists lending their voices to the cause.
- From 360 districts having adoption offices in 2022, now we have 710 districts having Specialised Adoption Agencies (SAAs).



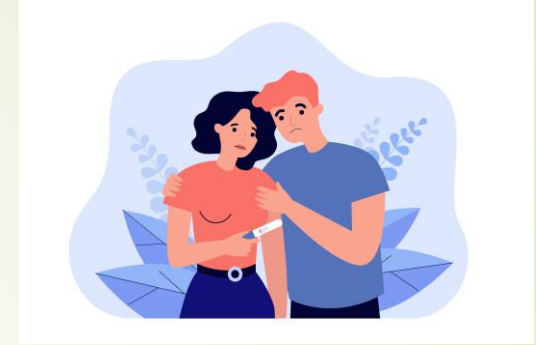
Hindu Adoptions Simplified



- The Ministry and the CARA officials clarified that HAMA is a statute governing personal laws of Hindus. The process of adoption under HAMA is independent of the Regulations of 2022 which have been framed under the J J Act 2015. This also refers to Section 56 (3) of J J Act, which states, “nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956”.
- In the honorable supreme court of India, honorable judges have observed,” as regards to HAMA, 1956; during the course of hearing, both Ms. Aishwarya Bhati, Additional Solicitor General and Dr. Jagannath Pat, Director, CARA, have categorically stated before the court that process of adoption under HAMA is independent of the regulations of 2022 which have been framed under the J J Act, 2015.”



Infertility: A significant issue in India



- ▶ India has a population of as many as 27.5 million infertile people, including men and women, according to the Indian Society of Assisted Reproduction. One in every fifteen Indian couples struggles with infertility.
- ▶ National Family Health Survey (NFHS-5) 2019-2021 indicates that around 3.5-4% of women aged 20-24 and around 5-6% of women aged 25-29 have never given birth, suggesting a degree of infertility.
- ▶ All India Institute of Medical Sciences (AIIMS) reports that infertility affects about 10-15% of the reproductive-age population in India. This includes both male and female infertility.

<https://thediomat.com/2018/05/indias-hidden-infertility-struggles/>



Proposed Solutions:



- Simplification for legally free
- Simplification for medically free
- Child Study Report
- Home Study Report



Indian Demography: May 30 , 2018

(This slide – Data 2018 old & first 3 points not related)

1	Total Districts	736
2	Total Tehsil	5572
3	Total Blocks	6612
4	Population	138 crore
5	Orphaned and abandoned children	3.2 crore
6	Infertile couples	3.2 crore



Adoption categories

1. In-country Adoption of Orphan, Abandoned & Surrendered Children J J Act
2. Inter-country Adoption of Orphan, Abandoned & Surrendered Children J J Act
3. In-country Hindu Adoption
4. Inter-country Hindu Adoption
5. Foster Adoption J J Act

By simplifying procedures, we can turn India from the "orphan capital" into a beacon of hope for millions of children making it "Adoption Capital of the World".



Hindu Adoptions and Maintenance Act, 1956

HAMA, 1956 – The Game Changer

- ▶ The Hindu Adoption and Maintenance Act (HAMA) of 1956 holds the potential to be a game changer for adoption proceedings in India. Unlike the Juvenile Justice (JJ) Act, which involves lengthy legal procedures and government scrutiny, HAMA allows Hindu families to complete adoptions privately without the need for court approval, provided the conditions under the act are met.
- ▶ This simplicity can significantly expedite the process, making it less daunting for prospective parents. By streamlining adoption procedures and bypassing bureaucratic hurdles, HAMA could encourage more families to consider adoption, offering a much-needed solution to the growing number of children in need of loving homes.



HAMA in-country Adoption

- By Transfer of hands
- With a draft deed of adoption
- With a registered deed of adoption
- With DM approved adoption



(पैराग्राफ 90(2) देखें)
बाल अध्ययन रिपोर्ट (CSR) का प्रपत्र

बच्चे की विस्तृत रिपोर्ट में उस की पहचान की जानकारी को समर्थित करने वाले दस्तावेज़ होंगे।

संस्था का नाम और पता:

I. सामान्य सूचना :

1. बच्चे का नाम (जैविक मां या माता पिता या एजेंसी द्वारा स्वयं या बाल कल्याण समिति द्वारा दिया गया)
2. संस्था के सामान्य रजिस्टर के अनुसार संदर्भ संख्या :
3. वर्तमान आयु और जन्मतिथि :
4. लिंग : *प्राद्विबा*
5. जन्म का स्थान : *अज्ञात*
6. धर्म (यदि ज्ञात है) : *अज्ञात*

33 CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION (*Concluded 29 May 1993*)

The States signatory to the present Convention:

- Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,
- Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,
- Recognising that inter-country adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,
- Convinced of the necessity to take measures to ensure that inter-country adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,
- Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the *United Nations Convention on the Rights of the Child*, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),



Inter-Country Adoption -1

रजिस्ट्री सं. डी.एल.- 33004/99

REGD. No. D. L.-33004/99



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-04032021-225647
CG-DL-E-04032021-225647

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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No. 962] NEW DELHI, THURSDAY, MARCH 4, 2021/PHALGUNA 13, 1942



Inter-Country Adoption -2

प्रमोद कुमार, निदेशक

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 4th March, 2021

S.O. 1050(E).— In exercise of the powers conferred by sub-section (1) of section 7B of the Citizenship Act, 1955 (57 of 1955) and in supersession of the notification of the Government of India in the Ministry of Home Affairs published in the Official Gazette *vide* number S.O. 542(E), dated the 11th April, 2005 and the notifications of the Government of India in the *erstwhile* Ministry of Overseas Indian Affairs published in the Official Gazette *vide* numbers S.O. 12(E), dated the 5th January, 2007 and S.O. 36(E), dated the 5th January, 2009, except as respect things done or omitted to be done before such supersession, the Central Government hereby specifies the following rights to which an Overseas Citizen of India Cardholder (hereinafter referred to as the OCI cardholder) shall be entitled, with effect from the date of publication of this notification in the Official Gazette, namely:—

- (1) grant of multiple entry lifelong visa for visiting India for any purpose:
 Provided that for undertaking the following activities, the OCI cardholder shall be required to obtain a special permission or a Special Permit, as the case may be, from the competent authority or the Foreigners Regional Registration Officer or the Indian Mission concerned, namely:-
 - (i) to undertake research;
 - (ii) to undertake any Missionary or Tabligh or Mountaineering or Journalistic activities;
 - (iii) to undertake internship in any foreign Diplomatic Missions or foreign Government organisations in India or to take up employment in any foreign Diplomatic Missions in India;
 - (iv) to visit any place which falls within the Protected or Restricted or prohibited areas as notified by the Central Government or competent authority;
- (2) exemption from registration with the Foreigners Regional Registration Officer or Foreigners Registration Officer for any length of stay in India:
 Provided that the OCI cardholders who are normally resident in India shall intimate the jurisdictional Foreigners Regional Registration Officer or the Foreigners Registration Officer by email whenever there is a change in permanent residential address and in their occupation;
- (3) parity with Indian nationals in the matter of,-
 - (i) tariffs in air fares in domestic sectors in India; and
 - (ii) entry fees to be charged for visiting national parks, wildlife sanctuaries, the national monuments, historical sites and museums in India;
- (4) parity with Non-Resident Indians in the matter of,-
 - (i) inter-country adoption of Indian children subject to the compliance of the procedure as laid down by the competent authority for such adoption;



Conclusion

Our country has realised the pain of orphans, abandoned, and surrendered children. These children have no one to look at.

Rehabilitation is the best option for orphans.

The Ministry of Women and Child Development has the motto,
“A loving family for every child.”

Let us all join hands together to make it happen.



Contact Us

We do not charge any fees.

We do not accept any donation.

We do not promote any products.

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