



# HAGUE ADOPTION PROCESS U.S. Embassy New Delhi

April 22, 2009



# Centralization of Adoptions in New Delhi

## **Why ?**

- Complications observed with Hague cases
- CARA located in New Delhi

**When ?** As of April 1, 2009

## **What?**

- All adoption cases – Hague & non-Hague. Cases already at a Consulate to be handled by that Consulate.
- NVC electronically submitting files to post as of April 1, 2009.

# Hague Adoption Process

## Importance of the timing of the Article 5 letter

- After an initial review, we request the PAPs/ASP via e-mail to mail in forms DS-230 part I & II and the child's photographs. Scanned photographs are not acceptable. PAPs/child/ASP do not come to the Embassy unless child is 14 years or older.
- After receipt of above, we courier the Article 5 letter to CARA in two to three business days. We also e-mail the letter to CARA and the PAPs/ASP.
- PAPs/ASP can now get the court order and the child's passport.
- PAPs/ASP contact Embassy, New Delhi for an immigrant visa appointment and e-mail the court order to the Embassy. We try to accommodate PAPs/ASP travel schedules.
- We e-mail the appointment letter to PAPs/ASP and they schedule the medical exam with a panel physician.
- For full adoptions, we contact CARA for Article 23 letter.
- If child is >16 years old, Police Clearance Certificates (PCCs) from the local police and passport office are required on the day of the interview.

# Hague Adoption Process

## On the Day of the Interview (Contd..)

- Arrive  $\leq$  30 minutes before appointment time
- At Kiosk after security, state that you have an IV appointment for adoption. A ticket number will be issued and you will be asked to proceed inside.
- Once inside, our staff will review the file and collect the child's passport, medical report, and original court order.
- Pay the US\$400 visa fee at the cashier in USD, INR, or USD credit card and give the receipt to our staff member who took your documents.
- A consular officer will call the case by child's name for interview.
- If visa is issuable:
  - PAPs given a choice to wait an hour (approximately) or come in the afternoon to pick up the visa
  - Form I-800 finally approved
  - Hague Certificate issued
  - Visa is issued
- If visa is not issuable:
  - Officer will inform what, if any, corrective action can or will be taken as well as explain

Note: We have only had one such case and the flaw was discovered upon Post's receipt of the file.

# Hague Adoption Process

## Arriving in the U.S.

- **Upon first arrival taken to “Secondary” for processing. Onward travel to be planned accordingly.**
- **USCIS officer will explain citizenship issues.**

# Hague Adoption Process

## Follow-up Reports

- For guardianship and adoptions, follow-up or progress report of the child with a recent photograph is to be done half yearly for the first year and annually for the next two years for further evaluation of the child.
- PAPs must complete a final adoption within two years of obtaining guardianship from the date of entry.

# ADOPTION LAWS IN INDIA

- **Three Major Acts:**

- Hindu Adoption and Maintenance Act, 1956 (HAMA)
- Guardianship and Wards Act, 1890 (GAWA)
- Juvenile Justice Act, 2000 (JJA)

- Under Indian law, Guardianship is the same as Custody.

- Adoption and Guardianship cannot be undone. CARA is drafting a letter stating that guardianships and adoptions cannot be voided, annulled, or otherwise terminated.

# Criteria for Prospective Adoptive Parent/s (PAPs)

- **Same sex couple cannot adopt.**
- **Age difference of the father and daughter should be 21 years or more (same for mother and son).**
- **A second adoption from India will be considered only when the legal adoption of the first child is completed.**
- **Single persons (never married, widowed, divorced) must be between 30 and 45 years old. Married must be between 30 and 55 years and  $\leq$  90 years composite age of couple.**
- **PAPs in no case should be less than 30 years and more than 55 years.**
- **Married couple must be married for 5 years in a stable relationship. Home study should reflect a stable financial and health status.**

# **HINDU ADOPTION AND MAINTENANCE ACT, 1956 (HAMA)**

- **Promulgated in 1956**
- **Applicable to all Hindus – including Buddhist, Sikhs, and Jains regardless of nationality, citizenship or country of origin.**
- **Once adopted, child has same rights as natural child.**
- **Following conditions are to be met:**
  - **At least 21 years age difference between adoptive father and adopted daughter (same for mother and son).**
  - **If have a natural son/adopted son/grandson, cannot adopt a boy (same for girl).**
  - **Second adoption only possible if first successfully completed.**
  - **PAPs must attend court hearing.**
  - **Cannot be undone.**

# **THE GUARDIAN AND WARD ACT, 1890 (GAWA)**

- **Promulgated in 1890**
- **Until 2008, the only method for Non-Hindus to adopt in India.**
- **Guardianship is the same as Custody.**
- **Child does not have inheritance or next of kin rights.**
- **Can be done for same sex children.**
- **PAPs must agree to adopt child within two years after the arrival of the child in their country of permanent residence.**
- **PAPs do not need to attend court hearing.**
- **This Act confers only a guardian-ward relationship. This legal guardian-ward relationship exists until the child completes 21 years of age.**

# Juvenile Justice Act, 2000 (JJA)

- Promulgated in 2000, regulations enacted in 2008
- Hindus and non-Hindus can complete an adoption by this Act.
- Same sex children can be adopted.
- PAPs must attend court hearing.

# Special Situations

- CARA drafting regulations for **Intra-family** and **Tibetan** adoptions.
- Due to procedural differences, no Hague adoptions can be done for these groups as of now.
- We are working with CARA to resolve differences to enable such adoptions.

# Contact Information

- Mailing Address

Immigrant Visa Unit

U.S. Embassy

Chanakyapuri

New Delhi, India – 110021

Tel: + 91 11 2419-8000

E-mail: [IVND@State.gov](mailto:IVND@State.gov)

## Answers to questions from JCICS India Caucus for conference phone consultation

- Q1: Processing of Visas 37/I-600A applications.  
A1: If we receive Visas 37/ I-600A notification from NVC, the information is immediately forwarded to USCIS, New Delhi for appropriate action.
- Q2: Grant of court custody before the issuance of Article 5 letter.  
A2: We will follow the guidance from FAM and VO/L.