

Editorial

Child adoption: Sri Lankan scenario

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In Sri Lanka, there are certain legal restrictions to adopting children¹.

1. Applicant should be 25 years or older and at least 21 years older than the adoptee. However, the court may make an adoption order even if applicant is less than 21 years older than adoptee provided the adoptee is
 - a direct descendant of applicant or
 - a brother or sister of applicant (full or half blood) or a descendant of any such brother or sister or
 - the child of the wife or husband, as the case may be, of the applicant by another father or mother
2. If the sole applicant is male and the adoptee female, no adoption order shall be made unless there are special circumstances justifying such an order.
3. An adoption order shall not be made upon the application of one of 2 spouses without the consent of the other.
4. An adoption order shall not be made without the consent of the parent or guardian of the adoptee and in respect of a child over the age of 10 years without the consent of such child.
5. An adoption order shall be made in favour of any applicant who is not a citizen of Sri Lanka and not domiciled or resident in Sri Lanka only if no other person who is a citizen of Sri Lanka and is domiciled and resident in Sri Lanka has applied to adopt the child.

Foreigners desiring to adopt Sri Lankan children should forward their joint applications to the Commissioner of Probation and Child Care Services². The application should be accompanied by a Home Study Report in respect of the applicants from an institution recognised by the country of the applicants and authenticated by the accredited representative for the Socialist Democratic Republic of Sri Lanka in that country. A Home Study Report is a report on the mental health of the applicants, their social, religious and financial background and their suitability to adopt a child². The applicants shall deal with the Department of Probation and Child Care Services (DPCCS) through their respective adoption agencies. The

applications together with the Home Study Report should be sent to the Sri Lanka Overseas Mission for authentication and transmission to the DPCCS in Sri Lanka. The applicants must attach to the Home Study Report a formal letter requesting a child for adoption together with their preference.

When the Commissioner, after assessment of the Home Study Report of the applicants, finds a suitable child, a letter will be issued intimating the Commissioner's decision to the adoption agency which forwarded the application². The adoption agency will intimate the same to the applicants. The applicants come to Sri Lanka only after receiving the Commissioner's letter of allocation. No foreign applicants can find children for adoption privately. Allocation of children are made by the Commissioner only from the State Receiving Homes and Voluntary Children's Homes registered by the DPCCS.

After their arrival in Sri Lanka applicants present themselves for an interview to the DPCCS² following which they are issued a letter by the Commissioner authorizing them to see the child at the particular children's home. Applicants thereafter institute court proceedings for the adoption. The application to Court must be made jointly by husband and wife. After the adoption, copies of the adoption order can be obtained from court. The Certificate of Adoption should be attached to the application for the issue of a passport for the child.

Once an adoption order is made, the adopter becomes the "natural parent" of the adopted child. The original parents of the child will not have any rights to the child or child's matters thereafter¹.

Let us now consider some ethical issues concerning child adoption by foreigners.

- Are young children being spirited out of Sri Lanka under the 'Adoption' banner?
- Are there 'Baby Farms' in Sri Lanka, which house so called orphans, who are actually children abandoned by unwed mothers or destitute pregnant women?

In the 1980's the baby trade was at its peak in Sri Lanka and annually more than 1500 children were given away to foreign nationals for adoption³. In mid-January 1987 police raided a hotel in Wadduwa 27 miles south of Colombo and found 22 infants apparently ready to be sold. The owner and 20 local women were arrested. The children ranging in age from 3 weeks to 6 months were being cared for by the women³. This news even appeared in a Canadian newspaper⁴. The matter came to a head later in 1987 when the DPCCS received a public petition alleging that illegal "baby farms" were operating in Negombo, a coastal town 36 kilometres north of Colombo⁵. Places named in the petition were raided by DPCCS officials who rescued 23 babies, mostly under 2 years of age, some only a few days old. A Swedish nurse was allegedly involved in racketeering with these illegal "baby farms". She worked, with official approval, as a volunteer nurse in government-approved child welfare centres and children's homes. After legal action initiated by the DPCCS and much-publicized legal proceedings, the nurse was deported. The racket involved buying babies from mothers who, for various reasons, had to give up their infants. The babies were then brought up at illegal "baby farms," provided with faked documents and eventually sold to foreigners following required court procedures⁵. More raids in different places yielded several people in the same racket⁵. As an immediate preventive measure, the government imposed a total ban on adoptions of Sri Lankan children by foreigners. Subsequently, the Adoption Ordinance related to foreign adoptions was amended in 1992⁶. According to DPCCS statistics provided in their website, adoption of children by foreigners have considerably decreased from 1991-2010⁷. In 1991, out of 1196 children legally adopted in Sri Lanka, 789 (66%) were by foreigners whereas in 2010 out of 1884 children adopted, only 72 (3.8%) were by foreigners⁷. Thus it is evident that 'Baby Farms' and 'export' of young children under the 'adoption' banner are not major issues today.

Let us consider the local adoption scene. Whilst foreign adoptions are not time consuming (less than a month from the time of arrival of the foreign applicants in Sri Lanka) local adoptions get dragged on, sometimes for over 5 years. This is one reason for illegal adoptions. However, most illegal adoptions take place in the maternity wards of hospitals with the connivance of hospital employees. Single unmarried mothers are prime targets as most of them do not wish

to expose their identity. Thus they or their families would try to give the child to a person illegally⁸.

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