PAGES

Hole that swallows babies

THE TELEGRAPH
CALCUTTA SUNDAY 31 OCTOBER 2010 Rs 5.00
XXCL
www.telegraphindia.com

ROAD TO ADOPTION

How the system is supposed to work

1. **Childline* rescues abandoned child/ Mother surrenders child**
2. Child produced before government's Child Welfare Committee (CWC)
3. Child placed in foster family care or government home or adoption agency
4. Police put out ads, missing persons squad alerted — 2 months given to parents to claim child
5. If no claim, CWC declares child free for adoption. Child kept in an adoption agency

*An NGO that rescues abandoned children

RED-TAPE RAJ

- Central Adoption Resource Agency, which oversees adoptions across the country
- Directorate of social welfare, the state-level supervising authority
- Child Welfare Committee, present in every district and first base for abandoned/surrendered children
- Adoption agencies, which are NGOs and where babies ready for adoption are kept
- Adoption co-ordinating agency — an NGO that played a role till 2009 in clearing adoptions
- Scrutiny agency — also an NGO, used to scrutinise adoption papers

Adoption within country

- Adoption agency picks family after checking antecedents, income
- Till last year, a scrutiny agency would check papers, though it's not mandatory
- Petition made to court to legalise adoption
- Court can ask for scrutiny at this stage
- Adoption legalised

Inter-country adoption

- If no family found in country, clearance given for foreign adoption
- No-objection issued by Central Adoption Resource Agency
- Petition filed in court

①

How kids are spirited away

CHANDREYEE GHOSE AND SANJOY CHATTOPADHYAYA

When a child is born roughly every two seconds, some babies of unfortunate mothers will leak out of the system and go on the market for adoption at a price.

Manwara Seth, of Canning, has filed a petition in Calcutta High Court claiming her child was stolen from a government hospital in South 24-Parganas and sold to a childless couple. The couple insisted that they had paid Seth's family for the child, who is now seven.

Public prosecutor Asimesh Goswami said: "A DNA test has been ordered to decide who his future guardian will be."

The Telegraph exposé in Saturday's paper had revealed how a baby-selling network operates with the connivance of nursing homes, mostly in Calcutta's suburbs, and doctors, audaciously turning an illegal transaction legal.

Government hospitals are as leaky. A health officer at one revealed that in two cases over the past four-five months, he had received information about abandoned babies but they were gone before he could take them to a children's home.

On a third occasion, he was informed about a baby being abandoned, but when he went to get it, the baby was missing, only to reappear miraculously when he raised a hue and cry.

Unwanted babies can be made to elude the official network at many points. The first is where the baby is found or rescued. Under the rules, a rescued baby has to be presented before the state government's Child Welfare Committee — there is one in each district — within 24 hours of its being found. Only this committee has the authority to issue a fit-for-adoption certificate for a baby.

Whether a child is produced or not depends on the intentions of the finder. With nursing homes and hospitals not being too particular about sticking to the law, the committee has no way of sniffing out who is spiriting away babies where.

Abandoned babies are rescued by Childline, an NGO that has the government's support, and by police, and produced before the committee. Mothers who want to surrender their babies have to go directly before the committee. This is on paper.

The Calcutta committee recently asked a hospital for an explanation why a four-month-old baby was handed over directly to a couple.

"The couple had approached the court, arguing that since the child was ill and needed special care, they could not go to the committee first and delay the whole process," said Amita Sen, the chairperson of the Calcutta committee.

In Calcutta, there may not be full compliance with the rule of taking the baby before the welfare committee, but the situation is better than in the districts. Indrani Sinha, a member of the South 24-Parganas committee, said: "Abandoned babies are rarely presented before the committee. One or two a month, maybe."

They are handed directly to parents wishing to adopt and, since the process takes place outside official supervision, a range of unwanted results for the baby becomes possible.

Till last year, the committee's existence went unheeded by the system though its pivotal role as the custodian of abandoned and surrendered babies was worked into law in 2006. Sen said: "Most agencies would not bring the babies before the committee."

The acronym-laden layers of the adoption structure, a creation of government guidelines and Supreme Court directions, worked the way they felt best until 2009. Neither the Central Adoption Resource Agency, which is the mother body for adoption in the country, nor the Bengal social welfare department, its state-level representative, did anything beyond the odd half-hearted attempt to straighten out the system.

One example of their reluctance to act relates to an adoption monopoly that grew under a lawyer named Anil Bhuniya, who was allowed for two decades till 2009 to ap-

prove, scrutinise as well as, allegedly, hand babies over to adoptive parents. Bhuniya denied that he was ever involved in the last activity.

Apart from once writing a letter objecting to Bhuniya's role in approval as well as scrutiny, the central agency did nothing. The social welfare ministry even helped Bhuniya establish control over the system.

The Telegraph sent a questionnaire to the central agency seeking to clear doubts about how the adoption system works and about overlapping laws, of which there are three. After sitting on it for two weeks and several reminders, it sent this helpful reply: "You have asked so many questions. Please see CARA (the agency)'s website... for more details."

It did reveal, though, that a probe is under way against one of Bhuniya's two organisations. It does not reveal that for years it — and the state social welfare department — had failed to set up in Bengal a second approval mechanism, known as the adoption co-ordinating agency, to smash Bhuniya's hold.

In another example of inaction, the government, in Delhi in this case, has increased the dependence of adoption agencies on donations from adoptive parents. The agencies are supposed to receive substantial budgetary support from the Centre but are not getting it.

If the old system had a dark hole through which babies disappeared as they were handed directly to adoptive parents without official supervision, either with court registration of the adoption or without, the recast network with welfare committees in every district may not be working any better.

There are complaints that the committees act the same way as the older system did, handing over babies directly to adoptive parents, though this is the job of the adoption agencies that maintain a list of hopeful couples. The committees also put babies in temporary foster family care, instead of children's homes or adoption agencies, till the fit-for-adoption certificate is issued.

An official of the Calcutta committee admitted placing abandoned babies in foster care. "A newborn needs a mother's lap rather than a children's home," she said. At its best, this is the do-gooder guiding spirit — without regard for law or system or the future well-being of the child — in giving babies away for adoption.

A former social welfare official said on condition of anonymity that there were no records of how many children had been placed in foster care by the committees. Nor is there any knowledge if these children are later given away by the foster parents or kept by them.

If babies falling through the system without a clue is the most frightening feature, another is the lack of data beyond basic adoption figures. How many children are brought before each district committee, how many are abandoned, how many surrendered — the system is clueless.

DEVIL AND DEEP SEA

Bipin Paul, 45, and his wife Soma, 35, (names changed) have been trying to conceive for the past 10 years and have received infertility treatment over four years under two specialists.

By 2008, their unexplained infertility was still as unexplained, only they were Rs 1.5 lakh lighter. That's when they contemplated adoption.

"An in-vitro fertilisation (IVF) would have cost us yet another lakh or more and it has only a 20 per cent chance of success. We wanted to spare ourselves any more disappointments. Adopting a newborn seemed a far better option," said Bipin.

The second choice proved as traumatic to the Pauls. Most recognised agencies have a long list of waiting couples, some since 2006.

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WHO CAN ADOPT

- For a couple to adopt a baby of less than one, neither parent must be older than 45 or less than 21
- They should show property proof
- Certificates showing a monthly income of at least Rs 10,000
- A married couple or a single woman can adopt but a single man is usually not allowed and even if allowed, is not permitted to adopt a girl child
- A counselling session is conducted to prove eligibility of a couple

Devil & deep sea

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With few healthy newborns at their disposal, some agencies in the city have been forced to stop registering new couples.

"We have approached an agency in Purna Das Road 14 times over the last two years. But they are yet to register us on the waiting list. The agency hardly ever entertains our phone calls. So I keep visiting them at frequent intervals," said Bipin.

Every time he visits the adoption agency, the staff take down his address and phone number. "But they never get back to me," he said.

"We made enquiries at another agency, but even there the staff claimed that our wait may last seven to eight years."

Many adoption agencies in the state require a couple to produce a medical certificate showing they are unable to conceive although the law — the Juvenile Justice Act — clearly states that a couple with children of both or either sex can adopt a baby of either sex.

"The gynaecologists and infertility experts who had treated us refused to certify that. The doctors said there was still hope for us. But in reality they hated to see a prospective IVF client slip through their fingers," said Bipin.

However, a friend of the Pauls' has adopted a child from a "private clinic" by paying Rs 65,000. "The whole transaction was unofficial, but then he did not have to wait endlessly like us. We were tempted too, but future implications held us back. What if we were blackmailed in the future?"

The Pauls are wondering what to do next. "We are thinking of going to another state and approaching the adoption agencies there. We may also opt for a fresh round of infertility treatment. One option seems just as hopeless as the other, but we will keep tapping all our resources."

LOGJAM LAWS

The three acts that govern adoptions

1

Juvenile Justice Act
Passed in 2000 and the latest, it has a part that sets basic rules for adoption and leaves the framing of guidelines to the Centre and states

2

Hindu Adoption and Maintenance Act
Indian citizens who are Hindus, Jains, Sikhs or Buddhists are allowed to adopt under this 1956 law

3

Guardian and Wards Act
Indian nationals who are Muslims, Parsis, Christians or Jews or foreigners or NRIs can adopt under this 1890 act. Under it, the adoptive parent is only the guardian of the child until she/he reaches 18 years of age

Despite the passage of the Juvenile Justice Act, amended in 2006, the two older laws have been allowed to continue to confound the confusion, permitting some people connected with adoption to take advantage of would-be parents