



U.S. Citizenship and Immigration Services

U.S. Suspends Processing New Nepal Adoption Cases Based on Abandonment

WASHINGTON - U.S. Citizenship and Immigration Services (USCIS) and the Department of State today issued a joint statement on the decision to suspend processing for new adoption cases based on abandonment in Nepal.

Joint Statement

In order to protect the rights and interests of certain Nepali children and their families, and of U.S. prospective adoptive parents, the Department of State and U.S. Citizenship and Immigration Services (USCIS) have jointly decided to suspend adjudication of new adoption petitions and related visa issuance for children who are described as having been abandoned in Nepal.

The Department of State's recent interactions with the Government of Nepal and its efforts to review and investigate numerous abandonment cases, including field visits to orphanages and police departments, have demonstrated that documents presented to describe and "prove" the abandonment of children in Nepal are unreliable. Civil documents, such as the children's birth certificates often include data that has been changed or fabricated. Investigations of children reported to be found abandoned are routinely hindered by the unavailability of officials named in reports of abandonment. Police and orphanage officials often refuse to cooperate with consular officers' efforts to confirm information by comparing it with official police and orphanage records. In one case, the birth parents were actively searching for a child who had been matched with an American family for adoption. Because the Department of State has concluded that the documentation presented for children reported abandoned in Nepal is unreliable and the general situation of non-cooperation with and even active hindrance of investigations, the U.S. Government can no longer reasonably determine whether a child documented as abandoned qualifies as an orphan. Without reliable documentation, it is not possible for the United States Government to process an orphan petition to completion.

To the best of our knowledge, all other countries that had been processing adoption cases from Nepal have stopped accepting new cases due to a lack of confidence that children presented as orphans are actually eligible for intercountry adoption.

The suspension of adjudication of new adoption petitions on behalf of Nepali children reported as found abandoned is effective as of the date of this statement. Any petition filed for a child who has been presented as found abandoned and who was matched with a prospective adoptive parent prior to the date of this announcement, as evidenced by an official referral letter from the Government of Nepal, will continue to be adjudicated on a case-by-case basis and in light of the totality of the evidence available. The Department of State will reach out to prospective adoptive parents who meet this criteria. Petitions that continue to be adjudicated will only be approved if they are supported by reliable evidence. Every

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USCIS - U.S. Suspends Processing Ne...

effort will be made to process their cases as expeditiously as possible with the best interests of children in mind.

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U.S. Citizenship and Immigration Services

Questions & Answers: U.S. Suspends Processing New Nepal Adoption Cases Based on Abandonment

Q. Why is the United States government suspending adoptions from Nepal?

A. The Department of State and U.S. Citizenship and Immigration Services (USCIS) have decided to suspend processing of new adoption cases from Nepal that involve children who are claimed to have been found abandoned, because documents presented in support of the abandonment of these children in Nepal have been found to be unreliable and circumstances of alleged abandonment cannot be verified because of obstacles in the investigation of individual cases.

Q: Adoptive parents have received immigrant visas for their Nepali children from the U.S. Embassy in Kathmandu as recently as a few weeks ago. What has changed since then?

A. A review of recently processed cases established a disturbing pattern indicating that available documentation cannot be relied upon to make determinations that a child reported abandoned qualifies as an orphan under U.S. immigration law.

Q: Does the suspension apply to all cases or only to cases in which a child was allegedly found abandoned?

A. The suspension applies only to cases where a child is alleged to have been found abandoned.

Q. When is the suspension going into effect?

A. The suspension is effective as of August 6, 2010, for all new adoption cases involving children from Nepal who have been reported abandoned.

Q. What is a “new” adoption case that will be covered by the suspension?

A. The suspension applies to cases in which the Government of Nepal has not issued an official referral letter to prospective adoptive parents to propose a match with a specific child from Nepal who has been reported abandoned. If the Government of Nepal has issued the referral letter prior to August 6, 2010, the case will be considered in the pipeline of existing cases and will continue to be processed. If no such referral letter has been issued prior to August 6, 2010, the case will be suspended.

Q. Based on what authority is the U.S. government suspending adoptions from Nepal?

A. The Department of State has concluded that the documentation presented for children reported

abandoned in Nepal is unreliable. Without reliable documentation, such children cannot meet the definition of orphan under U.S. immigration law. Based on this determination and obstacles in the investigation process the U.S. government has suspended the processing of new adoption cases that involve children who are reported abandoned.

Q. What evidence does the U.S. government have to support the suspension?

A. The Department of State's ongoing interactions with the Government of Nepal and the review of numerous cases, including field visits to orphanages and police stations, led them to conclude that information regarding how children arrive at orphanages is consistently inadequate and that documents presented to establish that a child was found abandoned are unreliable. Investigations of abandonment cases have been hampered by the unavailability of officials involved in reports of abandonment, and police and orphanage officials' refusals to allow consular officers access to police and orphanage records.

Q. Has the U.S. government made any effort to address the problems with the Government of Nepal?

A. The U.S. government, in cooperation with other countries that are active in intercountry adoptions, has consistently encouraged the Government of Nepal to ratify and implement the Hague Adoption Convention. Nepal is a signatory to the Convention. We have also urged the Government of Nepal to implement the recommendations made by the Hague Permanent Bureau Intercountry Technical Assistance Program (ICATAP) as a first step toward fulfilling its commitment as a signatory to the Convention. We believe that the Hague Adoption Convention incorporates the best practices in intercountry adoption, which are intended to protect the rights of the children and the families involved in intercountry adoption.

Q: Will there be any exceptions to the suspension?

A. No. Prospective adoptive parents who the Government of Nepal has matched with a child reported abandoned after August 6, 2010, will not receive a decision on a petition for that child.

Q. Are there any cases in Nepal that do not involve children reported abandoned?

A. Not at the present time. However, in the case of a relinquishment by known birth parent(s), the application would be processed under normal procedures. DNA evidence may be necessary to establish the relationship between the birth parent(s) and child.

Q. When will adoptions from Nepal resume?

A. We are unable to predict when adoptions involving children who are reported abandoned in Nepal will be able to resume. We encourage the Government of Nepal to implement sufficient protections to ensure the integrity of the intercountry adoption process.

Q. What will happen to families who are already matched with a child from Nepal?

A. The suspension applies to abandonment cases in which the prospective adoptive parents have not yet been matched with a child from Nepal. The Government of Nepal's Ministry of Women, Children and

Social Welfare issues an official “referral letter” to inform prospective adoptive parents of a proposed match. If the Government of Nepal has issued the official referral letter prior to August 6, 2010, the case will be processed to conclusion. In light of concerns regarding the validity of documents supporting abandonment cases in Nepal, the cases will be carefully investigated and only those in which there is sufficient credible evidence to conclude a child has been found abandoned will be approved.

If consular officials at the U.S. Embassy in Kathmandu determine that a case is not clearly approvable, they are required to forward the Form I-600, Petition to Classify an Orphan as an Immediate Relative, to the USCIS office in New Delhi for review. USCIS and the Department of State will process each case individually, based on the evidence presented and the results of the investigation. If additional information is required to complete the processing of any particular case, USCIS will request additional evidence specific to the facts of that particular case, and the prospective adoptive parents will have an opportunity to respond.

Q. How many cases are in the “pipeline”?

A. Based on information provided by the Government of Nepal, we estimate that there are approximately 80 cases in which U.S. families have been matched with a child in Nepal, but in which the Form I-600 petition has not been adjudicated or a visa has not been issued.

Q. Can a family that has begun the process of adopting in Nepal decide to adopt a child from a different country now?

A. Yes. If prospective adoptive parents have already filed or received approval of a Form I-600A, Application for Advance Processing of an Orphan Petition, that specifies Nepal as the country from which they intend to adopt, they are permitted to request one no-fee change of country. If the prospective adoptive parents have already filed a Form I-600 on behalf of a Nepali child, they may withdraw the petition. Upon withdrawal of the petition, the prospective adoptive parents may request a change of country and file another Form I-600 petition on behalf of a different child, as long as their Form I-600A approval remains valid.

Q. What are other countries that process adoptions of Nepali orphans doing?

A. Belgium, Canada, Denmark, France, Germany, Israel, Italy, Norway, Spain, Sweden, Switzerland, and the United Kingdom have recently suspended adoptions in Nepal based on similar concerns.

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