

Thousands of U.S. Internationally Adopted Children Lack Legal Citizenship

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In recent years, a number of individuals who were adopted internationally as children by American parents have contacted adoption agencies for help with a disturbing situation. Though they had grown up in the United States believing themselves to be full citizens, they later found upon applying for jobs, government college loans, scholarships, driver's licenses, passports, or the right to vote that their adoptive parents never completed the paperwork necessary to secure their citizenship. In some extreme cases, these foreign-born, non-citizen adopted persons did not realize their status as non-citizens until they got into trouble with the law and were at risk for deportation. All these unlucky individuals came to this country legally as adopted children of American citizens. Now, they are forced to apply for a citizenship they believed was already theirs.

Foreign-born children adopted by American parents have traditionally entered this country as permanent residents on either an IR-2 visa, an IR-3 visa, or an IR-4 visa. This remains the case for foreign-born adopted children whose country of origin is not a Hague-compliant country, or whose country of origin is Hague-compliant but for whom the adoption process began prior to April 1st, 2008, which is the date that the Hague Convention entered into force for the United States. However, foreign-born children adopted from Hague-compliant countries whose adoption process began after April 1st, 2008 may now enter the country as permanent residents on either an IH-3 visa or an IH-4 visa, instead of an IR-3 visa or an IR-4 visa, respectively.

IR-2 visas are given to "adopted children," as the phrase is defined under U.S. immigration law, who were adopted abroad. In order to qualify as an adopted child, a child must meet the following two requirements. First, the child must have been adopted

prior to his or her 16th birthday, or by his or her 18th birthday if a biological sibling of the child had already been adopted prior to the sibling's 16th birthday by the same parent or parents. Second, the child must have lived with his or her adoptive parent or parents for at least two years with the adoptive parent or parents having full legal and physical custody. Under the Child Citizenship Act, which went into effect on February 27, 2001, children under the age of 18 immigrating to the United States on an IR-2 visa are granted automatic citizenship upon reaching the United States. The Child Citizenship Act also granted automatic citizenship to foreign-born adopted children under the age of 18 who were living in the United States when it went into effect and had been brought over on IR-2 visas. However, individuals who were brought over on IR-2 visas prior to February 27, 2001, whose adoptive parents did not apply for their child's citizenship, and who were *over* the age of 18 when the Child Citizenship Act went into effect were *not* granted automatic citizenship.

IR-3 and IH-3 visas are reserved for "orphan children," i.e. children who were adopted abroad but do not qualify as "adopted children," who were visited by both prospective parents during the adoption process abroad. These children account for approximately seventy percent of children adopted overseas. Under the Child Citizenship Act, children under the age of 18 immigrating to the United States on an IR-3 visa or an IH-3 visa are granted automatic citizenship upon reaching the United States. These children are provided Certificates of Citizenship within 45 days of entry. The Child Citizenship Act also granted automatic citizenship to foreign-born adopted children under the age of 18 who were living in the United States when it went into effect and had been brought over on IR-3 visas. However, individuals who were

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brought over on IR-3 visas prior to February 27, 2001, whose adoptive parents did not apply for their child's citizenship, and who were *over* the age of 18 when the Child Citizenship Act went into effect were *not* granted automatic citizenship.

IR-4 and IH-4 visas are granted to three categories of "orphan children." The first category includes children who were not adopted in their country of origin and are immigrating to the United States for the purpose of being adopted. The second category includes children who were adopted in their country of origin but were not visited abroad by either both prospective parents in those instances when the child is being adopted by a married couple, or their single prospective parent when the child is being adopted by a single person. Finally, the third category includes children who were adopted by proxy and brought to the United States by someone other than the parent or parents. Children brought over on IR-4 or IH-4 visas must be adopted in the United States, regardless of whether they have been adopted abroad, in order for the child to receive U.S. citizenship.

The number of foreign-born, non-citizen adopted persons and the obstacles they face

No one knows the precise number of foreign-born, non-citizen adopted persons living in the United States. Given that approximately 300,000 children have been adopted internationally by American parents over the past thirty years, the number could well be in the thousands. Many foreign-born, non-citizen adopted persons living in the United States today were born in Korea and brought to the United States in the 1970s. More recent arrivals from Latin America and Eastern Europe in the same situation have also come to the attention of adoption agencies. Thus, there is reason to believe that this is an ongoing problem.

Foreign-born, adopted non-citizen persons face several obstacles in their quest for U.S. citizenship. First, they often don't have the documents to prove who they are and who adopted them abroad. Furthermore, many adopted persons have difficulty affording the fees required to retrieve their adoption documents from CIS. These problems are compounded when adoptive placements disrupt and the children are adopted by another family, relinquished to the state, or sent to live in residential treatment in other states.

Strategies to assist foreign-born, non-citizen adopted persons achieve citizenship

Four strategies will help address the problems faced by foreign-born, non-citizen adopted persons:

- First, Congress should instruct CIS to conduct an analysis to determine how many foreign-born, non-citizen adopted persons are currently living in the United States, and how many more can be expected in the coming years until a safeguard is put into place. Congress should also instruct CIS to seek to communicate through media campaigns with foreign-born, non-citizen adopted persons and their parents informing them regarding how they can obtain citizenship.
- Second, Congress should instruct the Department of State (DOS) and CIS to add a page to their Web site to educate foreign-born, non-citizen adopted persons. The page should explain the current situation and show them how to retrieve their adoption documents free through the Freedom of Information Act from CIS and apply for citizenship. Private adoption agencies should add similar pages to their Web sites.
- Third, international adoption agencies should institute the practice of requiring parents to sign an Affidavit of Naturalization explaining the U.S. citizenship process and the consequences of not following through. Agencies could also require a deposit that's refunded when parents send them a copy of some sort of proof of their child's U.S. citizenship, such as a Certificate of Citizenship, passport, U.S. adoption decree, IR-3 visa or IH-3 visa.
- Finally, international adoption agencies should encourage interested private parties to create a fund for these children and adults in order to meet some of the expenses involved in obtaining citizenship.

While the precise reasons foreign-born, non-citizen adopted persons remain technically without citizenship differ from case to case, it is important to remember what they have in common. Namely, they are legitimate residents lacking legal status through no fault of their own. Until they achieve the citizenship they were raised to believe was already theirs, we must view these children and young adults not simply as adopted persons, but also, as our adopted responsibility.