

# “NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS”

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## ABSTRACT

The position of children in India is most vulnerable .As India races towards achieving super powerdom, its children are still behind in terms of healthcare, education, and others facilities. Children especially girls are faced with the lack of educational opportunities, malnourishment, infant mortality and early marriages.

In this context this study will analysis two government initiatives namely National Commission for Protection of Child Rights and Juvenile Courts. Former is concerned with to protect the rights of all children in the 0 to 18 years age group is of equal importance and later is dealing with juvenile delinquent to reform them.

## *PART I*

### *National Commission for Protection of Child Rights*

## INTRODUCTION

The National Commission for Protection of Child Rights (NCPCR or Commission) was setup in March 2007, under the Commissions for Protection of Child Rights Act, 2005. The mandate of the Commission is to monitor all laws, policies, programmes, and administrative mechanisms in the country to ensure that children’s rights as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child (UNCRC) are protected.

The Commission's Mandate is to ensure that all laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group. The Commission visualises a rights-based perspective flowing into national policies and programmes, along with nuanced responses at the State, District and Block levels, taking care of specificities and strengths of each region. In order to touch every child, it seeks a deeper penetration to communities and households and expects that the ground experiences inform the support the field receives from all the authorities at the higher level. Thus the Commission sees an indispensable role for the State, sound institutionbuilding processes, respect for decentralization at the level of the local bodies at the community level and larger societal concern for children and their well-being.

Considering the fact that issues relating to children are as much in the list of the Centre as the State governments, the Commission’s thrust has been in understanding and reviewing the basis, application and actual implementation of legal frameworks, policies and programs at both levels.

## FUNCTION OF NCPCR

The functions of the Commission as laid out in the Act are as follows:

- (i) Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.
- (ii) Present to the Central Government, annually and at such other intervals, as the Commission may deem fit, Reports upon the working of those safeguards.
- (iii) Inquire into violation of child rights and recommend initiation of proceedings in such cases.
- (iv) Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/ AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures.
- (v) Look into matters relating to children in need of special care and protection, including children in distress, marginalised and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures .

(vi) Study treaties and other international instruments and undertake periodic review of existing policies, programmes, and other activities on child rights and make recommendations for their effective implementation in the best interest of children.

(vii) Undertake and promote research in the field of child rights.

(viii) Spread child rights literacy among various sections of society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means.

(ix) Inspect or cause to be inspected any juvenile custodial home or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority including any institution run by a social organization, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary.

(x) Inquire into complaints and take suo moto notice of matters related to: Deprivation and violation of child rights; Non implementation of laws providing for protection and development of children; Non compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children or take up the issues arising out of such matters with appropriate authorities.

(xi) Promote, respect and serious consideration of the views of children in its work and in that of all Government Departments and Organisations dealing with Child.

(xii) Produce and disseminate information about child rights.

(xiii) Compile and analyse data on children.

(xiv) Promote the incorporation of child rights into the school curriculum, training of teachers or personnel dealing with children.

(xv) Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above function.

### **COMPOSITION OF NCPCR**

(i) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children and, (ii) six Members (out of which at least two shall be women) from the following fields to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in

- a. education
- b. child health, care, welfare or child development,
- c. juvenile justice or care of neglected or marginalized children or children with disabilities;
- d. elimination of child labour or children in distress;
- e. child psychology or sociology ;and
- f. Laws relating to children.

### **Appraisal of the Functioning the NCPCR**

The positive role of National Commission for the protection of child rights has been reported many a time. For example, in 2007, it took initiatives to protect school children from harsh corporal punishments. The commission wrote to all chief education secretaries recommending that there should be no gradations while judging corporal punishment and that even small acts should not be condoned as they may lead to gross violations. This initiative of the commission actually aimed to ensure the enforcement of international recommendations in this regard also. The involvement and assistance of Panchayat Raj Institution in child protection matters with the commission has made commendable results.

Again, the commission has started a helpline on education in the light of the rights of children free and compulsory education act, 2009. In another instance, on a complaint filed by a local college student, of Nawanshahr, the NCPCR has asked the chief election commissioner of India to issue necessary instructions to the authorities concerned. In yet another instance guidelines were issued by the commission to the Railway Authorities for the protection of Railway children . Again in another situation, the expert NCPCR visited

Amaravati district, in the light of the information about the problems being face by tribal children in Ashram schools, Anganwadis, Health care centres and Government schools, and issued directives to the district administration for implementation. The most note worthy aspect is that, in this case, the NCPCR has constituted a team in order to find out the progress on the directives issued by the commission.

All these incidents reveal the genuine attempts made by the NCPCR towards understanding the issues relating to child rights and the endeavours to solve the same through inviting partnership of various agencies and systematic follow ups.

The attempts of NCPCR again revealed that various Naxalite groups in India home formed their own children's divisions.

The NHRC has recommended that the state police head quarters should create a system of mandating reporting of all incidents of missing children to the NCPCR within 24 hours.

All these activities of the NCPCR show that the commission is actively involved in discharging the responsibilities entrusted to it by the 2005 Act.

## **CONCLUSION**

The overall study of the functioning of the Commissions shows, the main draw back of the Child Rights Commission is that it is a mere replica of other commissions like Human Rights Commission and Women's Commission. Its role is limited to just recommendatory directives and they lack any power to enforce their recommendations. There is no time frame for the completion of the enquiries or investigations. The time limit, within which the state governments have to set up their own commissions, has not been specifically stipulated. The offices of the commissions should be structured at the lower levels like district and panchayat levels so that any child or children's group can have access to the office of the commission and should have the opportunity to impart their own participation.

## **PART 2**

### ***Juvenile Court***

## **INTRODUCTION**

Juvenile Court is a special court that deals with minor offenders who are charged with crimes, The normal age of these offenders is under 18, but the age of majority changes based on the state or nation. Juvenile court does not have jurisdiction in cases in which minors are charged as adults. The procedure in juvenile court is not adversarial, although the minor is entitled to legal representation by a lawyer or social workers are involved in the process to achieve positive results and save the minor from involvement in future crimes. Where parental neglect or loss of control is a problem, the juvenile court may seek out foster homes for the juvenile, treating the child as a ward of court. A juvenile court handles cases of both delinquency and dependency. Delinquency refers to crimes committed by minors, and dependency includes cases where a non- parental person is chosen to care for a minor. The main objective of juvenile court is to reform the delinquent instead of punishment.

## **FEATURES OF JUVENILE COURT**

### ***Separate Hearings for Children Cases***

Juvenile courts are meant exclusively for children. These courts are either distinct and independent of ordinary courts in terms of personnel or may be parts of the ordinary courts with wider jurisdiction. There may be wholetime judges for these courts or magistrates and judges of ordinary courts may be given special duties in juvenile courts.

### ***Informal Hearing***

The proceedings in a juvenile court are very simple and informal compared to the adults courts. Unlike the position in adult courts, where the procedure and evidence are based on legalistic considerations, the proceeding in juvenile court are somewhat in the nature of the conference taking place between the judge, probation officer, social worker, child and parents. Another advantage which may be expected from the informal nature of learning is the speedy administration of justice.

### *Private Hearing*

Unlike the adult courts, only those who are directly concerned with the case are allowed to be present in the court. Apart from the judge and court officials like probation officers, the only persons allowed in the courts are child, parents and the police officers involved in the process.

### *Curtailed Right to Counsel*

Since the procedure and evidence in a juvenile courts are of informal nature and the assumption being that the proceeding are in the interest of child , it is believed that a child need not be represented by a lawyer.

### *The Concept of Juvenile Court in India*

The present law which governs the juveniles who are in conflict with law and children who are in need of care and protection is called Juvenile Justice (Care and Protection of Children) Act, 2000. However, he Act of 2000, which replaces the Juvenile Justice Act, 1986 is primarily designed to give effect to the provisions of the UN Convention on the Rights of Child, 1989. The convention give emphasis on social re-integration of child victims, to the extent possible, without resorting to judicial proceedings.

The Act of 2000 categorise the children in two types viz. juvenile in conflict with law and children in need of care and protection. The former are those who are in conflict with law and have committed any offence and the later are those children who need care and protection.

To deal with these two categories of juveniles the law provides that state shall establish and constitute Juvenile Justice Board and Child Welfare Committee. The Board shall consist of a judicial magistrate of the first class or a metropolitan magistrate and two social workers on of whom at least should be a woman. The law provides that only such magistrates can be appointed as the members of the Board who have special knowledge or training in child psychology or child welfare, and only such of the social workers will be nominated in the Board who have been actively involved in health, education, or welfare activities of the children for at least seven years.

