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Review Document

The Commissions for Protection of Child Rights Act, 2005

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Significance

The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005).

The following Act of Parliament received the assent of the President on the 20th January, 2006.

Objective

The Act provides not only for the constitution of a National Commission but also for the establishment of State Commissions. It again provides for in the preamble the intent to establish Children's Courts also for providing speedy trial of offences against children of violation of child rights.

Important provisions

Section 3: The Commission consists of Chairperson and 6 members out of which at least 2 shall be women. The office of the commission shall be at Delhi.

Section 4: The central government by notification appoints the Chairperson and other members.

Section 5: The Chairperson and every member hold office for a term of 3 years from the date on which one assumes office till the age of 65 years for chairperson and 60 years for the members. No one can hold office for more than two terms.

Section 6: The salary and allowances payable to Chairperson and members will be as prescribed by the central government.

Functions of the Commission

Section 13(1): The Commission shall, in addition to the functions assigned to it, performs the following functions, namely:—

- analyze existing law, policy and practice to assess compliance with Convention on the Rights of the Child, undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislation from a child rights perspective;

- present to the Central Government annually and at such other intervals as the Commission may deem fit, reports upon the working of those safeguards;
- undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf;
- ensure that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives;
- promote, respect and serious consideration of the views of children in its work and in that of all Government Departments and Organizations dealing with child;
- produce and disseminate information about child rights;
- compile and analyze data on children;
- promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children.

State Commission for Protection of Child Rights

Section 17: The State Commission for protection of child right was set up. This commission was constituted by the state government of the particular state to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

Section 18: The state government by notification appoints the Chairperson and other members.

Section 19: The Chairperson and every member hold office for a term of 3 years from the date on which one assumes office till the age of 65 years for chairperson and 60 years for the members. No one can hold office for more than two terms.

Section 20: The salary and allowances payable to Chairperson and members will be as prescribed by the state government.

Children's Courts

Section 25: For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the offences.

This section shall not apply if a Court of Session is already specified as a special court; or a special court is already constituted, for such offences under any other law for the time being in force.

Section 26: For every Children's Court, the State Government by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Finance, Accounts and Audit

Section 27: The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants.

Section 28: The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

The State Commission may spend such sums of money as it thinks fit for performing the functions under Chapter III of this Act, and such sums shall be treated as expenditure payable out of the grants.

Section 29: The National Commission maintains proper accounts and other relevant records and prepares annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

The accounts of the Commission are audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act, have the same rights and privileges and

the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

The accounts of the Commission as certified by the Comptroller and Auditor- General or any other person appointed by him in this behalf, together with the audit report thereon be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Section 30: The State Commission maintains proper accounts and other relevant records and prepares an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General. .

The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

Loopholes

- It is a mere replica of other commissions like Human Rights Commission and Women's Commission
- The time limit within which the state governments have to set up their own commissions has not been specifically stipulated.
- There is, therefore, a need to implant a sense of respect for the rights of child in the society to meet his developmental needs

Conclusion

The Commission is effectively discharging its functions in analyzing the existing legal framework for children, assessing compliance and submitting reports regarding policies to be formulated in matters relating to child rights. But, the overall study of the functioning of the Commissions shows, the main drawback 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 lacks any power to enforce the 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.

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About the Author



I'm Divya Soni from Indore Institute of Law and I had the opportunity to undergo a one-month internship at LeaglEagle Law Forum. I must say this was an enriching experience for me. Mainly this was an online internship and bare act review program. Each intern was provided with six bare acts to review which we have to submit at the 20th day. It was difficult and interesting for me to review each bare act as I haven't read few bare acts before. In general, I can say that this internship was an invaluable experience for me, and the knowledge and skills I gained during this period will certainly help me in the future.