

## **SCPCR Introduction**

The Uttarakhand Commission for Protection of Child Rights came into existence on 10 May 2011. Created under the provisions objective of the Commissions for Protection of Child Rights Act 2005, is protecting and defending the rights of children at the same time promoting their best interests. The Commission seeks to ensure that all laws, policies and programmes in the State are in accordance with the Child Rights perspective.

Children are individuals who fall between the ages 0 and 18. Besides giving equal importance to the rights of all children, commission gives special attention to the issues of children who are from vulnerable communities. To fulfill its mandate, the Commission seeks to work with Government, Police, Judiciary, Local Self Government Institutions, stakeholders in the voluntary sector, academic institutions, grass root organizations, the media and children.

Commission focus on creating greater awareness about Child Rights in the State at all levels, and to reflect the voice of the children of Uttarakhand in policies and programmes that affect their lives. The commission carries out various activities to ensure adherence to the standards for children prescribed in the CRC. Some of these standards include:

1. The child shall have the right to identity, name & nationality.
2. Every child has the inherent right to life, survival and development, including the right to the highest attainable standard of health to facilities for the treatment of illness, the right to education, directed to the development of the child's personality, talent and mental and physical abilities to their fullest potential and the right to benefit from social security.
3. Every child has right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
4. A child has right to rest & leisure & to engage in play and recreational activities.
5. The child is protected against all forms of discrimination, based upon race, color, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status.
6. Children are protected from economic exploitation.
7. Children are not subjected to illicit use of narcotic drugs and psychotropic substances.
8. Children are protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.
9. Every child is protected from all forms of sexual exploitation and sexual abuse.
10. A child deprived of family environment, shall be entitled to special protection and assistance provided by the State.
11. In all actions concerning children, the best interests of the child shall be a primary consideration.
12. Views of the child are to be given due weightage.
13. A child shall not be separated from parents against their will, except when such separation is necessary for the best interest of the child.
14. Institutions, services and facilities responsible for the care or protection of children shall conform to the standards established
15. No child shall be subjected to illicit transfer, abduction, sale or traffic for any purpose or in any form.
16. A mentally or physically disabled child should enjoy a full & decent life, in conditions which ensure dignity, promote self-reliance & facilitate active participation in the community.
17. No child is subjected to arbitrary or unlawful interference with his/her privacy, home or to unlawful attacks on his/her honor and reputation.
18. No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment or be deprived of his liberty unlawfully or arbitrarily.

19. Every child alleged as, accused of, or recognized as having infringed the penal law has right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth.
20. All appropriate measures shall be taken to promote physical and psychological recovery and social re-integration of a child victim of any form of neglect, exploitation or abuse, torture.
21. The rules of international humanitarian law applicable to children in armed conflicts are respected.

## **Chairperson's Description**

Mrs. Usha Negi is 3rd chairperson of Uttarakhand Commission for Protection of Child Rights and the first woman in this position. Mrs. Negi is one of the strongest and dynamic personalities in Uttarakhand. She has been an active participant during Uttarakhand Andolan. Besides being a fierce agitator she fights for the rights of common people and is liked by the people. Mrs. Negi is active in politics since her University education period. She has acquired high positions in various government and non-government organizations. With the coordination of big organizations like ONGC, she has provided help to children living in slum areas and for hearing impaired children. Previously, has also worked for the betterment of orphan, hearing impaired and mute children while being at considerable designation in Goa in collaboration in Bachpan Bachao, Gujarat Sabha, and others by providing education free of cost. In continuation, she has organized training camps for children with special needs to make them independent. While living in Rajasthan she fought for the rights of women and children suffering from socially evil practices like *the Purdah* system, child marriage, and female foeticide.

In continuity to her modus operandi, she is leading SCPCR. Under her supervision, complainants are heard genuinely with the motive to sort their problems. She actively inspects places related to the education of children, whether the educational places belong to ICSE / CBSE recognized schools or madrassas where only urdu and theology are being taught, she keenly prefers to teach subjects other than urdu in madrassas, she inspects places other than an educational organization such as child labor, or engaging children in hazardous tasks and takes action against the defaulters. She took cognizance and instructed the construction of toilets in government schools. Her efforts have helped many victims getting compensated in cases such as a three-year-old boy who fell from the terrace of a hotel was compensated R. 6 lakh by hotel management and the help of Rs. 5 lakh was given by chief minister relief fund. UPCL compensated Rs. 80,000/- to the child who got shocked by electricity.

Similarly in cases where a minor rape victim has been compensated R. 5.50 lakh from "*baalika apradh peedit sahayta kosh*" with the help of DLSA. In another case where a victim was raped and burnt to death, her family was given help to get a lawyer free of cost, and compensation of Rs. 7 lakh was provided to them. In another case, where complaints received was regarding schools about the unnecessary increase in fee every year was received from children and their parents in commission. Around 70 children were returned fee by school authority after taking cognizance of this matter. The first child-friendly police station of the state is also getting inaugurated under her supervision. On regular interval meetings with various departments are taken on concerning issues related to children. During the lockdown period, numerous problems are being sorted out using a virtual media platform.

## **Powers of the Commission**

**As per Section 14 of the CPC Act 2005, the Commission, while inquiring into any matter, has all the powers of a Civil Court trying a suit under the Code of Civil Procedures, 1908 and in particular, with respect to the following matters:**

- Summoning and enforcing the attendance of any person and examining him on oath
- Discovery and production of any document
- Receiving evidence on Affidavits

- Requisitioning of any Public Record or copy thereof from any Court or Office
- Issuing commissions for the examination of witnesses or documents
- Forwarding cases to Magistrates who have jurisdiction to try the same as if the case has been forwarded to him under sec 346 of the Code of Criminal Procedure 1973

**On completion of inquiry, under Section 15, the Commission has the powers to take the following actions:**

- Where the inquiry discloses, the commission of violation of child rights of a serious nature or contravention of provisions of any law for the time being in force, it may recommend to the concerned government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons.
- Approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary.
- Recommend to concerned Government or authority for grant of such interim relief to the victim or the members of his family as considered necessary.

**Under Section 13(1) of the Commissions for Protection of Child Rights (CPCR) Act, 2005**

- 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;
- Present to the State Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;
- Inquire into violation of child rights and recommend initiation of proceedings in such cases;
- Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;
- Look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;
- Study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;
- Undertake and promote research in the field of child rights;
- Spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;
- 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;
- Inquire into complaints and take suo motu notice of matters relating to,- (i) deprivation and violation of child rights; (ii) non-implementation of laws providing for protection and development of children; (iii) 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; and
- Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

## **IMPLEMENTING RTE ACT**

### **Under section 25 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009:**

- The state commission for protection of child Rights, or the REPA, as the case may be, shall set up a child help line, accessible by SMS, telephone and letter which would act as the forum for aggrieved child / guardian to register complaint regarding violations of rights under the Act, in a manner that records her identity but does not disclose it.

### **Under section 31 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009:**

- Examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- Inquire into complaints relating to child's right to free and compulsory education.

### **Under section 32 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009:**

- Any person having any grievance relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.
- After receiving the complaint under sub-section the local authority shall decide the matter within a period of three months after affording a reasonable opportunity of being heard to the parties concerned.
- Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be.
- The appeal shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be, as provided under clause (c) of sub-section (1) of section 31.

[Copy of RTE Act 2009](#)

## **IMPLEMENTING POCSO ACT**

### **Under Section 44 of the Protection of Children from Sexual Offences (POCSO) Act and Rule 6 of POCSO Rules, 2012:**

- Monitor the implementation of Protection of Children from Sexual Offences (POCSO) Act, 2012;
- Monitor the designation of Special Courts by State Governments;
- Monitor the appointment of Public Prosecutors by State Governments
- Monitor the formulation of the guidelines described in section 39 of the Act by the State Government, for the use of non-governmental organizations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child, and to monitor the application of these guidelines;
- Monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Central and State Governments, for the effective discharge of their functions under the Act;
- Monitor and support the Central Government and State Government for the dissemination of information relating to the provisions of the Act through media including the television, radio and print media at regular intervals, so as to make the general public, children as well as their parents and guardians aware

- Call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC;
- Collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes established under the Act, including information on the following:-
  - i. number and details of offences reported under the Act;
  - ii. Whether the procedures prescribed under the Act and rules were followed, including those regarding timeframes regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case.
- Assess the implementation of the provisions of the Act and to include a report in a separate chapter in its Annual Report to the Assembly.

[Copy of POCSO Act 2012](#)

### **IMPLEMENTING J.J. ACT**

#### **Under Section 109 of the Juvenile Justice (Care and Protection of Children) Act, 2015:**

- The State Commission for Protection of Child Rights constituted under section 17 monitor the implementation of the provisions of Commissions for Protection of Child rights Act, 2005 (4 of 2006), in such manner, as may be prescribed.
- The State Commission, shall, while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in the National Commission or the State Commission under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).
- The State Commission shall also include its activities under this section, in the annual report referred to in section 16 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).

[Copy of J.J Act 2015](#)