

**Work Report**  
**National Commission for Protection of Child**  
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Under the Supervision of:

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**MEMBER**

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Submitted by:

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**INTERN**

**(JRF Criminology)**

**Period of Internship- 5<sup>th</sup> December, 2012 to 4<sup>th</sup> January 2013**

**[Copy to MS, Registrar NCPCR]**

02/18/2018

## ACKNOWLEDGEMENT

I consider it a privilege to thank all those who have helped me in planning & undertaking this internship giving all possible assistance and guidance. Firstly I would like to thank **Ms. NINA P NAYAK, Member, National Commission for Protection of Child Rights, Delhi** who constantly monitored the progress of my work, gave vital inputs, course corrections as my supervisor, based on her extensive experience.

I would like to acknowledge the cooperation by **Mr. Asheem Srivastav, Member Secretary, Mr. B.K. SAHU, Registrar** for allowing me the opportunity to do internship for the period of 30 days in NCPCR.

In the execution of this Internship, many people from the Commission have extended their help and considerable cooperation. In this context, I would like to express my thanks to Ms. SHAISTA KHAN, Ms. JYOTI DHARMENDRA, Ms. SWATI CHAWLA, Ms. VISHNU KUMARI, Mr. JITENDRA BAJAJ, Mr. NITIN, Ms. JYOTI SEHRAWAT, complain section for providing me with their kind efforts, opportunity to study four individual cases of Child Sexual Abuse within family.

Also I would like to convey my humble regards to the staff of NCPCR, Mr. MANOJ KUMAR (PPS to Member) Ms. DEEBA NASEEM, Consultant, Ms. NUPUR, Ms. TULSI, including all the peons without the cooperation of the staff it would have been difficult to carry out my internship with this kind of addition in my academic knowledge.

Finally, I would like to convey my regards to my DEAN, Prof. ANUP BENIWAL, USHSS, my SUPERVISOR Dr. DEEPSHIKHA AGARWAL, USLLS, Guru Gobind Singh Indraprastha University Dwarka, Delhi for allowing me to join as an intern in NCPCR in the course of my PhD.

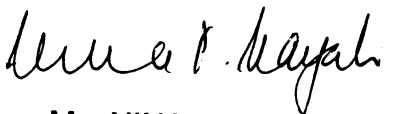
Sheetal Makhija



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## Certificate

This is to certify that the work submitted by Ms. Sheetal Makhija,  
is done under my supervision during the internship period.

  
Ms. NINA P NAYAK

MEMBER

National Commission for Protection of Child Rights

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## **Introduction**

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 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.

### **CONSTITUTION OF INDIA**

The right to equality, protection of life and personal liberty and the right against exploitation are enshrined in Articles 14, 15, 15(3), 19(1) (a), 21, 21(A), 23, 24, 39(e) 39(f) and reiterate India's commitment to the protection, safety, security and well-being of all its people, including children.

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children.

Article 19(1) (a): All citizens shall have the right (a) to freedom of speech and expression.

Article 21: Protection of life and personal liberty-No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21A: Free and compulsory education for all children of the age of 6 to 14 years.

Article 23: Prohibition of traffic in human beings and forced labour-(1) Traffic in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article 24: Prohibition of employment of children in factories, etc. -No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 39: The state shall, in particular, direct its policy towards securing: (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that

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citizens are not forced by economic necessity to enter vocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

### **INTERNATIONAL CONVENTIONS AND DECLARATIONS**

India is signatory to a number of international instruments and declarations pertaining to the rights of children to protection, security and dignity. It acceded to the United Nations Convention on the Rights of the Child (UN CRC) in 1992, reaffirming its earlier acceptance of the 1959 UN Declaration on the Rights of the Child, and is fully committed to implementation of all provisions of the UN CRC. In 2005, the Government of India accepted the two Optional Protocols to the UN CRC, addressing the involvement of children in armed conflict and the sale of children, child prostitution and child pornography. India is strengthening its national policy and measures to protect children from these dangerous forms of violence and exploitation.

India is also a signatory to the International Conventions on Civil and Political Rights, and on Economic, Social and Cultural Rights which apply to the human rights of children as much as adults.

Three important International Instruments for the protection of Child Rights that India is signatory to, are:

Convention on the Rights of the Child (CRC) adopted by the UN General Assembly in 1989, is the widely accepted UN instrument ratified by most of the developed as well as developing countries, including India. The Convention prescribes standards to be adhered to by all State parties in securing the best interest of the child and outlines the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse and from physical or mental violence, as well as ensuring that children will not be separated from their families against their will.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is also applicable to girls under 18 years of age. Article 16.2 of the Convention lays special emphasis on the prevention of child marriages and states that the betrothal and marriage of a child shall have no legal effect and that legislative action shall be taken by States to specify a minimum age for marriage.

SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution emphasizes that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of basic human rights of women and children.

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**Report on response received from various State Authorities in concern with implementation of THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000**

- A. The Commission on June 28<sup>th</sup>, 2012 via D.O.No.7/2011-12/Manipur/NEC/NCPCR had sent a letter to bring under the notice of various State Authorities regarding pervasive ignorance on the part of the police about the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and important judgments of Supreme Court like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India and others (WP No. 473 of 2005), and others dated 19/08/2011, 12/10/2011(WP No.473 of 2005) which have direct bearing on the implementation of Juvenile Justice (Care and Protection of Children) Act, 2000 (further read as JJ Act 2000).
- B. Regarding the ignorance in establishment of Juvenile Justice Board (read as JJB), Child Welfare Committee (read as CWC) and Special Juvenile Police Unit under Sections 4, 29 and 63 of JJ Act 2000.
- About the State Himachal Pradesh, in the response received from the Director, Women and Child Development, Himachal Pradesh, refers to a letter No. CB-2-2/2000-02-25710-12 dated 2-9-2004 from DG (Police) H.P, Special Juvenile Police Unit in every police station have been establishment. It would be relevant to mention here that there is no detail given about, whether the same information of the members of Special Juvenile Police Unit with contact details is prominently displayed in every police station in accordance to the Juvenile Justice (Care and Protection of Children) Rules, 2007. With respect to establishment of CWC's in accordance with Section 29 of JJ Act 2000, the reply reveals that nearly half of the total districts have reconstituted CWC's but in rest of the districts the reconstitution is yet to be complete. It is important to know that, at present the districts which are not having CWC's have any alternative and what are the subsequent measures thus adopted by the State. In reference to establishment of

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JJB's except Shimla, all the districts have there respective JJB's. The matter of reconstitution of JJB in Shimla has been sent to the Government (read as Govt.).

- About the State Madhya Pradesh, in the response to Commissions' letter No. 7/2011-12/Manipur/NEC/NCPCR/1632 dated 28/06/2012, Under Secretary, Home Department, Madhya Pradesh, via one of the annexed letter, a letter addressed to them from D.G (Police) refers a another letters 3777/4785/2012/B-1 dated 24/07/2012 and 4108/4785/B-1 dated 08/08/2012 submits that in accordance with the Sections 4,29 and 63 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and direction given in the important judgments of Supreme Court like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India and others (WP No. 473 of 2005) the establishment of JJB's , CWC's and Special Juvenile Police Unit have been done. Also the directions given by the Hon'ble Supreme Court have been displayed in all the police stations.
- About the State Uttar Pradesh, in the response received from the Addl. Secretary, Government of Uttar Pradesh, mentions that, with a letter addressed to all the Superintendent of Police/other police officials, from DG (Police) dated 16/09/2012 was sent to bring them in knowledge about the provision of establishment of JJB's , CWC's and Special Juvenile Police Unit. The annexure of the reply received consists of 2 official letters of directions from Superintendent of Police to DG (Police) both aiming towards bringing the attention of various police officials regarding the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and directions given in the important judgments of Supreme Court like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India and others (WP No. 473 of 2005), and others dated 19/08/2011, 12/10/2011(WP No.473 of 2005). It is important to mention that the reply doesn't reveal the present status of implementation and ignorance in establishment of Juvenile Justice Board (read as JJB), Child Welfare Committee (read as CWC) and Special Juvenile Police Unit under Sections 4, 29 and 63 of JJ Act 2000.



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- About the State Sikkim, in the response received from Special Secretary (Adm.) Home Department, provides with the following information on the compliance and the implementation of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and important judgments of Supreme Court like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India and others (WP No. 473 of 2005), and others dated 19/08/2011, 12/10/2011(WP No.473 of 2005). It is informed that the State Govt. has notified the State Juvenile Justice (Care and Protection) Rules to carry out the provisions of the JJ Act 2000, in their State. District wise JJB has been constituted vide notification no.70/SJE & WD dated 08/09/2009. The establishment of CWC's district wise, has been done vide notification no. 82-83/2010/W & CDD dated 10/08/2010. The State Govt. has constituted Special Juvenile Police Unit in each district in the State vide notification no. 153/SJE & WD/2009-10 dated 23/02/2010.
  - About the Metropolitan city Delhi, in the response received from Chief Secretary, Govt. of National Capital Territory of Delhi, Delhi Secretariat provides with the following information on the subject which is as follows. In accordance with the provisions of JJ Act 2000, two JJB's have been set up which are headed by Principal Magistrates. Two social worker (Members of these boards) are selected by a Committee consisting of experts in the field of child protection and care and is headed by retired Judge of the Hon'ble High Court. The Delhi Police have identified the Joint CP at the SPU and W&C, Nanakpura as the nodal officer to upgrade the quality of response of the police officials to the children in need of care and protection and juvenile in conflict with law. Special Juvenile Police Units (SJPU) headed by district DCPs with the district ACP as the nodal officer have been set up in all Police districts, Crime and Railways and IGI Airport. The Department of WCD has prepared guidelines for the police officers of the SJPU. There is no information provided about, whether there is establishment of CWC's in the respective districts and no information provided as well, with respect to compliance of the important judgments of Supreme Court like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India

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and others (WP No. 473 of 2005), and others dated 19/08/2011, 12/10/2011(WP No.473 of 2005).

- About the Union Territory Chandigarh, in the response received from Director Social Welfare, Chandigarh Administration provides with the following information on the subject which is as follows. Under Section 4, 29 and 63 of the JJ Act 2000, one JJB has been constituted for the period of three years, one CWC has been constituted for the period of three years and the Women and Child Support Unit sector-17 has been designated as Special Juvenile Police Unit respectively. One police officer in every police station with aptitude and appropriate training has been appointed as Juvenile/Child Welfare Officer, who are trained and instructed time to time to deal with juvenile and children related cases more effectively. All the welfare officers have been imparted training from the Regional Institute of Correctional Administration, Sector 26 Chandigarh. The Juvenile/Child Welfare Officers handle the cases related to Juvenile/Child.
- About the State Chhattisgarh, in the response received, it is providing with the following facts. Training of officials to deal with juvenile offenders has been imparted to deal with them keeping in view CPR, Act 2005. The State is silent on the status of implementation of provisions of JJ Act 2000, and also there is no information provided about the implementation of Hon'ble Supreme Court guidelines and direction issued in the judgments of land mark cases like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987, Sampurna Behura Vs Union of India and others (WP No. 473 of 2005), and others dated 19/08/2011, 12/10/2011(WP No.473 of 2005).
- About Nagaland, in the response received, there is an acknowledgement to the letter sent by the Commission and further the State Govt. forwarded a copy of the same to all DCs and SPs of Nagaland for implementation. No status can be determined regarding the Compliance and implementation of the provisions of JJ Act 2000, and also there is no information provided about the implementation of Hon'ble Supreme Court guidelines and direction issued in the judgments of land mark cases like D.K Basu Vs State of West Bengal WP (Cri) No. 592 of 1987,