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The Road Map to Mussoorie...



Mains iMPACT – 17/10/2024

NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

SYLLABUS:

GS 2 > Statutory bodies >> Child Rights

REFERENCE NEWS:

NCPCR chairperson Priyank Kanoongo emphasised the need to find “Indian solutions to Indian problems and not follow European models,” for solving children’s issues, a philosophy he believes was his biggest challenge during his tenure as the chairperson of the apex child rights body.

NCPCR:

- The National Commission for Protection of Child Rights (NCPCR) is a **statutory body** under the Ministry of Women and Child Development, established in 2007 under the **Commissions for Protection of Child Rights (CPCR) Act, 2005**.
- It works to protect, promote, and defend the rights of children in India, with a focus on ensuring their survival, development, and participation as enshrined under the United Nations Convention on the Rights of the Child (UNCRC) and Indian laws.
- It monitor the implementation of child protection laws such as the **Right to Education Act, 2009, Protection of Children from Sexual Offences (POCSO) Act, 2012, and Juvenile Justice Act, 2015**.
- NCPCR has a **Chairperson** who is a person with experience in child rights or related areas and **six members**, including **at least two women**, with expertise in fields such as education, child health, child psychology, juvenile justice and elimination of child labour or children in distress.
- The Chairperson shall be appointed on the recommendation of the three members’ committee constituted by the Central government under the chairmanship of Minister of Education.
- The members are appointed by the Central Government. The **central government** may by order remove the chairperson or any other member from office if:
 - Is adjudged insolvent
 - Engages during his term of office in any paid employment outside the duties of his office
 - Refuses to act or becomes incapable of acting
 - Is of unsound mind and stands so declared by a competent court
 - Has so abused his office as to render his continuance in office detrimental to the public interest
 - Is convicted and sentenced to imprisonment for an offense, which in the opinion of the central government, involves moral turpitude

FUNCTIONS AND RESPONSIBILITIES:

- **Addressing Violations of Child Rights:** Take suo moto cognizance of violations of children's rights and intervene in cases involving abuse, trafficking, or exploitation. They investigate violations of child rights and recommend legal proceedings in appropriate cases.
 - The NCPCR has issued guidelines for the assessment of child suspects in heinous offenses to determine whether a child should be treated as a minor or not in criminal cases which come under the "heinous" offences category of the Juvenile Justice Act, 2015.
- **Handling Complaints:** The NCPCR receives and investigates complaints from individuals or groups regarding violations of child rights across the country.
- **Advisory Role to Government:** Provide recommendations to the Central and State Governments on policies, laws, and programs related to child welfare. They report annually and at other intervals to the Central Government on effectiveness of these safeguards.
- **Monitoring Institutions and Facilities:** Oversee child care institutions, schools, juvenile homes, and observation centres to ensure compliance with child protection norms. They inspect institutions where children are detained or reside.
 - National Commission for Protection of Child Rights (NCPCR) declared the mica mines of Jharkhand 'child labour-free' at an event in **Koderma, Jharkhand**. NCPCR chairperson announced this as the first-ever successful endeavour to cleanse a supply chain of child labour in mica mining.
- **Advocacy and Awareness:** Conduct research, awareness campaigns, and capacity-building programs to promote child rights and sensitize the public about child welfare issues. They examine and review existing safeguards for the protection of child rights and recommend measures for their effective implementation.
 - Taking note of the lack of advanced ambulances equipped with medical emergency facilities and life support systems to cater to the special needs of neonates and infants, NCPCR has asked health ministry to implement draft guidelines on the operationalisation of such ambulances.
- The Commission has been mandated under Section 31 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 to examine and review the safeguards of the rights provided under the Act and to recommend measures for its effective implementation.
 - NCPCR has recently told the Supreme Court Madrassas are "unsuitable" places for children to receive "proper education" and the education imparted there is "not comprehensive" and is against the provisions of the Right to Education Act.
- It has been mandated under POCSO Act, 2012 to monitor the designation of Special Courts by State Governments, to monitor the formulation of the guidelines described in section 39 of the Act.
 - POCSO e-box by NCPCR is an online complaint system that allows children to report sexual abuse to NCPCR.
 - Child-Friendly Courts to ensure effective implementation of POCSO through child-friendly courts and special protection units.
- It also has been charged with the monitoring of Child Care Institutions (CCIs) and was instructed to carry out a Social audit of the same by the Supreme Court.
 - Baal Swaraj portal for rescue and rehabilitation of children in need of care and protection. Collaborates with law enforcement agencies to combat child trafficking and ensures the rehabilitation of rescued children.

CHALLENGES FACED BY NCPCR:

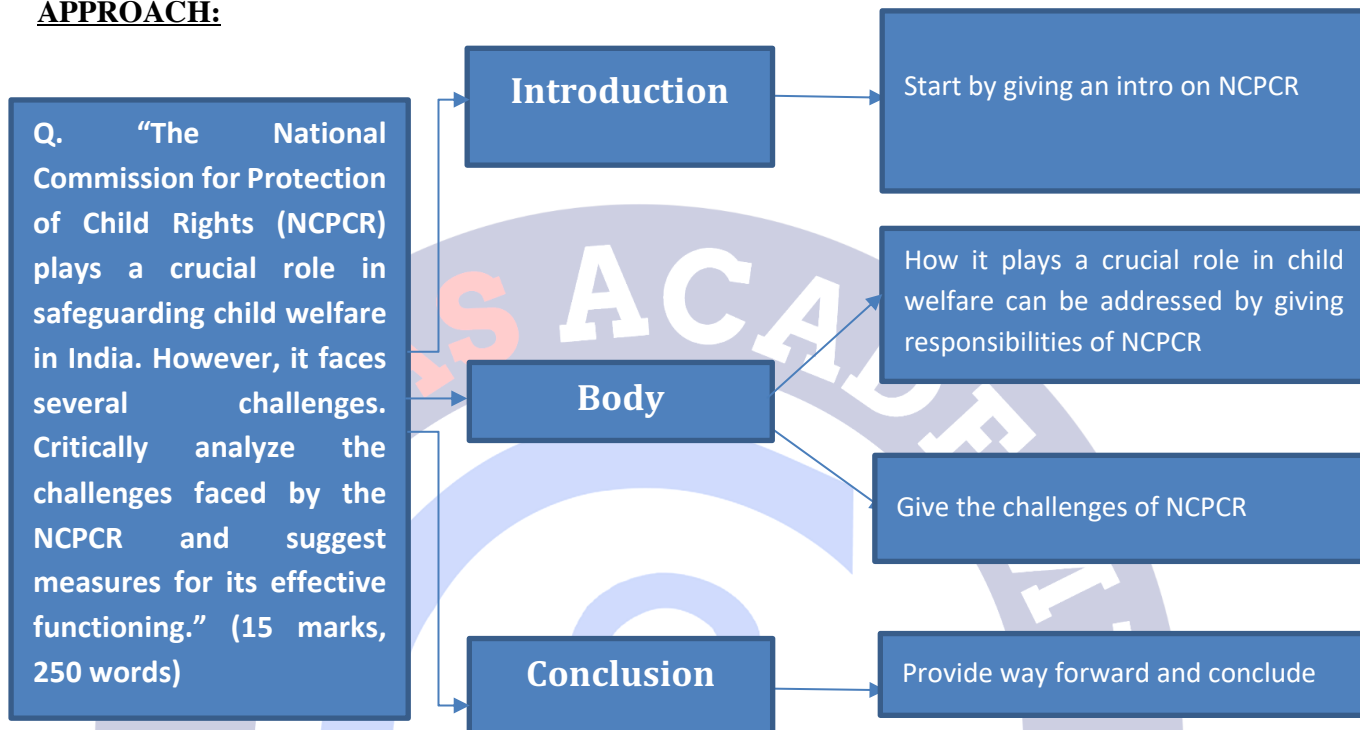
- **Limited Enforcement Powers:** The NCPCR has **recommendatory powers**, but it lacks **authority to enforce** its decisions. It depends on **other authorities** for action, leading to delays in addressing violations.
 - NCPCR can only advise state governments on child protection matters; it does not have the power to directly intervene in the enforcement of the **POCSO Act** or **Right to Education (RTE) Act**.
- **Inadequate Manpower and Financial Constraints:** The NCPCR suffers from **insufficient staff** and **budgetary limitations**, affecting its ability to monitor child rights violations effectively.
 - In 2019, the **Standing Committee on Human Resource Development** reported that NCPCR's budget allocation was **inadequate** for its expanding responsibilities. This limits the NCPCR's ability to conduct **frequent inspections** of child care institutions and effectively manage complaints.
- **Overlapping Jurisdiction with State Commissions (SCPCRs):** There are **coordination issues** between the NCPCR and the **State Commissions for Protection of Child Rights (SCPCRs)**, leading to **duplication** of efforts or neglect of responsibilities.
 - In many cases, SCPCRs fail to act promptly on cases referred by NCPCR, delaying justice for children. A report by **HAQ: Centre for Child Rights** highlighted inconsistent coordination between national and state commissions as a bottleneck.
- **Inadequate Monitoring and Follow-up Mechanisms:** Due to limited resources, the NCPCR struggles with **regular monitoring** of child care institutions and schools for compliance with the **RTE Act** and **Juvenile Justice Act**.
 - Several child care institutions in Tamil Nadu were found operating without proper registration, despite NCPCR's mandate to monitor such facilities. In 2018, **84% of child care institutions** audited by NCPCR did not meet the required standards under the JJ Act.
- **Delays in Handling Complaints:** The commission is often overwhelmed with **complaints** regarding child abuse, trafficking, and denial of education, leading to **delays** in redressal.
 - According to NCPCR's annual report, more than **10,000 complaints** were pending for investigation as of 2021, slowing the process of justice delivery.
- **Lack of Awareness and Public Engagement:** Many citizens, especially in **rural areas**, are unaware of the NCPCR's role and functions, limiting its ability to reach vulnerable children.
 - During the **COVID-19 pandemic**, many orphaned children were found begging on the streets, but few complaints were registered with NCPCR due to lack of public awareness.
- **Political and Bureaucratic Interference:** The commission's **independence** is sometimes compromised due to political and bureaucratic interference, affecting its ability to act impartially.
 - Instances have been reported where child rights violations related to **politically sensitive cases** were underplayed or ignored by local authorities, limiting the NCPCR's impact.
- **Inconsistent Implementation of Child Protection Laws:** Although NCPCR is mandated to monitor the implementation of laws like the **POCSO Act** and the **RTE Act**, poor coordination with **law enforcement agencies** and **schools** affects compliance.
 - In 2022, NCPCR identified **5,000+ schools** across India that were violating provisions of the RTE Act, but many schools remained non-compliant even after notices were issued.

WAY FORWARD:

- **Strengthen the Legal and Enforcement Powers of NCPCR:** The Justice Verma Committee (2013) recommended granting more enforcement powers to NCPCR to implement child protection laws more effectively. The Parliamentary Standing Committee on Education (2021) urged for amending the CPCRA Act, 2005 to give NCPCR penal powers.
- **Improve Coordination between NCPCR and SCPCRs:** The HAQ: Centre for Child Rights report suggested the creation of joint task forces between NCPCR and State Commissions for effective monitoring of child rights.
 - Australia's National Child Protection Framework has a centralized child protection framework with clearly defined roles for state and federal agencies, improving coordination across jurisdictions.
- **Adequate Funding and Resource Allocation:** The Standing Committee on Human Resource Development (2019) emphasized the need for higher budget allocations for NCPCR, given the expanding scope of its responsibilities.
 - Norway's Child Welfare System allocates 3-4% of its GDP to child welfare services, ensuring sufficient resources for child protection efforts.
- **Establish a Centralized Data and Monitoring System:** The CAG Report (2018) suggested developing a centralized digital platform for real-time monitoring of child rights cases across the country.
 - The Federal Railroad Administration (FRA) in the US uses a real-time data platform for monitoring safety incidents, enabling effective policy responses.
- **Focus on Training and Capacity Building:** The Justice P.N. Bhagwati Committee suggested capacity-building programs for NCPCR staff and regular training sessions for law enforcement agencies handling child protection cases.
 - UK's National Child Protection Training Program offers continuous professional development (CPD) for social workers and child protection officers, ensuring they stay updated on the latest practices.
- **Strengthen Awareness and Public Engagement:** The National Policy for Children (2013) emphasized the need for public awareness campaigns to sensitize citizens about children's rights and the role of NCPCR.
 - Sweden's Child Helpline Model runs child-friendly helplines and awareness programs, empowering children and parents to report violations proactively.
- **Enhance Monitoring of Child Care Institutions and Schools:** The Madhav Chavan Committee recommended regular audits of child care homes and RTE compliance monitoring in schools to ensure child safety and well-being.
 - Germany's Kinder- und Jugendhilfe Framework mandates periodic inspections of childcare institutions and provides annual audit reports to ensure compliance with child safety norms.
- **Address Gaps in Redressal Mechanisms:** The Parliamentary Committee on Women and Child Development (2021) urged faster redressal of complaints related to child rights violations and recommended setting up regional NCPCR offices for improved access.

PRACTICE QUESTION:

Q. “The National Commission for Protection of Child Rights (NCPCR) plays a crucial role in safeguarding child welfare in India. However, it faces several challenges. Critically analyze the challenges faced by the NCPCR and suggest measures for its effective functioning.” (15 marks, 250 words)

APPROACH:**MODEL ANSWER:**

The NCPCR was established in 2007 under the **Commissions for Protection of Child Rights (CPCR) Act, 2005** to protect and promote **children’s rights** across India. Strengthening the NCPCR is crucial to ensure compliance with child protection laws and international conventions like the **UNCRC**.

FUNCTIONS AND RESPONSIBILITIES:

- **Addressing Violations of Child Rights:** The NCPCR has issued guidelines for the assessment of child suspects in heinous offenses to determine whether a child should be treated as a minor or not in criminal cases which come under the “heinous” offences category of the Juvenile Justice Act ,2015.
- **Monitoring Institutions and Facilities:** National Commission for Protection of Child Rights (NCPCR) declared the mica mines of Jharkhand ‘child labour-free’ at an event in **Koderma, Jharkhand**. NCPCR chairperson announced this as the first-ever successful endeavour to cleanse a supply chain of child labour in mica mining.
- The Commission has been mandated under Section 31 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 to examine and review the safeguards of the rights provided under the Act and to recommend measures for its effective implementation.
 - NCPCR has recently told the Supreme Court Madrassas are "unsuitable" places for children to receive "proper education" and the education imparted there is "not comprehensive" and is against the provisions of the Right to Education Act.
- It has been mandated under POCSO Act, 2012 to monitor the designation of Special Courts by State Governments, to monitor the formulation of the guidelines described in section 39 of the Act.

- It also has been charged with the monitoring of Child Care Institutions (CCIs) and was instructed to carry out a Social audit of the same by the Supreme Court.

CHALLENGES FACED BY NCPCR:

1. **Limited Enforcement Powers:** NCPCR's role is **recommendatory**, lacking the power to directly **enforce decisions** or impose penalties, resulting in **delays** in addressing violations.
 - NCPCR can only advise state governments regarding violations under the **POCSO Act** or **RTE Act** but cannot intervene in their enforcement
2. **Inadequate Resources and Manpower:** Insufficient **staff and budgetary allocation** limit the commission's capacity to conduct inspections and handle complaints.
 - The **Standing Committee on Human Resource Development (2019)** reported that NCPCR's budget was inadequate for its growing responsibilities
3. **Coordination Issues with State Commissions (SCPCRs):** The overlapping jurisdiction between NCPCR and SCPCRs leads to **duplication of efforts** and delays in redressal.
 - In several instances, SCPCRs failed to act promptly on cases referred by NCPCR, affecting justice delivery for children
4. **Delays in Complaint Handling:** The commission is often overwhelmed with **complaints related to child abuse, trafficking, and denial of education**, leading to **backlogs**.
 - As of **2021**, more than **10,000 complaints** were pending with NCPCR for investigation
5. **Inconsistent Implementation of Child Protection Laws:** Despite its mandate, the NCPCR struggles with the **implementation of laws** like the **RTE Act** and **POCSO Act** due to poor coordination with law enforcement agencies and schools.
 - In **2022**, NCPCR identified **5,000+ schools** violating RTE provisions, but many remained non-compliant even after notices were issued

MEASURES FOR EFFECTIVE FUNCTIONING OF NCPCR:

1. **Strengthen Legal and Enforcement Powers:** The **Justice Verma Committee (2013)** recommended granting **penal powers** to NCPCR to ensure stricter implementation of child protection laws.
2. **Improve Coordination between NCPCR and SCPCRs:** **Australia's Child Protection Framework** has a centralized system that ensures **cooperation between federal and state agencies**.
3. **Adequate Funding and Human Resources:** The **Standing Committee on Human Resource Development (2019)** emphasized the need for **higher budget allocations**.
4. **Enhance Training and Capacity Building:** The **Justice P.N. Bhagwati Committee** suggested **capacity-building programs** for NCPCR staff.
5. **Regular Monitoring of Child Care Institutions:** The **Madhav Chavan Committee** recommended **regular audits** of child care homes and **compliance checks** under the RTE Act.

The NCPCR's role is essential in ensuring the protection and promotion of **children's rights**. However, addressing challenges related to **legal limitations, resource constraints, coordination issues, and awareness gaps** is critical for its effectiveness. By **enhancing enforcement powers, adopting best practices from other countries, and strengthening coordination with state commissions**, the NCPCR can play a more impactful role in securing the welfare of children across India.