

FROM THE DESK OF THE CHAIRPERSON OF THE J.J. COMMITTEE

Hi all!

Its my Swan Newsletter!

I must confess that I have failed juveniles for the State of West Bengal as we could not publish the newsletter for the month of October 2018, but don't worry I will make amends by boring you, a little more.

Justice Soumen Sen did tell you that on 15th September 2018 the 1st Child Friendly Court (CFC) was inaugurated at Bichar Bhawan (Calcutta) in the presence of Justice Lokur. We also inaugurated 3 CFCs through video conference Purba Bardhaman (Sadar), Bankura (Sadar) and at the sub-divisional court, Khatra, Bankura. Yes each of us tread on our toes, I was stressed as deadline was important. The members of the Juvenile Justice Committee hated me for pushing them but the day dawned and we were able to achieve which we had set out 3 months earlier. When it was inaugurated I felt like a mother hen clucking away but I realised too that other district-sadar and sub-division is to be done. Some are in pipeline, money has been sanctioned by the State of West Bengal for some of the districts and needs to be readied and inaugurated.

From the State of West Bengal I travel to Arunachal Pradesh. I had never given importance to the North East

States either travelwise or otherwise. Maybe because it is a part of Eastern India and Bengal is a part of Eastern India too. I have travelled North, South, West and Central India but never East India and that is the reason I travelled to Arunachal Pradesh. Marie, a little girl works in Calcutta and although an adult I still would like to call her a little girl. She is an Arunachali girl and she prodded me to go to Arunachal Pradesh and I must confess that I did not regret going to Tawang, Bomdilla, Itanagar, Dirang etc. Although Arunachal Pradesh was given Statehood status in 1987, the infrastructure is not in place. Being a hilly terrain, roads are bad but the non-polluted air compensates the bumpety rides. The simple people, their hospitality, smile, honest etc. etc. made it possible to bear the minuses. Besides the above I have found that the people of Arunachal Pradesh are hardworking and they are sincere to their commitment, e.g. Budi Habang, the judicial officer, belonging to the Apatani tribe, who is the Member Secretary of (APSLSA). During my stay APSLSA inaugurated the legal literacy club in Bomdilla and held a one day sensitization programme in Itanagar. Besides these programmes they need to be supported much more. No State Government run home exists in the



State of Arunachal Pradesh. The only home, is run by an NGO and the staff needs to be sensitized. I don't want to be harsh on either the NGO or the juveniles but they must be looked after. I appeal to Justice Koteswar, who has been transferred to the Guwahati High Court recently, to take this issue, to whomever it is, but the little I do know of him he will do something for the juveniles of Arunachal Pradesh. Well I must end as you are bored by now, but before I do, I must inform that the 5th Child Friendly Court has been inaugurated at Paschim Medinipur on 15th November 2018.

Adieu.

Stay well.

All the best.

NADIRA PATHERYA

**CHAIRPERSON OF THE JUVENILE
JUSTICE COMMITTEE**

CALCUTTA HIGH COURT

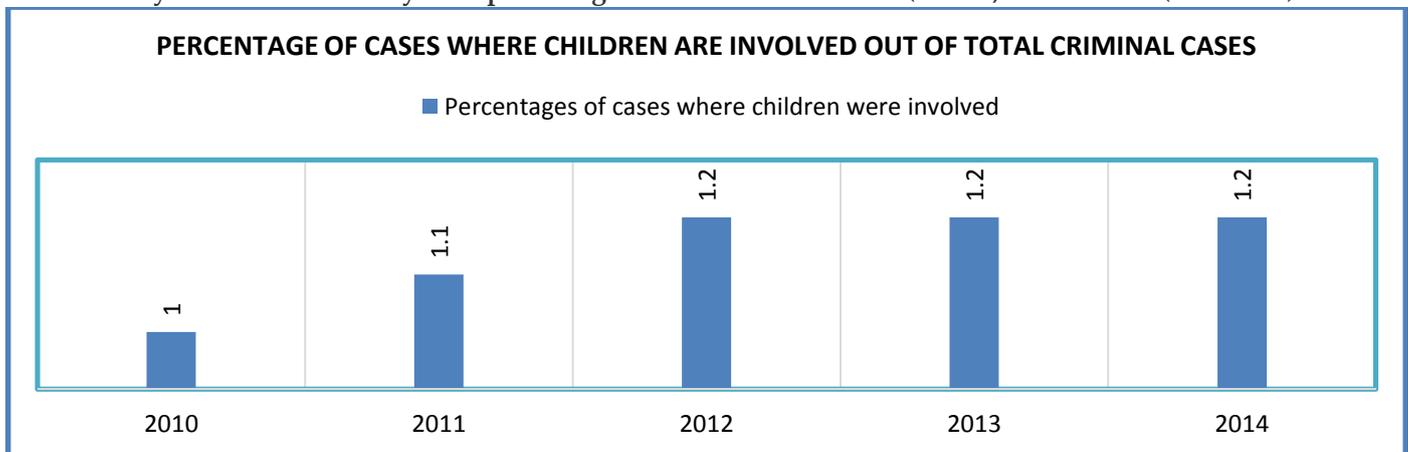
Addressing Juvenile Delinquency: The Central Role of the Rehabilitative Process

“it takes a village to raise a child”

-African Proverb

The purpose of the JJ system, as stated by the preamble to the JJ Act, 2015 is to create a legal and administrative system that caters “to their basic needs through proper care, protection, development, treatment [and] social re-integration”. Rescue, Rehabilitation and Re-integration is thus the conceptual triad on which the JJ system rests. The JJ system is based on the understanding that children commit crimes on account of familial, community, and broader environmental factors to which the child has been continually exposed.

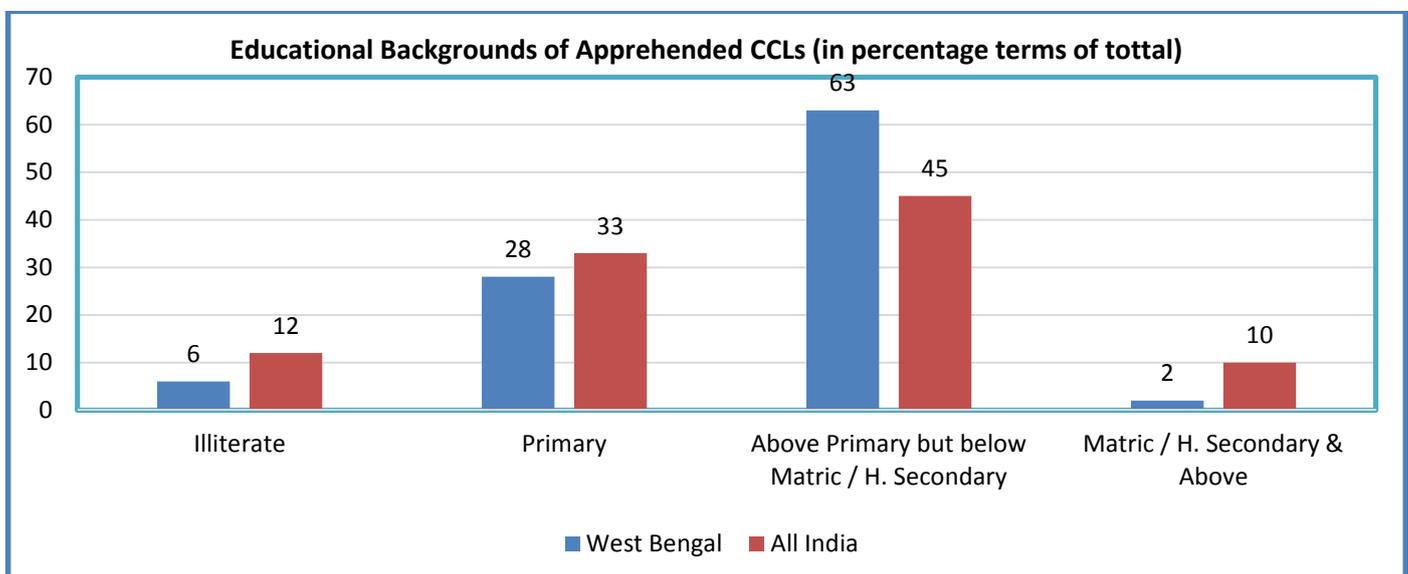
It is also important to dispel the myth that the involvement of children in crimes is a widely prevalent phenomena. Data from the NCRB shows that while overall juvenile crime has increased by 47%, over the last five years, crimes committed by children forms only 1-1.2 percentage of total crime in India. (NCRB, Crime India (2010-2014).



(Source: NCRB, Crime in India)

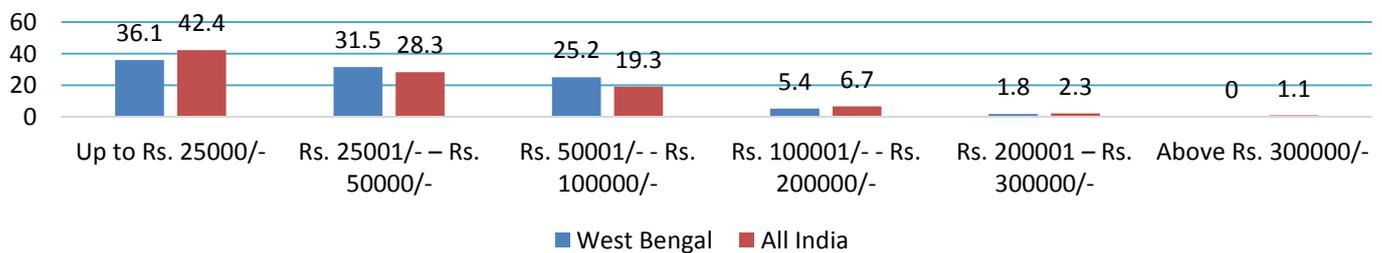
There is also a need to consider adult involvement in these crimes. In a study done by the Tata Institute of Social Sciences (TISS) it was found that the number of offences committed by the children alone was less in comparison to the number of offences committed by children in a group or along with adults (TISS, Undated). NCRB data is contrary. Even if a child was coerced to being a party to the offence, or motivated by an adult and his role in a crime was limited, he would still be charged under the same set of provisions as the adult was charged.

It is also seen that most of the children who are booked come from dysfunctional families, has received poor education and is from economically disadvantaged backgrounds. Poverty is a common incidence in situations of juvenile crime, supported as 68% belong to poor families.



(Source: NCRB, Crime in India, 2015)

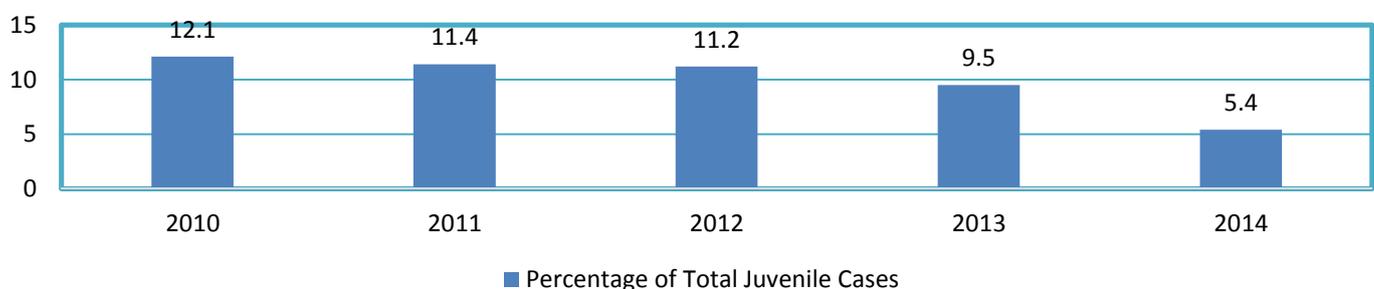
Economic Background of the Families of the Apprehended CCLs (in Percentage Terms)



(Source: NCRB, Crime in India,2015)

Data however shows that instances of children becoming repeat offenders are on the decline.

Recidivism (All India)



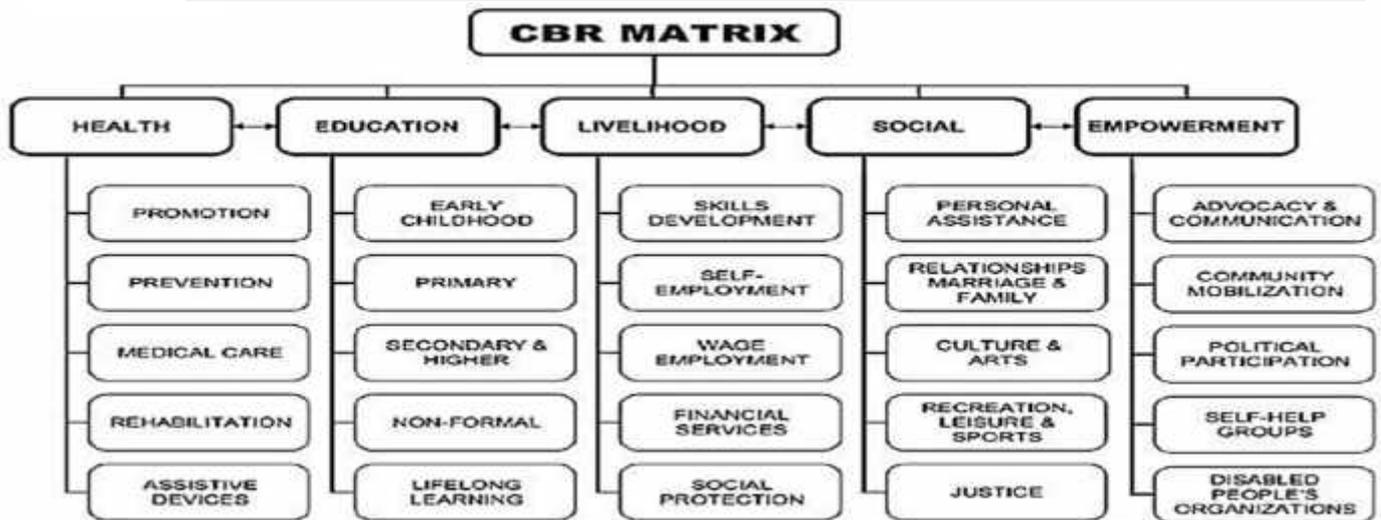
(Source: NCRB, Crime in India)

Research shows that children involved in crimes typically come from difficult circumstance for example parental alcoholism, poverty, family breakdown, overcrowding, abusive conditions in the home, orphaned or unaccompanied and those without means of subsistence, housing and other basic necessities are at great risk of falling into juvenile delinquency.

Factors and Pathways in offence (Source: TISS, Undated)



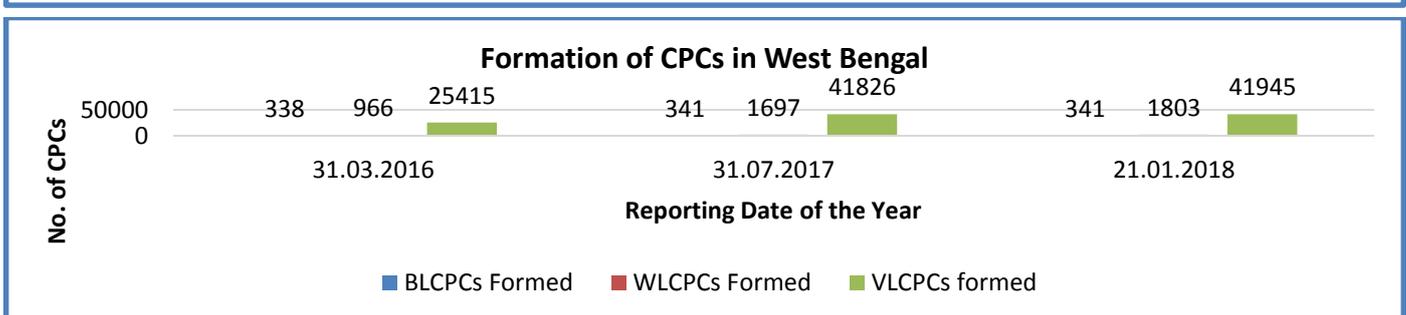
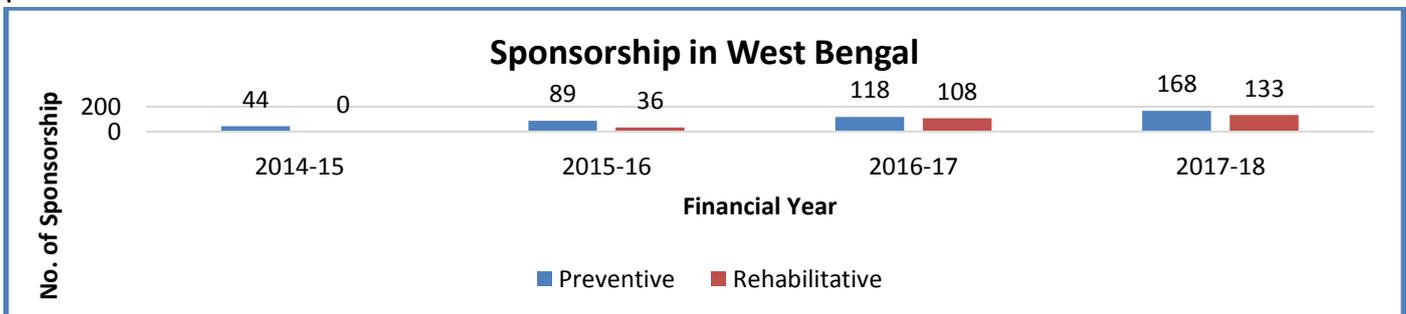
Rehabilitation and redressal, in the true sense of the word requires much more than merely ensuring lack of recidivism. It has to be holistic and includes everything that enables the child to live a constructive and happy life with opportunities for future prospects. It means that dignity of the juvenile is restored. As is evident from the WHO-Community Based Rehabilitation (CBR) matrix, it takes a number of agencies and actions to ensure proper rehabilitation of the child (Though the matrix was developed in the context of rehabilitation of disabled children, experts point out that it remains a comprehensive and crucial reference point for rehabilitation of children involved in crimes too)



(Source : WHO, Undated)

The JJ Act creates a system with agencies that are tasked to perform different functions in this matrix. The JJBs and the Children’s Courts perform the function of assessing culpability and ensuring that the final dispositional order ensures rehabilitation. To achieve this end, they are supported by various agencies such as SJPU and Probation officers who investigate or enquire into the antecedent of the child and help the JJB/Court to arrive at suitable measures to restore the child. The institutional and non-institutional mechanisms provided by Chapter VII of JJ Act, 2015 (that ranges from sponsorship to special homes) provide additional support that aim at prevention and action that eventually leads to restoration. It is to enable this holistic approach that the law insists that an individual care plan be made a mandatory component of every final dispositional order passed by JJB/Court. Apart from these post-incident response measures, CWCs and DCPUs are put in charge of operationalising the preventive measures. In addition to these, the Child Protection Committees (CPCs) at the Block, Ward and Village Levels are the platforms for community engagement and outreach.

While data shows that on all these counts, performance of West Bengal is towards progress, nonetheless, there is much required to be done. Even as the institutional mechanisms are being set, adequate training, sensitization and human resources to perform their functions remains a point of concern.



Data indicates that key documents such as the Social Background Reports and Social Investigation Reports are not prepared and submitted to the court and if they are submitted at all, they are delayed and incomplete. There continues to remain a lack of communication between the different stakeholders and agencies as a result of which, the rehabilitative process suffers. There is also lack of data concerning the success of rehabilitative measures.

While over the last few years, attention has been spent on creating the basic institutional apparatus for working the JJ system as a result of which we have JJBs and other support systems, the path ahead of us is to consolidate the gains made. There is a need to ensure that these systems work in synergy and that the focus shifts further towards ensuring that the proceedings are targeted at rescue, restoration and rehabilitation.

References

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