

“We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the fountain of life. Many of the things we need cannot wait. The child cannot..... To him we cannot answer ‘Tomorrow’, his name is today.” - Gabriela Mistral.

I have returned to the desk to pen down a few words on Child Welfare Committees after the successful inauguration of four Child Friendly Courts at West Bengal, in presence of Justice Madan B. Lokur who was gracious enough to inaugurate the Child Friendly Court at BicharBhawan, Kolkata and three others through Video Conferencing-Bankura (Sadar), Khatra (Sub-division) and Purba Bardhaman. However, the rejoice for me is short lived as I am unhappy with the present state of affairs of CWCs in the State. I mourn the plight of the children and their appalling conditions due to vacancies in most of the CWCs in the State.

The need for addressing the difficulties faced by children in vulnerable situations is the focal point of child protection. It is with this focus that various statutory bodies like Juvenile Justice Boards, Child Welfare Committees and Special Juvenile Police Units have been constituted.

A Child Welfare Committee (CWC) is a statutory body constituted under Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The CWC is the competent authority for dealing with all matters related to Children in Need of Care and Protection (CNCP) in the district. The said Act further states that the State Government will constitute at least one such committee in each district.

The selection procedure, eligibility criteria and mandatory induction training of the CWCs are also clearly stated in the Act.

Each CWC consists of one Chairperson and four (4) other members of whom at least one shall be a woman, and another, an expert on the matters concerning children. The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or a Judicial Magistrate of First Class.

The CWC has the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection. The CWC must have meetings for at least twenty days in a month.

The District Magistrate is the grievances redressal authority for the CWC and anyone connected with the child, may file a petition before the District Magistrate who will address it accordingly. The DM also reviews the performance of the CWC on a quarterly basis.

The CWC plays an important role in non-institutional care. It takes cognizance of and receive the children produced before it. Conducts inquiry on all issues relating to and affecting the safety and well being of the CNCP. It directs the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report to the CWC. Conducts inquiry for declaring fit persons for care of children in need of care and protection. It directs placement of a child in foster care and ensures care, protection, appropriate rehabilitation or restoration of CNCP and based on the child's individual care plan passes necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard. It selects registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs and keeping in mind the available capacity of the institution. Conducts at least two inspection visits per month of residential facilities for CNCP and recommends action for improvement in quality of services to the District Child Protection Unit and the State Government. Certifies the execution of the surrender deed by the parents and ensures that they are given time to reconsider their decision as well as making all efforts to keep the family together. It ensures that all efforts are made for restoration of abandoned or lost children to their families following due and prescribed process, declares orphan, abandoned and surrendered child as legally free for adoption after due inquiry,

takes suo motu cognizance of cases and reaches out to those CNCP who are not produced before the Committee, provided that such decision is taken by at least three members, takes action for rehabilitation of sexually abused children who are reported as CNCP to the Committee by Special Juvenile Police Unit or local police under the Protection of Children from Sexual Offences Act, 2012, deals with CNCP cases referred by the juvenile Justice Board, co-ordinates with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government, causes enquiry on the basis of complaint of abuse of a child in any child care institution, and gives directions to the police or the District Child Protection Unit or labour department or CHILDLINE services, accesses appropriate legal services for children.

The guiding principle of child protection is that family is the best place for a child. Thus there is a thrust on deinstitutionalization. CNCP can be reunited with his family and be provided with sponsorship support. CWC as the competent authority can facilitate the process. Also, children without parents can find loving families through adoption and CWC can facilitate the process by declaring these children legally free for adoption. In the near future, foster care also may be promoted by CWC although at present it is yet to gain ground.

JJA 2015 also defines street children as CNCP and thus Open Shelters are now under the purview of CWC. There are some grey areas in this respect but it will definitely help in identifying CNCP who are in need of long term care and in case such children are identified, CWC may direct their transfer to a Children's Home.

The POCSO Act, 2012 also mentions that CWC will provide support persons in cases where such assistance is sought. This role becomes significant now as Child Friendly Courts have been established in West Bengal.

West Bengal shares a long and porous border with Bangladesh. Thus the problem of cross border trafficking is to be dealt with constantly. The CWCs facilitates the repatriation



process which is co-ordinated by the West Bengal Task Force.

The Herculean task of rehabilitating CNCP is both challenging and rewarding. The CWC, as the competent authority, is the main hope for the thousands of vulnerable children. With proper convergence and co-ordination among all the child protection stakeholders, these committees can ensure child participation, proper rehabilitation and reintegration of CNCP.

The selection of members of CWC is to be done carefully. Selflessness, expertise and knowledge, trustworthiness and discipline should be the key considerations for selection. In many cases, it was found that members selected had no experience in working with children or grass root level organizations. Lack of sympathy and sensitivity were visible many a times.

In some of the districts, co-ordination between CWC and DCPU were found missing. DCPU staffs were not properly trained and did not have filed exposure. CWC members often complain lack of transport to inspect homes. Police also play an important role. Non-responsive and unsympathetic attitude of police personnel to the needs of vulnerable children are likely to impede and obstruct effective implementations of JJ Act.

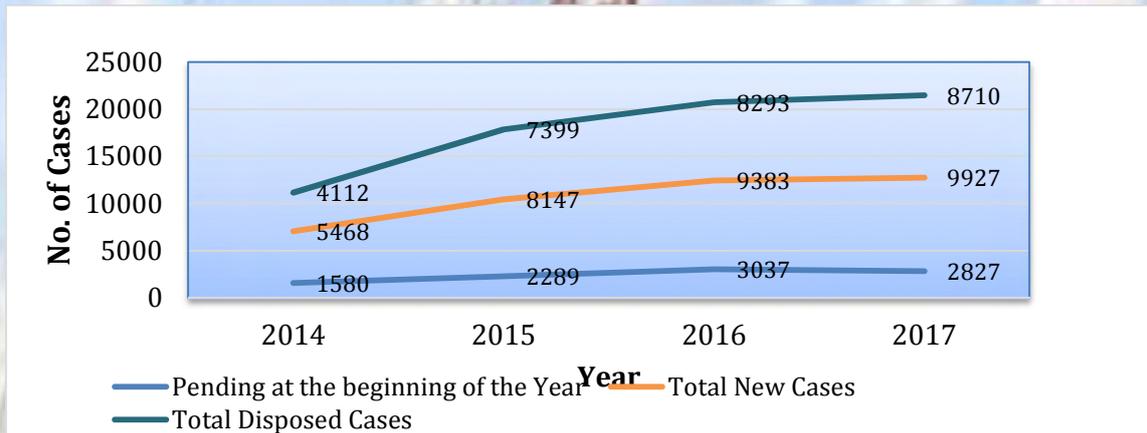
Before I conclude, may I quote few lines from the poem “Charpatra” by Sukanta Bhattacharjee:-

***I shall make this world habitable for this child -
This is my earnest undertaking to the new born.
And at long last having done with all the work,
I shall bless the new born with my life blood,
And then I shall enter the annals of history.***

**Soumen Sen
MEMBER OF THE JUVENILE
JUSTICE COMMITTEE.
CALCUTTA HIGH COURT.**

The West Bengal Scenario

At about 2014, all CWCs were constituted in all districts in Bengal and they were functional. The figure below plots the rates of institution, pendency and disposal of cases before the CWCs in Bengal between 2014 and 2017. It is seen that the rate of disposal closely matched the rate of institution and that pendency was on the decline.



However, the terms of these committees has as such expired and hence except for a few districts they are not functional at all. Most of the committees has been dysfunctional since about the last one and a half years. The Committee in Purulia has been dysfunctional since 2016. As a result of this, the other statutory bodies are finding it difficult to perform their functions and discharge their roles as the CWC is one of the nodal points for the functioning of the JJ system for the CNCP. Lack of a CWC results in slowdowns and confusions around a number of processes such as gatekeeping and monitoring of the children's homes, adoptions etc.

The West Bengal Juvenile Justice (Care and Protection of Children) Rules, 2017 have been framed and selection committee has also been constituted accordingly. The process of selecting new CWCs has been initiated. In order to protect the best interest of children, the existing CWCs have been given additional charges of other districts. The details vide No. 4974/1(50)- SW dated 12.09.18 are as follows:

S No	Sitting CWC	Additional Charge assigned of the Child Welfare Committees
1	CWC, Alipurduar	Coochbehar, Jalpaiguri, Darjeeling, Kalimpong
2	CWC, Uttar Dinajpur	DakshinDinajpur, Malda, Murshidabad
3	CWC, North 24 Parganas	South 24 Parganas, Kolkata, Howrah, Hooghly, Nadia
4	CWC, Birbhum	PurbaBardhaman, PaschimBardhaman, Bankura, PurbaMedinipur, PaschimMedinipur, Jhargram, Purulia

The selection process of CWCs in rest of the districts is under process and it is expected that all the districts including the three new districts of Kalimpong, Jhargram and Paschim Bardhaman will have their CWCs in the near future. There is also plan of constituting additional CWCs in a few districts like Darjeeling and South 24 Parganas as this will help reducing caseload in the existing CWCs.

While the process for reconstitution of the CWCs are underway and it is close to be completed, it is important to underline the need for ensuring that there are no significant periods of time when there are no CWCs functional. The terms of the CWCs are known well in advance and the processes for their reconstitutions ought to have been initiated well in advance so as to ensure a seamless transition

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Best Practices by Child Welfare Committee (CWC)

The newly formed CWC in Alipurduar is very proactive and child friendly. They maintain a duty roster for holidays and the CWC sits in all seven days of the week. The Chairperson and at least one member remain present till late hours. In order to protect the best interest of children, this CWC has adopted a very progressive measure. Whenever a child of Alipurduar is rescued in some other State, this CWC facilitates identification of the child's family and accepts the child even when the Social Investigation is under process. If family members of the rescued child cannot report to CWC to receive the child, the Chairperson restores the child and hands him over to his parents/family. This initiative of reaching a rescued child to his home is definitely praiseworthy. The follow up of cases are also done by CWC through outreach.

The former CWC of Howrah which completed its tenure in November, 2017, carried out outreach services through co ordination and team work. This CWC has facilitated speedy inter- State restoration on many instances where they have remained present in Howrah station and have signed relevant orders. This progressive step had helped faster restoration of children to other States. This CWC also had a practice of counselling 10 children of one CCI on every working day. The name of the CCI and the day on which its children would be Counsellor were fixed. This is in addition to the normal CWC sittings. The process was facilitated by the Counsellor of DCPU. In case of any crisis in any CCI- like escape or death, this CWC had a record of working till very late hours. Howrah CWC members along with the DCPU team had also rescued an unclaimed baby from Uluberia hospital.



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Success Stories

Case No: 1

One girl Child aged about 16 years (at the time of admission in to Shilayan Home, Murshidabad), was transferred from CWC, Thiruvananthapuram, Kerala to Shilayan Home on 30.09.2013. The said CNCP was subjected to gang rape and was eligible to get compensation @ Rs.3,00,000/= and the said amount was kept in the Saving A/c of SBI, Berhampore ADB Branch and transferred at SBI Sagardighi Branch and handed over to the said girl on completion of age of 18 years on 01.04.2016. She is happily married now.

Case No: 2

An female patient of Berhampur Mental Hospital gave birth to a female child and was complaining that her child was taken away from her. The Chairperson of CWC, Murshidabad visited the hospital and met the Superintendent and recovered the baby with the help of police. The baby was handed over to child line and she was then admitted to Murshidabad College and Hospital. After 18 days the baby was handed over to SAA at Malda as per CWC order. After 8 months of her stay in SAA Home she was given in foster care to a couple in Kolkata after DCPO gave a detailed report stating: "no biological mother family found". The couple had taken great care of the child and they had already filed an application for adoption of child before the District Judge of Murshidabad. However, later on at the initiative of the Chairman of CWC the parents of the girl could be traced. The mother is critically ill and unable to speak coherently. The father does not want the baby as he does not have resources to bring her up. The child is now attending Loretto School in Kolkata.

