

Juvenile Justice Newsletter

Monthly Newsletter of Activities Concerning Child Protection in Assam

Editorial

Juvenile Justice (Care and Protection of Children) Act, 2000 has been a topic of discussion offlate. It has been amended twice: in 2006 and in 2011. More demands to amend the Act have been in the reckoning. There was, for instance, a public outcry demanding more stringent punishment for the prime accused, a juvenile, in the Delhi gang rape case of 2012. In this backdrop, the Government of India is now contemplating re-enacting a new JJ Act, 2014, for which a review committee has been constituted under the Ministry of Women and Child Development. The baton has been passed on to Parliament to enact a new law.

The draft Bill provides a comprehensive mechanism to deal with children in conflict with law as well as children who are in need of care and protection. However, only a stringent implementation can provide a meaningful disposition to make it a true letter of law.

This month's issue carries an article on the Regional Round Table Conference of North-Eastern States and Sikkim, held on 23rd and 24th August, 2014 at Guwahati among key stakeholders on effective implementation of present Juvenile Justice Act, before the new Act

Editorial Board,
State Child Protection Society, Assam

Assam Hosts Regional Round Table Conference of North Eastern States on Effective Implementation of Juvenile Justice (Care and Protection of Children) Act, 2000

Supreme Court of India's Juvenile Justice Monitoring Committee in association with Gauhati High Court, National Law University and Judicial Academy, Assam and UNICEF, organized two day Regional Round Table Conference of North-Eastern States and Sikkim, on effective implementation of Juvenile Justice Act, at Guwahati on 23rd and 24th August, 2014. The objective behind was to address all critical bottlenecks and gaps which key stakeholders mandated to implement the Act are facing while implementing the Juvenile Justice Act and to come up with recommendation and suggestion to overcome those.

During the inaugural session Justice, Madan B. Lokur expressed his views on the functioning of Juvenile Justice (Care and Protection) Act, while Justice K. Sreedhar Rao, Chief Justice (Acting), Gauhati High Court gave his introductory remarks on the theme of the conference. Justice A.C. Upadhyay (Retd), Director, Judicial Academy, Assam delivered the welcome address.

The first technical session started with State wise presentations on status of the implementation of the JJ Act and key Challenges. This session was chaired by Justice T. Vaiphei, and co-chaired by Justice Hrishikesh Roy, of the Gauhati High Court. Justice (Dr) Indira Shah and Justice N. Chaudhary made their presentations on the functioning of JJ Act in the States of Assam, Nagaland, Mizoram and Arunachal Pradesh.

On the status of the implementation of Juvenile Justice Act and the challenges in the States of Meghalaya, Tripura, Manipur and Sikkim, Justice S.R. Sen, Judge, High Court of Meghalaya, Justice U.B. Saha, Judge, High Court of Tripura, Justice N. Kotiswar Singh, Judge, High Court of Manipur, Justice S. K. Sinha, Judge, High Court of Sikkim made presentation for their respective states.

During the presentations various bottlenecks and shortcomings in the system were reflected. All the states articulated challenges relating to the fact that the present system was clogged with various structural, financial, administrative, organizational and infrastructural challenges. The rampant trafficking of children in these areas particularly plagued the working of the juvenile justice system in the North Eastern States and Sikkim. The uncontrolled illegal migration from the neighboring countries and the presence of border forces continually in this turbulent region also amplified the problem.

The issues of common concern among all the states were as follows:-

- **Effective Functioning of CWCs:** The problems related to the functioning of the CWCs were raised only in the presentations made by the state of Assam, in which it was highlighted that the functioning of CWCs was affected by the large number of vacancies and the lack of adequate infrastructure.
- **Effective Functioning of JJBs:** The state presentations revealed a number of challenges that impacts the proper functioning of the JJBs in the North East region. These issues range from infrastructural and staffing problems to difficulties in tackling pendency of cases.
- **Effective Management of Institutions:** The situation in the different Homes was also discussed extensively during the state presentations. Shortage of staff, shortage of homes and infrastructural concerns are shared in common by these states which has resulted in the poor quality of these Homes.

■ **Effective Provision of Legal Aid for Children:** The issues regarding legal aid were raised only in the presentations on the states of Assam and Meghalaya. The challenges regarding legal aid were discussed during the group presentations, wherein it was highlighted that free legal aid is not accessible or scantily accessible.

■ **Police:** All states repeatedly and unanimously expressed their unhappiness with the functioning of the Police in relation to both sectors of children - children alleged/found to be in conflict with the law and children in need of care and protection. All states stated the need for thorough training and sensitization of the police force.

These states also stated that the SJPU weren't functioning well. Mizoram particularly indicated that the police force was constantly being transferred and thus there was no stable SJPU. There is need to have SJPU designated by post. Assam and Manipur particularly pointed out the poor record keeping done at these stations. The Police station also came under severe criticism of most of the states who stated that it was not at all child friendly. The stations were hostile with very few women police force and poor infrastructure.

■ **Funding and Infrastructure challenges:** Amongst other issues, all states raised the issues of poor infrastructure in the system as well as the general paucity of funds leading to incomplete implementation of the Act.

■ **Quality of functionaries:** Another concern voiced by every state was the need for training and sensitization of all the stakeholders in the system. Sikkim stated that the qualifications that are needed were not clear and the honorarium is not sufficient.

■ **Trafficking:** Trafficking was identified as a big issue in the north eastern states, which is why it was felt as imperative that the stakeholders involved in the implementation of the JJ Act be linked with those working against trafficking. Assam specially pointed out that there was a need for anti-trafficking units. Assam further revealed that there is no proper registry maintained on children who are trafficked or missing, which raises serious problems. Further many of these children are later rescued in places like Bombay and there is no standard operating procedure on how to repatriate them back.

Assam Specific problems that were identified during the consultation

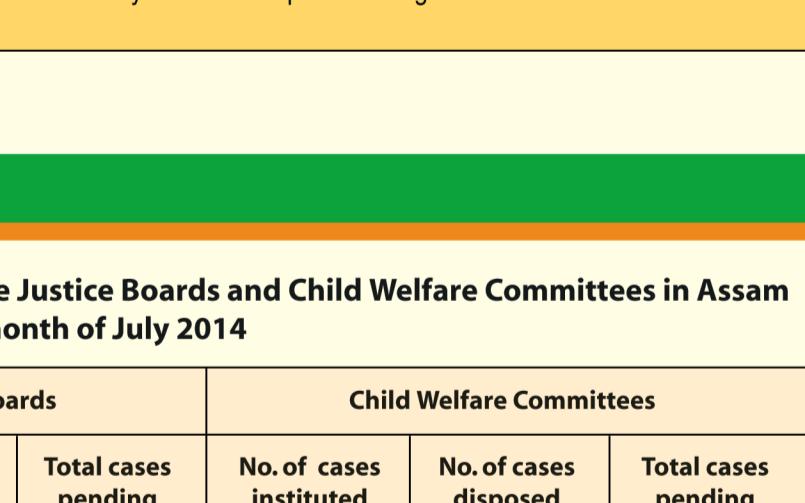
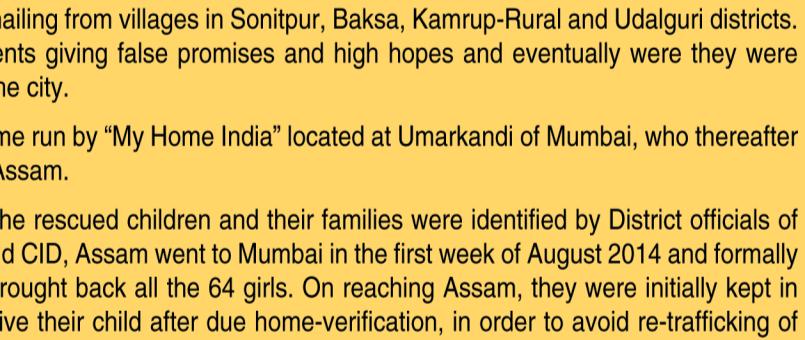
- ❖ Need for specialized people/qualified members to be appointed to the JJBs, CWCs and other statutory committees,
- ❖ SJPUs are not functioning properly and records are not being maintained properly.
- ❖ Children in conflict with law are sometimes actually tried in the police station itself which is a matter of serious concern.

- ❖ Need for village level child protection committees (VLCPC).
- ❖ There is no District Child Labour Rehabilitation Fund
- ❖ The NGO homes are only available in few districts.
- ❖ Gender segregation is a concern in the Child care institutions

On the final day, the Members of the Child Welfare Committees, presented on the functioning of the CWCs and recommended various suggestions for its improvement. Presentations were also made, highlighting the need for providing effective legal aid to the children. Justice Ujjal Bhuyan chaired this session and Justice Hrishikesh Roy summarising the key issues and action points.

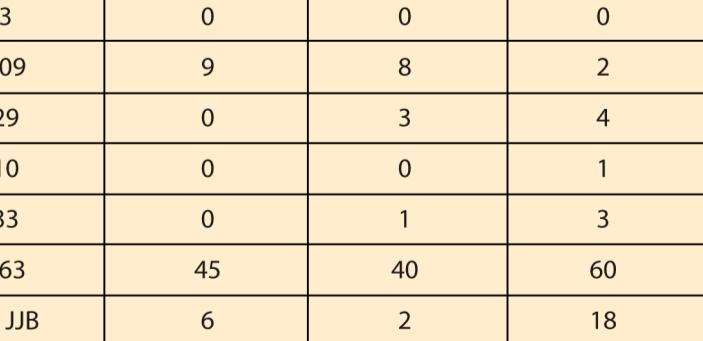
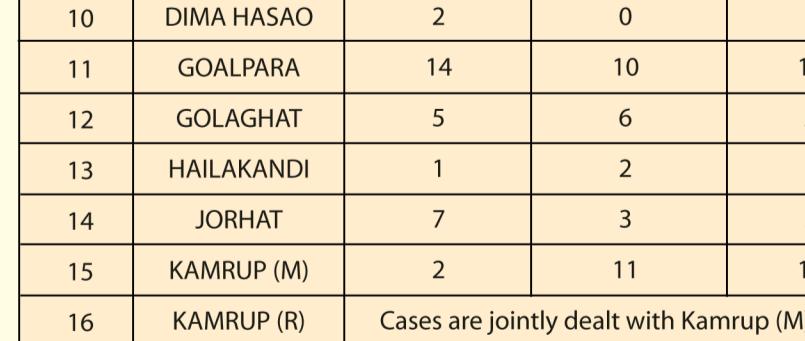
In the valedictory sessions, Justice Hrishikesh Roy, Judge, Gauhati High Court, summarized the key discussions and action points. Critical issues that were highlighted in the presentation will be submitted to the JJ Monitoring Committee of the Supreme Court of India for issuing directives to respective States in due course.

Justice Madan B. Lokur, in his concluding remarks posed the question, 'Are we doing enough for children?' and gave a clarion call to all stakeholders to introspect, to be sensitive, to work together, keeping the child and not self-interest as their key focus. Justice K. Sreedhar Rao, Chief Justice (Acting), Gauhati High Court also spoke in the valedictory session. Mr. K. J. Hilary, Registrar, National Law University, Guwahati proposed the vote of thanks.



Whenever an accused, who physically appears to be a juvenile, is produced before a Magistrate, he or she should form a prima facie opinion on the juvenility of the accused and record it. If any doubt persists, the Magistrate should conduct an age inquiry as required by Section 7A of the JJ Act, 2000 to determine the juvenility or otherwise of the accused person. Justice Madan B. Lokur, Judge, Supreme Court of India, In Jitendra Singh vs State of U.P.

JJ NEWS CORNER



A two-day regional conference for North-Eastern States and Sikkim on addressing 'Trafficking of Women and Children' was held on August 27th and 28th at Assam Administrative Staff College, Guwahati. The conference was organized by the Assam State Commission for Women in collaboration with UNICEF, Assam Field Office and National Commission for Women, New Delhi.

SUCCESS STORY

The Social Welfare Department, Assam received communication from an NGO "My Home India", based in Maharashtra about rescue of 68 minor girls of Assam aged between 15-18 years; from a Fish Packaging Industry of Navi Mumbai.

The rescue operation was done by Maharashtra Labour Department in collaboration with "Indian Rescue Mission" in the month of July 2014. It was reported that girls were working in unhealthy and unhygienic condition in the fish industry. They were kept in congested dormitory and were forced to work for more than 13 hours a day.

All the rescued girls belonged to underprivileged families hailing from villages in Sonitpur, Baksa, Kamrup-Rural and Udaguri districts. They were lured to Mumbai two years back by local agents giving false promises and high hopes and eventually were they were supplied as cheap laborers to different industries across the city.

After the rescue, the girls were sheltered in a Children Home run by "My Home India" located at Umakandi of Mumbai, who thereafter contacted Department of Social Welfare, Government of Assam.

Department of Social Welfare collected the details of all the rescued children and their families were identified by District officials of the department. A team of officials from the department and CID, Assam went to Mumbai in the first week of August 2014 and formally accepted all the children to bring them back. The team brought back all the 64 girls. On reaching Assam, they were initially kept in various Children Homes and families were asked to receive their child after due home-verification, in order to avoid re-trafficking of these children. Presently all these children are placed in their family and follow-ups are being done to ensure their educational mainstreaming.

Source: MIS Cell, SCPS, Assam

For any feedback, write to :

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DSW, Government of Assam

Status Report on the functioning of the Juvenile Justice Boards and Child Welfare Committees in Assam for the month of July 2014

Source: MIS Cell, SCPS, Assam

Sl. No. Districts Juvenile Justice Boards Child Welfare Committees

No. of cases instituted No. of cases disposed Total cases pending No. of cases instituted No. of cases disposed Total cases pending

1 BAKSA Cases are jointly dealt with Nalbari JJB 0 2 17

2 BONGAIGAON 4 4 41 5 3 11

3 BARPETA 3 5 91 0 0 2

4 CACHAR 1 3 71 4 5 6

5 CHIRANG 0 2 28 12 13 0

6 DARRANG 0 5 149 0 0 9

7 DHEMAJI 2 3 20 3 3 6

8 DHUBRI 4 4 186 3 2 8

9 DIBRUGARH 7 11 45 13 12 2

10 DIMA HASAO 2 0 3 0 0 0

11 GOALPARA 14 10 109 9 8 2

12 GOLAGHAT 5 6 29 0 3 4

13 HAILAKANDI 1 2 10 0 0 1

14 JORHAT 7 3 33 0 1 3

15 KAMRUP (M) 2 11 163 45 40 60

16 KAMRUP (R) Cases are jointly dealt with Kamrup (M) JJB 6 2 18

17 KARBI ANGLONG 3 0 53 2 0 4

18 KARIMGANJ 7 1 49 1 0 2

19 KOKRAJHAR 6 6 156 1 1 8

20 LAKHIMPUR 8 2 38 14 8 25

21 MORAIGAON 0 1 4 1 1 20

22 NAGAON 9 12 239 22 37 5

23 NALBARI 7 5 36 0 0 11

24 SONITPUR 7 15 133 0 2 35

25 SIBSAGAR 7 1 52 2 3 27

26 TINSUKIA 2 4 53 2 2 0

27 UDALGURI 0 0 16 6 2 14

Total **108** **116** **1807** **151** **150** **300**

Source: MIS Cell, SCPS, Assam

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