

CHALLENGES IN THE IMPLEMENTATION OF POCSO ACT IN WEST BENGAL

CCR, WBNUJS



Broad Objectives of the study

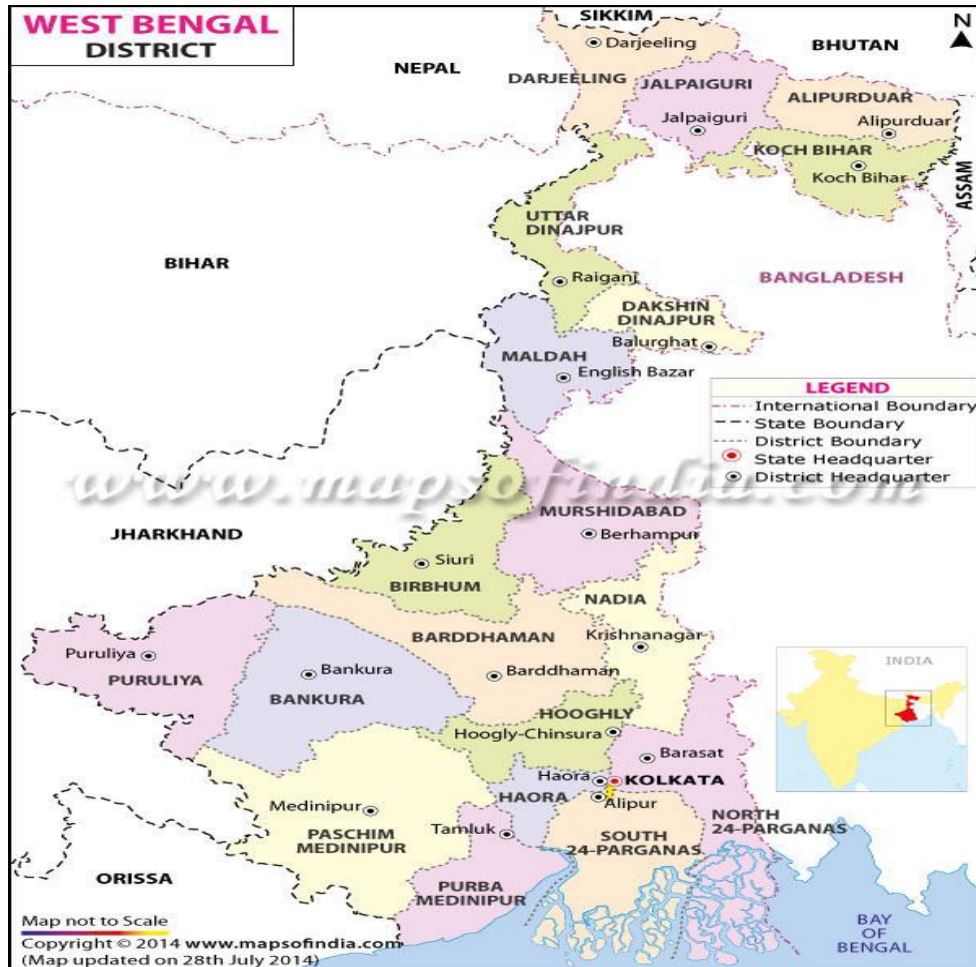
A qualitative and quantitative evaluation of the implementation of the POCSO Act in the State of West Bengal.

- ✓ in terms of knowledge and use of the Act by the statutory and other institutional actors
 - ✓ compliance with the Act
 - ✓ evaluating the working of actors and stakeholders
- ✓ identification of the challenges in implementing the Act
- ✓ identification of good practices that can be replicated

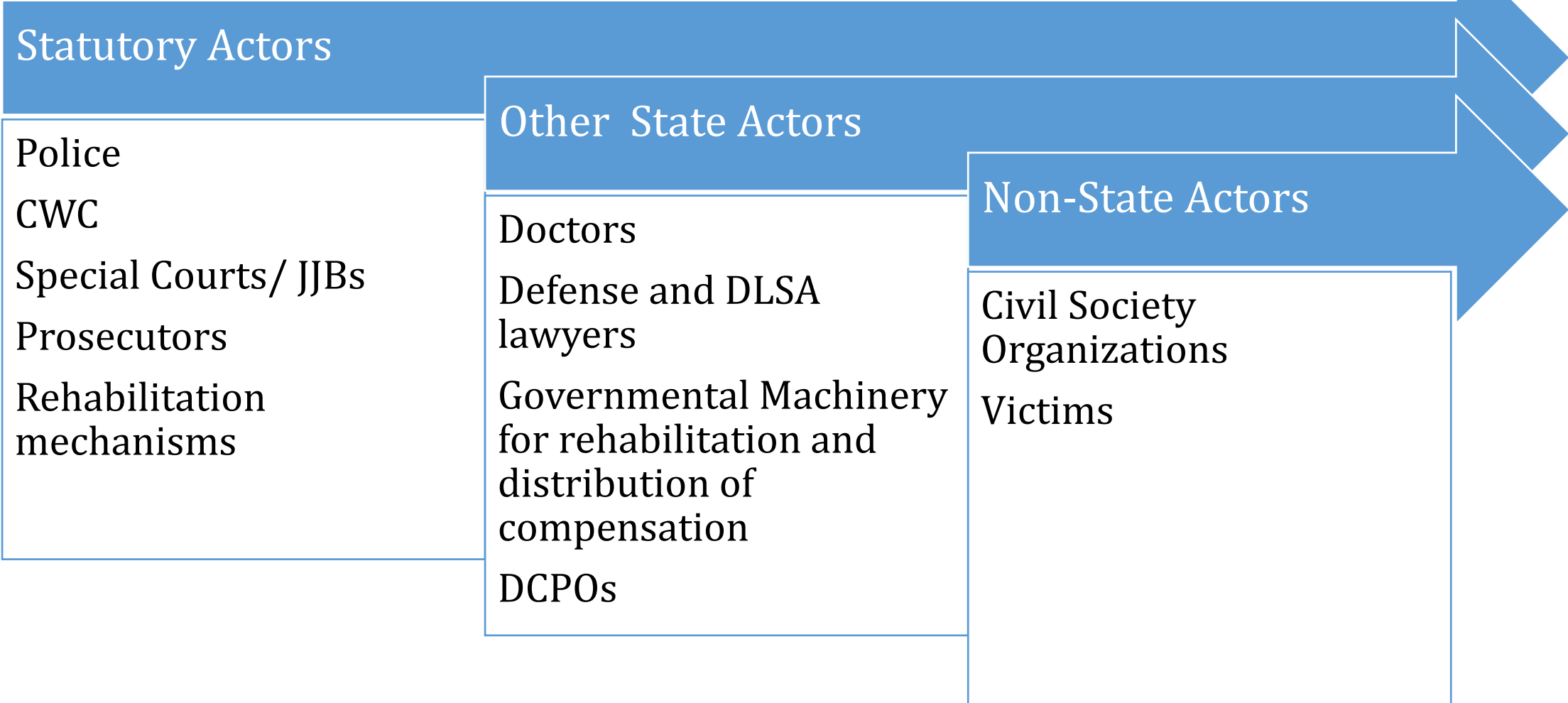
With reference to actors and stake holders.

- Structural and procedural compliance with the provisions of the Act.
- Knowledge of the scope of the law and legal procedures and other knowledge concerns which work as a barrier to effective implementation.
- Infrastructural and human resource constrains in complying with the mandate of the act.
- Challenges in investigation and prosecutions.
- The effect of mandatory reporting provisions.
- Interaction and performance of the CWC with the victim and the police.
- Sensitivity of human actors to the victim and perceptions of “child friendliness”
- Nature of efforts to promote public awareness of the Act.

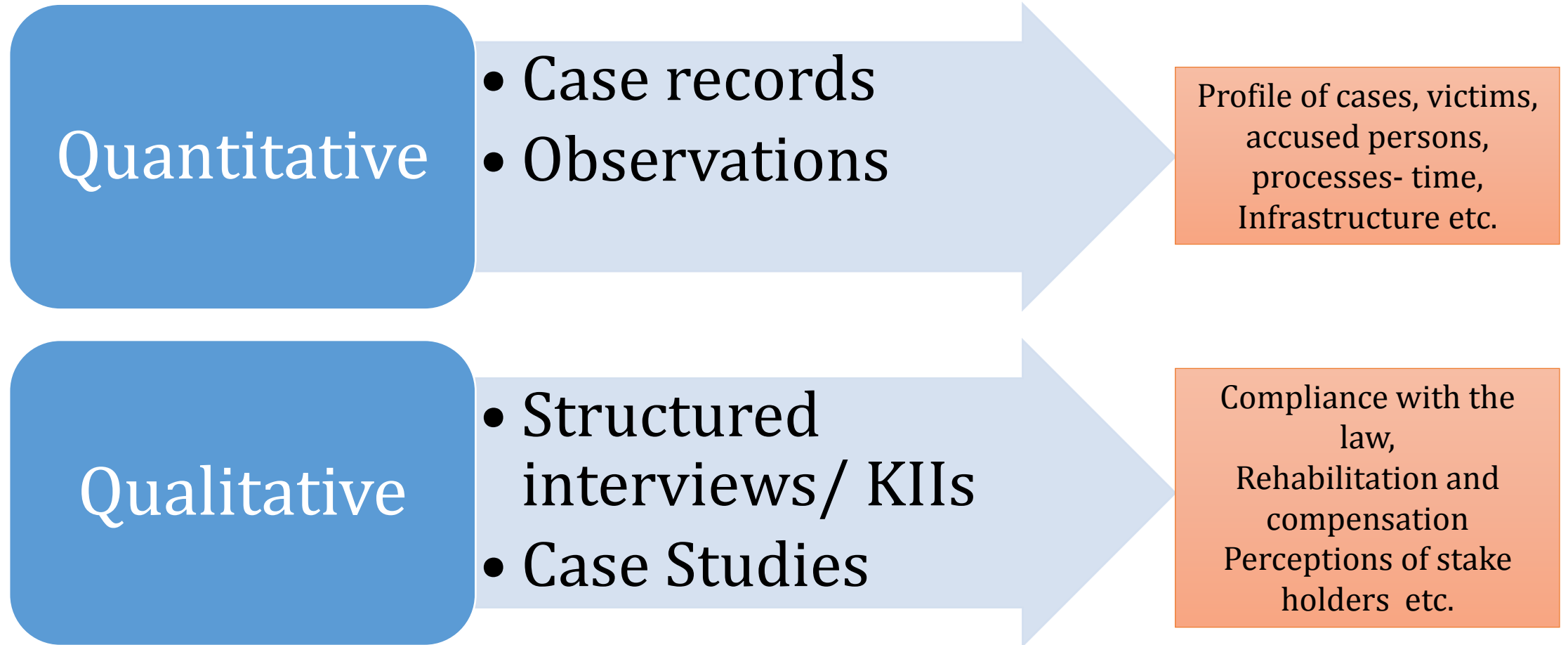
Data collected from 10 (out of 20) districts



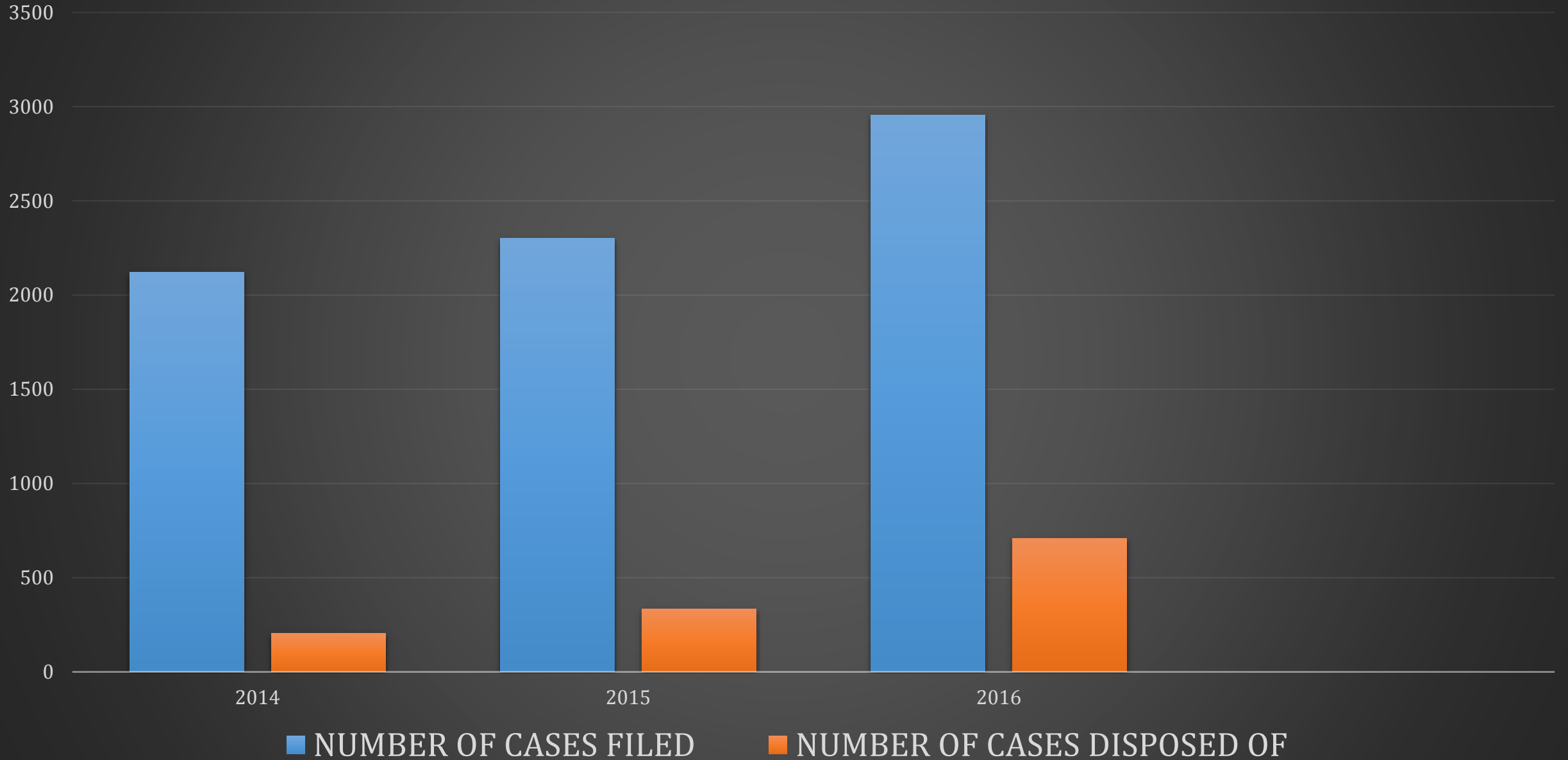
- Purposive sample based on
 - Demography
 - Number of cases
 - Geographic considerations



Data Sources & Approach

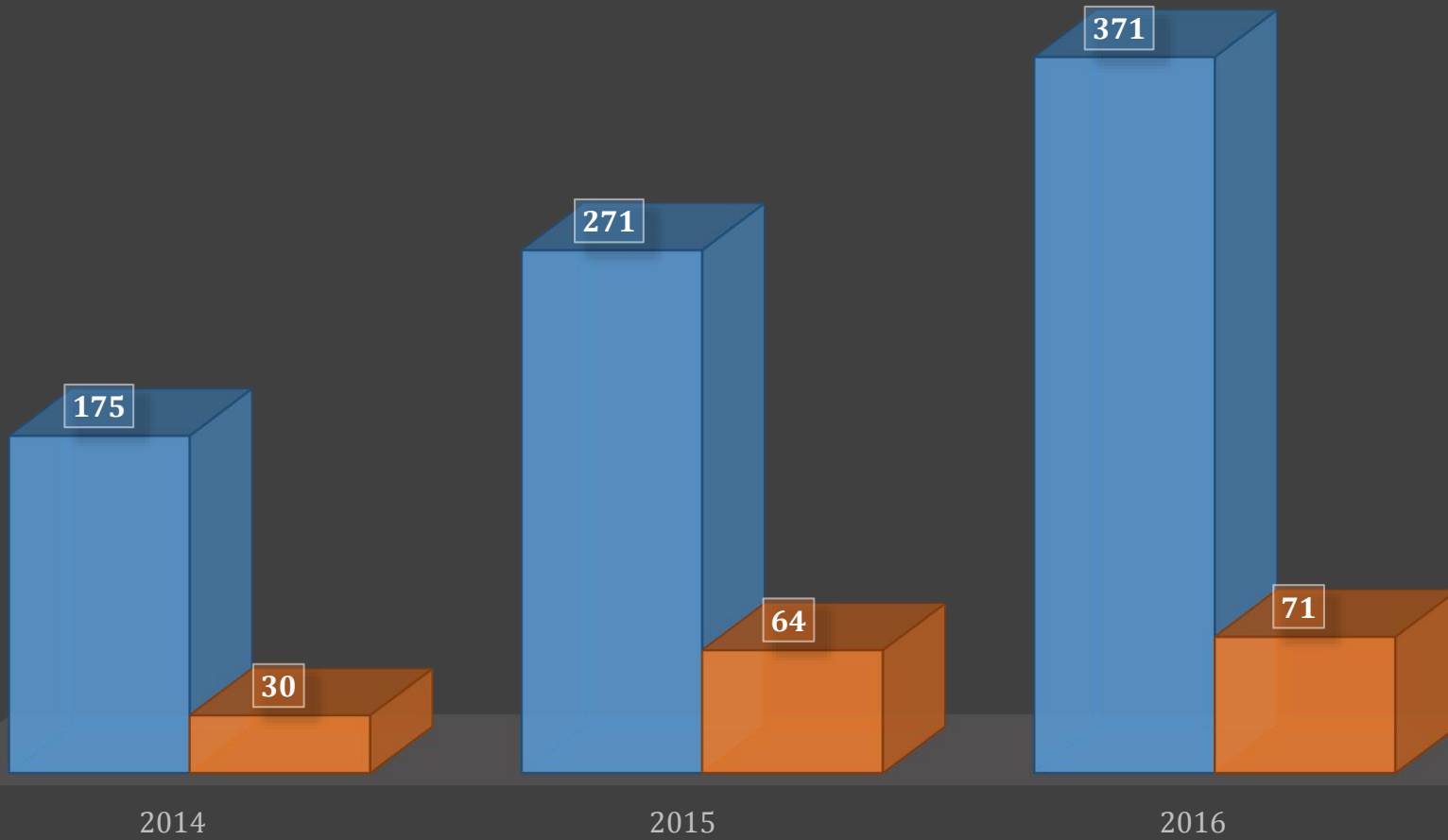


Number of POCSO Cases filed and disposed of in West Bengal



RESULTS OF POCSO PROSECUTIONS IN WEST BENGAL

■ Acquittals ■ Convictions



General Challenges

- Underreporting
- Investigation taking time
 - Lack of women policemen
 - pressures of maintaining “law and order”
 - Frequent transfers of “trained” persons
 - Lack of understanding of what is child friendly
- Lack of dedicated special courts or prosecutors
- Witnesses turning hostile
- CWC not clear about it’s roles (and nonfunctional now)
 - Tendency for institutionalization
- Complete lack of support persons
- Mandatory reporting

Observations from Bengal

- A large number of cases are getting reported through Childline.
- What happens to services (like counselling) to the victim who is not produced before the CWC?

Statements under 164: what purpose??

- As much as they can be used for corroboration (when the judge wants to convict)
 - But they also end up as liabilities when there are discrepancies at the time of trial
 - The child put through the routine of being asked to repeat the statements multiple times.
- The judges who record the 164 statements also require sensitization

Medical/ Health Department

- The doctors have no idea about POCSO!!
 - Understood as a gender-specific + penetrative crime
- Lack of lady doctors in the system.
- The doctors are hesitant to conduct medical examinations and prefer to refer the case to a gynaecologist.
- Least amount of convergence with the other stakeholders.

DCPUs

- Underused body – POCSO cases mostly bypass DCPU.
 - There is no mechanism in which POCSO cases registered with the police is made known to DCPU
- Lack of clarity of roles of each personnel in POCSO cases
- Lack of connections between DCPU and the Special Courts.
 - No list of translators, special educators, support person etc.

TRIAL PROCESS

- Lack of understanding what is “child friendly”
 - Too much of emphasis on infrastructure
- The Defense lawyers and their unwillingness to comply with the legal mandate.
- Very few cases being disposed of within the period mandated by the law
 - Frequent adjournments on account of :
 - Absence of witnesses at the time of trial
 - ‘cease work’ by lawyers.
- **Very low rate of convictions**
 - *Witnesses turn hostile*
 - Settlements & lack of witness protection

Compensation

- Complete lack of interim compensation
- Meagre amounts granted as final compensation after trial, to be paid by the convicted.
- The victim compensation scheme and the process of payment is not clear and is not used for POCSO cases.

”False Cases”

- Romantic relationships and cases that are actually ”false”
 - Well being of the child used in ‘false’ cases???

THANK YOU!!!

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