

ANNEXES

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A-1 Evaluation Terms of Reference

UNICEF MONGOLIA Evaluation of the Juvenile Justice Committee model project -Terms of Reference-

Background

Mongolia's children and adolescents are a 'transition generation' having to cope psychologically and practically with the challenges of the political, economic and social changes that are taking place around them. It is at such times when young people are most at risk of coming into conflict with the law, and those children most at risk, and who most need protective services, are those from unstable and vulnerable families. Crimes which involve juveniles have doubled in the last decade, rising from 733 in 1991 to 1,437 in 2007. Most of these recorded crimes are for theft.

The current response of the State to a child accused of minor crimes such as theft is to punish, usually by detention. It is established practice to incarcerate children below 18 in pre-trial detention centres for a prolonged period, and to sentence first-time juvenile offenders, accused of petty crimes, to imprisonment. Although the law provides for some alternatives to detention, such as probation, conditional sentence and educational and disciplinary measures, there are no provisions for diversion and non-custodial rehabilitation programmes. The UN Committee for the CRC recently expressed concern about Mongolia's current sentencing policy for juvenile offenders, and recommended probation, community service and suspended sentences as alternatives to detention.

The Mongolian Government ratified the Convention on the Rights of the Child in 1990, and has committed itself to reforming the Juvenile Justice system in line with the CRC and UN Guidelines, to improve the situation of children in conflict with the law. Since 2005, a juvenile justice project has been successfully implemented by UNICEF in cooperation with the Ministry of Justice and Home Affairs. In 2006, the Ministry of Justice and Home Affairs established an inter-agency Juvenile Justice Working Group to oversee juvenile justice reform initiatives. In June 2006, a conference on "Juvenile Crime: measures on managing problematic issues" and a subsequent Juvenile Justice Working Group meeting in July, identified a number of focus areas for reform. Although diversion is not yet formally recognized under Mongolian law, the Ministry of Justice and Home Affairs has approved the introduction of a diversion programme on a pilot basis in selected districts. With

UNICEF support, pilot diversion programmes have been underway in two districts and one province – Bayangol, Baganuur and Khenti - since Sep 2006.

Purpose of the Assignment

The juvenile justice diversion pilot initiative has been greatly appreciated by both government officials and the children and families. Discussions are underway regarding the expansion of the programme to other districts. However, prior to expansion, a comprehensive evaluation is necessary to better understand the impact, relevance and effectiveness of interventions undertaken thus far.

This evaluation will serve as both an evaluation of UNICEF-supported initiatives to date, as well as providing recommended directions and strategies that will help both UNICEF and Government to improve the justice system for children. Lessons, experiences and recommendations from the pilot areas, as well as from other such global experience, will provide guidance for modifying and expanding the approach to other areas.

Globally, the main focus of UNICEF's juvenile justice programming is the reduction of the number of children held in police custody, pre-trial detention, prisons, and juvenile rehabilitation centres

2) The evaluation should also provide a thorough understanding of who are the children diverted (in order to identify potential discriminatory practices), the offences they are suspected/accused of, the decision-making authority, the decision-making process (including respect for legal guarantees and safeguards and when the decision is made), the basis on which this decision is made, as well as an analysis on how this process complies with national and international standards. I would suggest adding this to the ToRs.

The Beijing Rules emphasise that deprivation of liberty should not be imposed unless the child has committed a serious act involving violence against another person, or if the child persistence in committing other serious offences, and there is no other appropriate response.

Globally, the overwhelming majority of children in conflict with the law are petty offenders who have committed property-related offences (theft, pick-pocketing, etc). Many nonetheless end up in police cells, pre-trial detention centres, or prisons, often under appalling conditions. UNICEF's main strategy for reducing detention of children in conflict with the law is to promote diversion, restorative justice, and community-based alternatives to detention at the pre-trial and sentencing stage. This strategy is intended to reinforce the core juvenile justice principles of the CRC, which emphasizes that, while children must be held accountable for their actions, any response to offending behaviour must take into account the child's age and the need to promote the child's recovery and reintegration. The objective is not just to punish, but also to help the child to correct his/her behaviour and become a productive, law-abiding member of society. International experience has shown that the most effective way to accomplish this is through community-based approaches.

Justification

The evaluation is necessary in order to assess the effectiveness of the pilot project and also to draw lessons for the proposed replication. The lessons learnt will feed into the MTR exercise that is planned for the second quarter of 2009 and necessary changes can be taken.

Explore strategies for replication and taking pilot to scale. Link to policy advocacy - i.e. serve as evidence base for policy reform and institutional reform

Due to desirability of independent evaluation, it is necessary to hire a team of two qualified consultants – one international who can provide technical assistance to this evaluation and one national consultant who can contribute to the evaluation process with the knowledge and understanding of the local situation.

Scope and Tasks

The evaluation will be a participatory process, promoting maximum input from all relevant stakeholders, including national and sub-national government officials, justice sector officials, INGOs and NGOs, and children and their families. In order to guide and inform the evaluation process, a Steering Committee will be established with representatives from the JJ Working Group and relevant government and non-government agencies, including Ministry of Justice and its Agencies, Ministry of Social Welfare, DPM Office, National Authority for Children, National Human Rights Commission etc. The consultant will work closely with the Committee in developing the evaluation methodology and finalising the report.

The assessment will use both quantitative and qualitative methods to evaluate the impact and effectiveness of the juvenile justice pilot programme in all three pilot locations. The evaluation should address the following key questions:

- To what extent have the strategies and activities supported by UNICEF achieved their goals and objectives?
- What has been the impact of project activities? Have there been any unforeseen impacts?
- What challenges were confronted by UNICEF and partners and how were these addressed?
- What lessons have been learnt by UNICEF and partners?

- What recommendations can be made on the future direction of UNICEF support?

In undertaking the evaluation, the consultant will review relevant pilot project documents, reports, and statistics, including reviewing a sampling of case files of the children participating in the pilot (children in conflict with the law and children in need of protection) from each of the pilot locations. In addition, research tools will be designed to gather input from:

- relevant officials at the national level and in the pilot districts, including members of the Mongolian Bar Association and other legal bodies;
- children who have participated in the pilot programme and their families
- NGOs and INGOs involved in the justice sector.

The following main tasks will be undertaken:

1. Document Review: UNICEF project documents and monitoring reports, counterpart progress/activity reports, financial reports, relevant laws and regulations, terms of reference for pilot JJs and staff, JJs data and statistics on children participating in the pilot (including copies of any standard forms or data collection sheets being used), JJs records on activities undertaken, funds spent, etc, and statistics from police/courts on children in conflict with the law and children in detention from the pilot districts.
2. Draft Evaluation Methodology and Tools: to be submitted for review by the Steering Committee prior to the consultant's arrival in country.
3. Evaluation Design Workshop: with Steering Committee members to finalise tools.
4. Information Collection in Pilot Locations: Information will be collected by the consultant through key informant interviews, focus group discussions, and site visits.
5. Presentation of Preliminary Findings: at the conclusion of the field work, the consultant will give a brief presentation of preliminary findings to the Steering Committee, Juvenile Justice Working Group and UNICEF staff.
6. Analysis and Report Writing: Analysis of the data and produce the evaluation report with recommendations.

7. Finalization of the Report: based on input from stakeholders and UNICEF staff.

Expected Outputs

The following deliverables will be expected:

- Evaluation methodology and tools, finalised in consultation with the Steering Committee;
- Presentation of preliminary findings and recommendations at a ½ -day meeting of stakeholders;
- Draft evaluation report based on the finding of the comprehensive evaluation;
- Final evaluation report incorporating input from UNICEF staff and stakeholders.

Time Frame

The assignment consists of 25 working days. A tentative schedule for the assessment is as follows:

Tasks	Time Allocation	Place
Document Review	2 days	Origin
Develop Methodology and Tools	3 days	Origin
Evaluation team consultation	1 day	UB
Conduct evaluation in project areas (1 day at national level, 3 days per pilot location)	10 days	UB and pilot locations
Preliminary presentation and de-briefing with UNICEF	1 day	UB
One-day meeting with Steering Committee	1 day	UB
Evaluation team consultation	1 day	UB
Draft Evaluation Report	5 days	Origin
Finalize the report	1 day	Origin
Total:	25 days	

Conditions of Work

Travel: The international consultant will be entitled to one international travel from the country of origin to Mongolia and back.

Both consultants, international and national, will also have two trips in Mongolia – to Baganuur and Khentii which is the responsibility of UNICEF. The consultants will be reimbursed for taxi fares to/from the airports unless transportation is provided by UNICEF.

DSA: The international consultant will be entitled to DSA as set by organization for the period of the visit. There is a tentative 5-night stay in UB and 3-night stays in both Baganuur and Khentii.

The national consultant will be entitled to DSA for local travels to Baganuur and Khentii.

The necessary forms must be completed and procedures followed to facilitate the DSA coverage. For more info, please check the Budget Table.

Qualifications

The international consultant will have the following qualifications and experience:

- Excellent understanding of juvenile justice systems and practices;
- University degree in Law, Social Sciences, or a related technical field;
- Professional experience at the national/international level in juvenile justice programme assessment/evaluation. Practical experience in community-based research an asset.
- Excellent analytical skills; communication and advocacy skills an advantage.
- Excellent report writing skills (in English).

The national consultant will have the following qualifications and experience:

- Good understanding of local juvenile justice systems and practices;
- University degree in Law, Social Sciences, or a related technical field;

- Professional experience in assessment/evaluation. Practical experience in community-based research an asset.
- Excellent analytical skills; communication and advocacy skills an advantage.
- Fluent in English with good report writing skills (in English).

UN and/or UNICEF work experience for both consultants would be an asset.

UNICEF Logistical Support Requirements

The consultants are expected to work on their own and with project counterparts but closely coordinating with UNICEF through email, fax or telephone and meetings as needed. UNICEF will assist in logistics and administrative support as well as arranging meetings with partners. Together with government partners, UNICEF will facilitate the arrangement for the meeting with stakeholders as well as all necessary translation.

A-2 Data Collection Instruments

EVALUATION METHODOLOGY	
Overall	
Purpose, scope & criteria	
Purpose	<p>Objectives</p> <ul style="list-style-type: none"> i) To evaluate the relevance, efficiency, effectiveness, impact and sustainability of UNICEF-supported juvenile justice interventions ii) To document achievements, gaps, promising practices and lessons learned of the model project, which will serve as the evidence base for potential replication strategies and taking pilot projects to scale iii) To preliminarily analyse the legal system, juvenile justice system and processes affecting children and their compliance with national and international standards¹

¹ This will include gathering data on who are the children benefiting (in order to identify potential discriminatory practices), the offences they are suspected/accused of, the decision-making authority, the decision-making process (including respect for legal guarantees and safeguards and when the decision is made) and the basis on which this decision is made.

	<p>iv) To propose recommendations aimed at guiding the future direction of JJ programming and providing concrete strategies to assist both UNICEF and the Government of Mongolia to improve the justice system for children</p>
<p>Scope</p>	<p>Drawing on participatory processes for maximum input by all relevant stakeholders and utilising both quantitative and qualitative methods, the evaluation will address the following key questions:</p> <ul style="list-style-type: none"> • To what extent have the strategies and activities supported by UNICEF achieved their goal and objectives? • What has been the impact/outcomes of project objectives – intended, positive <u>and</u> negative? Have there been any unforeseen impacts/outcomes? • What challenges were confronted by UNICEF and partners and how were these addressed? Opportunities that were capitalized? • What good practices and lessons have been learned? • What are your recommendations for the project's future direction and strategies for achievement? • Would you recommend replicating this project in additional locations and/or taking this project to scale (e.g. linking to

	advocacy for legal or policy reform
Criteria²	<p>Relevance: What is the value of the intervention in relation to human rights, national priorities and global standards and goals?</p> <p>Efficiency: Does the programme use resources in the most economical manner to achieve its objectives?</p> <p>Effectiveness: Is the initiative achieving results in relation to the plan?</p> <p>Impact: What are the results of the intervention - intended and unintended, positive and negative?</p> <p>Sustainability: Are the results likely to continue when external support is withdrawn?</p>
General	
Methodology	
Evaluators:	<p>Team of two qualified independent consultants:</p> <ul style="list-style-type: none"> i) International consultant provides technical assistance to this evaluation ii) National consultant contributes to the evaluation process with knowledge and understanding of the local situation

² UNICEF evaluation criteria

Role of Steering Committee³	To inform and guide the evaluation process, the Steering Committee will provide substantive input on: <ul style="list-style-type: none"> ∞ Design of evaluation methodology and tools ∞ Preliminary findings ∞ Final draft report
Main Tasks & Timeframe	<ul style="list-style-type: none"> ∞ Document Review (8-9 March) ∞ Design Evaluation Methodology and Tools (10-11 March) ∞ Evaluation Design Workshop (16 March) ∞ Information Collection in Pilot Locations (17-30 March) ∞ Presentation of Preliminary Findings (31 March) ∞ Analysis and Report Writing (by 13 April) ∞ Finalisation of the Report (by 10 May)
Data Collection Methodology	<ul style="list-style-type: none"> ∞ Document Review⁴ ∞ Focus Group Discussions ∞ Key Informant Interviews ∞ Site Visit Observations
Geographic Scope	<ul style="list-style-type: none"> ∞ Ulaanbaatar ∞ Bayangol ∞ Baganuur ∞ Khentii
Stakeholders	∞ Relevant officials at the national level and in the pilot districts, including members of the Mongolian Bar Association and other legal bodies

³ Comprised of representatives from the JJ Working Group and relevant government and non-government agencies, including Ministry of Justice and its Agencies, Ministry of Social Welfare, DPM Office, National Authority for Children, National Human Rights Commission, etc.

⁴ Desk review: UNICEF project documents and monitoring reports; relevant laws and policies; CRC related reports; and studies, surveys and reports. See List of Documents for the Consultants on Evaluation of the Juvenile Justice Committee Model Project in Mongolia, 23 February 2009. Field research: counterpart progress/activity reports, financial reports, terms of reference for pilot JJs and staff, JJs data and statistics on children participating in the pilot (including copies of any standard forms or data collection sheets being used), JJs records on activities undertaken, funds spent, etc, and statistics from police/courts on children in conflict with the law and children in detention from the pilot districts.

	<ul style="list-style-type: none"> ∞ Children who have participated in the pilot programme and their families ∞ NGOs and INGOs involved in the justice sector ∞ UNICEF Mongolia and other intergovernmental agencies
Output:	<ul style="list-style-type: none"> ∞ Evaluation Methodology and Tools ∞ Presentation of Preliminary Findings ∞ Final Evaluation Report
Focus group discussions & Key informant interviews	
General Protocol:	
All participants:	
<p>At the beginning of each interview/FGD:</p> <p><u>Introduction:</u> Explain who we are and affiliation.</p> <p><u>Purpose:</u> Explain why we are conducting a JJ Evaluation.</p> <p><u>Selection:</u> Explain why the participants have been selected.</p> <p><u>Process:</u> Explain the process including estimated length, types of questions to be asked, data sought, etc.</p> <p><u>Voluntary Participation:</u> Participants will not receive any remuneration or incentives for being involved in the assessment. Explain clearly to the participant that s/he is free to decline to participate or withdraw at any time without suffering any disadvantage.</p> <p><u>Confidentiality:</u></p>	

Ensure what participants can expect in terms of confidentiality and anonymity.

To determine participants' preference:

- i) No identifiable data [all children – see below]
- ii) No names but identifiable data, i.e. affiliation, title
- iii) Full attribution by name and affiliation

Dissemination: Explain how information will be used and who it will be shared with

Permission to Record: Obtain permission to tape record discussions

Children/Juveniles

Follow above protocols in simple, clear language, plus:

While introductory formalities and general questions can be conducted in joint child-parent interviews, substantive interviews with a child should be conducted alone. The only people in the room should be the child/juvenile and evaluators (and interpreter, if applicable).

Introduction: Start interview as an easy-going conversation. Be open and friendly; use first names. Establish rapport from the start, make them feel comfortable and look at them while speaking to them. Use language to make them feel at ease, and do not make eye contact with only your colleague or interpreter.

Confidentiality: Juveniles should understand that no one (not parents, NGOs, government officials, etc) will know exactly what they answered for each question, there will be no identifying information (i.e. alias used, location not specified), and no one will be able to see their responses on paper with their names attached. Information from interviews will be seen only by evaluators to get a better understanding of how the system is working for juveniles, and possible areas for improvement.

Voluntary Participation: Participation is voluntary. Juveniles (and parents) have a right to not answer questions, skip questions, or end the interview at any time, for any reason.

Clarification: Juveniles should feel free to ask for clarification at any point during the interview if s/he doesn't understand the question or isn't sure what was asked. It is okay if s/he doesn't know the answer or remember details. There is no right answer, or wrong answer. This is about the juvenile's experience. Honesty is encouraged as this helps evaluators understand the situation and make recommendations.

Ethics & Techniques

- ∞ Place of interview - particularly with children - should be neutral, quiet and secure.
- ∞ Use simple words and grammar in place of technical terminology and jargon, particularly with children, parents and community members.
- ∞ Try to use the same vocabulary that the participant uses. For example, if the participant refers to the process as diversion, do not refer to it as juvenile justice processes, alternatives to detention or restorative justice (although diversion does not technically exist) unless interviewing experts.
- ∞ Be patient and non-judgmental. Use neutral tone of voice.
- ∞ Make no assumptions. Do not hear what you want to hear and ignore other facts.
- ∞ Do not ask misleading questions. Particularly with children and their parents, ask open-ended questions, objectively
- ∞ Ask one question at a time, particularly if using an interpreter.
- ∞ Avoid having more than one person directing questions at any one time to the

interviewee. If more people are asking questions and the subject moves away from the questions you are wishing to ask, allow the conversation/questions to flow without forcing the question back in. For any questions unasked, these can be noted and asked at a later time.

- ∞ Allow the participant to continue speaking without interrupting – never finish their sentences.

- ∞ Use varied questioning techniques. Use open questions to explore attitudes, and employ pointed follow-up questions to elicit more detailed information. When a subject area is exhausted, move onto the next topic.

- ∞ If the subject matter is potentially sensitive, use questions that lead the subject to shed light on the issue in a non-direct way.

- ∞ Interpreters should translate the questions and answers accurately. They should refrain from summary translations or answering questions on behalf of the participant despite any previous knowledge and experience they may have.

- ∞ Be culturally sensitive. Be observant and follow the mannerisms of other locals around you, i.e. sitting position; the way you handle your hands, gesturing, and posture; and the way you maintain eye contact.

- ∞ Closing: explain what will happen next; address any questions; thank participants for their time and efforts; provide details of contact person in case the participant has questions or issues afterwards.

Evaluation Team

Consultations

Preparatory

- ∞ Review and clarify clear division of roles and responsibilities at all phases of the

evaluation: Steering Committee meeting; logistics and information collection in pilot locations; presentation of preliminary findings; analysis and report writing.

∞ Clarify roles and responsibilities for the Evaluation Design Workshop with the Steering Committee.

Information Collection

∞ Determine logistics (transportation, accommodation, etc), meetings schedule, site visits, and additional information to be collected on site.

∞ Review methodology and tools: ensure common understanding of and adherence to protocols for the conduct of key informant interviews and focus group discussions.

∞ Clearly discuss the vocabulary that will be used for technical and/or sensitive topics, in English and Mongolian.

∞ Clarify plan, roles and functions for primary and secondary interviewers.

∞ Work out seating arrangements for the participant in relation to the primary interviewer, secondary interviewer, and anyone else involved. Determine note-taking responsibilities during interviews.

∞ Determine if snacks, drinks, or other props (for interviews/FGDs with juveniles, parents, community members) might be appropriate for purchase and preparation beforehand.

∞ Determine frequency and nature of debriefings for interviews/FGDs.

Presentation of Preliminary Findings

∞ Clarify roles and responsibilities for presentation of preliminary findings to the Steering Committee, JJ Working Group and UNICEF staff.

∞ For public presentation, alter personal details and identifying characteristics of any juveniles interviewed (and others who request anonymity). This includes names in interview information, location (i.e. district) and other identifying characteristics.

Analysis & Report Writing

∞ UB: draft detailed outline of the final evaluation report, including Annexes.

∞ Clarify roles and responsibilities for analysis of the data and drafting sections of the final evaluation report.

∞ Develop timeline for draft sections of the evaluation report and identify primary gatekeeper for the evaluation report.

∞ Identify methods (i.e. email, skype, etc) for communication during the report writing process.

Finalization of the Report

∞ In consultation with UNICEF, develop tentative timeline for feedback/vetting process for all relevant stakeholders/UNICEF.

∞ Clarify roles, responsibilities and timeline for international and national consultants to finalize the report based on inputs from stakeholders and UNICEF.

∞ Timeline for national consultant to: (a) translating (and adapting) the draft report to Mongolian and (b) incorporating the counterparts' inputs in the draft report and translation to Mongolian.

Other

General

To be determined⁵

⁵ More detailed methodology for focus group discussions (FGD) will be outlined if they are arranged with community members in any of the three pilot locations.

Evaluation Tool ⁶	
All stakeholders ⁷	
Juvenile Justice Committee Model Project	
JJC Model Project	<p>What is the project's long-term vision? If unknown or unarticulated, what would be your long range vision for this JJ project?</p> <p>What is this project's goal? objectives? strategies? activities?</p>
Key Q's	<p>To what extent have the strategies and activities supported by UNICEF achieved their goal and objectives?</p> <p>What has been the impact/outcomes of project objectives – intended, positive <u>and</u> negative? Have there been any unforeseen impacts/outcomes?</p> <p>What challenges were confronted by UNICEF and partners and how were these addressed? Opportunities that were</p>

⁶ See companion Evaluation Methodology document.

⁷ Except children, parents, community members (see below section). In addition, targeted questions (through pre/post-interview surveys or questionnaires if there are time constraints) will be posed to specific stakeholders (see below section). Information will be collected via semi-structured group and individual interviews with key informants, focus group discussions with community members, site visits and collection of relevant documents.

	<p>capitalized?</p> <p>Good practices and lessons learned?</p> <p>What are your recommendations for the project's future direction and strategies for achievement?</p> <p>Would you recommend replicating this project in additional locations and/or taking this project to scale (e.g. linking to advocacy for legal or policy reform)? If so, please provide details.</p>
<p>JJC roles & responsibilities</p>	<p>What is your entity's mandate? Role and responsibilities in relation to the Juvenile Justice Committee (JJC)?</p> <p>JJC mandate, functions, committee composition and activities?</p> <p>Does the JJC have decisionmaking and/or advisory functions? Please explain.</p> <p>Does the JJC serve children other than those in conflict with the law, e.g. street children, child labourers, etc? If so please explain including rationale.</p> <p>Research agenda?</p>
<p>Coordination & cooperation</p>	<p>How regularly does the JJC meet at policy level, working group level and community work level?</p> <p>Role of children and families in each JJC committee?</p>

	<p>Lines of communication and coordination between different JJC committees?</p> <p>National – local level coordination and cooperation?</p> <p>Are roles and responsibilities of JJC Coordinator, lead Governor and other members clearly delineated? Documented?</p> <p>Coordination and referral mechanisms between JJC member agencies, between justice and social welfare?</p> <p>What works well, which areas could use improvement?</p> <p>Recommendations for improving communication, coordination and cooperation?</p>
<p>Capacity building</p>	<p>Trainings and capacity building initiatives?</p> <ul style="list-style-type: none"> • Knowledge based? • Competency based? • General and specialized areas? <p>JJC Coordinator & UNICEF technical and other support</p> <ul style="list-style-type: none"> • What type of support provided? • How is support given? Telephone, email, meetings, trainings, site visits, etc. • JJC orientation? • Routine sharing of information, including statistics, good practices, lessons learned? <p>Are there area(s) on which you would like training and</p>

	<p>technical support? If so please specify.</p> <p>General recommendations</p>
Information Management	<p>Does the JJC Model Project have a monitoring & evaluation plan?</p> <p>Does this include indicators? If so, what are the indicators? How useful are the indicators? Should they be improved and if so, how?</p> <p>What information is being systematically collected? Analyzed? How frequently? Disseminated (to whom)? Utilized to inform/refine JJC project activities?</p> <p>Successes and challenges with data collection and usage? Recommendations for addressing challenges?</p> <p>What information on JJ is the project generating?</p> <p>What form (reports, research etc) is this information taking place?</p> <p>Is this information systematically shared with partners, others?</p> <p>Links to national child protection database, national level statistics offices?</p>
Child/Juvenile Participation	<p>Are children encouraged to express their views and participate in the JJC model project? If so, please provide details.</p>

	<p>Trainings on child participation and ways to encourage children to express their views?</p> <p>Realisation in practice -- judicial proceedings, policy development, social services, project development and implementation, evaluation, etc. What has worked, what hasn't?</p> <p>What are the challenges in ensuring child participation?</p> <p>Recommendations</p>
Efficiency	<p>Does the programme use resources in the most economical manner to achieve its objectives?</p> <p>JJC Model Project Costs? Detention costs? General cost-benefit analysis?</p>
Sustainability	<p>Are the results likely to continue when external support (e.g. donor funding, UNICEF support) is withdrawn?</p> <p>Can any activities continue without external support? What efforts, if any, are being undertaken to institutionalize/mainstream the pilot project?</p>
<p>Ministries, National Bodies, Governor/Local Officials, NGOs, UNICEF</p>	
<p>General Context</p>	
Situation	<p>What is the general situation of children in conflict with the law? Is it getting worse, better or staying the same?</p>

	<p>What are the major public and political perceptions/concerns over the issue of children in conflict with the law?</p> <p>Are prevention of juvenile crime efforts underway? If so, please specify.</p>
<p>Political & Policy Context</p>	<p>Who are the Ministries involved with and responsible for juvenile justice?</p> <p>Are ministerial structures organized and coordinated to handle the formulation of policy, procedures and guidelines, service provision, and monitoring of interventions related to juvenile justice?</p> <p>What are other (political or administrative) bodies, such as Commissions, Committees, etc. are responsible, or to which governmental responsibilities are delegated?</p> <p>Who are the (potential) political key agents of change in favour of stronger compliance with international norms and standards?</p> <p>What is the value of the JJC Model Project in relation to human rights and national priorities?</p> <p>What plans, if any, are there to link the JJC Model Project to upcoming reports to the UN Committee on the Rights of the Child?</p>
<p>National Human Rights</p>	<p>Role and functions of the Commission vis-à-vis juvenile justice?</p> <p>Does the Commission have the authority to influence or monitor</p>

Commission	<p>the treatment or provision of services to children in conflict?</p> <p>Have there been complaints lodged in the area of JJ? If so, how were they handled and outcomes?</p>
<p>Justice Sector⁸ Police, National Police Academy, Prosecutors, Courts, etc.</p>	
<p>Juvenile Justice in Practice</p>	
Obtain statistics & data	<p>Obtain statistics and disaggregated data (dating back to inception of the project if possible):</p> <ul style="list-style-type: none"> • # of children in conflict with the law disaggregated by age, sex, region, rural/urban area, social and ethnic origin, offence and disposition • # of children reported to the police or other official body annually, allegedly in conflict with the law • Specific grounds on which children are being reported &/or arrested • % first time offenders, repeat offenders? Severity of offence? Recidivism rates? • % compared to total population below 18 • Provincial/district disparities • Estimates of unreported offences committed by minors • # of children placed in pre-trial detention annually? Reasons? Length of time? • # of children prosecuted every year accused of being in conflict with the law? Grounds? • # of children going through this JJ model programme?

⁸ Scope and nature of questions will be tailored to the expertise of the justice sector officials interviewed, e.g. questions related to sentencing directed to judges, in-service police training to the National Police Academy, etc.

	<p>Grounds? Please specify as much as possible, including alternative to detention and restorative justice schemes and stage(s) of the criminal justice process</p> <ul style="list-style-type: none"> • # of children convicted every year of being in conflict with the law? Grounds and specifics? • Different sentences applied and to what extent (how many children, each year)? • # of children deprived of liberty, period of deprivation of liberty, including data disaggregated by sex, age, region, rural/urban area, social and ethnic origin, and reasons for deprivation of liberty • Conditions of children deprived of their liberty? To what extent are their rights met? • Sources & validity of information
Institutions	<p>Overview of justice sector institutions involved in juvenile justice, including:</p> <ul style="list-style-type: none"> • role (coordination, monitoring, technical assistance, etc.) • actors and links between various agencies • status (independence, link to an existing institution, etc.) • functioning (capacity, services, human resources) • funding
Mechanisms & Processes	<p>Mechanism and processes links to national level, other provinces/districts?</p> <p>Who are the (potential) professional key agents of change for stronger compliance with international standards?</p> <p>JJ process and flow chart; intersections and links to JJC</p>

	<p>Independent monitoring bodies to review children's cases, functioning of the JJ system?</p> <p>Formal review process of imposed/agreed measures, in each individual case?</p>
<p>Safeguards & protections</p>	<p>Legal assistance by right for juveniles arrested, brought before a judge, a court or an administrative or other body, for having committed an offence? If so please provide details.</p> <p>Measures for the protection of privacy in judicial or administrative proceedings?</p> <p>Child friendly justice procedures, as well as reporting/complaints procedures and remedies made available to children, in detention and generally?</p>
<p>Decision making</p>	<p>Who are the decision-makers on individual cases (law enforcement officials (police) – judiciary – administrative bodies?</p> <p>Decision-making criteria? Administrative, judicial and/or other decision making procedures?</p> <p>Are children's and families views taken into account?</p> <p>Are the best interests of the child and other child rights principles explicit factors taken into consideration as part of the decision-making process?</p> <p>Are there intersections between JJ and trafficking/CSEC?</p>

	Role of lawyers, social workers, child welfare/protection advocates, etc?
Diversion	<p>What happens to those children reported to the police but not referred to the court?</p> <p>To those children referred to the court but not prosecuted?</p> <p>Current initiatives or activities?</p> <p>Currently in practice - diversion or alternatives to detention?</p> <p>Does the law does foresee the possibility OR does the law not provide the possibility but does not exclude – diversion is applied informally OR applied ‘illegally’ – the practice does exist ‘de facto’ but it is ‘de jure’ against the law?</p>
Restorative Justice	<p>Forms of restorative justice (actively involving the victims) used for dealing with children in conflict with the law?</p> <p>Current initiatives or activities?</p> <p>Obstacles or difficulties using restorative justice? Promising practices and lessons learned? Recommendations?</p>
Dispositions	List of dispositions made available, including care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other alternatives to institutional care, to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

<p>Alternatives to Deprivation of Liberty</p>	<p>Existing alternatives to deprivation of liberty, the frequency with which they are used and the children concerned, including by age, gender, region, rural/urban area, and social and ethnic origin.</p> <p>Current initiatives, services, facilities used as alternatives to deprivation of liberty (including alternatives to arrest, pre-trial detention and imprisonment or any other sentence in a closed institution)?</p>
<p>Children Deprived of Liberty</p>	<p>Are there legislative and other measures in place to ensure that no child is deprived of his or her liberty unlawfully or arbitrarily⁹?</p> <p>Is arrest, detention or imprisonment of a child used only as a measure of last resort and for the shortest appropriate period of time in practice?</p> <p>What are the conditions for children deprived of their liberty, at each stage in different situations?</p> <p>Are children deprived of their liberty separated from adults? If not, why not?</p> <p>Do children deprived of their liberty have a right to maintain regular contact with their families through correspondence and visits? If not, why?</p>

⁹ According to the UN Rules for the Protection of Juveniles Deprived of their Liberty, deprivation of liberty means any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by order of any judicial, administrative or other public authority (rule 11 (b)).

	<p>Is there an independent mechanism to supervise and monitor the conditions in institutions where children are placed?</p> <p>Are complaint procedures accessible by children?</p> <p>Are periodic reviews being made of the situation of the child and of the circumstances relevant to his/her placement? By whom and how frequently?</p> <p>Are education and health services being provided to the child?</p> <p>What type of legal and other assistance is being provided to all children? Are there any time limits or other barriers to access this assistance?</p> <p>Can a child challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority?</p>
<p>Sentencing of Children</p>	<p>Is there legal prohibition of indeterminate sentences for children?</p> <p>What are the existing residential and non-residential structures associated with carrying out sentences?</p> <p>Structures/services linked for each type of sentence/ measure and level of capacity</p> <p>Capital punishment and life imprisonment without possibility of release prohibited for offences committed by persons below 18 years of age?</p>

<p>Capacity building & Professional Standards</p>	<p>Capacity levels (human resources, financial, professional, etc)?</p> <p>Trainings, capacity building initiatives?</p> <p>In-service and/or professional development?</p> <p>Codes of Conduct in place for the different justice officials involved in the area of juvenile justice (law enforcement, judges, lawyers, penitentiary personnel, etc.)?</p>
<p>Legal Experts National Legal Centre, Mongolia Bar Association, Child Rights Centre, etc.</p>	
<p>Legal Context¹⁰</p>	
<p>Legal & policy frameworks</p>	<p>Did Mongolia make any reservations/declarations upon ratification with regard to articles 37 and 40 of the CRC?</p> <p>Mongolia's legal tradition? Implications for JJ, diversion, legislative and policy reform?</p> <p>Existing, pending <u>and</u> draft legislation related to juvenile justice? Policy frameworks? Fully consistent with international norms and standards? If not, please be specific in areas of divergence. For example, does legislation, policy and/or measures (please specify which) ensure that:</p> <ul style="list-style-type: none"> ✓ No child shall be alleged as, accused of or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed; ✓ Every child alleged as or accused of having infringed the

¹⁰ These set of questions will be posed to legal experts.

penal law has at least the following safeguards, indicating, where relevant, additional guarantees provided to the child:

- To be presumed innocent until proven guilty according to law;
- To be informed promptly (indicating any time-limit fixed by law) and directly of the charges against him or her and, if appropriate, through his or her legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; in this regard, please indicate what other appropriate assistance may be made available to the child;
- To have the matter determined without delay (indicating any time-limit fixed by law) by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance (indicating what other appropriate assistance may be made available to the child) and, unless it is considered not to be in the best interests of the child, in particular taking into account his or her age or situation, in the presence of his or her parents or legal guardians;
- Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- If considered to have infringed the penal law, to

	<p>have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;</p> <ul style="list-style-type: none"> • To have free assistance of an interpreter if s/he cannot understand or speak the language used; • To have his or her privacy respected at all stages of the proceedings. <p>JJ law in development? If so, process and timeline? If not, why and are there plans to create specialized JJ law?</p> <p>Broader justice initiatives with implications for children?</p> <p>Intersections between JJ and trafficking/CSEC?</p> <p>What are the Parliamentary and other bodies responsible for possible review of legislation? Who are other (potential) key agents of change in favour of stronger compliance with international norms and standards?</p> <p>Are there existing standards and norms applicable (standards of care – regulations) to institutions and services, involved in juvenile justice (national – per category of institution/service – etc.)?</p>
<p>Minimum & Maximum Ages</p>	<p>Legal minimum ages (or in practice) established for:</p> <ul style="list-style-type: none"> - criminal liability - deprivation of liberty

	<ul style="list-style-type: none"> - imprisonment - giving testimony in court, in civil and criminal cases - lodging complaints and seeking redress before a court or other relevant authority without parental consent - participating in administrative and judicial proceedings affecting the child <p>Maximum age for applicability of special protections</p>
Diversion	<p>Current practice – diversion or alternatives to detention?</p> <p>Does the law does foresee the possibility OR does the law not provide the possibility but does not exclude – diversion is applied informally OR applied ‘illegally’ – the practice does exist ‘de facto’ but it is ‘de jure’ against the law?</p> <p>Recommendations for legislative reform?</p>
Traditional Justice	<p>Are traditional justice systems in place for dealing with children in conflict with the law?</p> <p>If so, current initiatives or activities? Obstacles, promising practices, lessons learned?</p> <p>If not used but existing, to what extent could the traditional justice systems be useful in the framework of juvenile justice?</p>
Social Welfare & Policy Sector	
Juvenile Justice in Practice	

Obtain data and statistics	Relevant disaggregated data on the children served, including by age, sex, region, rural/urban area, ethnic and social origin, placement (if applicable), etc.
Institutions	<p>Overview of social welfare institutions involved in juvenile justice, including:</p> <ul style="list-style-type: none"> • role (coordination, monitoring, technical assistance, etc.) • status (independence, link to an existing institution, etc.) • functioning (capacity, services, human resources) • funding
Social welfare	<p>Social policy in place governing the delivery of social services to children in conflict with the law?</p> <p>Types of services the social welfare system provides to children in conflict with the law</p> <p>Does this include a continuum of prevention, early intervention and family support, as well as tertiary services? Links to the justice sector?</p> <p>What services need to be in place for effective diversion and alternatives to detention at various stages of the criminal justice process?</p>
Social Reintegration	<p>Mechanisms, measures and activities in place (including education and vocational training) for the physical and psychological recovery and social reintegration of children, alleged, accused or convicted of being in conflict with the law?</p> <p>Structures, agencies, services and professionals involved?</p>

	Who are the (potential) professional key agents of change in favour of stronger compliance with international standards?
Capacity building & Professional Standards	<p>Capacity levels (human resources, financial, professional, etc)?</p> <p>Trainings, capacity building initiatives?</p> <p>License accreditation standards, professional development on working with children?</p> <p>Codes of Conduct in place for the different persons involved in the area of juvenile justice (social welfare officials, social workers, educators, etc.)?</p>
JJ Coordinators	
Juvenile Justice Model Project	
Obtain Data	ToRs for pilot JJs and staff, JJs data on children participating in the pilot (including copies of any standard forms being used), JJs activity records, funds spent, etc.
Background	<p>Describe JJ Committee Pilot Project in detail, from inception to present</p> <p>JJ mission, mandate, guiding principles? Are internal policies and SOPs child-centred and family-focused?</p> <p>Role and responsibilities of JJ Coordinator? Qualifications and previous work experience?</p> <p>JJ service provision scope and application; disaggregated data of children served including by age, sex, region, social and ethnic origin, offence, disposition, and service(s) provided</p>

	<p>Types of juvenile crime prevention activities. Please describe in detail.</p> <p>Are processes, procedures and methodologies standardized? If so, please explain fully. If not why not?</p> <p>Standardized case file documentation? Contents? (To be reviewed on site)</p> <p>Operating budget? (to review financial records on site)</p>
<p>Interagency JJ Working Group</p>	<p>Are there interagency guidelines that outline:</p> <ul style="list-style-type: none"> ✓ agencies' roles and responsibilities (specific roles of police, prosecutors, judges, social welfare, JJC, etc) ✓ communication and coordination protocols ✓ information management system including protocols, i.e. collection, access, management, confidentiality, information sharing modalities, etc. ✓ coordination and referral mechanism between law enforcement and social welfare, health, education ✓ inter-agency conflict resolution mechanisms ✓ accountability lines of action and ladder of responsibilities concerning decisions for government agencies, civil society organizations, including community networks
<p>Process</p>	<p>See above Justice Sector section – links and intersections between JJC project and stages of the criminal justice process from arrest to sentencing and release?</p> <p>What works, what doesn't?</p>

	<p>Recommendations?</p> <p>Support received from UNICEF? Additional areas of support needed? Recommendations?</p>
Capacity Building	<p>Describe training activities and capacity building for all professionals involved with the system of juvenile justice, including judges, prosecutors, lawyers, law enforcement officials, immigration officers and social workers, on international norms and standards¹¹</p> <p>Trainings and capacity building opportunities for JJC Coordinator?</p> <p>Recommendations for future initiatives?</p>
Children, Parents & Community Members¹²	
Juvenile Justice Model Project	
JJC Model Project	<p>Do you know what the Juvenile Justice Committee (JJC) project's goal is?</p> <p>Do you know what kinds of activities the JJC project is implementing? If so, please describe.</p> <p>Do you know who the JJC project is supposed to help? And how? Please explain.</p>

¹¹ Convention on the Rights of the Child and other relevant international instruments in the field of juvenile justice, including the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

¹² Semi-structured interviews will be conducted with children and parents. Time and logistics permitting, focus group discussions will be held with community members.

	<p>Do you know the different agencies and individuals that are part of the JJC? If so, please explain.</p> <p>Do you know how they work together? If so please explain.</p> <p>How did you hear about the JJC project?</p> <p>Are you involved in or have you benefited by the JJC project? How? Please provide details.</p>
Key Q's	<p>What do you think about the JJC project? Is it helping children/families/communities? If so, how? If not, please explain.</p> <p>What are some of the good things the JJC project has done for you/others?</p> <p>Are there things that the JJC project could be doing more or better? If so, please explain.</p> <p>Other communities do not have a JJC project and services. Do you think that other communities should have a similar JJC project? Why or why not? Please explain.</p>
Other	<p>Have you met/worked with the JJC Coordinator? Other JJC members? If so, please explain circumstances and relations.</p> <p>Do you know what types of programmes are in place to support children (at risk, in conflict with the law) in the community? If so, please explain.</p> <p>For community members: perception of children in conflict with</p>

the law? Factors contributing to juvenile crime? Suggestions to prevent and respond?

How are children in conflict with the law treated in the community? Experiences of stigma, discrimination? Does it make a difference if they are part of the JJC project?

Have you ever tried to contact anyone at the JJC project? If so, please explain circumstances and experience.

If you had questions about the JJC project, do you know who to contact and how?

Is there more you would like to know about the JJC project? If so, please explain.

Is there anything you would like to tell the JJC project members anonymously – e.g. suggestions, personal story, problem in community, etc? If so, please explain.

Questions?

A-3 Sites Visited & List of Persons Interviewed

EVALUATION OF THE DIVERSION PROGRAMME

-Meetings-

Tasks	Date	Place	Respons.
Brief meeting with UNICEF staff (BD and CP team)	16 Mar 10.00-11.00	UNICEF Office	BA
Evaluation team consultation	16 Mar 11.00-14.30	UNICEF Office	InD
Steering Committee meeting Bat-Erdene, Judge of Supreme Court; Narantuya, Deputy director of National Authority for Children; Enkhnasan, Senior Officer of Ministry of Social Welfare; Narantuya, Head of Division of Ministry of Justice and Home Affairs; Javzankhuu, Adviser to Deputy Prime Minister; Ms. Baigalmaa, Head of division of Capital agency for children Contact person: Ms. Narantuya, Head of foreign relation division of Ministry of Justice, Mobile 99198393, Tel. 11-325225 Translator Ms. Bolor, Mobile 99150099	16 Mar 15.00-17.30	Moj&HA	Narantuya InD
UNICEF staff: ○ Bertrand, Berina and Amaraa, Khugi, Bolor and Saruul, Injinash	17 Mar 09.00-09.30, 09.30-10.15, 10.15-10.45 10.45-11.15, 11.30-15.30	UNICEF Office	BA
National Authority for Children: Mme Togtokhnyam, Head of NAC, Ms, Narantuya Vice Head of NAC, Mobile 99051889, Tel. 51-262209 and NAC staff Child attorneys' club of Mongolian Bar association, Head of club and legal advisor to the NAC, Ms. Soyolerdene, Mobile 91198849, Translator Ms. Bolor, Mobile 99150099	17 Mar 16.00-19.00	NAC	InD
Mr. Bayasgalan, State Secretary of Ministry of Justice and Home affairs, Mobile 92000910, His assistant Mr. Narantsogt 99113819, Tel. 51-264873, Meeting Ms. Narantuya, Head of foreign relation division of Ministry of Justice, Mobile 99198393, Tel. 11-325225 Translator Ms. Bolor, Mobile 99150099	18 Mar 09.00-11.00	Moj&HA	Narantuya
National Police Agency + Police Academy, Ms. Badamkhand, Inspector responsible for the training of the police officers of National police agency, Mobile 99274447, 88084447; Ms. Erdenetuya, Chief juveniles' inspector of National police agency, vice colonel, Mobile 99125098; Mr. Erdenebileg, Head of criminal sector of police academy, Mobile 99183226 Translator Ms. Bolor, Mobile 99150099	18 Mar 11.30-13.30	National police agency	InD/Moj
National Legal Centre, Mr. Myagmar, Head of National legal centre, Mobile 99194710; Ms. Ganchimeg, Mobile	18 Mar	NLC	InD/Moj

88015073; Mr. Oyunbold 99194710, Mobile 99194710 Translator Ms. Bolor, Mobile 99150099	16.00-19.00		
Travel to Baganuur; Contact person: Ms. Narangua, Mobile 99129696, Tel. 01-21-22259, Committee coordinator	19 Mar 08.00	UB-Baganuur	Ops
Conduct evaluation in Baganuur project area – meeting with JJC coordinator and counterparts, i.e. Governor, Police, Prosecutor, Court, Social Policy Dept, SW Dept, Child Rights Centre. Meeting with juveniles and their parents	19 Mar 10.30-17.30	Baganuur	InD Naraa
Travel to Khentii, Contact person: Ms. Dulma, Mobile 99868085, Tel. 01-56-222767, Committee coordinator	22 Mar 4 hours	Baganuur- Khentii	Ops
Conduct evaluation in Khentii project area – meeting with JJC coordinator and relevant counterparts, i.e. Governor, Police, Prosecutor, Court, Social Policy Dept, SW Dept, Child Rights Centre, Schools. Meeting with juveniles and their parents	23-25 Mar 09.00-17.30	Khentii	InD Dolmaa
Travel to UB	26 Mar 08.00-13.00	Khentii-UB	Ops
National Law School Mr. NarangereI, Head, Mobile 99116199, Mr. Amarbayasgalan, 99192670, 55151754 Translator Ms. Bolor, Mobile 99150099	26 Mar 14.00-16.00	National Law School	InD
Meeting with DPM advisor Ms. Javzankhuu, Mobile 92001776, 88117138 Translator Ms. Bolor, Mobile 99150099	26 Mar 16.10-18.10	State house	InD
Conduct evaluation in Bayangol project area - meeting with JJC coordinator and relevant counterparts, i.e. Governor, Police, Prosecutor, Court, Social Policy Dept, Social Welfare Dept, Child Rights Centre, NGOs if applicable Meeting with juveniles and their parents, Contact person: Ms. Tsembelma, Mobile 99036350, Committee coordinator Translator Ms. Bolor, Mobile 99150099	27 Mar 09.30-18.30		
Conduct evaluation in Bayangol project Contact person: Ms. Tsembelma, Mobile 99036350, Committee coordinator Translator Ms. Bolor, Mobile 99150099	28 Mar 09.30-18.00		
Meeting with Governance team of UNDP Ms. Davaadulam, Governance practice manager Tel. 976-11-327585, Ext. # 117	30 Mar 09.00-10.00	UNDP	InD
Meeting with Yameen	30 Mar 10.10-11.00	YM's Office	InD
Conduct evaluation in Bayangol project area Contact person: Ms. Tsembelma, Mobile 99036350, Committee coordinator, Translator Ms. Bolor, Mobile 99150099	30 Mar 11.20-14.50	Bayangol	InD Tsembelma
Meeting with Ms. Enkhnasan, Ministry on social protection and labour, Mobile 99282856 Translator Ms. Bolor, Mobile 99150099	30 Mar 15.10-16.10	MoSPal Room 202	InD

World Vision, Juergen Wellner, Advocay team, Lawyer, 99097654	30 Mar 16.30-18.30	World Vision	InD
Evaluation team consultation	31 Mar 09.30-13.00	UNICEF Office	InD
Presentation of preliminary findings for Steering Committee and JJ WG Contact person: Ms. Narantuya, Head of foreign relation division of Ministry of Justice, Mobile 99198393, Tel. 11-325225 Translator Ms. Bolor, Mobile 99150099	31 Mar 14.30-17.30	Moj&HA	Narantuya
De-briefing with UNICEF (BD, YM, CP Team, Communication)	1 April 09.00-10.30	UNICEF (BD) Office	InD

A-4 Desk Review: List of Key Documents

LIST OF DOCUMENTS FOR THE CONSULTANTS ON EVALUATION OF THE JUVENILE JUSTICE COMMITTEE MODEL PROJECT IN MONGOLIA

Finalized 23 February 2009

1. CPAP 2007-2011
2. SitAn of Children and Women in Mongolia, 2007
3. Evaluation report of Felissa Tibbits on JJ. Ms. Felissa Tibbits, Human Rights Education Associates, 1-6 April 2006 Ulaanbaatar
4. Evaluation report of Ms. Shelley Casey, Child Protection Project Officer, UNICEF East Asia and Pacific Regional Office, Technical support from regional office on the diversion programme and legal framework on Juvenile Justice. 15-19 October 2007 Ulaanbaatar
5. Evaluation report of Trip report Anne Grandjean. 2008 Oct 27-31. Child Protection Specialist – Justice for Children, UNICEF New York HQ
6. Case studies of children at the committees. Compilation. Feb 2009.
7. NPA for the development and protection of children, 2002-2010
8. Constitution of Mongolia
9. Criminal code of Mongolia (revised) in relation to juvenile justice
10. Criminal procedure law of Mongolia /special rules of executing criminal proceedings in cases of minors/
11. Family Law
12. Law on Child Rights' Protection
13. Act on HR Commission of Mongolia
14. Third and fourth CRC report
15. CRC report – NGOs shadow report
16. Recommendations from the CRC Committee
17. Research report of "Reasons and conditions for child criminality", MoJHA & UNICEF 2004
18. Research report of "Criminal liability imposed on minors", 2006.
19. Child protection system in Mongolia by SCF (UK), 2006

20. JJ Study from WVI done in Zaisan children's prison
21. Draft laws and bylaws on children protection and justice for children. Mongolian version
22. Justice and Child in service training manuals for the lawyers and for the social workers. Mongolian versions

#21 and 22 to be shared with a local consultant

A-5 Juvenile Justice Committee Original Bylaw & Rules, 2006

Annex # 1 of the Decree ...
of the Civil Representatives' Hural
of Baganuur District of 2006

CHARTERS OF THE JUVENILE JUSTICE COMMITTEE

One. General provisions

1.1. The Juvenile Justice Committee charters (further referred to as Committee Charters) regulate the activities of the Committee for solving the cases of suspects, accused, defendants, convicts, who have not reached the age of 18 years at the moment of committing a crime (further referred to as Child[ren]).

1.2. The Juvenile Justice Committee shall observe these charters in its activities and observe the Constitution of Mongolia, other related legal acts¹³, international covenants ratified by Mongolia, the National Programme on Improvement of Child Development and Protection, the

¹³ Law on protection of the rights of children, Law on crime prevention, Criminal Code, Criminal investigation law, Law on arresting and detaining suspects and convicts, Law on implementation of the court decisions, Law on family, Law against domestic violence, Law against pornography, Law against alcoholism, Labour law, Law on administrative and territorial units of Mongolia and their management and other laws.

National Programme on Prevention of Child Crime and Crime against Children, the National Programme on Implementation of the Human Rights in Mongolia and other related documents.

1.3. The Juvenile Justice Committee shall be established under the direct supervision of the local governor in accordance to the laws and other documents¹⁴ and shall continually conduct activities to implement educative actions towards children in conflict with law in the community, assisting them in receiving education and profession and in getting employment and preventing them from engaging in criminal situations.

1.4. A local Juvenile Justice Committee shall be considered established and active upon approval of its charters by the local civil representatives' hural. A local Juvenile Justice Committee shall have its own structure, organisation, budget, staff, letter head and stamp and shall conduct regular activities.

1.5. Depending on the requirements of its work a Juvenile Justice Committee may develop procedures, guidelines and instructions in addition to its charters to use in its activities and those documents shall be presented by the Committee Secretary to the Head of the Committee for approval.

1.6. A Juvenile Justice Committee shall be headed by the local Governor and shall include a Deputy Head or Secretary, other members, and experts. The experts shall possess necessary knowledge, skills and experience in laws, psychology, pedagogy, social sciences and other relevant fields to work with children in conflict with law.

Two. Principles, main and other directions of work of Committees for Children Affairs

2.1. Juvenile Justice Committee shall be guided by the following principles in their work:

2.1.1. Ensure and protect children's rights, freedoms and their legal interests as priority;

2.1.2. professionally discuss the cases of children in conflict with law;

2.1.3. Treat and communicate with children in a humane manner;

2.1.4. preventing children from crime and in executing its other functions, the Juvenile Justice Committee shall work in regular contacts with the children's families and provide them methodological assistance;

2.1.5. First of all, Juvenile Justice Committee shall seek to influence the children, their families, parents ;

2.1.6. Take measures relevant to each child depending on the given problem, circumstance, character of the crime committed, provide upbringing;

2.1.7. Ensure children's or external participation in the committee activities;

¹⁴ The legal basis for establishment of the Juvenile Justice Committee shall be Article 1 of Provision 19 of the Constitution of Mongolia, Article 4 of Provision 14 of the International Pact on civil and political rights, Article 3 of Provision 40 of the UN Convention on the Rights of the Child, UN guidelines for prevention of children from crime (Riyadh Principles), Articles 1 and 2 of Provision 4 and Chapter 3 of the Law on Protection of the Rights of Children, Provision 16 of the Law on crime prevention, National programme for prevention of child crime and crime against children, resolutions of local civil representatives' hurals on establishment of Juvenile Justice Committees, decree of local governors on establishment of Juvenile Justice Committees.

- 2.1.8. The activities of the Juvenile Justice Committee shall be open and transparent to the public (except state or organisational secrets and individual confidentiality);
- 2.1.9. Ensure confidentiality of knowledge on children and their families;
- 2.1.10. In taking action to a child in conflict with law, prefer upbringing, educating, socialising and health assistance to penalties, preferring to help a child understand the negative consequences of the crime;
- 2.1.11. In solving the cases of children in conflict with law, ensure participation of the child's attorney, parents, teachers, social workers and people who know the child well;
- 2.2. The basic functions to be locally implemented by a Juvenile Justice Committee:
- 2.2.1. Locally implement actions for educative and preventive actions for children in conflict with law and providing them social support;
- 2.2.2. Discover and eliminate the causes and situations in which children are found in conflict with law or in difficult circumstances such as street children;
- 2.2.3. Assist the criminal responsibility or penalty to be applied to children in a form appropriate to children;
- 2.2.4. Provide external control over the treatment of children by law enforcement and other institutions, over application of criminal responsibility to children, over upbringing and educational actions;
- 2.2.5. Protect the rights, freedoms and interests of children in conflict with law, of children-evidences and children-victims, implement actions to rehabilitate their denied rights and work for bringing to responsibility those officials who breach the rights, freedoms and interests of children;
- 2.2.6. Organise local studies of children's crimes and on the ways of prevention;
- 2.2.7. Develop and submit to relevant institutions proposals on improvement of legal documents on prevention of child crime, and related programmes,
- 2.2.8. Within the limits of its power, Juvenile Justice Committee shall receive and solve proposals, requests and complaints from individuals, legal entities, or governmental institutions, or refer them to a relevant institution with its own conclusions and recommendations and shall provide external control over the solution of the issue by that institution;
- 2.2.9. Organise trainings to enhance the qualifications of state officials and other individuals working on the cases of children in conflict with law.

Three. Structure of a Juvenile Justice Committee

- 3.1. A Juvenile Justice Committee shall be established under a decision of the local civil representatives' hural and work under management of the local governor.
- 3.2. A Juvenile Justice Committee shall have a Head, Secretary, members and operations office. The Head of a local Juvenile Justice Committee shall be the local governor and the operations office shall consist of the relevant officers of the Governor's office.

3.3 The following officials shall be in the structure of a Committees for Children Affairs:

3.3.1. Governor;

3.3.2. Secretary of the local civil representatives' hural;

3.3.3. Chief of the police office;

3.3.4. District general prosecutor

3.3.5. District general judge;

3.3.6. Head of the District Social Development Division;

3.3.7. Head of the District Division for Finance, Economy and State Fund;

3.3.8. Head of the District Health Centre;

3.3.10. Head of the Labour and Welfare Service Division;

3.3.11. Representative of a children's self governance organisation;

3.3.12. Head of nn-governmental organisation providing care and similar services;

3.3.13 Head of the District Council of the Attorneys' Association.

3.4. A Juvenile Justice Committee shall embrace an expert or attorney, social worker, psychologist and pediatrician who are familiar with the issues of children in conflict with law, research institutions and other participants.

3.5. In case the official mentioned in 3.3 is unable to participate in the meeting of Juvenile Justice Committee, s/he should previously notify and appoint an official eligible for participation on her/his behalf. The voice of the appointed official shall be counted as the voice of the appointing official.

3.6. The secretary of a Juvenile Justice Committee as well as the officials to work in their operative offices shall be on staff members of the Juvenile Justice Committee.

3.8. A local civil representative's hural of governor may define additional obligatory members of the Juvenile Justice Committee or its branches.

Four. Detailed functions of a Juvenile Justice Committee to work with children in conflict with law

4.1. An aimag or metropolitan Juvenile Justice Committee shall perform the following functions:

4.1.1. Provide supervision to the activities and implementation of the functions of the soum/district Juvenile Justice Committees;

4.1.2. Within its powers, obtain free of charge from related organisations regardless of their form of ownership necessary information on prevention of child crime, prevention of children from being in conflict with law from being unsupervised and other issues related to children in conflict with law;

4.1.3. Organise working group on issues within its functions, engage experts to prepare for Juvenile Justice Committee meetings, develop and disseminate informational and technical documents;

4.1.4. Organize community activities to on prevention of child crime, prevention of such chi from being unsupervised and on protection of the rights, freedoms and interests of children and submit proposals and requests concerning the issues of children in conflict with law to relevant governmental organisations;

4.1.5. Invite relevant officials, experts and individuals to meetings of Juvenile Justice Committee to receive information and comments on the issues to be discussed;

4.1.6. Make decisions on the issues of child crime, other violations, protection of the rights of children and other related issues;

4.1.7. Monitor the treatment of children in conflict with law by law enforcement institutions and other organisations, how they apply criminal and administrative responsibilities to those children and how they provide upbringing and educational actions, or appoint a working group for these purposes including members of the Juvenile Justice Committee;

4.1.8. Extensively engage and coordinate governmental and non-governmental organizations, business entities and individuals in the handling of the issues of child crime, unsupervised children in conflict with law, prioritising protection of the rights of children;

4.1.9. Locally develop and monitor the implementation of a programme and plan for prevention of child crime basing on the accumulated experience and knowledge;

4.1.10. Supplement the functions of soum and district branches that could not fulfil their functions due to financial, structural, human resource and capacity shortcomings and due to other restricting circumstances;

4.1.11. In case an individual, legal entity or organisation disagrees with a decision of a soum/district Juvenile Justice Committee, examine whether the decision is valid;

4.1.12. Summarise and analyse the information submitted by soum/district branches, provide them technical assistance and advice, and disseminate good practice to other branches;

4.1.13. The other functions related to the implementation of the 2.2 and other provisions of these charters.

4.2. A Juvenile Justice Committee makes the following decisions on a children in conflict with law and an legal representative failing to fulfil her/his duties and implements the functions¹⁵ of 62.2 of the Criminal Code concerning assistance to education and upbringing of a child and also may perform the following actions relevant to education and upbringing:

4.2.1. Convince a child not to break the law again and trust a child to her/his collective or other community members;

¹⁵ Criminal Code. 62.2. In postponing a sentence, the court may give the convict obligation to help her/his upbringing such as to be employed or enrolled in school, to compensate the damages caused and to eliminate their consequences and to notify the police office of change of emplyment or school and oblige a certain community, non-governmental organisation, parents, guardians; supporters, pedagogists, relatives or certain individuals to supervise and bring up the child upon their request or agreement.

- 4.2.2. Engage a child in health, work, sport, cultural and art activities and involve in lifeskills development programme (temporary training, vocational training, helping with employment, involvement in medical treatment, train as a sportsperson, craftsperson, joiner, artist, sculptor, etc.);
- 4.2.3. Engage in community work on paid basis (socially beneficial work);
- 4.2.4. Have the child apologise the victim verbally or in writing;
- 4.2.5. Engage in a psychological discussion in a certain collective;
- 4.2.6. Have the child choose an administrative division that would be most favourable for her/his development and upbringing upon permission of the parents and/or other legal representatives;
- 4.2.7. Commit the child not to contact with people of certain groups;
- 4.2.8. Commit the child not to leave a certain place/environment (family, school, temporary training centre, etc.);
- 4.2.9. Commit the child to compensate or repair the damages; have her/him perform a work beneficial to the community, collective or to the victim;
- 4.2.10. Reconcile with the victim and other persons;
- 4.2.11. Have the child write an essay on the negative outcomes of the crime committed;
- 4.2.12. Reconcile with the victim and other persons;
- 4.2.13. Involve in various medical treatment;
- 4.2.14. Other actions helpful to upbringing and education of the child.
- 4.3. Juvenile Justice Committee may ask the court to limit the child's rights of spending her/his salary as a person between age 14-18 years, stipend and funds transferred to the child to be spent according her/his interests.
- 4.4. Following the court decision, implement the compulsory upbringing actions¹⁶ mentioned in 4.2 of these charters and Provision 69 of the Criminal Code, and submit a copy of the decision and annexed documents to the court.

¹⁶ **“Provision 69. Involving an underage person in an obligatory educative measure**

69.1. In case the court decrees it appropriate to free an underage convict, who committed crime for the first time and whose crime is not severe, from criminal sentence, the following obligatory educative measures can be applied:

69.1.1. give 6-12 months to correct one's behaviour and be brought up;

69.1.2. in case a person who has reached 16 years age earns income independently, oblige that person to compensate the damages by her/his income;

69.1.3. give the child under supervision of the parents, caretakers, guardians, pedagogists, or close relatives;

69.1.4. give the child under supervision of a community or non-governmental organisation upon their request or agreement and, in case it is necessary, appoint a pedagogist.

69.2. In case an underage person fails to demonstrate due upbringing after the measures mentioned in 69.1 of this law, the court may change the measure to a measure to be undertaken at a specialised educative institution for underage convicts

69.3. The court reserves the right to stipulate the period of the detention of an underage convict at a specialised educative institution considering the convict's temper, living conditions, the severity and extent of the crime committed, however the term shall not go beyond the time when the convict reaches the age of 16.

4.5. In case a child re-commits a violation within 6 months since a warning has been given according to 4.2.1 of these charters and if not provided otherwise by law, submit a proposal to the court concerning other legal measures provided in 4.2 and implement alternate actions as ordered by the court.

4.6. Juvenile Justice Committees of soums/districts shall perform the following functions concerning child crime and other violations:

4.6.1. Collaborate with police, local administration and a specialised educational institution to prepare and submit to the court comments and documents related to obligatory upbringing action towards a child applied by a court;

4.6.2. In case imprisonment sentence applied to a child has been postponed or changed to probation, or if the child has been freed from criminal responsibility or obligatory upbringing action has been applied, Juvenile Justice Committee shall organise work for educating the child and preventing from repeated violation;

4.6.3. Under the court order, make decision over certain cases, organise reconciliation of the offender and victim and monitor the implementation and take actions for psychological and health rehabilitation of the child-victim, submit recommendations to governmental and non-governmental organisations;

4.6.4. Under the court order, provide professional and methodological advice on the case of a suspect, accused and convicts under the age of 18 years, provide comments on the conclusions of expertise according to Provision 365.1.5 of the Criminal Code, obtain conclusion on whether the child is susceptible to positive influences for her/his upbringing;

4.6.5. If a child under the age of 18 convicted to imprisonment has demonstrated improved upbringing and behaviour during the term of postponement of imprisonment sentence, submit to the court a proposal in writing to free the child from the criminal responsibility together with a proposal of a police;

4.6.6. In case a convict under the age of 18 years failed to fulfil the obligations ordered by the court or the obligations defined in the Law on Implementation of court decisions or has failed to prove the trust of the supervising individual or entity, submit in writing a proposal of abolition of the postponement of the imprisonment sentence with the comments of the police, entity, organisation or individual;

4.6.7. Assist a child released from prison or specialised educative institution with employment, improvement of the living conditions, socialisation, rehabilitation and coverage in social welfare and public services;

4.6.8. Submit proposals or requests to the legal institution concerning the crime of child to undergo criminal or administrative penalty and assist in implementing an individual community based programme or upbringing actions for the child;

4.6.9. Develop and implement individual programmes for children released from prison, medical or educative institution, street children undergoing administrative penalty, children using alcohol and drugs.

4.7. Juvenile Justice Committees of soums or districts shall implement the following functions concerning the education of children in conflict with law:

69.4. The court shall decide the issue of releasing an underage convict from a specialised educative institution based on the comments of the educative institution.”

- 4.7.1. Make comments on decisions of excluding a child in conflict with law from a school or postponing her/his advancement into the next school grade, and apply to the court to cancel the decision in case the rights of children in conflict with law have been denied;
- 4.7.2. Submit to related organisations a proposal of involving a child in conflict with law who did not complete the full secondary education in evening training, vocational training or other forms of training (the issue of employment shall be resolved parallelly as necessary).
- 4.8. Juvenile Justice Committees of soums/districts shall perform the following functions in order to ensure organisation:
- 4.8.1. Issue decisions to be implemented in an obligatory order by organisations responsible for prevention of child crime and provision to supervision to children in conflict with law;
- 4.8.2. Coordinate its activities with governmental and non-governmental organisations working in the area of prevention of child crime, provision of supervision to children in conflict with law and for children in difficult circumstances;
- 4.8.3. Maintain a centralised database of child crimes and of preventive activities.
- 4.9. Juvenile Justice Committees of soums/districts shall perform the following functions for implementation of external monitoring:
- 4.9.1. of the current organisation and implementation of crime prevention activities;
- 4.9.2. of the activities for providing education and upbringing to children in conflict with law, of treatment of children in conflict with law; accommodation and hygiene conditions of children in conflict with law; of the processes of arresting and detaining them;
- 4.9.3. of the imprisonment conditions and environment of children in conflict with law and of their treatment;
- 4.9.4. shall monitor how leisure activities for children are organised and, in necessary cases, monitor the training and educative activities of schools and children's cultural service organisations operating under support of the state.
- 4.10. Juvenile Justice Committees of soums/districts shall perform the following functions in order to ensure environment of leisure activities of children in conflict with law:
- 4.10.1. Regularly organise local activities for children in conflict with law (this work should be handled by the organiser for the youth and women's issues);
- 4.10.2. Work for free of charge entertainment and cultural services for children and for free-of-charge services of sport facilities and public service organisation as possible¹⁷.
- 4.11. Juvenile Justice Committees of soums/districts shall perform the following functions in order to safeguard the rights of children in conflict with law to obtaining professions and to employment upon permission of the child's legal representative:
- 4.11.1. Work to ensure that organisations and entities reserve a certain number of work places that could be handled¹⁸ by children in conflict with law for children of this group and to ensure that vacancy announcements are sent to the local employment departments;

¹⁷ Shall work to introduce a system in which entertainment and cultural service centres funded from the state or local budgets devote at least 1 percent of their income from sales of tickets to households with low livelihood whose children are in conflict with law, in which the entertainment and cultural service centres define the number of tickets to be devoted to those households basing on their budget funding, in which non-budget entertainment and cultural service centres are contracted in accordance to special permissions, in which the management of educational organisations regularly send their monthly timetables of evening, day-off, holiday events and sport room utilisation calendar to the Juvenile Justice Committee.

- 4.11.2. Receive on a regular basis vacancy announcements from the local employment department and ensure that the local employment department reserves vacancies for children in conflict with law;
- 4.11.3. Work to develop a practice that children in conflict with law are excluded from their employment only after their next employment has been solved;
- 4.11.4. Work to develop a practice that the employer notifies the Juvenile Justice Committee within 2 days in case a children in conflict with law has given a notice to quit the job, upon which the Juvenile Justice Committee shall clarify the reasons of leaving the job, attempt to tell off, or find an alternate employment upon investigating the child's commitment to sustainable work in the new employment, the working environment and conditions for sustainable employment;
- 4.11.5. Collaborate with the vocational training and production centres to provide professional orientation and work practice to children in conflict with law.
- 4.12. In case the legal representative of a child in conflict with law failed to fulfil her/his duty of protecting and supporting the child, the Juvenile Justice Committee of the soum/district shall apply to a relevant institution in the following manner in order to ensure the rights of the child:
- 4.12.1. Apply to a relevant institution to release a child in conflict with law from the legal representative, caretaker or adopter in case the child's life, health and development are endangered;
- 4.12.2. Apply to the court to limit the rights of the legal representative of a child in conflict with law and to waive their parenthood;
- 4.12.3. Perform other legal duties related to the protection of the rights of children in conflict with law.
- 4.13. Observe the following principles in development and implementation of a child crime prevention programme:
- 4.13.1. Ensure and provide legal and social protection and guarantees to children;
- 4.13.2. Ensure child's economic, financial, budgetary and properties guarantees;
- 4.13.3. Provide methodological and informational brochures, textbooks and handouts;
- 4.13.4. Strive to raise the capacity of the human resources to the specialist level;
- 4.13.5. Ensure a crime prevention system and coordinate the activities of related organisations;
- 4.13.6. Engage the family and community.
- 4.14. In organising individual preventive actions, ensure engagement of the child's legal representatives and necessary experts; maintain a centralised database of the actions undertaken, regularly introduce the database to relevant institutions, have the programmes approved by local governors and organise monitoring of the implementation by Juvenile Justice Committee and/or an official appointed by Juvenile Justice Committee.
- 4.15. The registrations of following children shall be centrally maintained:

¹⁸ It shall be forbidden to engage a child in jobs endangering their health, moral and intellectual development and to deny the Law on Labour, other related laws and international covenants ratified by Mongolia.

- 4.15.1. Children who have been convicted, who have been sentenced to imprisonment and other criminal penalties, who have been released from prison;
- 4.15.2. Children whose imprisonment was postponed, who were released from criminal responsibility (including those who were released under Amnesty law and order of pardon);
- 4.15.3. Children involved in educative and upbringing action at a court order;
- 4.15.4. Children involved in obligatory medical action at a court order;
- 4.15.5. Children who were arrested as suspect or convict, who have been detained and who underwent suppressing measures other than detention;
- 4.15.6. Children who underwent administrative actions due to their violations, and who breached the law under the age to which criminal and administrative responsibilities are applicable;
- 4.15.7. Children who regularly use alcohol, narcotics and drugs affecting psychology without prescription;
- 4.15.8. Children who are been searched for due to their crime;
- 4.15.9. Orphan children, children without a supervising caretaker and children without residential addresses who have committed crime before;
- 4.15.10. Children who have committed crime before and systematically breach the rules of the school, who dropped out school, who are systematically absent at school without valid reasons;
- 4.15.11. Working children who have committed crime before;
- 4.15.12. Extremely poor children, children of poor households and migrant children who have committed crime before.
- 4.16. Juvenile Justice Committees of soums/districts shall perform the functions defined in 4.1.2 – 4.1.9. of these charters adapted to the local conditions.

**Five. The rights of the individuals
whose cases are being investigated by a Juvenile Justice Committee**

- 5.1. Children whose cases are being investigated by a Juvenile Justice Committee, their legal representatives (parents, caretakers), attorneys, social workers and pedagogists have the following rights:
 - 5.1.1. To be introduced to the documents related to her/his case, to receive explanation of what measures can be applied to her/him by the committee in a simple and understandable language and to be called by her/his own name;
 - 5.1.2. Upon permission of the chairperson of the Juvenile Justice Committee, to ask questions members of the committee, other participants and the victim, give answers and explanations, present evidences;

- 5.1.3. To advocate oneself, receive a legal assistance, meet her/his attorney individually;
- 5.1.4. In case they disagree with the decisions of the soum/district Juvenile Justice Committee, to appeal to the aimag/metropolitan Juvenile Justice Committee, or to appeal to the court;
- 5.1.5. The other rights according to the Constitution of Mongolia, other laws, international covenants and these charters.
- 5.2. A Juvenile Justice Committee shall respect the rights of the individuals mentioned in 5.1 and shall not deny those rights.

Six. Internal structure of a Juvenile Justice Committee

- 6.1. The Head of a Juvenile Justice Committee bears the following duties:
 - 6.1.1. Distribute work functions of committee members and of the committee staff members;
 - 6.1.2. Approve the committee work plan, job descriptions of the committee staff members, distribution of the cases of children and dates of the committee meetings;
 - 6.1.3. Chair the committee meeting or appoint another official;
 - 6.1.4. Approve the committee structure and staff members;
 - 6.1.5. Regularly introduce the committee structure, staff members, activities and reports to the district civil representatives' hural;
 - 6.1.6. Develop proposals and requests in the governmental and community spheres on child crimes, other violations and unsupervised children in conflict with law and have them solved;
 - 6.1.7. Representing the Juvenile Justice Committee, respect the organizations participating in the committee;
 - 6.1.8. Nominate committee members and committee staff members with outstanding performance to governmental awards;
 - 6.1.9. Suggest to related institutions to increase the salary of committee staff members, to nominate them to awards and have it approved;
 - 6.1.10. Other duties according to laws and regulations and to these charters.
- 6.2. The Secretary of Juvenile Justice Committee bears the following duties:
 - 6.2.1. Represent the committee upon permission by the head of the Juvenile Justice Committee;
 - 6.2.2. Ensure preparations for the implementation of the functions defined in 5.1 of these charters by the Head of Juvenile Justice Committee and develop necessary documents;
 - 6.2.3. Developing the committee work plan, reflect the ideas of the committee members and other stakeholders;
 - 6.2.4. Make suggestions concerning appointment, replacement, awarding and punishment of a committee staff member;
 - 6.2.5. Organise and supervise the committee staff members making preparations of committee meetings;
 - 6.2.6. Receive requests, suggestions, complaints and other documents to the committee;

- 6.2.7. Maintain the documentations related to the implementation of the functions of the committee and appoint staff members for this purpose;
- 6.2.8. Monitor the implementation of the committee decisions and be responsible for the validity of the plans, reports and other documents and for timeliness of the activities;
- 6.2.9. Submit proposals to the Head of the committee on improvement of the activities of governmental and non-governmental organisations for prevention of child crime and other violations;
- 6.2.10. Prepare monthly reports on the child crime situation for the Head of the committee;
- 6.2.11. Monitor the implementation of the committee work plan and, at the order of the Head of the committee, monitor the treatment of children in conflict with law by governmental and other organisations, how education and upbringing are provided to those children.
- 6.3. Meetings of Juvenile Justice Committee shall be held not less than twice a month on the agreed date and the following should be important for the meetings:
- 6.3.1. Not to hold a meeting if preparations are not completed, if agenda, information on children's cases and other issues are not prepared;
- 6.3.2. The meeting shall be attended by every participant, in case a participant has a valid reason to be absent, s/he shall give a one day notice by phone or in person and appoint another expert in a mandatory order.
- 6.4. The decision to take an educative and upbringing measure to a child in conflict with law shall include the name, age and gender of the child, characteristics of the violation, type of the measure, content, methodology and duration of the measure, the names and signatures of officials to be responsible for and to monitor the fulfilment of the decision and other necessary information.
- 6.5. A Juvenile Justice Committee shall discuss its decisions only at the committee meeting and approve it by majority of the participants of the meeting.
- 6.6. A committee meeting shall be valid with presence of two thirds or more members.
- 6.7. In case a member has been absent at the meetings 3 or more times without a valid reason, an appeal should be sent to that person's organisation to have her/him actively participate in the meetings.
- 6.8. Funding of Juvenile Justice Committee can be in cash, inventory, free-of-charge services, training and other forms and shall consist of the following sources:
- 6.8.1. The funding according to Provision 19 of the Law on Prevention of crime;
- 6.8.2. Income of training and vocational activities;
- 6.8.3. Donations from governmental, non-governmental and business organisations and from individuals;
- 6.8.4. Other sources not forbidden by law.
- 6.9. Juvenile Justice Committee shall annually present its report to the local civil representatives' hural on the date specified by the local civil representatives' hural and governor.

6.10. It shall be forbidden to include in the report unnecessary information, wordy formulations, repeated comments and issues unrelated to the functions of the committee and shall be presented in a form which would be instrumental to improvement of the committee activities.

6.11. The metropolitan and aimag Juvenile Justice Committees shall meet every 3 years; and soum and district Juvenile Justice Committees shall meet every 2 years in order to discuss certain issues in the field of child crime and other violations, to exchange experience and to clarify the vision for the activities.

6.12. Juvenile Justice Committee shall coordinate its activities with the Coordination council for crime prevention activities, governmental and non-governmental organisations, international organisations, NCC and other organisations¹⁹.

6.13. Each soum/district Juvenile Justice Committee shall submit the summary of its activities with annexes to corresponding aimag/metropolitan Juvenile Justice Committee.

6.14. Aimag Juvenile Justice Committees shall send their summary of activities to the metropolitan Juvenile Justice Committee.

6.15. The Juvenile Justice Committee shall be dismissed only in case that children's rights and interests are violated more or worsened.

**Seven. Coordination of the activities of organisations
working on the issues of children in conflict with law and unsupervised children in conflict with law**

7.1. In terms of ensuring coordination of efforts, organisations working on the issues of child crime have the following duties:

7.1.1. Quarterly develop information on causes and situations of violations of the rights of other individuals by children and recommendations on their elimination to the Juvenile Justice Committee (in this they shall include information on the causes and situations of each case of a child being in conflict with law);

7.1.2. Refer children who potentially may commit crime and children who committed crime and are unsupervised to the related institution;

7.1.3. Timely inform Juvenile Justice Committee and related legal and other institutions in case the rights of a children in conflict with law to property, to safe and healthy living environment, and to housing are denied and in case a child's legal representative fails to fulfil her/his duties to bring up, support and educate the child;

7.1.4. Regularly inform the public of their activities for child crime prevention and supervision of children in conflict with law;

7.1.5. Also submit the information mentioned in 7.1.1 to a related legal institution.

7.2. Organisation working for prevention of child crime exercise the following rights:

7.2.1. Obtain free information on child crime, other violations and unsupervised children in conflict with law;

¹⁹ Here are considered social protection organisations, care centres, health, education, labour and legal organisations, local self-governance organisations and administrative offices, departments for the family and youth affairs, cultural, service, sport and tourism organisations.

7.2.2. Propose suggestions on improvement of coordination of activities;

7.2.3. Take part in development of programmes, plans and other documents on prevention of child crime; other violations and unsupervised children in conflict with law.

7.3. Suggestions and requests received from Juvenile Justice Committee shall be solved by the receiving organisation within days and the decision shall be communicated to the Juvenile Justice Committee within days.

7.4. International organisations (intergovernmental and non-intergovernmental), their representative's offices, non-governmental organisations, business entities and individuals shall take part in the activities for prevention of child crime, other violations and unsupervised children in conflict with law in the following manner:

7.4.1. Coordinate their activities with local administrations, hospitals, educational and legal institutions;

7.4.2. Provide technical, professional, financial and other assistance to activities for prevention of child crime, other violations and unsupervised children in conflict with law;

7.4.3. Establish and operate care centres, shelters and educative centres to contribute to the activities for prevention of child crime; other violations and unsupervised children in conflict with law;

7.4.4. Organise humanity aid activities;

7.4.5. Participate in individual actions for children in conflict with law, children susceptible to conflict with law and children in difficult circumstances;

7.4.6. Participate in the community inspector work.

..... (name of the administrative unit)

JUVENILE JUSTICE COMMITTEE

Approval of the charters and structure of a Juvenile Justice Committee

The District Civil Representatives' Hural decrees in accordance to 1 and 2 of Article 4 of the Law on Protection of the Rights of Children and Article 16 of the Law of Crime Prevention:

- One:** Establish a Juvenile Justice Committee.
- Two:** Approve the Charters of the Juvenile Justice Committee in accordance to Annex 1 and the structure of the Juvenile Justice Committee in accordance to Annex 2.
- Three:** Assign Governor and Head of the Juvenile Justice Committee Ch. Oyunbaatar to organise the activities of Juvenile Justice Committee with high quality and according to the approved charters and to report to the Civil Representatives' Hural annually!

SPEAKER OF THE CIVIL REPRESENTATIVES' HURAL L. SHAGDARSUREN

SECRETARY OF THE CIVIL REPRESENTATIVES' HURAL M. BAASANJAV

A-6 Juvenile Justice Committee Revised Charter, May 2008

Sample charters

Annex # ... of the Civil Representatives' Hural of
..... of 200 ...

CHARTERS OF THE JUVENILE JUSTICE COMMITTEE

One. General provisions

1.1. These charters (further referred to as *Committee Charters*) regulate the issues of children in difficult circumstances and suspects, accused, defendants, convicts, who have not reached the age of 18 years ((further referred to as *Child[ren]*) and the activities of the Juvenile Justice Committee to work for child protection. The Juvenile Justice Committee can also be called Child Protection Committee.

1.2. The Juvenile Justice Committee shall observe these charters in its activities and observe the Constitution of Mongolia, other related legal acts²⁰, international covenants ratified by Mongolia, the National Programme on Improvement of Child Development and Protection, the National Programme on Prevention of Child Crime and Crime against Children, the National Programme on Implementation of the Human Rights in Mongolia and other related documents.

²⁰ Law on protection of the rights of children, Law on crime prevention, Criminal Code, Criminal investigation law, Law on arresting and detaining suspects and convicts, Law on implementation of the court decisions, Law on family, Law against domestic violence, Law against pornography, Law against alcoholism, Labour law, Law on administrative and territorial units of Mongolia and their management and other laws.

1.3. The Juvenile Justice Committee shall be established at local civil representatives' hural in accordance to the laws and other documents²¹ and shall continually conduct activities to collectively solve the problems of children in difficult circumstances, to implement educational actions for children in conflict with law in the community, assisting them in receiving education and profession and in getting employment and preventing them from engaging in criminal situations.

1.4. A local Juvenile Justice Committee shall be considered established and active upon approval of its charters by the local civil representatives' hural. A local Juvenile Justice Committee shall have its own structure, organisation, budget, staff, letter head and stamp and shall conduct regular activities.

1.5. Depending on the requirements of its work a Juvenile Justice Committee shall develop procedures, guidelines and instructions in addition to its charters to use in its activities and those documents shall be presented by the Committee Secretary to the Head of the Committee for approval and a copy of the documents shall be presented to the local civil representatives' hural.

1.6. A Juvenile Justice Committee shall be headed by the local Governor and shall include a Deputy Head or Secretary, other members, and experts. The experts shall possess necessary knowledge, skills and experience in laws, psychology, pedagogy, social sciences and other relevant fields to work for children in difficult circumstances and children in conflict with law.

1.7. Each aimag and the capital shall have a Juvenile Justice Committee and their branches shall be established in horoos, soums, or among soums and in districts.

Two. Principles, main and other directions of work of Committees for Children Affairs

2.1. Juvenile Justice Committee shall be guided by the following principles in their work:

2.1.1. Ensure and protect children's rights, freedoms and their legal interests as priority;

2.1.2. Prevent children from difficult circumstances and professionally discuss the affairs of children in difficult circumstances and children in conflict with law;

2.1.3. Treat and communicate with children in a respectful and humane manner;

2.1.4. In solving the problems of children in difficult circumstances, preventing children from crime and in executing its other functions, the Juvenile Justice Committee shall work in regular contacts with the children's families and provide them methodological assistance;

2.1.5. First of all, Juvenile Justice Committee shall seek to influence the children, their families, parents;

²¹ The legal basis for establishment of the Juvenile Justice Committee shall be Article 1 of Provision 19 of the Constitution of Mongolia, Article 4 of Provision 14 of the International Pact on civil and political rights, Article 3 of Provision 40 of the UN Convention on the Rights of the Child, UN guidelines for prevention of children from crime (Riyadh Principles), Articles 1 and 2 of Provision 4 and Chapter 3 of the Law on Protection of the Rights of Children, Provision 16 of the Law on crime prevention, National programme for prevention of child crime and crime against children, resolutions of local civil representatives' hural on establishment of Juvenile Justice Committees, decree of local governors on establishment of Juvenile Justice Committees.

2.1.6. Take measures relevant to each child depending on the given problem, circumstance, character of the crime or administrative violation committed, provide upbringing;

2.1.7. Ensure Juvenile Justice Committee's and external participation in the committee activities;

2.1.8. The activities of the Juvenile Justice Committee shall be open and transparent to the public (except state or organisational secrets and individual confidentiality);

2.1.9. Ensure confidentiality of knowledge on children, their cases and their families;

2.1.10. In taking action to a child in conflict with law, prefer upbringing, educating, socialising and health assistance to penalties;

2.1.11. In solving the issues of children in difficult circumstances and children in conflict with law, ensure participation of the child's attorney, parents, teachers, social workers and people who know the child well;

2.1.12. Avoid solely specialising in public awareness activities but develop and implement individual action plans for each case.

2.2. The basic functions to be locally implemented by a Juvenile Justice Committee:

2.2.1. Take responsibility for the issues of children in difficult circumstances including children without civil registration, orphans and semi-orphans, children with disabilities, children of low income households, street children, emigrant children, working children (including children working in dangerous for health and development conditions, children in forced labour, where the work hinders children's educational opportunities), children physically and psychologically suffering of violence, and abuse (including sexual abuse), children-victims of crime and administrative violations, children in conflict with law, children dropping out school, children of divorced families. It shall also take responsibility for children in natural disasters, pandemics, accidents affecting a community, armed conflicts and other emergencies;

2.2.1. Locally implement actions for educational and preventive actions for children in conflict with law and providing them social support;

2.2.2. Discover and eliminate the causes and situations in which children are found in conflict with law or in difficult circumstances such as street children;

2.2.3. Assist the criminal responsibility or penalty to be applied to children in a form appropriate to children;

2.2.4. Provide external control over the treatment of children by law enforcement and other institutions, over application of criminal responsibility to children, over upbringing and educational actions;

2.2.5. Protect the rights, freedoms and interests of children in conflict with law, of children-evidences and children-victims, implement actions to rehabilitate their denied rights and work for bringing to responsibility those officials who breach the rights, freedoms and interests of children;

2.2.6. Organise local studies of children's crimes and on the ways of prevention;

2.2.7. Develop and submit to relevant institutions proposals on improvement of legal documents on prevention of child crime, and related programmes,

2.2.8. Within the limits of its power, Juvenile Justice Committee shall receive and solve proposals, requests and complaints from individuals, legal entities, or governmental institutions, or refer them to a relevant institution with its own conclusions and recommendations and shall provide external control over the solution of the issue by that institution;

2.2.9. Organise trainings to enhance the qualifications of state officials and other individuals working for the affairs of children in conflict with law;

3.1. Juvenile Justice Committee shall pay special attention to the following issues working for children in difficult circumstances:

3.1.1. Ensure children's rights to be registered upon birth, engage the parents, hospital and social workers, receive professional assistance, provide consultation, training and information to families, develop an attitude not to exclude unregistered children from public services, timely reveal unregistered children, have them registered, discover and eliminate the causes and situation of non-registration, develop and implement individual plans of working with each child and family to solve their vulnerability, improve the registration of migrations, improve the regulations of de-registration of outmigrants, prevent non-registration etc.;

3.1.2. Define the number of orphan and semi-orphan children in the community, clarify the causes of becoming orphans and semi-orphans, organise prevention, coordinate the activities of governmental and non-governmental organisations, provide individual counseling and training, seek care of relatives, or temporary sheltering and permanent sheltering in case a care by relatives is impossible, use adoption as a last resort, introduce control by state officials, NGOs and community to the care by individuals other than parents or by institutions, ensure and monitor implementation the functions of the staff of the centres for children;

3.1.3. Discover and survey children with disabilities, clarify and eliminate the causes and situation of being disabled, ensure safeguarding their legal rights, eligibility to welfare, involve them in education, health and other services, create conditions for their presence and participation among the community and among other children, create favourable living conditions, improve the safety of the roads, buildings and other living areas;

3.1.4. Avoid development of dependency thinking during solution of the problems of poor families and children (for example, instead of giving, teach them how to earn), ensure the appropriate spending the "children's money", provide professions and professional orientation, provide employment, assist household business through training, re-training, provide counseling at the stage of spending, etc.;

3.1.5. In order to solve the issue of domestic violence, improve the quality of training and counseling provided to families, routinise them, discover children-victims of domestic violence, provide them temporary shelter, discover, eliminate and prevent the causes and situation of domestic violence, cooperate with other local organisations, receive support of horoo organisers, social workers, children's organisations, provide training and counseling to the individuals committing the violence, use penalty in case it is necessary, develop positive atmosphere in the families, return the victims to the families, or provide temporary care;

3.1.6. In order to solve the issue of violence at school, improve the work of the school councils and students' councils, improve the quality of the service of educational establishments, ban any fees and contributions taken from the students, ban discrimination, increase the forms and opportunities of children's leisure time, involve them in sport activities and in health services, etc.;

3.1.7. Improve the monitoring of implementation of the laws on education, discover children who have dropped out of school, explore the reasons, improve the conditions of studying at school, receive complaints and requests at school, develop regulations for their solution, receive children and ensure support by the teachers and classmates, engage the local officials, enrol children in school and if it is impossible, enrol them in the non-formal education centres, or in vocational and industrial training centres, or provide services of individual part time teachers or provide apprenticeship with an individual who is experienced working with a child;

3.1.8. Provide psychological, health, legal and other services and protection to victims, organise interview with children in an environment with minimal psychological pressure, avoid interrogations, provide counseling of avoidance of future victimisation, etc.;

3.1.9. Improve the regulation of intergrated solution and prevention of the issues of alcoholism, violence, school dropout, hazardous and forceful labour, working at mining, waste disposal point, market, etc.;

3.1.9. Organise collaborative solution of the issues of children in conflict with law with community participation, upbringing and socialisation of children found in conflict with law for the first time, ensure that social workers assess the situation of children, and legal officers avoid imprisonment of children and prefer assisting the solution of the above issues.

Three. Structure of a Juvenile Justice Committee

3.1. The Juvenile Justice Committee and its local branches shall work under management of the local governor at the approval by the local civil representatives' hural.

3.2. The Juvenile Justice Committee and its local branches shall have a Head, Secretary, members and operations office. The Head of a local Juvenile Justice Committee shall be the local governor and the operations office shall consist of the officers of the Governor's office.

3.3. The following officials shall be in the structure of aimag and metropolitan Committees for Children Affairs:

3.3.1. Governor;

3.3.2. Speaker or Secretary of the local civil representatives' hural;

3.3.3. Chief of the police office;

3.3.4. Highest level prosecutor of the Prosecutors' office;

3.3.5. General judge of the court;

3.3.6. Head of the health institution;

3.3.7. Head of the Education Department;

3.3.8. Head of the Employment Office;

3.3.9. Heads of NGO's providing care and other related services;

3.3.10. Head of the children's self-governance organisation;

3.3.11. Head of the Attorneys' council of aimag/capital.

3.4. Juvenile Justice Committees of aimags and of the capital shall embrace an expert or attorney, social worker, psychologist and pediatrician who are familiar with the issues of children in conflict with law, research institutions and other participants.

3.5. In case the official mentioned in 3.3 is unable to participate in the meeting of Juvenile Justice Committee, s/he should previously notify and appoint an official eligible for participation on her/his behalf. The voice of the appointed official shall be counted as the voice of the appointing official.

3.6. Juvenile Justice Committees of soums and districts shall embrace the officials mentioned in 3.3 and 3.4 and these may vary depending on the local specific characteristics and on the particular work. However, it is obligatory that the official who has key influence in the issues discussed at meetings of a branch of Juvenile Justice Committee be included in the structure of the Committee.

3.7. The secretary of Juvenile Justice Committee and its branches as well as the officials to work in their operative offices shall be on staff members of the Juvenile Justice Committee.

3.8. A local civil representative's hural of governor may define additional obligatory members of the Juvenile Justice Committee or its branches.

Four. Detailed functions of the Juvenile Justice Committee to work with children in conflict with law

4.1. An aimag or metropolitan Juvenile Justice Committee shall perform the following functions:

4.1.1. Provide supervision to the activities and implementation of the functions of the soum/district Juvenile Justice Committees;

4.1.2. Obtain free of charge from related organisations regardless of their form of ownership necessary information on prevention of child crime, prevention of children from being in conflict with law and other issues related to children in conflict with law;

4.1.3. Organise working group on issues within its functions, engage experts to prepare for Juvenile Justice Committee meetings, develop and disseminate informational and technical documents;

4.1.4. Organize community activities to on prevention of child crime, of children having to live on the street and on protection of the rights, freedoms and interests of children and submit proposals and requests concerning the issues of children in conflict with law to relevant governmental organisations;

4.1.5. Invite relevant officials, experts and individuals to meetings of Juvenile Justice Committee to receive information and comments on the issues to be discussed;

4.1.6. Make decisions on the issues of child crime, other violations, protection of the rights of children and other related issues;

4.1.7. Monitor the treatment of children in conflict with law by law enforcement institutions and other organisations, how they apply criminal and administrative responsibilities to those children and how they provide upbringing and educational actions, or appoint a working group for these purposes including members of the Juvenile Justice Committee;

4.1.8. Extensively engage governmental and non-governmental organizations, business entities and individuals in the handling of the issues of child crime, unsupervised children in conflict with law and priority protection of the rights of children;

4.1.9. Locally develop and monitor the implementation of a programme and plan for prevention of child crime basing on the accumulated experience and knowledge;

4.1.10. Supplement the functions of soum and district branches that could not fulfil their functions due to financial, structural, human resource and capacity shortcomings and due to other restricting circumstances;

4.1.11. In case an individual, legal entity or organisation disagrees with a decision of a soum/district Juvenile Justice Committee, examine whether the decision is valid;

4.1.12. Summarise and analyse the information submitted by soum/district branches, provide them technical assistance and advice, and disseminate good practice to other branches;

4.1.13. The other functions related to the implementation of the 2.2 and other provisions of these charters.

4.2. A Juvenile Justice Committee makes the following decisions on a children in conflict with law and an legal representative failing to fulfil her/his duties and implements the functions²² of 62.2 of the Criminal Code concerning assistance to education and upbringing of a child and also may perform the following actions relevant to education and upbringing:

4.2.1. Convince a child not to break the law again and trust a child to her/his collective or other community members;

4.2.2. Engage a child in health, work, sport, cultural and art activities and involve in lifeskills development programme (temporary training, vocational training, helping with employment, involvement in medical treatment, train as a sportsperson, craftsperson, joiner, artist, sculptor, etc.)

4.2.3. Engage in community work on paid basis;

4.2.4. Have the child apologise the victim verbally or in writing;

4.2.5. Engage in a psychological discussion in a certain collective;

²² Criminal Code. 62.2. In postponing a sentence, the court may give the convict obligation to help her/his upbringing such as to be employed or enrolled in school, to compensate the damages caused and to eliminate their consequences and to notify the police office of change of employment or school and oblige a certain community, non-governmental organisation, parents, guardians; supporters, pedagogists, relatives or certain individuals to supervise and bring up the child upon their request or agreement.

- 4.2.6. Have the child choose an administrative division that would be most favourable for her/his development and upbringing upon permission of the parents and/or other legal representatives;
 - 4.2.7. Commit the child not to contact with people of certain groups;
 - 4.2.8. Commit the child not to leave a certain place/environment (family, school, Temporary training centre, etc.);
 - 4.2.9. Commit the child to compensate or repair the damages; have her/him perform a work beneficial to the community, collective or to the victim;
 - 4.2.10. Reconcile with the victim and other persons;
 - 4.2.11. Have the child write an essay on the negative outcomes of the crime committed;
 - 4.2.12. Reconcile with the victim and other persons;
 - 4.2.13. Involve in various medical treatment;
 - 4.2.14. Other actions helpful to upbringing and education of the child.
- 4.3. Juvenile Justice Committee may ask the court to limit the child's rights of spending her/his salary as a person between age 14-18 years, stipend and funds transferred to the child to be spent according her/his interests.
- 4.4. Following the court decision, implement the compulsory upbringing actions²³ mentioned in 4.2 of these charters and Provision 69 of the Criminal Code, and submit a copy of the decision and annexed documents to the court.
- 4.5. In case a child recommit a violation within 6 months since a warning has given according to 4.2.1 of these charters and if not provided otherwise by law, submit a proposal to the court concerning other legal measures and implement alternate actions as ordered by the court.
- 4.6. Juvenile Justice Committees of soums/districts shall perform the following functions concerning child crime and other violations:

²³ **“Provision 69. Involving an underage person in an obligatory educative measure**

69.1. In case the court decrees it appropriate to free an underage convict, who committed crime for the first time and whose crime is not severe, from criminal sentence, the following obligatory educative measures can be applied:

69.1.1. give 6-12 months to correct one's behaviour and be brought up;

69.1.2. in case a person who has reached 16 years age earns income independently, oblige that person to compensate the damages by her/his income;

69.1.3. give the child under supervision of the parents, caretakers, guardians, pedagogists, or close relatives;

69.1.4. give the child under supervision of a community or non-governmental organisation upon their request or agreement and, in case it is necessary, appoint a pedagogist.

69.2. In case an underage person fails to demonstrate due upbringing after the measures mentioned in 69.1 of this law, the court may change the measure to a measure to be undertaken at a specialised educative institution for underage convicts

69.3. The court reserves the right to stipulate the period of the detention of an underage convict at a specialised educative institution considering the convict's temper, living conditions, the severity and extent of the crime committed, however the term shall not go beyond the time when the convict reaches the age of 16.

69.4. The court shall decide the issue of releasing an underage covict from a specialised educative institution based on the comments of the educative institution.”

4.6.1. Collaborate with police, local administration and specialised educational institution to prepare and submit to the court comments and documents related to obligatory upbringing action towards a child applied by a court;

4.6.2. In case imprisonment sentence applied to a child has been postponed or changed to probation, or if the child has been freed from criminal responsibility or obligatory upbringing action has been applied, Juvenile Justice Committee shall organise work for educating the child and preventing from repeated violation;

4.6.3. Under the court order, make decision over certain cases, organise reconciliation of the offender and victim and monitor the implementation and take actions for psychological and health rehabilitation of the child-victim, submit recommendations to governmental and non-governmental organisations;

4.6.4. Under the court order, provide professional and methodological advice on the case of a suspect, accused and convicts under the age of 18 years, provide comments on the conclusions of expertise according to Provision 365.1.5 of the Criminal Code, obtain conclusion on whether the child is susceptible to positive influences for her/his upbringing;

4.6.5. If a child under the age of 18 convicted to imprisonment has demonstrated improved upbringing and behaviour during the term of postponement of imprisonment sentence, submit to the court a proposal in writing to free the child from the criminal responsibility together with a proposal of a police;

4.6.6. In case a convict under the age of 18 years failed to fulfil the obligations ordered by the court or the obligations defined in the Law on Implementation of court decisions or has failed to prove the trust of the supervising individual or entity, submit in writing a proposal of abolition of the postponement of the imprisonment sentence with the comments of the police, entity, organisation or individual;

4.6.7. Assist a child released from prison or specialised educative institution with employment, improvement of the living conditions, socialisation, rehabilitation and coverage in social welfare and public services;

4.6.8. Submit proposals or requests to the legal institution concerning the crime of child to undergo criminal or administrative penalty and assist in implementing an individual community based programme or upbringing actions for the child;

4.6.9. Develop and implement individual programmes for children released from prison, medical or educative institution, street children undergoing administrative penalty, children using alcohol and drugs.

4.7. Juvenile Justice Committees of soums or districts shall implement the following functions concerning the education of children in conflict with law:

4.7.1. Make comments on decisions of excluding a child in conflict with law from a school or postponing her/his advancement into the next school grade, and apply to the court to cancel the decision in case the rights of children in conflict with law have been denied;

4.7.2. Submit to related organisations a proposal of involving a child in conflict with law who did not complete the full secondary education in evening training, vocational training or other forms of training (the issue of employment shall be resolved parallelly as necessary).

4.8. Juvenile Justice Committees of soums/districts shall perform the following functions in order to ensure organisation:

4.8.1. Issue decisions to be implemented in an obligatory order by organisations responsible for prevention of child crime and provision of supervision to children in conflict with law;

4.8.2. Coordinate its activities with governmental and non-governmental organisations working in the area of prevention of child crime, provision of supervision to children in conflict with law and for children in difficult circumstances;

4.8.3. Maintain a centralised database of child crimes and of preventive activities.

4.9. Juvenile Justice Committees of soums/districts shall perform the following functions for implementation of external monitoring:

4.9.1. of the current organisation and implementation of crime prevention activities;

4.9.2. of the activities for providing education and upbringing to children in conflict with law, of treatment of children in conflict with law; accommodation and hygiene conditions of children in conflict with law; of the processes of arresting and detaining them;

4.9.3. of the imprisonment conditions and environment of children in conflict with law and of their treatment;

4.9.4. shall monitor how leisure activities for children are organised and, in necessary cases, monitor the training and educative activities of public schools and children's cultural service organisations.

4.10. Juvenile Justice Committees of soums/districts shall perform the following functions in order to ensure environment of leisure activities of children in conflict with law:

4.10.1. Regularly organise local activities for children in conflict with law (this work should be handled by the organiser for the children's and women's issues);

4.10.2. Work for discount entertainment and cultural services for children and for free-of-charge services of sport facilities and public service organisation as possible²⁴.

4.11. Juvenile Justice Committees of soums/districts shall perform the following functions in order to safeguard the rights of children in conflict with law to obtaining professions and to employment upon permission of the child's legal representative:

4.11.1. Work to ensure that organisations and entities reserve a certain number of work places that could be handled²⁵ by children in conflict with law for children of this group and to ensure that vacancy announcements are sent to the local employment departments;

4.11.2. Receive on a regular basis vacancy announcements from the local employment department and ensure that the local employment department reserves vacancies for children in conflict with law;

4.11.3. Work to develop a practice that children in conflict with law are excluded from their employment only after their next employment has been solved;

²⁴ Shall work to introduce a system in which entertainment and cultural service centres funded from the state or local budgets devote at least 1 percent of their income from sales of tickets to households with low livelihood whose children are in conflict with law, in which the entertainment and cultural service centres define the number of tickets to be devoted to those households basing on their budget funding, in which non-budget entertainment and cultural service centres are contracted in accordance to special permissions, in which the management of educational organisations regularly send their monthly timetables of evening, day-off, holiday events and sport room utilisation calendar to the Juvenile Justice Committee.

²⁵ It shall be forbidden to engage a child in jobs endangering their health, moral and intellectual development and to deny the Law on Labour, other related laws and international covenants ratified by Mongolia.

4.11.4. Work to develop a practice that the employer notifies the Juvenile Justice Committee within 2 days in case a children in conflict with law has given a notice to quit the job, upon which the Juvenile Justice Committee shall clarify the reasons of leaving the job, attempt to tell off, Or find an alternate employment upon investigating the child's commitment to sustainably work in the new employment, the working environment and conditions for sustainable employment;

4.11.5. Collaborate with the vocational training and production centres to provide professional orientation and work practice to children in conflict with law.

4.12. In case the legal representative of child in conflict with law failed to fulfil her/his duty of protecting and supporting the child, the Juvenile Justice Committee of the soum/district shall apply to a relevant institution in the following manner in order to ensure the rights of the child:

4.12.1. Apply to a relevant institution to release a child in conflict with law from the legal representative, caretaker or adopter in case the child's life, health and development are endangered;

4.12.2. Apply to the court to limit the rights of the legal representative of a child in conflict with law and to waive their parenthood;

4.12.3. Perform other legal duties related to the protection of the rights of children in conflict with law.

4.13. Observe the following principles in development and implementation of a child crime prevention programme:

4.13.1. Ensure and provide legal and social protection and guarantees to children;

4.13.2. Ensure child's economic, financial, budgetary and properties guarantees;

4.13.3. Provide methodological and informational brochures, textbooks and handouts;

4.13.5. Ensure a crime prevention system and coordinate the activities of related organisations;

4.13.6. Engage the family and community.

4.14. In organising individual preventive actions, ensure engagement of the child's legal representative s and necessary experts; maintain a centralised database of the actions undertaken, regularly introduce the database to relevant institutions, have the programmes approved by local governors and organise monitoring of the implementation by Juvenile Justice Committee and/or an official appointed by Juvenile Justice Committee.

4.15. The registrations of following children shall be centrally maintained:

4.15.1. Children who have been convicted, who have been sentenced to imprisonment and other criminal penalties, who have been released from prison;

4.15.2. Children whose imprisonment was postponed, who were released from criminal responsibility (including those who were released under Amnesty law and order of pardon);

4.15.3. Children involved in educative and upbringing action at a court order;

4.15.4. Children involved in obligatory medical action at a court order;

- 4.15.5. Children who were arrested as suspect or convict, who have been detained and who underwent suppressing measures other than detention;
 - 4.15.6. Children who underwent administrative actions due to their violations, and who breached the law under the age to which criminal and administrative responsibilities are applicable;
 - 4.15.7. Children who regularly uses alcohol, narcotics and drugs affecting psychology without prescription;
 - 4.15.8. Children who are been searched for due to their crime;
 - 4.15.9. Orphan children, children without a supervising caretaker and children without residential addresses who have committed crime before;
 - 4.15.10. Children who have committed crime before and systematically breach the rules of the school, who dropped out school, who are systematically absent at school without valid reasons;
 - 4.15.11. Working children who have committed crime before;
 - 4.15.12. Extremely poor children, children of poor households and migrant children who have committed crime before.
- 4.16. Juvenile Justice Committees of soums/districts shall locally perform the functions defined in 4.1.2 – 4.1.9. of these charters.

**Five. The rights of the individuals
whose cases are being investigated by a Juvenile Justice Committee**

- 5.1. Children whose cases are being investigated by a Juvenile Justice Committee, their legal representatives (parents, caretakers), attorneys and pedagogists have the following rights:
- 5.1.1. To be introduced to the documents related to her/his case, to receive explanation of what measures can be applied to her/him by the committee in a simple and understandable language and to be called by her/his own name;
 - 5.1.2. Upon permission of the chairperson of the Juvenile Justice Committee, to ask questions members of the committee, other participants and the victim, give answers and explanations, present evidences;
 - 5.1.3. To advocate for oneself, receive a legal assistance, meet her/his attorney individually;
 - 5.1.4. In case they disagree with the decisions of the soum/district Juvenile Justice Committee, to appeal to the aimag/metropolitan Juvenile Justice Committee, or to appeal to the court;
 - 5.1.5. The other rights according to the Constitution of Mongolia, other laws, international covenants and these charters.
- 5.2. A Juvenile Justice Committee shall respect the rights of the individuals mentioned in 5.1 and shall not deny those rights.

Six. Internal structure of a Juvenile Justice Committee

6.1. The Head of a Juvenile Justice Committee bears the following duties:

6.1.1. Distribute work functions of committee members and of the committee staff members;

6.1.2. Approve the committee work plan, job descriptions of the committee staff members, distribution of the cases of children and dates of the committee meetings;

6.1.3. Chair the committee meeting or appoint another official;

6.1.4. Approve the committee structure and staff members;

6.1.5. Regularly introduce the committee structure, staff members, activities and reports to the local civil representatives' hural;

6.1.6. Develop proposals and requests in the governmental and community spheres on child crimes, other violations and unsupervised children in conflict with law and have them solved;

6.1.7. Representing the Juvenile Justice Committee, respect the organizations participating in the committee;

6.1.8. Nominate committee members and committee staff members with outstanding performance to governmental awards;

6.1.9. Suggest to related institutions to increase the salary of committee staff members, to nominate them to awards and have it approved;

6.1.10. Other duties according to laws and regulations and to these charters.

6.2. The Secretary of Juvenile Justice Committee bears the following duties:

6.2.1. Represent the committee upon permission by the head of the Juvenile Justice Committee;

6.2.2. Ensure preparations for the implementation of the functions defined in 5.1 of these charters by the Head of Juvenile Justice Committee and develop necessary documents;

6.2.3. Developing the committee work plan, reflect the ideas of the committee members and other stakeholders;

6.2.4. Make suggestions concerning appointment, replacement, awarding and punishment of a committee staff member;

6.2.5. Organise and supervise the committee staff members making preparations of committee meetings;

6.2.6. Receive requests, suggestions, complaints and other documents to the committee;

6.2.7. Maintain the documentations related to the implementation of the functions of the committee and appoint staff members for this purpose;

6.2.8. Monitor the implementation of the committee decisions and be responsible for the validity of the plans, reports and other documents and for timeliness of the activities;

6.2.9. Submit proposals to the Head of the committee on improvement of the activities of governmental and non-governmental organisations for prevention of child crime and other violations;

6.2.10. Prepare monthly reports on the child crime situation for the Head of the committee;

6.2.11. Monitor the implementation of the committee work plan and, at the order of the Head of the committee, monitor the treatment of children in conflict with law by governmental and other organisations, how education and upbringing are provided to those children.

6.3. Meetings of Juvenile Justice Committee shall be held not less than twice a month on the agreed date and the following should be important for the preparation of meetings:

6.3.1. Not to hold a meeting if preparations are not completed, if agenda, information on children's cases and other issues are not prepared;

6.3.2. The meeting shall be attended by every participant, in case a participant has a valid reason to be absent, s/he shall give a one day notice by phone or in person and appoint another expert in a mandatory order.

6.4. The decision to take an educative and upbringing measure to a child in conflict with law shall include the name, age and gender of the child, characteristics of the violation, type of the measure, content, methodology and duration of the measure, the names and signatures of officials to be responsible for and to monitor the fulfilment of the decision and other necessary information.

6.5. A Juvenile Justice Committee shall discuss its decisions only at the committee meeting and approve it by majority of the participants of the meeting.

6.6. A committee meeting shall be valid with presence of two thirds or more members.

6.7. In case a member has been absent at the meetings 3 or more times without a valid reason, an appeal should be sent to that person's organisation to have her/him actively participate in the meetings.

6.8. Funding of Juvenile Justice Committee can be in cash, inventory, free-of-charge services, training and other forms and shall consist of the following sources:

6.8.1. The funding according to Provision 19 of the Law on Prevention of crime;

6.8.2. Income of training and vocational activities;

6.8.3. Donations from governmental, non-governmental and business organisations and from individuals;

6.8.4. Other sources not forbidden by law.

6.9. Juvenile Justice Committee shall annually present its report to the local civil representatives' hural on the date specified by the local civil representatives' hural and governor.

6.10. It shall be forbidden to include in the report unnecessary information, wordy formulations, repeated comments and issues unrelated to the functions of the committee and shall be presented in a form which would be instrumental to improvement of the committee activities.

6.11. The metropolitan and aimag Juvenile Justice Committees shall meet every 3 years; and soum and district Juvenile Justice Committees shall meet every 2 years in order to discuss certain issues in the field of child crime and other violations, to exchange experience and to clarify the vision for the activities.

6.12. Juvenile Justice Committee shall coordinate its activities with the Coordination council for crime prevention activities, governmental and non-governmental organisations, international organisations, NCC and other organisations²⁶.

6.13. Each soum/district Juvenile Justice Committee shall submit the summary of its activities with annexes to corresponding aimag/metropolitan Juvenile Justice Committee.

6.14. Aimag Juvenile Justice Committees shall send their summary of activities to the metropolitan Juvenile Justice Committee.

6.15. The Juvenile Justice Committee shall be dismissed only in case that children's rights and interests are violated more or worsened.

Seven. Coordination of the activities of organisations working on the issues of children in difficult circumstances and children in conflict with law

7.1. In terms of ensuring coordination of efforts, organisations working on the issues of child crime have the following duties:

7.1.1. Quarterly develop information on causes and situations of violations of the rights of children and recommendations on their elimination to the Juvenile Justice Committee (in this they shall include information on the causes and situations of each case of a child being in conflict with law);

7.1.2. Refer children who potentially commit crime and children who committed crime and are unsupervised to the related institution;

7.1.3. Timely inform Juvenile Justice Committee and related legal and other institutions in case the rights of a children in conflict with law to property, to safe and healthy living environment, and to housing are denied and in case a child's legal representative fails to fulfil her/his duties to bring up, support and educate the child;

7.1.4. Regularly inform the public of their activities for child crime prevention and supervision of children in conflict with law;

7.1.5. Also submit the information mentioned in 7.1.1 to a related legal institution.

7.2. Organisation working for prevention of child crime has the following rights:

7.2.1. Obtain free information on child crime, other violations and unsupervised children in conflict with law;

7.2.2. Propose suggestions on improvement of coordination of activities;

²⁶ Here are considered social protection organisations, care centres, health, education, labour and legal organisations, local self-governance organisations and administrative offices, departments for the family and youth affairs, cultural, service, sport and tourism organisations.

7.2.3. Take part in development of programmes, plans and other documents on prevention of child crime; other violations and unsupervised children in conflict with law.

7.3. Suggestions and requests received from Juvenile Justice Committee shall be solved the receiving organisation within days and communicate the decision to the Juvenile Justice Committee within days.

7.4. International organisations (intergovernmental and non-intergovernmental), their representative's offices, non-governmental organisations, business entities and individuals shall take part in the activities for prevention of child crime; other violations and unsupervised children in conflict with law in the following manner:

7.4.1. Coordinate their activities with local administrations, hospitals, educational and legal institutions;

7.4.2. Provide technical, professional, financial and other assistance to activities for prevention of child crime; other violations and unsupervised children in conflict with law;

7.4.3. Establish and operate care centres, shelters and educative centres to contribute to the activities for prevention of child crime; other violations and unsupervised children in conflict with law;

7.4.4. Organise humanity aid activities;

7.4.5. Participate in individual actions for children in conflict with law, children susceptible to conflict with law and children in difficult circumstances;

7.4.6. Participate in the community inspector work.

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(name of the administrative unit)

JUVENILE JUSTICE COMMITTEE

A-7 Juvenile Justice Committee Coordinator Job Description

ONE. GENERAL			
1.1. Organisation		1.2. Unit	
Operational office of Bayangol District Governor's Office		Juvenile Justice Committee	
1.3. Position and personnel		1.4. Classification	1.5. Level
Secretary, project vice-coordinator Samandaa Cembelmaa			
1.7. Line manager		1.8. Positions supervised	
Bayangol District Deputy Governor		-/-	
1.9. Purpose of the position	Organise and implement the operations of a Juvenile Justice Committee in accordance to the guidelines at the Bayangol District Civil representatives' hural upon its establishment and provide legal, methodological and social management.		
TWO. THE ACTIVITIES TO BE IMPLEMENTED AT THIS POSITION			
2.1. Key directions of activities to be implemented	Coordinates everyday activities of the Juvenile Justice Committee, works closely with every child and on every case, organises meetings and trainings, prepares necessary documents for them, conducts necessary surveys and studies, maintains and summarises necessary information, collaborates with related organisations and organises the activities in accordance to the guidelines provided by the Ministry of Justice and Internal Affairs, Unicef, self-governance organisations and administration of Bayangol District.		
2.2. Key functions of	2.3.1. In terms of juvenile justice and individual work with		

<p>the position</p>	<p>children:</p> <ol style="list-style-type: none"> a. Gives special attention to suspects and convicts under 18 years age, children arrested under 18 years and children released from prison, children freed from criminal responsibilities under the Amnesty law or mercy of the President; b. Constantly studies the current child crime situation and related documents; c. Receives requests and complaints from children, their parents, other individuals and organisations, introduces them to the committee and/or other related organisations and communicates back about the decisions; d. Establishes permanent relations with relevant agencies to be aware of children being registered and/or detained as suspects; e. Provides necessary legal, social and psychological services to suspects and convicts and connects them with experts for this purpose; f. Works to develop conditions in which criminal actions are not chosen for children, to ensure children to have permanent residence and address, and cooperates with governmental and non-governmental organisations for this purpose, prepares necessary documents to replace imprisonment sentence with community bail; g. Assists to identify children's individual and behavioural characteristics, documents them in writing, present it to police inspectors, prosecutors and judges, sends to them in official letters; h. In order to educate and bring up children and to prevent them from recidive criminal cases, develops adequate plans of individual actions, presents them to relevant agencies or officials, organises, coordinates and monitors those activities; i. Concludes agreements with children and their families to regularly involve them in training and educative activities and monitors the implementation; j. Assists children in developing their knowledge, education and
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	<p>conscience and in improving their household and individual livelihood and cooperates with governmental and non-governmental organisations for this purpose;</p> <p>k. Protects the confidentiality of state, organisational and individual information, of the information related to criminal procedures including the names and addresses of children as well as the information about their parents, schools, etc.</p> <p>l. Implements the functions defined in 2.3.1 in priority order to the other functions.</p> <p>2.3.2. Organising meetings and discussions to be held within the functions of the Juvenile Justice Committee</p> <p>a. Appoints the date of the Juvenile Justice Committee members' meeting on a day when the necessary attendance can be satisfied and/or on a date stipulated and approved by the Head of the committee and develops the timetable and agenda of the meeting;</p> <p>b. Develops the documents to be discussed at the meeting of the committee members, distributes them to the members before the meeting, and collects comments;</p> <p>c. Introduces to the meeting children's cases, defines the responsibility measures and educative actions to be applied to the children and provides evidences to justify them;</p> <p>d. Announces to members of an oncoming meeting, receives approval of their attendance and, in case a member is unable to attend, ensures participation of another official from that organisation in an mandatory order;</p> <p>e. Prepares the meeting venue and manages the logistics (ensures minute taking, preparation of necessary equipment, prints and photocopies the information related to the cases to be discussed, ensures provision of photo and, if possible, video evidences and manages the tea and lunch breaks);</p> <p>f. These functions shall be implemented in terms of the meetings,</p>
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	<p>consultations, discussions, etc.</p> <p>2.3.3. Preparation of documents; related to the activities of the Juvenile Justice Committee</p> <ol style="list-style-type: none"> a. Develops the documents mentioned in 2.3.1. and 2.3.2, presents them to Ministry of Justice and Internal Affairs and Unicef preliminarily, reflects the comments and recommendations and has the documents approved by the meeting and head of the Juvenile Justice Committee; b. Develops an agreement to be signed with the child concerned and her/his family, has it discussed and finalised by the Juvenile Justice Committee meeting; c. Develops guidelines and recommendations of actions to be applied to each child, has them discussed by the Juvenile Justice Committee meeting and approved by the head of the committee and presents them to related individuals and agencies; d. Drafts operational plans and programmes of the Juvenile Justice Committee, reflects the comments of the Ministry of Justice and Internal Affairs and Unicef in them and has them approved by the committee; e. Manages documentation of the Juvenile Justice Committee; manages writing, approval, delivery and answering of official correspondence; f. Developing any document of the Juvenile Justice Committee, reflects the comments of officials and ensures observance of the principles of the system of solving a child's case before the court stage, good practices of the international community, international covenants ratified by Mongolia and the rights of children; g. Develops financial documents of the Juvenile Justice Committee, has them approved and delivered to related agencies and ensures their implementation.
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	<p>2.3.4. Textbooks, brochures, studies</p> <ul style="list-style-type: none"> a. Routinely manages data of children, child cases, their education and upbringing, develops them into brochures and uses in preparing documents; b. Studies national and international statistics of child crime and latest achievements of social and legal sciences, enhances her/his qualification and uses the findings in her/his work; c. Prepares and publishes a bulletin of the Juvenile Justice Committee, presents and disseminates published brochures and makes them available to be used for trainings and meetings.
<p>2.3. Key functions of the position</p>	<p>2.3.5. Managing organisational cooperations of Juvenile Justice Committee</p> <ul style="list-style-type: none"> a. Identifies the governmental and non-governmental organisations and business entities for cooperation, their relevant officials and addresses and maintain regular contacts; b. Introducing to the Juvenile Justice Committee, avoids discreditation of member organisations and other illegal and amoral actions; c. Studies the activities and connections of other organisations working for juvenile justice and maintains cooperation of member organisations; d. Exchanges experience and necessary information with other organisations.
	<p>2.3.6. Organising trainings for the members of the Juvenile Justice Committee</p> <ul style="list-style-type: none"> a. Organises specialisation trainings for committee members and other officials in line with the guidelines of the Ministry of Justice and Internal Affairs and Unicef; b. Thoroughly prepares the training contents, ensures quality of trainings, prepares training venues, ensures full attendance, invites professional trainers and monitors their performance and, conducts the training in

	<p>a necessary case;</p> <p>c. Summarises and develops information for trainings, or appoints another member to perform this task, studies the work of others, gives comments;</p> <p>d. Has questionnaires on the process and impact of trainings filled by the participants.</p>
	<p>2.3.7. Public relations of the Juvenile Justice Committee</p> <p>a. Maintains regular information flow to the public on the activities of the Juvenile Justice Committee and avoids disseminating information that damages interests of children, families and the activities, programmes and projects implemented by the Ministry of Justice and Internal Affairs and Unicef;</p> <p>b. Develops a list of contact information of press and media and develops regular contacts.</p>
	<p>2.3.8. Managing conditions for activities of the Juvenile Justice Committee</p> <p>a. Ensure readiness of equipment and stationery necessary for Juvenile Justice Committee;</p> <p>b. If necessary, develops documents on the need to purchase them and presents to related agencies.</p>
	<p>2.3.9. Concerning the children's rooms at police and at court</p> <p>a. Maintains routine relations with these units and provides them technical assistance;</p> <p>b. Develops recommendations on the improvement of the work of these units;</p> <p>c. Receives and summarises reports and information on the activities of these units;</p> <p>d. If legal, social and psychological assistance is required to these units, assists them connecting with related professionals.</p>
	<p>2.3.10. Writing reports of the Juvenile Justice Committee</p>

	<ul style="list-style-type: none"> a. Routinely maintains information on the activities of the Juvenile Justice Committee and uses it for writing reports, including the achievements, difficulties encountered, solutions, the number of children’s cases handled etc. following the guidelines of the Ministry of Justice and Internal Affairs and Unicef; b. Prepares monthly and annual reports, presents them to the working group of the Ministry of Justice and Internal Affairs and other related institutions; c. Presents the report to the meeting of the Juvenile Justice Committee for discussion; d. Uses the reports for improvement of the work of the Juvenile Justice Committee, for reducing the incidence of child crime, for communicating with children and for introduction of best practices in solving children’s cases. 	
	<p>2.3.11. Assistance to the officials of the district administrative and other institutions</p> <ul style="list-style-type: none"> a. Works in the Crime prevention council and working group of the Ministry of Justice and Internal Affairs, presents there Juvenile Justice Committee positions on solving a child’s case after consulting with the Ministry of Justice and Internal Affairs and Unicef; b. Provides advice to district officials on the rights of children and children’s crime, disseminates information and reviews and improves documents as necessary. 	
	<p>2.3.12. Other functions defined by the Juvenile Justice Committee charters, plans and in the employment agreement</p>	
<p>THREE. REQUIREMENTS TO STAFF MEMBERS</p>		
<p>3.1. Basic requirements</p>	<p>3.1.1. Qualification</p>	<p>Bachelor or higher</p>
	<p>3.1.2. Background</p>	<p>Lawyer</p>
	<p>3.1.3. Experience</p>	<p>At least 3 year experience of working for a court, or police</p>

	3.1.4. Skills	Fluency in English and Russian; Ability to maintain procedures; Ability to independently develop rules, procedures, instructions, projects and programmes; Ability to utilise IT equipment (computer, scanner, printer, photocopier, LAN and Internet, etc.) and networks; Ability to supervise a project work and to provide legal management.
3.2. Specific requirements	Ability to independently implement a project, learning ability, self-organised, communication skills, personal skills, commitment, fairness, knowledge and understanding of the rights of children, ability to perform research, managerial skills, ability to work in teams, teaching skills, high fluency in the official state language of Mongolia, other requirements defined by the organisation.	
3.3. Resources and utilities	3.3.1. Draft project budget and funds	As approved by the funding party
	3.3.2. Inventory	Computer, telephone, bookshelf with a lock, stationery, books, journals, software necessary for the project operations.
	3.3.3. Human resources	2 or more assistants
	3.3.4. Other	
3.4. Working conditions	Normal	
3.5. Responsibility for inventories	Not full	
FOUR. SALARY		
4.1. Salary	As for the employment agreement	
4.2. Deductions	Deductions for tax and insurances shall be maintained according to the	

	Law on social insurance, Law on Income Tax, other laws and international covenants ratified by Mongolia.		
FIVE. CONTACTS			
5.1. Internal	The administration of Juvenile Justice Committee, members, the Ministry of Justice and Internal Affairs, UNICEF, district administrative and other officials.		
5.2. In relations to other organizations	Police stations, police departments, Central Police, district and metropolitan courts, Supreme court, district and metropolitan prosecutors offices, Metropolitan governmental administrative organs, local self-governance organisations, ADRA, WV, Save the Children UK, National Legal Centre, National Authority for Children, Centre for Children's Rights, other governmental and non-governmental organizations.		
NAMES AND SIGNATURES OF PARTIES			
Job description approved	Date	Revised	Approved

Amendments. (The agreed amendments to the job description shall be written, signed and stamped and shall be documented in the above format as soon as possible)

A-8 Statistics & General Data: 2005-2008

*National Criminal Justice Statistics
Bayangol, Baganuur & Khentii
Police, Prosecutor's Office and Court's Statistics
JJC Data: Service Provision
Uvs, Khovd, Hovsgol and Tov
Police, Prosecutor's Office and Court's Statistics*

KHENTII COURT STATISTICS

Juvenile crime of 2006

Juvenile crime	27
Classification	126-2 145-21 181.3-4
Imprisoned	3
Probation	20
Disciplinary measure for upbringing	3
Disciplinary measures for medical treatment	1
Aged by 14-16	7
Aged by 16-18	20
Student of secondary and high school	13
Other	14

Juvenile crime of 2007

Juvenile crime	14
Classification	96-1

	126-3 145-9 181-1
Imprisoned	4
Probation	9
Aged by 14-16	3
Aged by 16-18	11
Student of secondary and high school	9
Other	1
Carceration	1

Juvenile crime of 2007

Juvenile crime	8
Classification	96-5 126-2 181-1
Imprisoned	0
Probation	8
Aged by 14-16	4
Aged by 16-18	4
Student of secondary and high school	4
Other	1
Carceration	1

A-9 CPAP Mongolia: Child Protection Results and Resources Framework

excerpted in relevant part

UNICEF programme component	Expected Outcomes (Institutional and behavioral level results)	Expected Outputs (project level results)	Output targets and indicators
Expected UNDAF outcome #2: Democratic processes strengthened through institution building, civil society empowerment, and enhanced accountability and transparency			
Child Protection	18. National database on child protection for programme planning, monitoring and advocacy purposes will be established, institutionalized and operational	18.1 Assessment of child protection indicators conducted, and national database structural mechanisms institutionalized	18.1.1 National database with disaggregated data on child protection 18.1.2 National development plans include child protection data
	19. Conformity of national laws and legislations to international standards and relevant UN protocols on juvenile justice strengthened	19.1 National Plan of Action on Domestic Violence Law emphasizing abuse, exploitation and neglect of children adopted by Parliament with regular review and operating implementation mechanism	19.1.1 NPA reviewed & revised to conform international standards and UN protocols 19.1.2 % of children and women demonstrating improved psychosocial well-being
		19.2 Criminal Code and Criminal Procedures Law (CC &CPL) revised and amendments approved by the Parliament	19.2.1 % of the domestic violence cases treated in conformity with law

UNICEF programme component	Expected Outcomes (Institutional and behavioral level results)	Expected Outputs (project level results)	Output targets and indicators
	20. Capacities of judges, prosecutors, law enforcing agencies and social workers strengthened on international norms and practices to address juvenile and children in conflict with the law in a child-friendly manner	20.1 Training of judges, prosecutors, law enforcing agencies and social workers on child friendly methodologies	20.1.1 % of judges, prosecutors, law enforcing agencies and social workers practicing child-friendly methodologies
		20.2 Diversion strategy and guidelines for rehabilitation of children in conflict with law institutionalized	20.2.1 % of children who experienced rehabilitation centers demonstrating improved psychosocial well-being
		20.3 Curriculum on child protection for Social Work and on Child Rights for Law Schools developed and integrated into the programme	20.3.1 Assessment of social workers on child protection and of lawyers on child rights 20.3.2 Percentage of children accessed qualified and friendly services of social workers and lawyers
Expected UNDAF outcome #4: Global, regional and South-South cooperation strengthened to address cross-border social, economic and environmental concerns			
Child Protection	23. Legal and regulatory systems support	23.1 National Plan of Action on	23.1.1 Programmes implemented

UNICEF programme component	Expected Outcomes (Institutional and behavioral level results)	Expected Outputs (project level results)	Output targets and indicators
	the creation of an enabling policy and legal framework for the protection of children from abuse, exploitation and neglect in conformity with international standards and relevant UN protocols.	Commercial Sexual Exploitation of Children and Trafficking 2005-2104 fully implemented with regular review and monitoring	to strengthen institutional protection and response capacities against abuse, exploitation, and violence, including psychosocial support. 23.1.2 Number of studies and data collection exercises in relation to the CSE and Trafficking 23.2.2 Number of children, adolescents and young people affected by CSE 23.2.3 % of women 20-24 years who were married or in union before they were 18

A-10 Child-Juvenile Justice Statistical Indicators

Child-Juvenile Justice Statistical Indicators

	Indicators	Category	Classification	Source	Frequency
<i>Data on Juvenile Delinquency</i>					
1	Number of juvenile delinquents	by age, sex and location	by crime type	MJIA, GPD	Monthly
2	Number of children whose cases were dismissed	by age, sex and location	by crime type	Prosecutor's Office, GPD	Monthly
3	Number of child suspects	by age, sex and location		GPD	Monthly
4	Number of child defendants	by age, sex and location	by term	Prosecutor's Office, GPD	Monthly
5	Number of children who were prevented from crime commitment	by age, sex and location	by term	GPD	Monthly
6	Number of children detained	by age, sex and location	by term	CDIA	Monthly
7	Number of children released from detention	by age, sex and location	by term end, forgiveness, disease	Supreme Court, CDIA	Annually
8	Number of child repeat offenders	by age, sex and location		GPD	Annually

9	Number of children detained in a sobering station	by age, sex and location	by term	GPD	Monthly
10	Number of children arrested and temporarily detained	by age, sex and location	by hour	GPD	Monthly
11	Number of children who use drugs	by age, sex and location		GPD, National Anti-drug Centre, MoH	Monthly
12	Number of child victims of crime	by age, sex and location	by type	GPD	Monthly
13	The rate of the crimes against the life of a child		The rate of crimes against the life of a child during the last 12 months per 100,000 population of the childhood age	GPD	Annually
14	Number of children whose level of trauma was determined by a forensic hospital	by age, sex and location		MJIA, National Center for Court Expertise	Monthly
15	Number of children whose cause of death was determined by a forensic hospital	by age, sex and location	by crime type	Supreme Court, National Center for Court Expertise	Monthly

16	Number of cases of child abandonment and of making a child lost	percentage		GPD, SC	Annually
17	Attested crimes of child abuse and violence		Number of attested crimes against a child during the last 12 months per 100,000 children	Survey of Research Center of SC	Annually
18	Number of children subjected to violence, pressure, neglect and torture during case investigation, interrogation, court proceedings and imprisonment	by age, sex and location			By survey
19	Number of complaints and appeals resolved on child issue	type and category		Information form	New, annually
#	Number of court decisions made on the basis of international treaties on the child rights	by location		Work out a form to obtain an administrative data NAC	New, in justice section
21	Number of children suffered from torture	by age, sex and location		Work out a form to obtain an administrative data NAC	New, in justice section

Data on Juvenile Defendants

22	Number of children bearing non-custodial sentences	by age, sex and location		SC	Monthly
23	Number of children serving prison terms	by age, sex and location	Number of imprisoned children per 100,000 children	CDIA	Monthly
24	The term served in prison after a sentence is announced by court	by location	The term served by children in prison after a sentence is announced by court	Survey, CDIA	Annually
25	Mortality of imprisoned children	by location	Mortality rate of imprisoned children during the last 12 months per 1000 children in prison	Survey, Supreme Court	Annually
26	Number of children being detained before a sentence is announced by court	by age, sex and location	Number of children being detained before a sentence is announced	Survey, CDIA	Annually

			by court per 100,000 population of the childhood age		
27	The term served by children in prison before a sentence is announced by court	by location		Survey, CDIA	Annually
28	Number of detentions for children	by location		CDIA, MJIA	Annually
29	Contacts of imprisoned children with their parents and families	by location	Children detained in prison ?	Survey	Annually
#	Number of custodies for juvenile offenders	by location	by type	CDIA	Annually
31	Segregation from adult offenders	by location	Percentage of children serving a term in prison not duly separated from adult offenders	Survey	Annually
<i>Access to Rehabilitation, Socialization and Legal Aid Services Programme</i>					
32	Number of laws of Mongolia evaluated in terms of consistency with international standards of the child rights			MJIA	Annually

33	Number of children who received advocacy service	by age, sex and location		Association of Mongolian Advocates	By survey
34	Number of children covered by rehabilitation and socialization programmes	by age, sex and location		By survey	New
35	Number of child victims who received related services		Percentage of child victims needing rehabilitation, socialization and/or psychological support services during the last 12 months	Survey	Annually /Citizens' Representatives Khural Governor/
36	Number of child victims who received needed services		Percentage of child victims who received rehabilitation, socialization and/or psychological support services	Survey	Annually

			during the last 12 months		
37	Number of rooms to interview or interrogate a child for case investigation	by location		GPD, Supreme court	Annually
38	Whether a regular independent external inspections are carried out in prisons			Survey	Annually
39	Whether a mechanism is in place to carry out a regular independent external inspection in prisons				
#	Whether a mechanism is in place to allow the imprisoned child to submit a complaint			Survey, CDIA	Annually
41	Whether a special juvenile justice system is in place			Survey, MJIA	Annually

A-11 Mongolia's Legal & Policy Frameworks

MONGOLIA	
International (ratified)	
Convention on the Rights of the Child (CRC)	●
Optional protocol to the CRC on the sale of children, child prostitution and child pornography	●
Optional protocol to the CRC on the involvement of children in armed conflict	●
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	●
Convention against Transnational Organized Crime	●
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	●
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	●
International Covenant on Civil and Political Rights (ICCPR)	●
International Covenant on Economic, Social and Cultural Rights (ICESCR)	●
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	●
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	●
Convention on the Rights of Persons with Disabilities	●
Convention relating to the Status of Refugees	●
Convention relating to the Status of Stateless Persons	●
Hague Convention on Intercountry Adoption Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption	●
Forced Labour Convention (C29)	●
Migration for Employment Convention (C97)	
Abolition of Forced Labour Convention (C105)	●
Minimum Age Convention (C138)	●
Convention concerning Migration in Abusive Conditions and the Promotion of	

Equality of Opportunity and Treatment of Migrant Workers (C143)	
Worst Forms of Child Labour Convention (C182)	•
Convention against Discrimination in Education	•
International Justice Standards	
UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)	
UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)	
UN Rules for the Protection of Juveniles Deprived of their Liberty	
UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)	
UN Economic and Social Council resolution 2002-12: Basic Principles on the use of Restorative Justice Programmes in Criminal Matters	
UN Committee on the Rights of the Child, General Comment No. 10 on Child Rights in Juvenile Justice	
UN Guidelines for Action on Children in the Criminal Justice System	
UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime	
UN Common Approach to Justice for Children	
Code of Conduct for Law Enforcement Officials	
Basic Principles on the Role of Lawyers	
Guidelines on the Role of Prosecutors	
Basic Principles and Guidelines on the Right to a Remedy and Reparation	
Regional Instruments (and bilateral)	
Mutual Legal Assistance Treaties	
Extradition Treaties	
MOU on Trafficking	
Others??	
National	
Constitution	
Written Constitution	•
Supremacy Clause	

Specific provisions on child protection	
Legislation²⁷	
Child Protection	●
Trafficking in Persons	
Sexual Exploitation of Children	●
Child Labour	●
Social Welfare for Children & Families	●
Adoption & Alternative Care	●
Juvenile Justice	●
Violence against Children	●
Child Migrants	
Refugee & Internally Displaced Children	
Stateless Children	
Universal Birth Registration	●
Domestic Violence	●
Education	●
Human Rights Commission	●
Policy	
National Programme of Action on the Development & Protection of Children	●
National Programme on Prevention of Child Crimes and Crimes against Children	Out of date
National Programme on Implementation of Human Rights in Mongolia	●
Others?	
Local	
Bylaws on Juvenile Justice (Baganuur, Bayangol, Khentii)	●
Local Regulations (specify)	
Local Plan of Action (specify)	
Others??	

²⁷ This encompasses both primary and subsidiary legislation on particular child protection issues, which may be found in various legal codes or different types of legislation which are generally covered under separate codes or acts, in special provisions/chapter in a country's standard substantive and procedural acts, or in a separate section within a broader child protection act that also covers child rights. This does not, however, address the quality of national legislation vis-à-vis child protection issues, including the extent of legislative compliance with international instruments and standards.

A-12 Criminal Code & Criminal Procedure Code: select provisions

CRIMINAL CODE

Article 17. Classification of Crimes

17.1. Crimes shall be classified as follows according to the nature and degree of their social danger and gravity of the punishment to be imposed:

- 17.1.1. minor;
- 17.1.2. less serious;
- 17.1.3. serious;
- 17.1.4. grave.

17.2. Crimes punishable by a fine equal to 5 to 50 amounts of minimum salary, or 100 to 250 hours of forced labor or by incarceration for 1 to 3 months as specified in the Special Part of this Code shall be recognized minor crimes.

17.3. Crimes punishable by a fine equal to 51 to 250 amounts of minimum salary, by 100 to 250 hours of forced labor, by incarceration for 3 to 6 months, or imprisonment for up to 5 years as specified in the Special Part of this Code shall be recognized less serious crimes.

17.4. Crimes punishable by a fine equal to 251 to 500 amounts of minimum salary, by 100 to 250 hours of forced labor, or imprisonment for 6 to 10 years as specified in the Special Part of this Code shall be recognized serious crimes.

17.5. Crimes punishable by imprisonment of 11 to 15 years or in extraordinary cases of up to 25 years or by death penalty as specified in the Special Part of this Code shall be recognized grave crimes.

Article 21. Age Limit for Criminal Liability

21.1. Persons who have attained 16 years of age at the time of committing a crime shall be subject to criminal liability.

21.2. Persons of 14 to 16 years of age shall be subject to criminal liability for homicide (Article 91), deliberate infliction of a severe bodily injury (Article 96), rape (Article 126), theft in aggravating circumstances (Article 145), misappropriation (Article 146), robbery (Article 147), deliberate destruction or damage of property (Article 153) and hooliganism in aggravating circumstances (Articles 181.2 and 181.3).

21.3. If the court finds that the culprit who has committed for the first time a minor or a less serious crime before attaining the age of 18 may be reformed without imposing punishment, it may apply a measure of coercion of educational character specified in this Code.

Article 24. Recidivist

24.2. Grounds for recognizing a recidivist shall not apply to the crimes committed when under the legal age, crimes with respect of which the person concerned has been expunged or has been considered as having no criminal record.

Article 46. Types of Punishment

46.1. Persons who have committed crimes shall be imposed the following punishment:

46.1.1. a fine;

46.1.2. deprivation of the right to hold specified positions and engage in specified business;

46.1.3. confiscation of property;

46.1.4. forced labor;

46.1.5. incarceration;

46.1.6. imprisonment;

46.1.7. the death penalty.

Article 51. Incarceration

51.1. Incarceration represents separation of a culprit from society by solitary confinement in the facility with a certain regiment in the instances specified in this Code.

51.2. Incarceration shall be imposed for a term of 1 to 6 months.

51.2. Incarceration shall not be imposed on the persons who were under 16 years of age at the time of committing crime, as well as pregnant women, single mothers and fathers with a minor child.

Article 52. Imprisonment

52.1. Imprisonment represents restriction of freedom of a culprit for the terms specified in this Code with separation from society by confinement in the correctional facilities or a prison.

52.1. The basic term of imprisonment shall be 1 to 15 years. In the instances specified in Special Part of this Code can be imposed for a term of up to 25 years.

52.3. Imprisonment for a term of over 15 years may not be imposed on the persons who were under 16 years of age at the time of committing crime, women of over 55 years of age and men of over 60 years of age.

52.8. Male minor convicts who committed less serious or serious crimes; female minor convicts who were sentenced to imprisonment shall serve imprisonment in the correctional facilities of general regiment for minors.

52.9. Male minor convicts who previously served imprisonment, as well as those who committed grave crimes shall serve imprisonment in the correctional facilities of strict regiment for minors.

Article 53. Death Penalty

53.4. The death penalty may not be imposed to the persons who were under 16 years of age at the time of committing crime, men of over 60 years of age and women.

Article 54. General Principles of Imposing Punishment

54.1. The court shall impose punishment in strict compliance with the provisions of this Code, being guided by the principle of justice and legal conscience, within the types and limits established by the Special Part.

54.2. When imposing punishment the court shall take into comprehensive consideration the nature and degree of social danger of the committed crime, the character of the culprit, reasons and circumstances of the case, motive, purpose, nature and degree of the harm caused, and circumstances which mitigate or aggravate the liability.

Article 55. Circumstances Which Mitigate Responsibility

55.1. When imposing penalty the court shall recognize the following circumstances as mitigating liability:

55.1.7. committing a crime by a person under the age of 18;

Article 56. Circumstances Which Aggravate Liability

56.1. When imposing penalty the court shall recognize the following circumstances as aggravating liability only:

56.1.1. repeated commission of a crime;

56.1.2. committing a crime in a group;

56.1.3. instigating to or involving of persons under legal age into committing a crime or causing committing a crime by inculpable person;

56.1.4. infliction of grave consequences as a result of the crime;

56.1.5. committing a crime in a most brutal way or with atrocity with respect to the victim;

56.1.6. committing a crime in respect of a person under age, an aged person or a person being in a helpless condition as well as in respect of a person being materially or otherwise dependent on the culprit;

56.1.7. committing a crime by taking advantage of the conditions of a social disaster or mass disorder;

56.1.8. committing a crime against a person fulfilling an official or public duty, his/her immediate relatives;

56.1.9. committing a crime in a generally dangerous manner or with use of firearms, explosives, poisonous substances, drugs and preparates or chemical substances;

56.1.10. committing a crime in condition of drunkenness;

56.1.11. committing a crime with the purpose of concealing or facilitating another crime;

56.1.12. committing a crime repeatedly during the period of probation or before being deemed as having no criminal record.

Article 61. Conditional Sentence

61.1. If, considering the nature and degree of social danger of the committed crime, character of the culprit who has been sentenced imprisonment for the first time for a less serious crime, and circumstances of the crime, in cases where he/she compensated for the damage or redressed the harm caused, the court deems that the sentence imposed does not need to be served in person it may impose the sentence conditionally and fix a probation for a period of up to 5 years.

If the person sentenced conditionally does not commit a new crime during the probation period and has shown his/her reformation the sentencing judgment shall not be executed.

Article 62. Probation of the Persons Under the Legal Age

62.1. If the court deems that a person under age who is sentenced for the first time to imprisonment can be reformed without isolation from the society taking into consideration the nature and the degree of social danger of the crime committed, the character of the culprit and other circumstances of the case, he/she may be put on probation for a period of 6 months to 2 years. In such case the court shall also postpone the execution of supplemental penalties.

62.2. When deciding to put on probation a convict the court may give him/her a fixed period of time to find a job or to undertake studies, redress the damage caused, notify the police about change of the place of work, studies or residence, obligate a definite labor collective, relatives or an individual on their consent to exercise supervision over the convict and perform educational and reformation work in relation to him/her.

62.3. If the person put on probation fails to fulfill the duties imposed by the court on him/her or commits an administrative breach, then on the recommendation of the police the court may revoke the decision to parole and render a ruling to send the convict to serve the sentence in person.

62.4. If the convict has shown his/her reformation during the probation period the court may, on recommendation of the police release him/her from serving the sentence.

62.5. If the convict commits another crime during the probation period, the court shall add to the new penalty the previously meted out penalty in accordance with the rules set in Article 57 of this Code.

Article 62. Types of Penal Measures

- 62.1. The following compulsory measures shall be applied to the persons who committed crimes:
- 62.1.1. compulsory measures of medical character;
 - 62.1.2. compulsory measures of educational character applied to the persons under age.

Article 67. Application of Compulsory Measures of Educational Character to the Person; Under the Legal Age

67.1. If the court deems it appropriate not to impose punishment to a culprit under the legal age who has committed a minor or a less serious crime it shall impose the following measures of educational character:

- 67.1.1. fix a 1-year period for reformation;
- 67.1.2. oblige to redress the damage caused with labor if he/she attained 14 years of age and has own source of income;
- 67.1.3. give the person under age into his/her parents' supervision;
- 67.1.4. give the person under age to a labor collective, an NGO or a specified individual for supervision at their consent.

67.2. If the person concerned has not reformed after application of the measure specified in paragraph 1 above the court may replace it with sending to a special upbringing and educational institution.

67.3. Time for sending of a person under age to a special upbringing and educational institution shall be determined individually in each case taking into account the nature of the crime committed, his/her character and conditions of life but in no case may exceed 16 years of age.

67.4. The court shall decide on the matter of release of the person under age from the special upbringing and educational institution ahead of time at the reference of such institution.

Article 68. Remission of the Culprit; Who Surrender Themselves

68.1. A culprit who has committed for the first time a minor or a less serious crime, compensated for or redressed the damage caused may be renounced.

Article 69. Remission by Reconciliation With the Victim

69.1. A culprit who has committed for the first time a minor or a less serious crime, reconciled with the victim and redressed the damage caused may be renounced.

Article 70. Remission by Elapse of the Limitation Period

70.1. A culprit who has committed a crime may not be subjected to criminal liability on elapse of the following periods:

- 70.1.1. one year from committing a minor crime;
- 70.1.2. five years from committing a less serious crime;
- 70.1.3. twenty years from committing a serious crime;
- 70.1.4. thirty years from committing a grave crime.

Article 72. Release from Punishment Ahead of Term

72.1. The court may release a convict if he/she has shown his/her reformation, has redressed the damage or eliminated the harm caused by the crime.

Article 76. Conviction

76.1. A convict shall have conviction from the date of entry into force of the judgment until the cancellation of conviction or deeming him/her as having no conviction.

76.2. The following persons shall be deemed as having no conviction in the following cases:

- 76.2.1. persons who have not committed a new crime during the parole period;
- 76.2.2. persons sentenced to a non-custodial punishment- on completing service of such punishment;

76.2.3. persons sentenced for a less serious crime and who have not committed a new crime during 5 years from completing service of the sentence;

76.2.4. persons sentenced for a serious crime who have not committed a new crime during 8 years following completion of service of the sentence;

76.2.5. persons sentenced for a grave crime or recidivists who have not committed a new crime during 10 years following completion of service of the sentence.

Article 114. Involving into criminal actions of persons under legal age

114.1. Involving persons under legal age into criminal activities by using force, threat with such, deceit or in other ways shall be punishable by 100 to 200 hours of forced labor or by incarceration for a term of 1 to 3 months.

114.2. The same crime committed by a parent, guardian, custodian or a pedagog assigned by law the duty of upbringing the persons under legal age shall be punishable by 201 to 500 hours of forced labor or by imprisonment for a term of up to 5 years.

114.3. Involving persons under legal age into an organized group or criminal organization or into committing a serious or grave crime shall be punishable by imprisonment for a term of more than 5 to 8 years.

Article 115. Involving persons under legal age into heavy drinking, drug abuse, prostitution, vagrancy and beggary

115.1. Involving persons under legal age into heavy drinking, drug abuse, prostitution, vagrancy and beggary shall be punishable by a fine equal to 20 to 50 amounts of minimum salary, 100 to 250 hours of forced labor or by incarceration for a term of 1 to 3 months.

115.2. The same crime committed by a parent, guardian, custodian or a pedagog assigned the duty of upbringing the persons under legal age by law shall be punishable by a fine equal to 51 to 100 amounts of minimum salary, or by incarceration for a term of more than 3 to 6 months with or without deprivation of the right to hold specified positions or engage in specified business for a term of up to 2 years.

115.3. The same crime committed repeatedly, by using violence or threat with such shall be punishable by 100 to 250 hours of forced labor or imprisonment for a term of 3 to 5 years.

Article 116. Switching or illegal adoption of children

101.1. Intentional switching or illegal adoption of a child shall be punishable by a fine equal to 51 to 200 amounts of minimum salary, incarceration for a term of more than 3 to 6 months or by imprisonment for a term of 2 to 5 years.

Article 117. Abandonment of a child

117.1. Abandonment of a born or adopted child shall be punishable by 251 to 300 hours of forced labor, or incarceration for a term of more than 3 to 6 months.

117.2. The same crime if it has entailed death of a child shall be punishable by imprisonment for a term of up to 5 years.

Article 118. Abuse of guardian's duties

118.1. Abuse of the guardian's duties by parents, custodians or guardians for lucrative purposes or leaving the person under guardianship without supervision or necessary help shall be punishable by a fine equal to 5 to 50 amounts of minimum salary or by incarceration for a term of 1 to 3 months.

Article 119. Neglect of the duty of custody of a child under the school age

119.1. Entailing a less severe or severe bodily injury to the victim by neglecting the duty of custody of a child under the school age by a person charged with such official duties, provided such neglect does not constitute a crime of malfeasance, shall be punishable by a fine equal to 51 to 150 amounts of minimum salary with or without the deprivation of the right to hold a specified position or to engage in a specified business for up to 2 years or by incarceration for a term of more than 3 to 6 months.

119.2. The same crime if it has entailed death of a child shall be punishable by imprisonment for a term of 2 to 5 years with the deprivation of the right to hold a specified position or to engage in a specified business for up to 2 years.

Article 120. Persistent evasion of maintenance of parents, spouse or born or adopted children

120.1. Persistent evasion of fulfilling a court decision regarding maintenance of a parent, spouse, born or adopted child who are not able to work shall be punishable by a fine equal to 51 to 150 amounts of minimum salary amount or by incarceration for a term of more than 3 to 6 months.

Article 121. Forcing a child to labor

121.1. Illegally forcing a child to labor shall be punishable by a fine equal to 51 to 250 amounts of minimum salary or imprisonment for a term of up to 4 years.

Article 122. Sexual intercourse with a person under the age of 16

107.1. Sexual intercourse with a person who knowingly is under the age of 16 shall be punishable by a fine equal to 51 to 150 amounts of minimum salary, 251 to 300 hours of forced labor or imprisonment for a term of up to 3 years.

Article 123. Advertising and dissemination of pornography and prostitution

123.1. Preparation, dissemination, sale, display to the public, crossing of the state frontier of the press, literature, films, video tapes and other items advertising pornography shall be punishable by a fine equal to 31 to 50 amounts of minimum salary or by incarceration for a term of 1 to 3 months.

123.2. Inducing a person under 16 to engage in the same crime shall be punishable by a fine equal to 71 to 100 amounts of minimum salary amount or by incarceration for a term of more than 3 to 6 months.

123.3. The same crime committed by use of violence against a minor, by a person who previously was sentenced for this crime, by an organized group or by a criminal organization shall be punishable by imprisonment for a term of up to 5 years.

Article 124. Inducing others to engage in prostitution and organizing of prostitution

124.1. Inducing a others to engage **in prostitution** by physical violence, threat of violence or deception shall be punishable by a fine equal to 150 to 250 amounts of minimum salary or by incarceration for a term of more than 3 to 6 months.

124.2. Setting up, running, financing of bordels, soutenering, provision of means of transport or premises for engaging in prostitution shall be punishable by a fine equal to 200 to 250 amounts of minimum salary, 300 to 400 hours of forced labor or imprisonment for a term of up to 3 years.

124.3. The same crime committed by an organized group shall be punishable by imprisonment for a term of more than 3 to 5 years.

Article 125. Satisfaction of sexual desire in unnatural manner

125.1. Satisfaction of sexual desire in an unnatural manner by violence or threat of violence or by taking advantage of the helpless situation of the victim, as well as by humiliation shall be punishable by imprisonment for a term of 2 to 5 years.

Article 126. Rape

126.1. Sexual intercourse by physical violence, threat of violence or in other forms, or by taking advantage of helpless state of the victim, as well as by humiliating the victim shall be punishable by imprisonment for a term of up to 5 years.

126.2. The same crime committed:

126.2.1. by humiliating or torturing the victim;

126.2.3. inflicting a severe or a less severe bodily injury;

126.2.4. repeatedly;

126.2.5. rape of a person under the legal age;

126.2.5. in a group or by group at an advance agreement shall be punishable by imprisonment for a term of more than 5 to 10 years.

126.2.3. The same crime committed by a recidivist, rape of a child under the age of 14, or rape entailing death of the victim or another grave harm shall be punishable by imprisonment for a term of more than 15 to 25 years or the death penalty.

Article 145. Theft

145.1. Stealing of others' property shall be punishable by 100 to 250 hours of forced labor, incarceration for a term of 3 to 6 months or imprisonment for a term of up to 2 years.

145.2. Theft committed repeatedly or by a group of persons at an advance agreement that has caused a significant damage, theft with entry of a home, room or another storage place using mechanisms or especially prepared tools shall be punishable by a fine equal to 51 to 200 amounts of minimum salary, incarceration for a term of more than 3 to 6 months or imprisonment for a term of 2 to 5 years.

145.3. The same crime committed by a group at an advance agreement, depriving the victim of the source of living, causing damage in a large amount, or committed by taking advantage of a public disaster shall be punishable by a fine equal to 251 to 500 amounts of minimum salary or imprisonment for a term of more than 5 to 8 years.

145.4. The same crime committed by a person previously sentenced for the same crime such twice or more, for extortion, robbery or assault or by an organized group, criminal organization or causing damage in a large amount shall be punishable by imprisonment for a term of more than 10 to 15 years.

Article 146. Taking away of others property

146.1. Taking away of the property from others without use of violence shall be punishable by a fine equal to 5 to 50 amounts of minimum salary or incarceration for a term of 1 to 3 months.

146.2. The same crime committed repeatedly or in a group, by taking advantage of the helpless situation of the victim or a common disaster, by a person who previously was sentenced for the same crime, as well as if it has caused a substantial damage shall be punishable by a fine equal to 75 to 200 amounts of minimum salary, incarceration for a term of more than 3 to 6 months or imprisonment for a term of more than 3 to 5 years.

146.3. The same crime committed by a person who previously was sentenced for robbery or extortion, or by a group at an advance agreement, as well as if it has caused a considerable damage shall be punishable by a fine equal to 275 to 500 amounts of minimum salary, or imprisonment for a term of more than 5 to 10 years.

146.4. The same crime committed by a recidivist, an organized group or a criminal organization, or if it has caused damage in a large amount shall be punishable by imprisonment for a term of more than 10 to 15 years.

Article 147. Robbery

147.1. Assault with a view of appropriating property by use of violence dangerous to life or health, or by a threat with violence shall be punishable by imprisonment for a term of more than 5 to 8 years.

147.2. The same crime committed repeatedly, in a group, by a group at an advance agreement, by a person who previously was sentenced for the same crime or taking away of other's property, or assault, with use of arm or other items as arms, or if it has caused a considerable damage shall be punishable by imprisonment for a term of more than 8 to 10 years.

147.3. The same crime committed by a recidivist, an organized group, by a person previously sentenced for assault or extortion or if it has caused damage in an extremely large amount shall be punishable by confiscation of property and imprisonment for a term of more than 10 to 25 years.

147.4. The same crime committed by a member of a criminal organization, a person previously sentenced for assault, with the purpose of appropriation of a property in a large amount, or connected with infliction of a severe bodily injury shall be punishable by imprisonment for a term of 15 to 25 years.

Article 181. Hooliganism

181.1. Severe violation of public order by obvious disrespect towards society with use of violence or threat to use such shall be punishable by a fine equal to 51 to 100 amounts of minimum salary, 251 to 350 hours of forced labor, incarceration for a term of more than 3 to 6 months or imprisonment for a term of up to 3 years.

181.2. The same crime committed:

181.2.1. by acting in an especially brutal way;

181.2.2. by resisting a policeman, representative of the authorities or public on duty;

181.2.3. by a person who previously has been sentenced for the same crime;

181.2.4. repeatedly;

181.2.5. in a group shall be punishable by imprisonment for a term of up to 5 years.

181.3. The same crime committed by a recidivist, with use of weaponry or other items used as weapons shall be punishable by imprisonment for a term of more than 5 to 10 years.

CRIMINAL PROCEDURE

Article 37. Legal Representative of a Minor Suspect and Accused

- 37.1. In the proceedings of cases related to minor suspect, accused and defendant, their legal representative shall take part in.
- 37.2. A legal representative of minor suspect, accused and defendant shall participate in the proceedings according to rules provided by Articles 364-377 of this Law.

Article 40. Obligatory Involvement of Defense Counsel

40.1.2 minors

- 68.1. If following circumstances exist, suspects, accused and defendants involved in less grave crimes may be confined under guard:
- 68.1.1. they have violated previously taken measures of restraint;
 - 68.1.2. they may escape or have escaped from inquiry, investigation, procurator or court.
 - 68.1.3.
- 68.9 It shall be prohibited to confine under guard persons who has been suspected in committing minor crimes or who are seriously ill, or pregnant women, minors, or women breast feeding their infants, if there is no ground provided Article 68.2. of this Law

Article 143. Summoning for Interrogation

143.7 A minor witness, victim, suspect or accused shall be summoned through his/her parents or legal representatives.

Article 145. Interrogation of Minor Witness;

- 145.1. Before interrogation of a minor witness he/she shall be explained about the importance of telling truthfully all circumstances of a case known to him/her, but it shall be prohibited to warn him/her of responsibility for refusing to give or evading from giving a testimony or for giving deliberately false testimony.
- 145.2. During interrogation of a minor witness, his/her parents, legal representative, relative or a pedagogue shall be present and they shall be explained of their rights and duties, and this shall be noted in the record of the interrogation.
- 145.3. The persons present at an interrogation may put questions to a minor witness but an inquiry officer or investigator shall have the right to prevent answering to the questions and the questions shall be noted in the record.
- 145.4. Upon completion of an interrogation the correctness of the recording of the testimony shall be confirmed and the persons who were present at the interrogation shall sign the record.

Article 148. Interrogation of Minor Victim

- 148.1. Interrogation of a minor victim shall be executed in accordance with the rules set forth in Article 145 of this Law.

Article 269. Interrogation of Minor Witness and Victims

- 269.1. Hearing of testimony by minor witnesses shall be carried out according to procedures set forth in article 267 of this Law.
- 269.2. Court may allow the parents or legal representatives of the minor witnesses as well as a pedagogue to take part in hearing their testimony and they may put questions to the witness with permission of the chair of the judicial session.
- 269.3. If it is significant for establishing the objective truth of a case, a defendant may be taken out of the courtroom by decree of the court or order of a judge and the testimony of a minor witness or victim may be heard and after the return of the defendant to the courtroom, content of the testimony of the witness or victim may be presented and he/she may be allowed to put questions to the witness or victim.
- 269.4. A minor witness or victim must be removed from the courtroom at the end of his/her testimony, if further presence of them is not necessary.

SPECIAL RULES OF EXECUTING CRIMINAL PROCEEDINGS IN CASES OF MINORS

Article 364. Special Rules Of executing Criminal Proceedings In Crimes Committed By Minors

- 364.1. In addition to the general rules provided by this Law, the special rules described by this Chapter shall be guiding in executing criminal proceedings in crimes committed by minors.
- 364.2. The rules described by this Chapter shall be applicable to cases of persons who had not reached the full age at the moment of committing a crime.

Article 365. Additional Circumstances to be Established in Crimes Committed by Minors

- 365.1. In executing inquiry, preliminary investigation or judicial examination in cases of minors, in addition to circumstances provided by Article 80 of this Law following circumstances shall be verified:
- 365.1.1. age of the minor (day, month, and year of birth);
 - 365.1.2. conditions of life and upbringing;
 - 365.1.3. the causes and conditions facilitating commission of the crime by the minor;
 - 365.1.4. the existence of adult instigators and other accomplices.
 - 365.1.5. if there exist doubt concerning mental retardation of the minor not connected with mental illness, and his/her ability to completely realize the significance of his/her actions, an expert shall be appointed and a conclusion issued.
- 365.2. In order to establish these circumstances, the parents, guardians, supporters, educators of the minor, and other persons who may have knowledge on circumstances significant to the case shall be interrogated and necessary documents shall claimed or other inquiry, investigative and judicial actions shall be executed.

Article 366. Arrest and Confinement Under Guard of a Minor

- 366.1. A minor may be arrested or confined under guard only if the crime committed is grave or exceptionally grave crime or if there exist exceptional occasion provided in Articles 58, 62 and 68 of this Law.
- 366.2. Information on arrest or confinement of a minor shall be delivered to his/her parents, other legal representatives or defense

counsel within 12 hours.

366.3. Minors arrested or confined under guard shall be kept separate from adults or convicted minors.

366.4. The principal term of investigation of a minor with confinement shall be 1 month and total term of investigation with confinement shall not exceed 18 months.

Article 367. Handing Over a Minor Under Supervision

367.1. Besides the measures of restraint provided by Article 62 of this Law, minors may be handed over under the supervision of parents or other legal representatives.

367.2. In handing over a minor under supervision of parents or other legal representatives, the described persons shall undertake on themselves a written obligation to ensure the appearance of the minor before an inquiry officer, investigator and court whenever summoned, as well as his/her proper behavior.

367.3. Parents, guardians or curators who are accepting the minor under supervision shall be advised on the crime of which the minor is suspected or being accused and of their responsibilities in the event of violation of the obligation undertaken by them.

367.4. In the event that the persons who are accepting the minor under supervision violate the obligation undertaken by them, the measures provided by Article 77 of this Law shall be applied to them.

Article 368. Procedure for Summoning Minor Suspect, Accused or Defendant

368.1. An inquiry officer, investigator, procurator and court shall summon a minor through his/her parents or other legal representatives and other procedure shall be permitted only depending on the circumstances of the case.

368.2. A minor who is confined under guard shall be summoned through the administration of the place of confinement.

Article 369. Separation of a Case Concerning Minors

369.1. If a minor has participated in the commission of a crime together with adults, the case shall be separated, when possible, at the stage of inquiry or preliminary investigation.

369.2. If separation of a minor's case is to create substantial obstacles to the thorough, complete, and objective discovery of the case, it may be left without separation.

Article 370. Procedure For Interrogating Minor Suspect or Accused

370.1. Interrogation of a minor suspect or accused shall not last longer than 2 hours at a time or in total 4 hours for a day and there shall be a break if the interrogation is going to last longer than 2 hours.

Article 371. Participation of Pedagogue in Interrogation of Minor

- 371.1. A pedagogue must be present at interrogation of a minor suspect or accused and if the minor is deemed to be mentally retarded.
- 371.2. A pedagogue participating in the interrogation of minor suspect or accused shall have the right, with the permission of an inquiry officer or investigator, to put questions to the suspect or accused.
- 371.3. Upon completion of the interrogation, the pedagogue who has participated therein shall have the right to be presented with the record of the interrogation and to make written remarks concerning the correctness and completeness of the entries in it.
- 371.4. Before commencement of the interrogation of a minor, the inquiry officer or investigator shall be obliged to inform the pedagogue of his rights and a note to such effect shall be made in the record.

Article 372. Participation of Legal Representative in Inquiry and Investigation

- 372.1. Legal representative of a minor suspect or accused shall be identified by a decree of inquiry officer or investigator and his/her rights for participating in inquiry or investigation shall be explained.
- 372.2. Legal representative of a minor suspect or accused shall have following rights:
 - 372.2.1. to know for which crime the minor suspect or accused is suspected;
 - 372.2.2. to be present at the charge of accusation;
 - 372.2.3. with the permission of investigator, to take part in interrogation and other actions with the presence of the suspect

or accused and investigator;

372.2.4.to submit, in writing, the comments on actions that were attended;

372.2.5.to request for verification of significant aspects related to evidence.

Article 373. Acquainting Minor Suspect or Accused or His/her Parents or Other Legal Representative With Materials of Case

373.1. In presenting to a minor suspect or accused the materials of the case, his/her parents or other the legal representatives shall be allowed to take part.

373.2. In presenting to a minor suspect or accused the materials of the case, his/her parents or other the legal representatives may not be allowed to take part if an inquiry officer or investigator considers that this may be harmful to the interests of the minor.

Article 374. Participation of Parents or Legal Representatives of Minor Defendant in Judicial Session

374.1. Parents or other legal representatives of a minor defendant shall have the right to participate in judicial sessions, to take part in examining evidence, to present documents with evidential significance, to submit requests and to challenge participants in the judicial session and these rights shall be explained to them at the opening of the judicial session.

374.2. If it is necessary to interrogate the parents or other legal representatives of the defendant as witnesses, their testimony shall be heard after the defendant's interrogation.

374.3. Parents or other legal representatives of the defendant shall be present during the entire judicial session.

374.4. If there is an exceptional reason whereby participation of parents or other legal representatives in the judicial session may be harmful to the interests of minor defendant, the court shall have the right to not allow the parents or other legal representative to participate in the judicial session or to limit their participation to a particular part of the judicial session by issuing a reasoned decree.

374.5. If the court does not find participation of parents or other legal representatives of the defendant in the judicial session necessary, their nonappearance to the session shall not serve as a reason for delaying the hearing of the case.

Article 375. Removal from Courtroom of Minor Brought to Trial

375.1. When analyzing circumstances which might have a negative influence on the minor, upon hearing the opinion of the defense counsel, the legal representative and the conclusion of the procurator, the court shall have the right by its decree or order to remove the minor from the courtroom.

Article 376. Stay of execution of Decree Against Minor

376.1. Relief from conviction of a minor convict with respect to whom the execution of decree has been stayed shall be resolved out by a court at the convict's place of residence upon the joint petition of a commission for cases of minors and the Police.

376.2. Annuling the decree on the stay of execution of the sentence to imprisonment based on grounds provided by Criminal Law and directing the convicted person to serve the sentence physically shall be resolved by a court at the place of residence of the convict upon the joint proposal of a commission for cases of minors and the Police.

Article 377. Questions Resolved by Court When Issuing Decree Against Minor

377.1. When issuing decree against a minor the court is obliged to consider:

377.1.1. the possibility of staying the execution of decree against a minor in the instances provided for by Criminal Code;

377.1.2. the necessity of appointing a social educator for the minor in instances of conditional sentence, the application of measures of conviction not connected with deprivation of freedom, or a stay of execution of decree.

A-13

National Legal Centre Draft Amendments

BILL OF AMENDMENTS TO BE INTRODUCED TO THE CRIMINAL PROCEDURE TO IMPLEMENT THE CHARTER OF THE JUVENILE JUSTICE COMMITTEE

Criminology Sector of the National Centre for Justice

1	Provisions to be amended or changed	Reasoning	Proposed
1	<i>Article 5. Definition of terms</i>	Article 371 of the Criminal Procedure requires presence of an educator in an interrogation of a person under the legal age. However, there is no legal formulation of what requirements such an educator should be meeting. Thus educators without being checked against any criteria are engaged in criminal procedure contributing to violation of the rights of the children. Thus, the requirements to the legal representatives need to be legally formulated.	Add the following to Article 5 of the Criminal Procedure: "Educator" is a person who has studied for a profession in the education science, possessing a wide range of knowledge on juvenile justice, psychology of children in conflict with the law, social work, etc., and is experienced in working with children.
2	<i>Article 24. Circumstances excluding criminal proceedings</i>	Avoidance of involvement of children in conflict with law in criminal procedures should enable implementation of Article 40 of the Convention on the Rights of the Child "States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused	Add the following to Article 24 of the Criminal Procedure: 24.5. 24.1. A criminal proceeding shall not be initiated to children who have committed grave or milder crime for the first time and the Procurator issues a decree ²⁸ . The Procurator sends the issue to the Juvenile Justice Committee with the child.

²⁸ It is a proposal of the customer organisation to transfer the case of a child having committed a crime to the Juvenile Justice Committee. The researchers have not yet reached a consensus on whether a criminal procedure shall be initiated or not in case a child has committed a severe crime. However, the bill was formulated in accordance to the proposal of the customer organisation.

		of, or recognized as having infringed the penal law". Therefore, the recommendation of the customer organisation, the UNICEF "Legal reform" project of the Child Protection Programme, on the need of an educative system other than criminal procedure for children in conflict with law is reflected.	
3	<i>Article 28. Inquiry officer and investigator</i>	In connection with the above proposal it is necessary to legalise the procedure in which the inquiry officer and investigator have to refrain from initiating a criminal proceeding in cases of child crime except grave crimes and have to submit the procurator a proposal to refer the child to the Juvenile Justice Committee.	After the word "refuse to initiate" in 28.2.2 of Article 28 of the Criminal Procedure Law, add: "refuse to initiate a criminal proceeding in cases when a child has committed a grave or milder crime and refer the case to the Juvenile Justice Committee".
4	<i>Article 62. Application of measures of restraint</i>	Article 65 of the Criminal Procedure provides to apply restraint measures such as giving under supervision of a surety to an adult suspect, accused or defendant only. However in practice this is often imposed on children as well. Article 367 provides that besides the restraint measures of Article 62, a child can be handed over to under supervision of parents, however in practice the implementers of the Criminal Procedure use the more general provisions of the law and fail to use this special provision. Furthermore, among the measures of restraint of Article 62, none is appropriate for application to children. Therefore, it is necessary to add to Article 62 legal forms of measures of restraint that could be applied to children appropriately.	Add the following content to Article 62 of the Criminal Procedure: The following measures of restraint can be imposed on suspects, accused or defendants under the legal age: <ol style="list-style-type: none"> 1. Referral to the Juvenile Justice Committee; 2. Involve in an educative training; 3. Forbid movement out of a certain environment for a certain period of time (family, school, temporary training establishment, etc.)

5	<i>Article 68. Confinement under guard</i>	Providing the conditions for imposition of confinement under guard on suspects, accused or defendants, Article 68 of the Criminal Procedure fails to provide special considerations for suspects, accused or defendants under the legal age.	After the word “extreme grave crime” of 68.1 of Article 68 of the Criminal Procedure, add a word “a child who committed an extreme grave crime”.
6	<i>Article 72. Grounds for applying other coercive measures of criminal proceedings</i>	Though other forms of coercive measures of criminal proceedings have been legalised in Article 72 of the Criminal Procedure Law, those are inappropriate to be applied to children. Therefore, it is necessary to legalise additional forms of coercive measures appropriate to the age and psychology of children.	Add the following to Article 72 of the Criminal Procedure: 72.1. Investigators, procurators and judges shall have the right to apply the following coercive measures of criminal proceedings to suspects, accused or defendants under the legal age: <ol style="list-style-type: none"> 1. Apologise to the victim, 2. Give pledge in front of the classroom or community, 3. Performing a humanity work (helping single elderly persons, etc.), 4. Referral to Juvenile Justice Committee.
7	<i>Article 190. Measures to eliminate causes and conditions facilitating the commission of a crime</i>	Article 190 of the Criminal Procedure provides to submit to a concerned legal entity a statement to take measures to eliminate the causes and conditions of commission of a crime and it provides the obligation of the entity to take a follow up measure and respond to the statement. In connection with the formulation of an obligation to “Discover and eliminate the causes and situations in which children are found in conflict with law or in difficult circumstances” in 2.2.2 of the Charter of Juvenile Justice Committee, there is a necessity amend this Article of the law.	Add the following to Article 190 of the Criminal Procedure: 190.3. As soon as the causes and conditions facilitating the commission of a crime by a child have been established, a statement shall be submitted to the Juvenile Justice Committee to eliminate those causes. The Juvenile Justice Committee shall take a measure to eliminate the causes and conditions and submit a response to the inquiry officer, investigator, and procurator within one month.
8	<i>Article 193. Full powers of procurator in executing supervision over an inquiry and investigation</i>	In connection with the referral of the cases of children who have committed a crime other than extreme grave crime to the Juvenile Justice Committee, it is necessary	Add the following to Article 193 of the Criminal Procedure: <ol style="list-style-type: none"> 1. Issue a decree of refusal to initiate a criminal proceeding in cases a child has committed a grave or milder crime and refer the child to the Juvenile

		to legalise this provision in the full powers of the procurator.	Justice Committee for educative measures to be applied; 2. Monitor the corrections and bringing up of a child referred to the Juvenile Justice Committee.
9	<i>Article 365. Additional circumstances to be established in crimes committed by minors</i>	It is proposed to legalise referral of a child having committed a milder, severe or grave crime for the first time to the Juvenile Justice Committee for educative measures and therefore, it is necessary to establish whether it is the first time a child has committed a crime of the given classification.	Add the following to Article 365 of the Criminal Procedure: 365.1.5. Whether the child has been involved in educative measures under the Juvenile Justice Committee;
10		Although the birth date of child is established on the basis of her/his birth certificate or civil identification card, in reality it is frequent that the birth date is recorded differently in different documents of a child or even there can be children without any document to evidence their birth date. The customer organisation's belief is that in practice, the birth date of a child with conflicting documents is asked from the child or from an evidence and that this practice shall be legalised. The current proposal is based on this belief.	Add the following to Article 365 of the Criminal Procedure: 365.2 ¹ . In case that the documents of a child give conflicting birth date information, or a child has no document or in case the truthfulness of a child's document is doubted, it is necessary to obtain the relevant documents from the hospital of birth of the child, or from the institution that registered the child's birth, assign an expert to issue analytical conclusions or take other relevant actions. In case the age of a child has been established by analysis, the last recorded date of birth shall be chosen as the birth date of a child. In case the age has been analytically established as the possible maximum and minimum years, the last date of the year which corresponds to the minimum years of age shall be chosen as the birth date ²⁹ .
11	<i>Article 366. Arrest and confinement under guard of a minor</i>	In conception with the addition of the above provisions to Article 68 of the Criminal Procedure, it is necessary to remove the provision of the period of confinement of a child in conflict with law committing a grave ad severe crime in 366.4 of Article 366 of the Criminal	Change the provisions of Article 366 as follows: 1. Remove word "grave" from 366.1, 2. Remove words "from 2 months for less grave crime" and "from 4 months for grave crime" from 366.4.

²⁹ "Хүүхэд ба хууль ёс" нодонд 252 дүгээр талбар. 2008 он.

		Procedure.	
12		Article 69 of the Criminal Procedure provides 14 day arrest term for a suspect and it is not legalised differently for suspects, accused and defendants under the legal age in Article 366 of the Criminal Procedure. Arrest of a child in conflict with law for the same period as an adult contradicts with Article 37b of the Convention on the Rights of the Child “No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.	Add to Article 366 of the Criminal Procedure: “the period of investigation of a case of an under age suspect under arrest shall be not longer than 7 days”
13	Article 367. Handing over a minor under supervision	Article 357 of the Criminal Procedure provides to hand over an under age suspect or accused under supervision of parents or caretakers as addition to the possible measures formulated in Article 62 of the Criminal Procedure. It is necessary to refer a child having committed an extremely grave crime to the Juvenile Justice Committee in line with its charters for educative and upbringing measures.	Add after the word “representatives” in 367.1 of Article 367 of the Criminal Procedure Law “and Juvenile Justice Committee”.
14	Article 377. Questions resolved by court when issuing decree against minor	Article 377 of the Criminal Procedure provides “the necessity of appointing a social educator for the minor in instances of conditional sentence, the application of measures of conviction not connected with deprivation of freedom, or a stay of execution of decree”. However, in practice, this provision is not implemented because	Change “appointing a social educator” in 377.1.2 of Article 377 of the Criminal Procedure, into “referring to the Juvenile Justice Committee.

		of lack of a social educator. Hence, it is appropriate to assign this duty to the Juvenile Justice Committee.	
		The Customer organisation stated that no procedure of solving a crime committed by a mentally disabled child is provided and it proposed to make relevant amendments. However the research team decided that this issue can be proceeded as provided in Article 43 of the Criminal Procedure and it refrained from developing a special amendment.	

A-14 Child Victims & Witnesses Checklist

SYSTEM-BUILDING: Child Victims & Witnesses Checklist	
Child Victims & Witnesses	
LEGAL & POLICY FRAMEWORK	General
	Laws/regs/guidelines include measures to protect the rights and interests of children at all stages of the justice process and to reduce trauma and secondary victimisation, including:
	Inter-agency referral procedures to promote coordination between police, health care workers, social workers and other service providers.
	Child-friendly police interview environments and interview techniques
	Victim/witness support program to familiarize children with the court process and provide support at all stages of the process
	Child-friendly court procedures, including alternative arrangements for giving testimony such as screens, video-taped evidence, and closed circuit television.
	Measures to protect the child's privacy, such as closed court proceedings and bans on publishing the child's identity.
	Measures to protect the safety of child victims and their family and to prevent intimidation and retaliation, including safe shelter (emergency and longer-term); relocation; and prohibition on the disclosure of information concerning the victim's identity and whereabouts.
	Guarantee of children's right to participate in the proceedings, to legal representation, and to compensation
	The law protects all child victims of exploitation from prosecution and involuntary detention.
	Evidentiary laws promote the best interests of children as victims/witnesses at all stages of the criminal justice process
	Social Welfare
	A national child protection law has been enacted to establish the framework for the provision of child and family protection services that:
	Establishes clear procedures and accountabilities for reporting, assessment and intervention in cases of children at risk and children who have experienced violence, neglect or exploitation.
	Makes it mandatory for professionals working with children (health professionals, teachers, child care workers, etc) to report suspected incidents of child maltreatment, and protects them from liability for doing so.
	Specifies the duties and powers of social welfare agencies and others to prevent child abuse and exploitation, to support children and families at risk, and to take protective measures where necessary.
Promotes a coordinated and multidisciplinary response to children in need of protection.	
Specifies a variety of supportive and protective interventions that may be used (counselling, financial assistance, income generation support, family supervision orders, respite care, parental education, temporary foster or other alternative care, emergency shelter, education/vocational training assistance etc), and procedures and criteria for applying those interventions.	
Prohibits separation of a child his/her family against their will except by order of a competent authority, and when necessary in the best interest of the child (see Family Separation and Alternative Care below).	

	Defines the legal obligation on the State to provide alternative care for children without parental care or who cannot in their best interest be permitted to remain in parental care, and the forms of alternative care to be provided (foster care, kinship care, guardianship, adoption and institutional care) – see Family Separation and Out-of-Home Care below.
	Requires the best interests of the child be the paramount consideration in any decision affecting the child
	Requires that the views of the child be sought and respected in any decision about intervention or support services.
	Minimum standards have been established for the professional qualification, training and ethical conduct of social workers and individuals working in institutions caring for children.
	Minimum standards have been established for the types and quality of support services to be provided to children in need of protection and their families, governing services provided by both government and non-governmental service providers.
	Family laws stipulate that, when parents separate, the grounds for allocating parental responsibility are based on the individual child's best interest. There is a presumption that children's best interests, unless proved to the contrary, are in maintaining contact with both parents.
	There are legal limitations on the ability of parents to voluntarily give up their parental responsibilities (e.g. by admitting a child to an orphanage or other institution)
	Family/child protection laws state that parents and children may be separated against their will by authorities only when it is the best interests necessary to protect of the child.
	The law designates a competent authority to make determinations about when a child can be separated from his/her parents, and stipulates grounds and procedures for doing so. These decisions are subject to judicial review.
	The law requires that priority be given to placement of a separated child with members of their wider family, with appropriate support where necessary. Institutionalisation is explicitly a measure of last resort.
	The law requires that the best interest of the child be the primary consideration in making decisions about alternative care, and that due regard must be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.
	The law requires that the child's views be taken into consideration in any decision made about alternative care, and that those views be given due weight in accordance with the child's age and maturity.
	The law requires that all children in out-of-home care (foster care, adoption, institutions, etc) are subject to a regular review of that placement.
	The law give children separated from their parents the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
	Standards of care have been established for residential care facilities and other forms of alternative care (including fostering, guardianship, etc).
	The law require that all adoptions be authorized only by a competent authority, and that:
	The best interest of the child is the paramount consideration.
	The views of the child be considered and give due weight having regard to the child's age and capacity.
	Authorities must be satisfied that the adoption is permissible in view of the child's status and that all consents required by law have been given
	Where consent is required, the law requires that counselling be provided
	Due regard must be paid to preservation of the child's identity and the desirability of continuity in the child's background and to the child's ethnic, religious, cultural and

linguistic background
Inter-country adoption is limited to cases where the child cannot be placed in a foster or an adoptive family or cannot be cared for in any other suitable manner within the jurisdiction.
Improper financial gain from inter-country adoption is prohibited by law and appropriately sanctioned.
<i>Sexual Abuse & Exploitation</i>
The criminal law penalises all forms of unlawful sexual acts against children as separate and more serious crimes than similar conduct against adults.
The criminal law establish an age below which a child is deemed to be unable to consent to sexual activities, which is greater than 12 years (as per recommendations of the CRC Committee) and is the same for boys and girls.
The criminal law includes a separate and distinct offence of child prostitution, defined in accordance with the Optional Protocol and sanctioned in a manner that reflects the gravity of the crime.
Children under the age of 18 engaged in prostitution are exempt from any form of sanction, punishment or deprivation of liberty.
The criminal law includes a specific criminal offence(s) relating to child pornography, defined in accordance with the Optional Protocol and sanctioned in a manner that reflects the gravity of the crime. Issues relating to internet pornography have been explicitly addressed.
The law includes “extraterritorial” provisions permitting the prosecution of nationals/residents for unlawful acts committed against children in other countries.
Extradition laws or extradition arrangements are in place to ensure that perpetrators are prosecuted either in their country of origin, or in the country in which the offence was committed.
<i>Abduction, Sale & Trafficking</i>
Legal provisions are in place to secure the prompt return of children wrongfully removed to or retained in the country and to ensure that rights of custody and access under the law of other countries are effectively respected.
The criminal law includes a specific crime relating to sale of children, defined broadly in accordance with the Optional Protocol to the CRC, and sanctioned in a manner that reflects the gravity of the crime.
The criminal law includes the specific crime of trafficking in humans, defined in accordance with the Trafficking Protocol, and sanctioned in a manner that reflects the gravity of the crime.
The law also criminalizes activities related to trafficking, including forced or compulsory labour, debt bondage, forced marriage, force prostitution, unlawful confinement, labour exploitation, and illegally withholding identity papers.
The law imposes civil or criminal liability on legal entities (travel agencies, marriage brokers, sex shops, bars, brothels or employment agencies) for trafficking offences.
The law provides for the seizure and confiscation of goods, assets and other instrumentalities used to commit or facilitate trafficking, and that proceeds or assets confiscated from traffickers be used to support trafficking victims.
Immigration laws permit foreign trafficked children to remain in the country, temporarily or permanently, in appropriate cases.
Guidelines have been developed for the safe and timely return and repatriation of child victims of cross-border trafficking.
<i>Labour Exploitation</i>
Laws are in place to ensure appropriate standards for children’s work and pay in both the formal and informal sectors.
Labour laws define a minimum age for employment (formal and informal sector)

STRUCTURAL	<p>The law includes provisions regulating permissible work by children over the minimum age, including regulations defining the hours and conditions of work for children (formal and informal sector)</p>
	<p>The law prohibits anyone under the age of 18 from engaging in any type of employment or work that by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons. Regulations specify a clearly defined list of the types of work prohibited.</p>
	<p>Labour/criminal laws provide for appropriate penalties for those who violate child labour laws.</p>
	<p>Labour inspectors are trained and sufficiently empowered to enforce child labour laws, including the authority to immediately remove a child from a work environment that is hazardous or harmful to the child's health or physical, mental, spiritual, moral or social development.</p>
	<p><i>Violence Against Children</i></p>
	<p>All forms of violence against children (physical, sexual, emotional) are clearly defined and strictly prohibited in civil/criminal laws.</p>
	<p>Corporal punishment is explicitly prohibited in the home, school, institutions and community. Laws have been reviewed to eliminate any legal exceptions or defences available to parents or others in relation to assaults on children (e.g. the defence of "parental correction").</p>
	<p>Traditional practices harmful to children, such as early marriage, have been identified and prohibited by law and appropriate penalties prescribed for those who violate these provisions.</p>
	<p><i>Children Involved in Armed Conflict</i></p>
	<p>The law sets 18 as the minimum age for direct participation in hostilities, for recruitment into armed groups, and for compulsory recruitment by governments.</p>
	<p>The minimum voluntary recruitment age is at least 16, and the law outlines safeguards to ensure that recruitment is: genuinely voluntary and carried out with the informed consent of the person's parents or legal guardians; that the child is fully informed of the duties involved in military service; and the child provides reliable proof of age prior to acceptance into national military service.</p>
	<p><i>Criminal Justice</i></p>
	<p>Police, prosecutors and courts have specialised units, or designated specialists to handle cases involving child victims/witnesses.</p>
	<p>Training is provided to police, prosecutors, judges, and lawyers on an in-service basis, and also incorporated into induction training programmes.</p>
<p>Data on reported cases of violence and exploitation of children is systematically collected and appropriately disaggregated.</p>	
<p>Central authority designated to deal with issues of international child abductions</p>	
<p><i>Linkage with Social Welfare System</i></p>	
<p>A coordination or referral mechanism is in place to ensure that child victims who come to the attention of the police receive appropriate social welfare services</p>	
<p>Social workers/advocates are present and support child victims at all stages of the criminal proceedings (during the police interview, evidence collection and court hearing)</p>	
<p>A victim/witness support programme is in place to familiarise children with the court process and provide support at all stages of the proceedings.</p>	
<p><i>Civil/Administrative Justice</i></p>	
<p>Immigration/public security agency with designated specialists to implement child-friendly processes when children are deported or repatriated</p>	
<p>Clear criteria and procedures have been established for making decisions about protection services, based on an individualized assessment of the child and his/her family.</p>	
<p>Any decision on care and protection plans are taken by qualified authority through a</p>	

	<p>multidisciplinary approach, supported by a formal process or a Court decision</p> <p>Focus in all decision-making is on family preservation and the best interest of the child</p>
	<p>Decisions about child removal and out-of-home care are made by a qualified authority, based on a full assessment of the child's best interest, and subject to judicial review. This "gatekeeping" function is carried out by specialized judges or social welfare professionals not involved in provision of alternative care services. The clear aim is avoiding unnecessary entry into alternative care, and reducing the number of children entering institutions.</p>
	<p>Permanency planning is a key goal and due regard is given to the importance of ensuring a stable home and consistent caregiver for the child</p>
	<p>Children's and families' views are taken into account during the development of care and protection plans as well in all decisions taken</p>
	<p>Children are represented by law guardians and/or supported by advocate at all stages of the judicial process</p>
	<p>All children in out-of-home care have an individual long-term care plan that is regularly reviewed and revised. The review and subsequent decisions involve a Court and or a qualified authority.</p>
	<p>Children in out-of-home care have access to a child-friendly complaints system.</p>
	<p>There is a functioning mechanism ensuring registration, accreditation and compliance to standards of all out-of-home service providers</p>