

Evaluation of UNICEF Mongolia's Child Protection Programme: *Juvenile justice & legislative reform*



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I. INTRODUCTION

1.1 Background

Mongolia's children and adolescents are a 'transition generation' having to cope on various levels with the challenges of ongoing political, economic and social changes. It is at such times when youth are highly vulnerable in coming into conflict with the law, and generally those children most at risk and requiring protective services come from unstable, vulnerable families. Crimes involving 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.

How the State responds to these youth can have a significant impact on whether they successfully make the transition to law-abiding citizens, or become embroiled in a life of crime. Unfortunately, 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 on the Rights of the Child (CRC Committee) recently expressed concern about Mongolia's pre-trial detention of juveniles for prolonged periods and its sentencing policy for first time juvenile offenders; probation, community service and suspended sentences were recommended as alternatives to detention. The CRC Committee also expressed concern about other practices adversely affecting juveniles: inadequate access to legal aid and assistance, poor detention and prison conditions, and weak social reintegration services.

The Government of Mongolia ratified the Convention on the Rights of the Child in 1990, and has committed to making reforms 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 approved the establishment of a juvenile justice project on a pilot basis in select regions. With UNICEF support, pilot projects have been underway in two districts and one province – Bayangol, Baganuur and Khentii respectively - since September 2006.

Government officials, children and families, and communities have voiced deep appreciation for the pilot initiative in these three locations. Discussions are underway regarding the expansion of this pilot initiative to other provinces. Meanwhile, broad legislative reform efforts are in progress to amend existing criminal, administrative, labour, child rights protection and other laws relevant to juvenile justice. Prior to legislative reform and replication, however, a comprehensive evaluation is necessary to better understand the impact, relevance and effectiveness of interventions undertaken thus far.

1.2 Purpose

This evaluation has a two-fold purpose: to assess the effectiveness of UNICEF-supported juvenile justice initiatives and to recommend future directions and strategies to assist the Government of Mongolia (GoM) and UNICEF to strengthen the country’s justice system for children. Further, this evidence base is put forward to draw lessons for proposed replication, and to facilitate taking this initiative to scale. Lessons, experiences and recommendations from the pilot sites, and elsewhere internationally, will inform the potential replication or adaptation of this project to other areas.¹

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 and prisons. This evaluation therefore also aims to provide a better understanding of who are the children referred (in order to identify potential discriminatory practices), the offences they are suspected/accused of, the decision-making authority, the decision-making process, the basis on which

decisions are made, as well as an analysis on how current practices comply with national and international standards.

1.3 Scope

Utilizing a participatory and mixed method approach (see below section for details), this evaluation addresses the following key questions:

- To what extent have the strategies and activities supported by UNICEF achieved their goal and objectives?
- What has been the impact/outcomes of the project – intended, positive and negative? Have there been any unforeseen impacts/outcomes?
- What challenges were confronted by UNICEF and partners and how were these addressed? Which opportunities were capitalized?
- What are the good practices and lessons learned by UNICEF and partners?
- What recommendations can be made on the future direction of this project?
- 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)?

Additionally, an evaluation tool containing targeted questions was designed to obtain information specific to the expertise, experience and profile of respondents (see A-2: Data collection instruments). This yielded rich and varied information, lending itself to a fuller portrait of the child justice situation in Mongolia.

1.4 Methodology

Evaluation Team

Aiming for an independent evaluation, the evaluation team was comprised of two qualified consultants unaffiliated with any of the stakeholder entities. The international consultant led the evaluation on technical areas and report writing and the national consultant contributed to the process with analysis based on a solid understanding and knowledge of the local situation.



At the outset, the international consultant designed evaluation methodology and tools (see A-2: Data collection instruments). This section summarizes the methodology utilized in undertaking the evaluation.

What

The evaluators gathered quantitative and qualitative information through:

- semi-structured interviews (individual & group)
- focus group discussions
- site observations
- document review
 - laws, bylaws and resolutions
 - national policies
 - draft legislation
 - justice sector official statistics
 - CRC concluding observations
 - Mongolia CRC report
 - NGO shadow reports
 - JJC project documents
 - financial reports
 - UNICEF documents
 - training manuals
 - reports, studies & surveys

Evaluation criteria²

The evaluation used the following standard evaluation criteria:

- Relevance - the extent to which the objectives of a development intervention are consistent with duty bearers and rights-holders requirements, country needs, global priorities and partners' and donors' policies. Retrospectively, the question of relevance often becomes a question as to whether the objectives of an intervention or its design are still appropriate given changed circumstances.
- Efficiency - an economic term referring to the measure of the relative cost of resources used in a programme to achieve its objectives.
- Effectiveness - a measure of the extent to which an aid programme attains its objectives or produces its desired results.
- Protection - activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights, humanitarian and refugee law) which are conducted impartially and not on the basis of race, national or ethnic origin, language or gender.
- Coordination
- Impact - positive and negative long-term effects on identifiable population groups produced by a development intervention, directly or indirectly, intended or unintended. These effects can be economic, socio-cultural, institutional, environmental, technological or of other types.
- Sustainability - the continuation of benefits from a development intervention after major development assistance has been completed. (The probability of long-term benefits.)

There were some limitations in applying the evaluation criteria due to the lack of early project documents articulating the original intent of the juvenile justice project. The strategy, goal and objectives, targets and benchmarks therefore are extrapolated from the Country Programme Action Plan (see A-9: CPAP Mongolia: Child Protection Results and Resources Framework) and subsequent donor proposals and reports.

Other criterion, in particular coverage and coherence, were not used due to the relatively narrow scope of this evaluation and time constraints. To a limited extent, however, the evaluators examined issues of governance and developmental policy coherence taking into account children's human rights considerations.

Where

Over twelve days, the evaluators conducted interviews, focus group discussions and site observations in four locations: City of Ulaanbaatar, Bayangol and Baganuur (districts of UB) and Khentii. Approximately three days were spent in each of the pilot sites – Bayangol, Baganuur and Khentii – and an additional three days in Ulaanbaatar to conduct interviews with representatives of national government agencies, national bodies, INGO/IGOs and UNICEF Mongolia.

Who

More than 100 stakeholders across four locations provided invaluable input into this evaluation, representing:

- Juveniles (JJC beneficiaries & JJC members)
- Parents of children in conflict with the law
- JJC coordinators
- JJC social workers
- Deputy Prime Minister's office
- Ministry of Justice & Home Affairs
- Ministry of Social Welfare & Labour
- Police (UB, Bayangol, Baganuur, Khentii)
- National Police Academy
- Prosecutors (Bayangol, Baganuur, Khentii)
- Judges (Baganuur, Khentii)
- Aimag & Soum Governors
- Social Development Division, District Governor's office
- Legal Division & State Registration, Aimag Governor's office
- Bag community monitor, Aimag Crime Prevention Council
- Local administrative unit leaders and social workers
- Secondary school and Enlightenment centre social workers
- National Authority of Children (NAC)
national and local offices
- National Legal Centre
- National Law School
- Vocational school social worker
- World Vision
- UNDP

- UNICEF Mongolia

Meetings scheduled with the Supreme Court, Court Decision Executing Agency and the General Prosecutor's office did not take place due to unforeseen circumstances, i.e. illness, travel outside of Mongolia. Due to time constraints, interviews were not conducted with the National Council for Children (NCC), the National Human Rights Commission (NHRC), the National Centre against Violence (NCAV) or Convergent Basic Social Services (CBSS) staff (see A-3: Sites Visited & List of Persons Interviewed³).

How

Utilizing a participatory and mixed-method approach, this evaluation combines qualitative and quantitative information and promotes maximum input from all relevant stakeholders to obtain diverse perspectives on the various aspects of juvenile justice. Respondents were also asked to provide both immediate and long-term recommendations to improve the situation of children in contact or in conflict with the law.

In order to guide and inform the evaluation process, a Steering Committee was established with representatives from the Juvenile Justice Working Group (JJWG) and relevant government and non-government agencies, including the Ministry of Justice and Home Affairs (MoJ & HA), Ministry of Social Welfare and Labour (MoSWL), Deputy Prime Minister's (DPM) Office, National Authority for Children (NAC), National Human Rights Commission (NHRC), etc. The evaluators consulted the Steering Committee for their input and guidance at three phases:

- i) Evaluation methodology and tools design
- ii) Evaluation preliminary findings and recommendations
- iii) Finalisation of the evaluation report

Although the evaluation terms of reference focuses primarily on the Juvenile Justice Committee (JJC), the evaluators undertook a broader analysis, examining issues of governance, structural frameworks, legislative reform initiatives and policy coherence in addition to the JJC's functioning and compliance with international standards. This is envisaged to establish an evidence base for replicating and taking the JJC to scale whilst ensuring coherence with national priorities and policies, child protection systems building, justice sector reform and other broader development. Moreover, this approach precludes redundant,

contradictory or fragmented interventions for children and leverages existing and future initiatives and momentum.

1.5 Limitations

The two weeks allocated for field research did not present ample time for an evaluation of this breadth and depth, including an analysis of the justice and social welfare systems at national and sub-national levels. Further, there were ex post facto shifts in the evaluation scope, from assessing the JJ committee to a broader evaluation of legislative reform, capacity building and data collection activities associated with juvenile justice generally. Finally, the unavailability of a number of documents in English presented some practical challenges for the lead international consultant. This evaluation report should be considered with these limitations in mind.

II. CHILD JUSTICE IN MONGOLIA

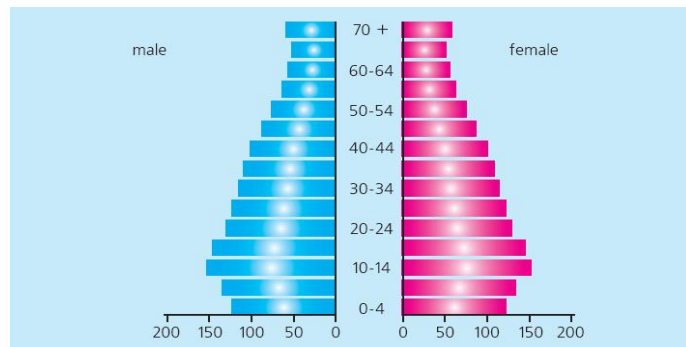
2.1 General Context

2.1.1 Socioeconomic context & demographics

Mongolia is a vast, landlocked country situated between Russia and China. Spreading across 1.5 million sq km of the Central Asian plateau with a total population of 2.7 million⁴ and growth rates of 1.0-1.5 percent, it has one of the lowest population densities in the world. Since 1990, important changes have resulted in social demographic trends which differentiate Mongolia from other developing countries: trends of decreasing total fertility rate, increasing life expectancy, decreasing death rate, decreasing infant mortality rate, and a high rate of rural-to-urban migration.⁵

Population Pyramid, Mongolia 2005⁶

As of 2005, Mongolia has a median age of 22.7 years and approximately 42 percent of the population, or more than 1,000,000 children, fall below the age of 18 years. These boys and girls constitute the heart and soul of Mongolia.⁷



Age Structure of Children under Age 18 Years in Mongolia in 2005⁸

Age group (years)	Total Number (thousand)
0 - 2	135.812
3 - 6	204.055
7 - 18	736.950
Share in total population of Mongolia of children under age 18 years	42.1 %

Mongolia is a land of contrasts, with urban cosmopolitan centers, wide open steppes, stunning mountains and vast deserts. Mongolia is divided into a capital city (Ulaanbaatar) and 21 aimags (provinces). The Capital City and aimags are in turn divided into districts or soums (rural districts), and khoroo (sub-districts) or bags (rural sub-districts).

Approximately 60 percent of the population lives in urban areas, with major concentrations in the three main cities of Ulaanbaatar as the national capital, Darkhan City in Darkhan-Uul Aimag, and Bayan-Under Soum (new name of Erdenet City) in Orkhon Aimag. Approximately 40 percent of the population lives in rural areas, and the rural lifestyle is nomadic, semi-nomadic, or residing in soum centres or aimag centres. Regional disparities throughout the country are extreme in terms of medical provision, schooling, industrial activity, financial transactions, or the location of high-income groups.⁹

After nearly seven decades of a socialist, centrally planned system heavily influenced by the Soviet Union, Mongolia embarked on a peaceful transition to a democratic, capitalist state. Following the first multi-party elections in 1992, a new national Constitution was introduced guaranteeing the economic, social, cultural and political rights of all citizens.¹⁰ Economic expansion soared. After a sharp decline, the Human Development Index surpassed its 1990 level, GDP growth rates climbed steadily with double-digit figures recorded in 2004.¹¹

Despite tremendous opportunities, the economic transition also generated disparities between the rich and the poor and in access to national benefits - a situation which has led to widening of the opportunity gap and an intensification of social inequality as some social groups experienced declining livelihoods and entrenchment in poverty with the rise of unemployment.¹²

Traditionally, the main economic sectors of agriculture, industries for processing of raw materials, and provision of services accounted for approximately 22 percent, 33 percent, and 55 percent of the GDP in 2005, respectively. Main activities in the industrial sub-sectors are: (i) mining of minerals, (ii) generation of electricity and energy, (iii) manufacture of food products, and (iv) manufacture of textiles. Even though the economic situation in the country is complex, Mongolia spends 13 percent of its GDP and one-third of its State budget on children through the financing of education and health services (NSO 2006).¹³ State budget allocations and expenditures for juvenile justice and child protection have not been calculated.

Socio-cultural change in Mongolian society has kept pace with the economic and political transition. New social values and beliefs have emerged towards work, education, health, marriage, childbearing, childrearing, and family size.¹⁴ At the same time, social inequality has surfaced. These changes have also had several adverse effects in Mongolian society: (i) declining household size, (ii) instability of marital unions,¹⁵ (iii) less caring capabilities of families, and (iv) increasing numbers of children on the street, child labour, and child sexual exploitation.¹⁶ Meanwhile, both income poverty and opportunity poverty are worse among children who are orphans or have parents who are single, disabled or lack labour skills.¹⁷

In 2000, primary school enrolment dropped to 75.6%, and completion rates for basic education were down from 87% in 1990 to 64% in 1999. Many children, particularly boys, drop out of school or are denied access because schools are

overcrowded, because they lack the necessary registration documents or cannot afford basic supplies, or because they must help to support their families.¹⁸ Child labour is more widespread among school drop-outs under the following conditions: (i) in aimags with higher levels of poverty, (ii) among children of herders in remote soums and bags, (iii) among children of female-headed households or poor households with many children, and (iv) among orphans or semiorphans.¹⁹

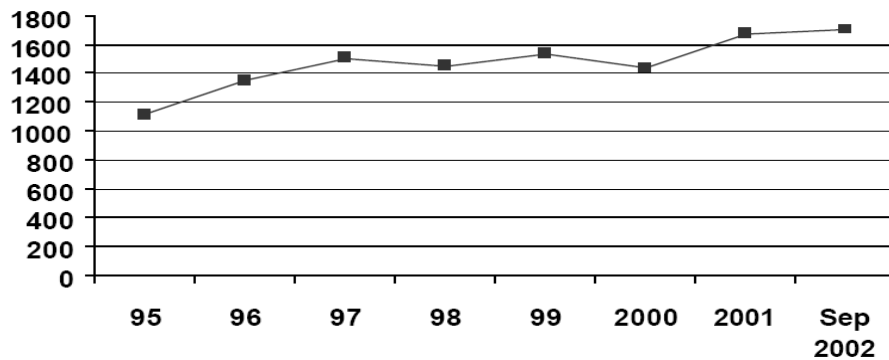
School completion	Grade							
	I	II	III	IV	V	VI	VII	VIII
Progress	93.1	97.5	97.0	99.0	98.9	99.2	98.1	96.6
Re-sit	1.3	0.5	0.3	0.2	0.1	0.1	0.1	0.0
Drop out	5.6	2.0	2.7	0.8	1.0	0.7	1.8	3.4

Increasingly, there is migration to urban and peri-urban areas. With more than half the population residing in towns, access to and the quality of basic social services has decreased. Children from migrant families are particularly vulnerable, since they are often denied access to basic education, health care and other social services because their parents cannot afford to pay the fee to officially register with their new municipality.²⁰ Poverty, increasing unemployment and weakening social services have also heightened people's sense of insecurity and contributed to increases in alcoholism, family breakdown, domestic violence and homelessness.²¹

2.1.2 Children in conflict with the law

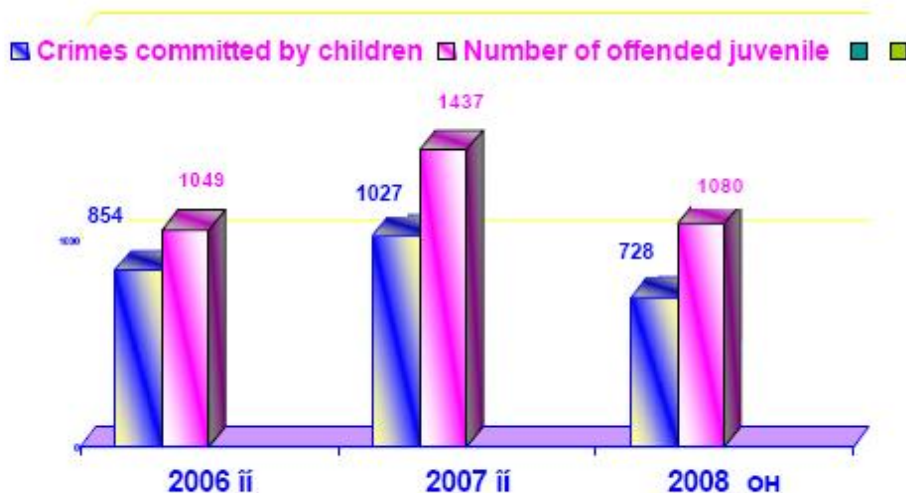
These rapid changes are felt most acutely by Mongolian's "transition generation" of adolescents, who make up approximately one quarter of the population. Parents struggling to make a living are often required to spend long periods away from home and may be unable to provide appropriate guidance and supervision. An increasing number of children are spending more and more time on the streets to escape intolerable home conditions or to make money to survive. An estimated 3,700 "unsupervised" children are in Mongolia's cities. Many of these children turn to petty crime to survive. It is estimated that 80% of street children come from single-parent families and more than 50% have been abused.²²

Number of Crimes Committed by Children 1995- Sept 2002²³



While the juvenile crime rate has increased over the last decade, National Police Agency data indicated a decline between 2007 and 2008 in the number of crimes committed (see below table). It is uncertain whether the actual number of children involved in crime increased. Consistently, 90% to 95% of juvenile offenders are boys.²⁴

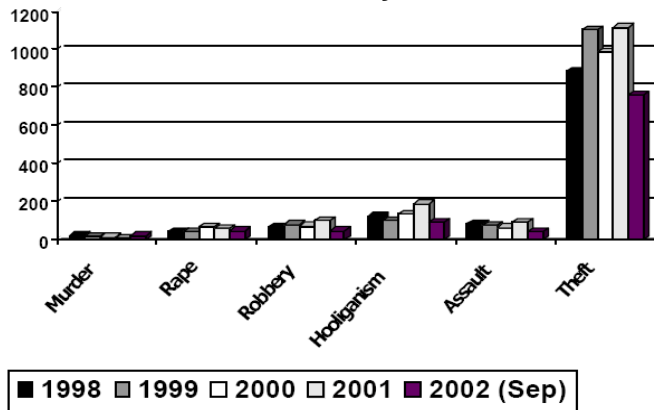
National Police Agency Data



Globally, the overwhelming majority of children in conflict with the law are petty offenders who have committed property-related offences such as theft, pick-pocketing, etc. Breaking the law is also predominantly a male phenomenon, and Mongolia is no exception. Recent data in Mongolia substantiates these trends, where 90% to 95% of juvenile offenders are boys and the majority of juvenile

crimes are property-related, rather than violent.²⁵ In recent years, however, more children have become involved in serious and dangerous crimes like homicide, rape, armed robbery, and arson. Different crime patterns emerge based on rural versus urban areas and between categories of children. During 2001-2004, in rural areas, crimes like homicide, rape and theft dominate, whereas in Ulaanbaatar crimes like mugging, robbery, hooliganism and crime against individual freedoms prevail. Secondary school students accounted for 33 percent of the children in conflict with law, whereas street children accounted for 11 percent of juvenile crimes.²⁶

Types of Crime Committed by Juveniles, 1998-Sept 2002²⁷





Homicide (Article 91)	- 0,7%
Negligent homicide (Article 94)	- 0,1%
Bodily injury (Article 96)	- 19,6%
Rape (Article 126)	- 3,8%
Theft (Article 145)	- 46,4%
Misappropriation (Article 146)	- 3,8%
Robbery (Article 147)	- 10,3%
Fraud (Article 148)	- 1,4%
Hooliganism (Articles 181)	- 8,1%
Traffic safety (Articles 215)	- 1,0%

Out of the offenders 471 were school students, 62 dropped out of school, 20 street children, 11,4 percent were committed the crime in condition of drunkenness, 41,2 % in groups, 3,1 % in collusion to commit a crime, 4,4 % sentenced previously.

Although the number of cases of theft and hooliganism declined slightly, the actual number of children involved in these crimes remained relatively constant. Conversely, the actual number of children involved in mugging declined, but the number of cases of mugging remained relatively constant. The main victims of hooliganism by children were their peers.²⁸

During 2000-2003, the number of children under 16 years sentenced by the court increased by 10.8 percent. Sentences other than imprisonment were also on the rise until 2004. Of the children sentenced by the court, over 10 percent are imprisoned, which leads to an annual increase by 150 to 200 in the number of children categorized as “juvenile delinquents”. Of the sentenced juveniles, 30 percent are illiterate and 10-15 percent are orphans and children who have run away from home.²⁹

In addition to crimes listed in the Criminal Code (see 3.4: Legislative Reform), children over the age of 16 may also be liable for administrative penalties under the Law on Administrative Liability. Administrative violations include minor thefts, hooliganism and public order offences. Violations can result in a fine (usually imposed against the child’s parents) or “apprehension,” or detention for 7 to 30 days in a police detention facility.³⁰

ARE JUVENILES IN CONFLICT WITH THE LAW TREATED FAIRLY & PROPORTIONATELY IN LINE WITH THE CRC?

In July 2008, riots broke out over alleged election fraud when the Democratic Party was angered over losing an election. Protesters set the MPRP headquarters building on fire. The riot spread to the nearby Cultural Palace, home to a museum and theatre, which was looted and then torched. More than 700 individuals, including youth, were arrested. 25 youth faced trial, 9 of whom were deprived of their liberty for various lengths of time.

Of concern is the disproportionate penalties generally imposed on juveniles relative to other serious crimes committed by adults. Despite minimal damages caused, juveniles can receive comparable or longer sentences of imprisonment than senior level officials and business leaders who betray the public trust and misappropriate funds. The National Tax Agency former head was sentenced to 7 years imprisonment for misappropriating 450 trillion tugrugs and a banker to 10 years imprisonment for misappropriating 14,3 trillion tugrugs from the employed bank. A 14 year old who commits robbery can face a longer sentence than the former head of the National Tax Agency, and if s/he commits the offence with friends, can be imprisoned for as long as 10 years – the same as a banker who robs the public of 14,3 trillion tugrugs. This constitutes a violation of international law and contravenes juvenile justice standards.

2.1.3 Child Victims & Witnesses

Other child protection issues most relevant to Mongolia include child labour, (sexual) exploitation of children, trafficking of children, child abuse and violence.³¹ Within the context of criminal justice, these acts are prohibited by law when induced, forced or inflicted on others.³² Other acts such as illegal adoption, abandonment of a child and parental neglect are also criminalized.³³ Child prostitution, on the other hand, is dealt with as an administrative infraction, rather than as a criminal offence. Child prostitutes are generally fined and

placed under police supervision, though if they continue to re-offend they can be subject to a period of detention under the Law on Administrative Liability.³⁴

Vulnerable group # of children by most recent year³⁵

Children engaged in economic activities	-	Year 2002-2003 ^c : 68,580 children = 10.1% of children aged 5-17 years. 61% boys : 39% girls 75% in school : 25% out-of-school
Children engaged in hazardous labour	-	1,871 ^c children 65% boys : 35% girls (Most of them are engaged in the informal mining)
Girl children engaged in sex work	Year 2001 ^d : 38	Year 2005 ^e : 215 (This figure represents an 82.3% increase over 4 years)

Sexual Exploitation

Prostitution and other sexual activities are some of the worst forms of child labour that emerged during the transition years in Mongolia. It appears to be on the rise particularly in large urban centres although official statistics are likely to be gross underestimates. According to official statistics, 38 girls were sexually exploited in 2001. According to a survey conducted by ECPAT (Elimination of Child Pornography and Child Prostitution and Trafficking) in 2004, of the 260 children and adult sex workers who were detained by the police, 25 percent were aged 13-18 years.³⁶ More recently, data from NGOs and official sources estimate that the number of underage girls engaged in commercial sex increased by 82% from 38 in 2001 to 215 in 2005.³⁷

According to another recent survey, two-thirds of the total number of sex workers was children who had run away from home, were living in the streets, and were not enrolled at school. Major vulnerability factors include: (i) family crises such as domestic violence, (ii) harsh economic conditions (“income poverty”), (iii) “quality of life” poverty, (iv) lack of knowledge, (v) demand for underage girls because of their virginity and low probability of STIs/HIV, and (vi) other social and cultural factors causing distress.³⁸

In one survey, sexually exploited girls emphasized their need for: (i) a safer profession, (ii) availability of options for safe housing (perhaps returning home), and (iii) obtaining psychological counselling and emotional support for recovery from the exploitation experience. However, there is no system of counselling and support in place for these girls or for ameliorating root causes to reduce their vulnerability. Moreover, social workers and other professionals lack the requisite knowledge and skills for helping girls who have been sexually exploited.³⁹

Child Trafficking

Mongolian girl children (and women) are at particular risk of being trafficked to other countries for purposes of sexual exploitation because of: (i) the still relatively low risk of HIV/AIDS in Mongolia, (ii) settlements situated close to the borders of the Russian Federation and the People's Republic of China, and (iii) the lack of official monitoring and tracking mechanisms for Mongolian children, according to ILO/IPEC and MYDF. As elsewhere globally, reliable data on trafficking is scarce.⁴⁰

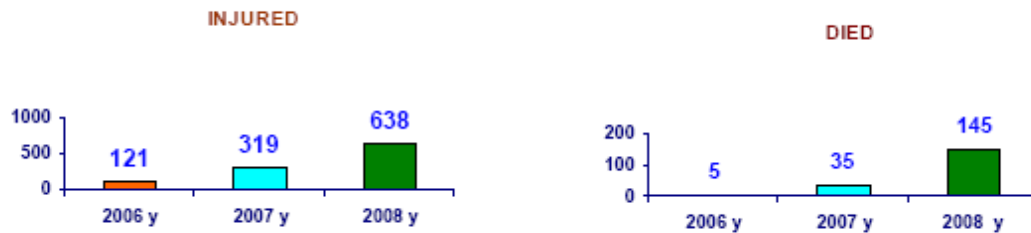
From previously trafficked women and children's perspectives, contributing factors include: (i) high levels of poverty in the country, (ii) higher salaries offered abroad, (iii) the desire to live in other cultural environments, and (iv) the desire to become independent. False advertising has been one effective recruitment tactic. Ulaanbaatar, and other major urban centres, including Darkhan and Erdenet, and Er-lian in Inner Mongolia, are the main recruitment centres for traffickers, while China and Macau among other countries are the most common destination.⁴¹

Other Crimes Committed against Children

According to official national data, between 1999 and 2004, 686 children have died and 3,827 children have been injured as a result of crime. In 2004, 194 children lost their lives, and 667 children were injured as a result of crime.

NATIONAL POLICE AGENCY DATA

CHILD VICTIMS



Among other violence, domestic violence severely impacts children. Children constitute one-sixth of all victims of domestic violence. One-third of children who run away from home and become street children (registered by the CAIC) have been beaten by a family member.⁴² With cases of child physical abuse and child sexual abuse often taking place in the home, most of these incidents are seldom acknowledged or reported. Of the children covered by a survey conducted by NCAV and the Child's Rights Centre, 58 percent of children reported being victims of some type of abuse. Children are more vulnerable to sexual abuse within the family home than elsewhere. Girls are also vulnerable to rape outside of the home. In a study conducted over seven months of 2002, 115 children aged 5-18 years were victims of rape. According to another recent study, children accounted for 60 percent of rape victims, distributed as 41 percent girls under age 15 years and 16 percent girls between 15-19 years. Further analysis of rapes committed from 2000 to the first half of 2002 showed that 60 percent of the perpetrators of rapes were strangers and 18 percent were acquaintances or stepfathers.⁴³

Violence among children themselves is widespread. A large proportion of children are subject to pressure and violence from their peers. According to a 2002 NCAV, GPD and SCR survey, approximately 25 percent of children are more likely to suffer pressure from their peers than from any other social group.⁴⁴

Child Labour

High rates of working children persist in Mongolia, with various negative consequences resulting from the exploitation of child labour, including school

dropouts and health concerns caused by harmful and hazardous work such as gold and coal mine work.⁴⁵

According to the Baseline Survey on Child Domestic Workers in Mongolia, the mean age of children working in the household economy was 13 years for boys, 14 years for girls. By location, there were 6,148 child domestic workers (130.9 girls per 100 boys) in the six central districts of Ulaanbaatar and 30,427 children (180.9 girls per 100 boys) employed as domestic workers in rural aimags.⁴⁶

Meanwhile, according to the Survey on Child Labour, 7 percent of children aged 5-9 years, 7 percent of those aged 10-14 years, and 19 percent of 15-17 year-olds were employed outside the household economy. Half of the children employed outside the household started working when they were under 13 years old.⁴⁷ According to data from NGOs and officials, an estimated 65% of 1,871 children engaged in hazardous forms of child labour are boys who mainly work in the informal mining sector.⁴⁸

2.2. Legal & Policy Context

2.2.1 International standards

Over the last decade, Mongolia has made steady progress in promoting respect for children’s fundamental human rights. Mongolia has ratified 29 international human rights treaties, including the Convention on the Rights of the Child (CRC) and its Optional Protocols, ILO Convention 138 on the Minimum Age of Employment, ILO Convention 182 on the Worst Forms of Child Labour, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

The table below outlines various international human rights conventions and protocols, and the status of Mongolia’s ratification by international instrument.

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 Inter-country Adoption Hague Convention on Protection of Children and Cooperation in Respect of Inter-country 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	

With respect to juvenile justice, Articles 37 and 40 of the CRC⁴⁹ (ratified by Mongolia in 1990) and UN guidelines (see above table) provide a clear framework for juvenile justice reform, emphasizing the guiding principle that young people must be held accountable for their actions in a way that promotes their rehabilitation and reintegration into society.⁵⁰ Mongolia, as a State party to the CRC, is obliged to recognize those in conflict with the law as children, not merely criminals, and afford them special protection within the justice system.

The Government of Mongolia renewed its commitment to improving the situation of children in conflict with the law at the UN Special Session for Children in 2002. The approved World Fit for Children plan of action reiterates States' commitment to promoting a justice system specifically applicable to children that ensures children's rights are respected and emphasises rehabilitation and reintegration, supporting and caring services, and restorative justice principles.⁵¹ The Mongolian government has taken preliminary steps toward bringing the country's juvenile justice system in line with the CRC and UN juvenile justice guidelines, including the UN Standard Minimum Rules for the Administration of Justice (Beijing Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), UN Rules for the Protection of Juveniles Deprived of their Liberty (JDLs) and Vienna Guidelines.

2.2.2 National legal framework

In 1992, Mongolia approved the national Constitution which contains 70 articles on human rights and freedoms, structure of government, administrative units, the Constitutional Court, and constitutional amendments. While the Constitution outlines extensive human rights guarantees for all citizens of Mongolia, regardless of age, there are no specific provisions on the rights of children against all forms of abuse, neglect, exploitation and violence.

For more than a decade, Mongolia has undertaken steps to harmonize national legislation with ratified international instruments including the CRC. In May 1996, the government enacted the Law on the Protection of the Rights of the Child which includes provisions on children's rights to survival, development and protection. More recently, the government passed or amended laws that affect child protection: the Law on Family, the Law against Domestic Violence, the Labour Code, the Law against Pornography, the Law against Alcoholism, the Law on Administrative and Territorial Units of Mongolia and their Management,

the Criminal Code, Criminal Procedure Code, Law on Arresting and Detaining Suspects and Convicts, the Law on Crime Prevention, the Law on Implementation of Court Decisions, the Law of Prosecutors, the Law on Police, and the Law on Temporary Detention of Children without Supervision.

The table below outlines some of the child protection areas covered by existing national legislation. This encompasses both primary and subsidiary legislation on child justice issues, which may be found in various legal codes or different types of legislation that 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 table 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.

National	
Constitution	
Written Constitution	•
Supremacy Clause	
Specific provisions on child protection	
Legislation⁵²	
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	•

All of the aforementioned laws have implications for child justice, with four laws in particular having the most influence on juvenile justice: the Criminal Code, Criminal Procedure Code, Law on Implementation of Court Decisions and Administrative Law.⁵³ In September 2002 a new Criminal Code, Criminal Procedure Code and ancillary legislation came into effect. These new laws

strengthen the adversarial system and guarantee equal participation of defence counsel and prosecutors.⁵⁴ Special procedures and protections are outlined in the Criminal Code and Criminal Procedure Code that apply to all children under the age of 18 who are suspected or accused of criminal offences (see A-12: Criminal Code, Criminal Procedure Code: select provisions).

In 1997, Mongolia also introduced a new Law on Crime Prevention in 1997 aimed at organising crime prevention activities and regulating the roles and responsibilities of the state, individuals, businesses, institutions and authorities. Under the law, crime prevention strategies are to: identify the conditions leading to crime through data collection and analysis; plan and implement social, economic and legal measures to eradicate the causes of crime; and impose supervision over persons released from prison in order to prevent them from re-offending. Crime prevention activities are divided into general measures (economic, political, legal, moral and disciplinary activities aimed at eradicating conditions leading to crime); specific measures (activities directed at eradicating specific types of crimes); and individual measures (activities aimed at preventing a specific individual from committing a crime or reoffending).⁵⁵

Generally, Mongolia's domestic legislation is not in full conformity with the principles and provisions of the Convention on the Rights of the Child. Various principles of juvenile justice, including deprivation of liberty as a last resort, and practices from prevention through reintegration of released juveniles, are not implemented in accordance with the principles of the CRC and UN Guidelines. This includes CRC Article 40(3)(b), which states: "Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected." For a more detailed analysis of legislation relevant to juvenile (and child) justice, see section 3.4: Legislative Reform.

2.2.3 National policy

On 8 October 2004, the Government of Mongolia launched the "Millennium Development Goals: National Report on the Status of Implementation in Mongolia", an extensive document that established a set of eight goals and 19 related quantitative targets in critical development areas. While there is no separate global or Mongolian MDG for protecting vulnerable children, "Protecting the Vulnerable" is covered under Clause VI, Paragraph 26 of the

Millennium Declaration, which focuses on international humanitarian and human rights law.⁵⁶

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	●

After the first National Programme of Action for the Development of Children for the period 1990-2000, the Government of Mongolia adopted the Second National Programme of Action (NPA) for the Development and Protection of Children (2002-2010) and local plans of action for each of the 21 provinces. The NPA is aligned with the UN Special Session for Children outcome document, “A World Fit for Children” through the corresponding “Mongolia Fit for Children” initiative. Earlier in May 2000, the Great Hural approved a Strategic Plan for the Justice System of Mongolia to strengthen the judiciary and improve the rule of law. The plan outlines clear strategies aimed at ensuring the independence of the courts and building the capacity of judges.

In December 1999, a five-year National Programme on the Prevention of Juvenile Crime and Crimes against Children was introduced. The stated objectives of the programme were to study and analyse the causes of juvenile crime, to organize general, specific and individual measures for the prevention of juvenile crime at all levels, to identify those who draw children into crime, and to mobilize the resources and attention of government, NGOs, businesses, citizens, families and parents to protect the interest of children and prevent crime.⁵⁷ It is unclear what impact and results the programme has had on the lives of children.

Although it is strongly advised that a new policy framework is necessary, this should not be limited to the prevention of child crimes and crimes against children. It should be contextualised within a broader national programme on justice for children that addresses both prevention and response, to child crimes and crimes committed against children. Otherwise, it runs the risk of too many policy frameworks and uncoordinated, fragmented actions. This is especially important in light of the general lack of understanding regarding the intersections between preventing juvenile recidivism and addressing the underlying factors of child protection violations. Further, the approach to developing a National Programme on Justice for Children should not be undertaken solely from a criminal justice perspective; social welfare is crucial to preventing crimes

committed by and against children. More extensive advocacy, capacity building and engagement of civil society is required over the next year to build up support for this broader policy.

In January 2001, the government established the National Human Rights Commission, which has the mandate for promoting and protecting human rights and for monitoring the implementation of the human rights provisions of the Constitution and international treaties that Mongolia has ratified. One of the three Human Rights Commissioners has been entrusted with the mandate for child rights. While there has been some consideration on creating a separate ombudsperson for children, it has not yet taken place.⁵⁸

2.2.4 Local bylaws

In 2006, the local Khural approved local bylaws and attached charters on the establishment of Juvenile Justice Committees (JJs) in 2 districts and one aimag: Bayangol, Baganuur and Khentii (see A-5: Juvenile Justice Committee Original Bylaw & Charter, 2006).

LOCAL	
Bylaws on Juvenile Justice (Baganuur, Bayangol, Khentii)	•
Local Regulations (specify)	
Local Plan of Action (specify)	
Others – local regulations, local plans of action, etc.	

2.2.5 Gaps between law & practice

Despite the momentum on legislative reform and policy development for children, the Committee on the Rights of the Child in 2005 expressed concern with gaps between law and practice, particularly the insufficient number of implementation measures. The Committee also noted some contradictory provisions of the domestic laws that leave children with inadequate protection, e.g. the compulsory school age is 17, whereas the labour law allows children aged 16 years old to work 30 hours per week per 5 working days.

While acknowledging added protections for children under the Criminal Code, the Committee pointed out the unacceptable practice of keeping persons below 18 years of age in pre-trial detention for a prolonged period of time and sentencing juvenile first offenders to imprisonment for petty crimes, as well as juveniles' inadequate access to appropriate legal aid and assistance. The Committee also noted with concern the poor detention and prison conditions for children, the low number of social reintegration services for sentenced and released offenders and the difficulties faced by juveniles released on probation.⁵⁹

Additional gaps between law, policy and practice in terms of juvenile (and child) justice will be addressed in section III: Evaluation of the Juvenile Justice Project.

2.3 Administration of Juvenile Justice

2.3.1 Justice system⁶⁰

Mongolia's justice system was modelled after the Soviet inquisitorial system, but has undergone successive reforms since 1990. Currently, the Ministry of Justice and Home Affairs is responsible for coordinating policy and planning in the area of law and justice, and is also responsible for the National Police Agency and the Department for Court Decisions Enforcement. An independent prosecutor's office exercises supervision over the investigation of criminal cases and the execution of punishment, and participates in court proceedings on behalf of the State. Under the Constitution, judicial power is vested exclusively in the courts and the independence of the judiciary is guaranteed.

The Law invests the Ministry of Justice and Home Affairs with primary responsibility for crime prevention and calls for the creation of national and sub-national Crime Prevention Councils and crime prevention programs (Article 7 and 16). Local government authorities are required to develop crime prevention plans and activities in their own jurisdictions (Article 7). In implementing measures to prevent crime, the law states that local authorities should collaborate with justice officials and non-governmental organisations, and should involve citizens by appointing citizens patrols, watchmen and community inspectors (Article 12).

Mongolia does not currently have a comprehensive juvenile justice system. While the Criminal Code and the Criminal Procedure Code contain some special rules and procedures applicable to children under the age of 18, there are no separate or specialised courts for juveniles, no specialized justice sector officials other than the juvenile police and prosecutors (recent development), and no comprehensive legislative or policy statement outlining separate guiding principles that should govern the State response to children in conflict with the law. Instead, children are simply afforded some special treatment within a system designed for adults.

The National Programme on Prevention of Child Crime and Crimes against Children (1999-2004) authorized the establishment of the Child Crime Prevention Unit through reorganizing the Children's Section of the Criminal Police Department. The Programme also called for the creation of a National Council on the Prevention of Juvenile Crime and Crimes Against Children, as well as sub-councils at the aimag, soum and district level which are still in effect to varying degrees. These sub-councils are directed to develop their own local sub-programmes on the prevention of juvenile crime.

2.3.2 Social welfare system

Under the socialist system, significant priority was placed on building a strong social safety net to protect and promote children's health and development. With the role of the State shrinking, many structures responsible for protecting and promoting the development of children have been weakened or dismantled. Access to and quality of health care, education, child care and social services have consequently declined.⁶¹

Mongolia's social welfare services system is currently quite weak, but the Ministry of Social Welfare and Labour, with the support of ADB, is developing a long-term reform strategy which includes the establishment of soum-level social welfare centres and extensive social worker training.⁶² Departing from the socialist period when social work was underdeveloped or non-existent, the social work profession has gained credibility this past decade but remains relatively new; similarly, standards of service for social work are a recent development.⁶³ Currently, there are several social workers appointed at the local levels with plans underway to specialise 'welfare' and 'development' social workers.⁶⁴ Unfortunately, some social workers do not have the requisite qualifications and training. It is not uncommon for social workers to perform a broad range of

administrative functions instead of focusing on strengthening families and support services to at-risk children and their families.⁶⁵

Despite these challenges, there have been some strides. In Bayangol and Baganuur for instance, district social workers have assumed a more proactive role in conducting needs assessments and identifying children at risk, as well as providing support services for children in conflict with the law.⁶⁶ In these locations, effective partnership building was in full force between local governors, social workers, schools and justice sector officials particularly for children in conflict with the law.

III. EVALUATION OF THE JUVENILE JUSTICE PROJECT

3.1 Backgrounder

3.1.1 Mongolia - UNICEF CP Programme Action Plan

Evaluating the Juvenile Justice (JJ) project within the context of the broader Government of Mongolia (GoM) - UNICEF Country Programme Action Plan (CPAP): 2007-2011 for child protection is expedient for several reasons: to understand how the JJ project fits within the child protection systems building approach; to recognise that the JJ project cuts across all four child protection areas: Data Analysis, Advocacy and Awareness, Legal and Regulatory Systems and Capacity Building; and to establish a basis for drawing links to and leveraging child protection (and other sector) projects undertaken by UNICEF Mongolia.

The Child Protection Programme is comprised of four projects:⁶⁷

- i. *Data Analysis project:* supports the establishment of a national database on child protection for programme planning, monitoring and advocacy purposes.
- ii. *Advocacy and Awareness project:* advocates and promotes conformity of national laws and legislation to international standards and relevant UN protocols on juvenile justice.

- iii. *Legal and Regulatory Systems project:* supports 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.
- iv. *Capacity building project:* develops capacities of judges, prosecutors, law enforcement agencies and social workers on international norms and practices to address juvenile and children in conflict with the law in a child-friendly manner.

Anticipated key results for children include: (a) national database on child protection for programme planning, monitoring and advocacy institutionalized; (b) policy makers, implementers and civil society subscribe to the concept of building a protective environment for children; (c) legal and regulatory framework are in place which conforms with international norms and standards and relevant UN protocols with special emphasis on reform of the juvenile justice system and prevention of commercial sexual exploitation and trafficking of children and women; (d) capacity of service providers on child-friendly methods developed; (e) improved knowledge on prevention of HIV and AIDS for vulnerable children; and (f) capacity of service providers for timely response to emergencies and family tracing and psychosocial support developed (see A-9: CPAP Mongolia: Child Protection Results & Resources Framework).⁶⁸

Overall, the role of UNICEF Mongolia is to promote “advocacy, research, and action that create a protective environment that will allow every child the best start in life, ensure every girl and every boy a quality primary school education, safeguard every child against disease and disability, stop the spread of HIV/AIDS and provide care for every child affected by HIV/AIDS, and shield every child from violence, abuse, exploitation, and discrimination.”⁶⁹

The main focus of UNICEF Mongolia’s juvenile justice programming is the reduction of the number of children held in police custody, pre-trial detention, incarceration and prisons. The Mongolian Criminal code classifies crimes into four categories: minor, moderate, serious, and grave. The majority (60 percent) of crimes committed by juveniles are minor and moderate, while 40 percent are serious and grave crimes.⁷⁰ Unfortunately, the current response of the State is to punish a child accused even of minor crimes, such as theft, usually by detention. It is established practice to detain 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.

In accordance with the CRC and Beijing Rules,⁷¹ UNICEF Mongolia's long-term 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, trial and sentencing stage.⁷² 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 to hold the child accountable while helping the child to correct his or 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.

At this time, while the law provides 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.

Although diversion is not permitted in the current legal environment, UNICEF undertook numerous activities to promote juvenile justice, by supporting: the establishment of Juvenile Justice Committees (see below sections); discrete amendments to the Criminal Code and Criminal Procedure Code (see section 3.4); the participation of children in an open session of Parliament to address juvenile justice issues; studies on juvenile justice; and the development of a national child protection database with juvenile justice indicators (see section 3.5). In addition, UNICEF sponsored study visits by justice sector officials to the Philippines and Thailand and conducted a series of regional trainings on crime prevention and the CRC to inform the process of introducing a child-friendly juvenile justice system.⁷³

3.1.2 JJ chronology

- 2000** Great Hural approves the Strategic Plan for Mongolia's Justice System to strengthen the judiciary and rule of law.
- 2001** Minister of Justice and Home Affairs establishes a Juvenile Justice Working Group in November 2001.⁷⁴ The Working Group is charged with developing a strategy to improve the situation of children in conflict with the law, and in particular to address concerns about children in detention facilities.⁷⁵
- 2002** New Criminal Code and Criminal Procedure Code and ancillary legislation come into effect.
- 2005** Juvenile justice project successfully implemented by UNICEF Mongolia in cooperation with the Ministry of Justice & Home Affairs (MoJ & HA)
- 2006** MoJ & HA establishes an inter-agency JJ Legal Reform Working Group to oversee JJ reform initiatives.⁷⁶
- June* Conference on Juvenile Crime
- July* JJWG identified focus areas for reform

Sept

UNICEF supports the establishment of pilot Juvenile Justice Committees (JJs) in Bayangol, Baganuur and

Khentii with a three-fold purpose: i) to promote community-based alternatives to detention; ii) to create an evidence base for diversion; and iii) to eventually take the JJ to scale through legislative reform and replication.⁷⁷

Child protection (including juvenile justice) indicators developed as part of the National Child Protection database with the aim of incorporation into the regular monitoring mechanism of implementation of the NPA on Child Protection and Development

2007

Training of trainers on juvenile justice and child-friendly procedure manual for law enforcement officials

Development and distribution of a Court Decision Booklet on juveniles in cooperation with MoJ & HA, the Supreme Court and National Legal Centre.

2008

Discrete amendments to the Criminal Code mostly on juvenile justice, including Article 62¹⁷⁸

Initiatives underway to replicate the JJ Project in four Aimags (Uvs, Khovd, Hovsgol and Tov) at the request of local authorities.⁷⁹

2008

Legislative reform proposals on juvenile justice drafted by the National Legal Centre and National Law School

Draft bylaw on civil registration developed by the National Legal Centre

Development and field testing of JJ curricula and manuals for National Law School students⁸⁰

2009

Evaluation conducted in UB, Bayangol, Baganuur and Kehntii to assess the impact, relevance, effectiveness and sustainability of initiatives undertaken and to propose recommendations for future strategies and actions to improve Mongolia's justice system for children.

3.2 JJC Mandate & Structure

3.2.1 Bylaws and charters

The legal basis for establishment of the Juvenile Justice Committee (JJC) 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 JJC and decree of local governors on establishment of JJC.⁸¹

According to the original charters (see A-5: Juvenile Justice Committee Original Bylaw & Charters, 2006), the JJC shall be considered established and active upon

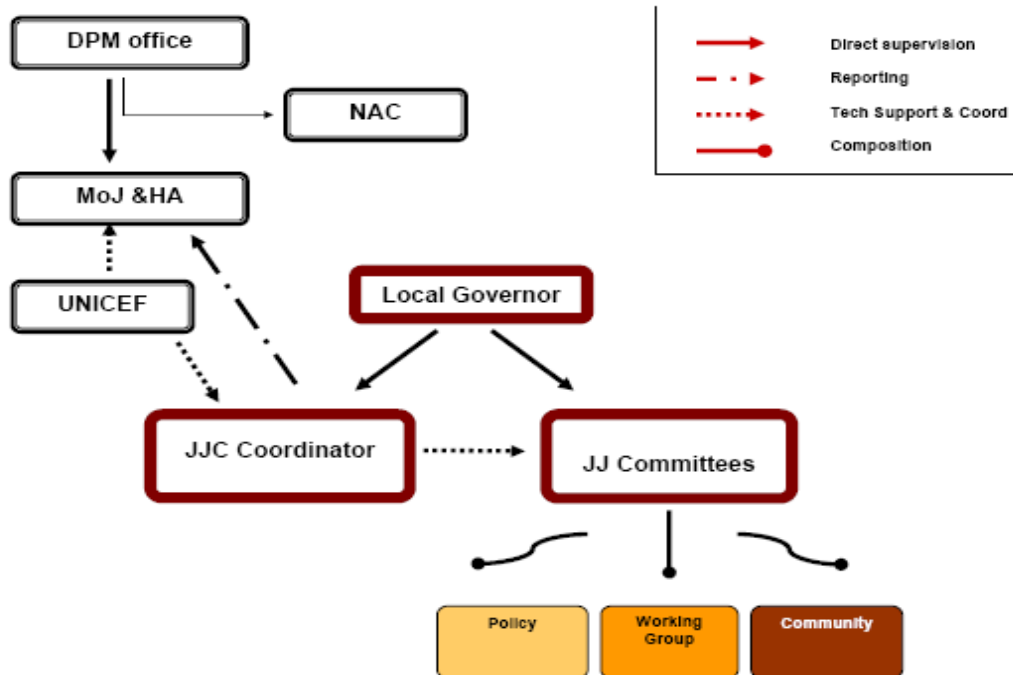
approval of its charter by the local civil representatives' hural. A local JJC has its own structure, organisation, budget, staff, letterhead and stamp and conducts regular activities concerning children in conflict the law. This provision can lead to a misrepresentation of the JJC as an independent entity. As explained below, the JJC is not an autonomous body. The membership of the JJC sub-committees is comprised largely of Government officials and representatives of existing agencies delegated to take actions to respond to children in conflict with the law. At present, the JJC coordinator and social worker are the only JJC "staff" and the structure of the JJC is tenuous. Although the JJC is authorised by the Charter to develop procedures, guidelines and instructions, the processes are unclear. In future charters, the parameters and procedural mechanisms for developing guidance should be spelled out.

3.2.2 Structure and composition

Structure

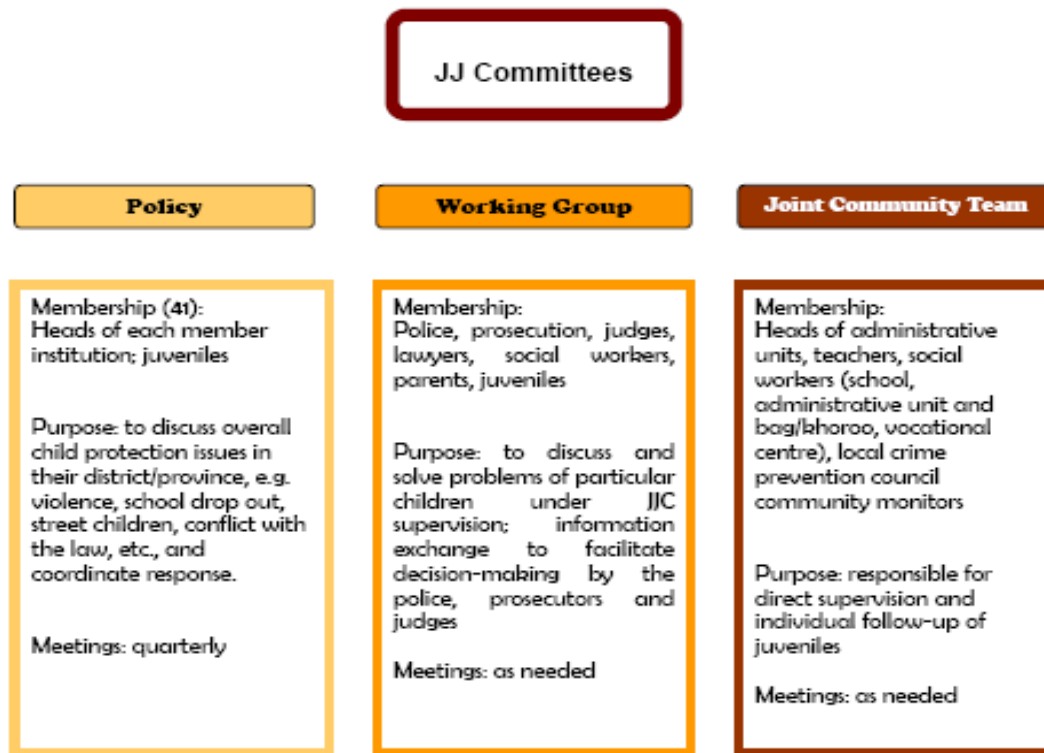
The structure of the Juvenile Justice Committee is multifaceted. While the enabling bylaw and JJC charters addendum offers some guidance on the JJC framework, there is an overall lack of clarity on structural and operational issues. Compounding this confusion are the different revised unofficial versions of the JJC charters in circulation without a clear explanation that it is not in effect. Moreover, broader structural issues add to ambiguities on how the JJC fits within existing governance.

The diagram below offers a skeletal visual JJC framework based on original charter provisions and existing governance structures.



This diagram does not, however, reflect reality. At each level, there is unclear leadership, ownership and blurred lines of accountability. Although the JJC charters state that the “Juvenile Justice Committee shall work under management of the local governor ... and shall have a Head [local governor], Secretary, members and operations office consisting of the relevant officers of the Governor’s office,” this is not evident in practice. In all three sites – Bayangol, Baganuur and Khentii – the local governor by and large serves as a JJC figurehead while practical leadership is relegated to the JJC coordinator, and ownership to UNICEF.

There is contradictory information regarding lines of accountability linked to the JJC coordinator. In Bayangol, the Social Development Division and the local Crime Prevention Council are designated by different parties as having direct supervision over the JJC coordinator. Meanwhile, in Baganuur the role of direct supervisor is attributed to UNICEF Mongolia and in Khentii, to UNICEF and the Local Authority for Children.⁸² Not uncommonly, the JJC coordinator is referenced interchangeably with “the JJC”. This belies an understanding of the distinct roles and responsibilities of the JJC coordinator versus the JJ committee itself, which is composed of three groups that function and convene at different levels:⁸³



The 2006 JJC Charter contains a section on the detailed functions of a Juvenile Justice Committee in working with children in conflict with the law. While each function in and of itself is relatively clear, there are ambiguities on *who* will carry out each respective duty, *when* and *how*.

With 41 members in plenary, the JJC clearly is not the same as the JJC coordinator. Similarly, a Committee of 41 people is not physically supervising the child whereas the JJC coordinator or Joint Community Team members may be. There is frequent reference to the JJC making "decisions", but in fact it performs only an advisory function. Decisions about actual cases of children in conflict with the law are rendered by the relevant law enforcement authorities, in accordance with laws. A clearer understanding of these nuances is necessary to support replication, and also to identify more accurately the strengths and gaps in current practices.⁸⁴

Moreover, the three levels of JJC – policy, working group and community teams – are difficult to sustain as presently operating. First, it is challenging to maintain similar levels of interest from local officials once external financial support is phased out.⁸⁵ Second, service provision supported by fees to local community actors may be discontinued once financial incentives end; it also discourages volunteerism.⁸⁶ Third, it blurs existing mandates, roles, and responsibilities and does not resolve systemic deficiencies. Members of the Bayangol joint community team divulged that they received incentives for carrying out tasks which fall under existing mandates; they further explained that current salaries do not

Two juveniles who participate in quarterly JJC meetings share some of their impressions and recommendations:

It was very surprising to learn that those adults care so much about children, especially the police because we heard that they were rude and cruel. It is good to know that they care, and we share this with our friends.

We are always encouraged by the JJC adults to participate and share our opinions. In the future, it would be helpful if the agenda and discussion topics were shared in advance because otherwise we come blindly to the meetings.

It is a pity that the JJC works with children after they commit crimes. There is a possibility to save many more children before they get into trouble. Children have to be informed of their duties along with their rights because we usually only know about our rights.

cover basic costs, including transportation, for serving these children.⁸⁷

Fourth, while the JJC charter outlines JJC functions, it does not demarcate function by JJC sub-committee, member agency or JJC coordinator; nor does it delineate lines of accountability. Finally, it is unclear how and to what extent the JJC Joint

Community Team overlaps with, duplicates, or supplants existing community-based structures.

3.2.3 Mandate: juvenile justice or child protection?

According to the original 2006 Charter, it regulates the activities of the JJC in “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]).” The principles and main directions of the JJC clearly revolve around children in conflict with the law.

Among other key functions, the JJC provides supervision (pre and post trial) to children in conflict with the law to facilitate alternatives to pre-trial detention and custodial sentencing to imprisonment. The JJC is also charged with preventing juvenile crimes, recidivism and supporting the successful reintegration of juveniles through education, socialisation, health assistance, etc. in collaboration with parents, teachers, social workers, the child’s attorney, and others. Further, the JJC should organise trainings to enhance the qualifications of state officials and other individuals working on the cases of children in conflict with the law.⁸⁸

Recently, JJC’s have expanded their activities to support children at risk (criteria including: poverty, violence, school drop-out, child labour, neglect, no parental care, domestic violence, behavioural problems, lack of civil registration, physical abuse, etc.) with the aim of preventing crimes (see also below section). The JJC coordinator liaises with other institutions at the local level (district educational, social welfare and labour, civil registration and other departments) to address the risks faced by children.

A number of stakeholders have raised concerns that this unnecessarily broadens the mandate of the JJC. By focusing on wider child protection issues, some critics assert that it not only dilutes JJC’s effectiveness in working with juveniles in conflict with the law, but also leads to the creation of parallel structures. Others expressed concern that this added substantial obligation would unduly overstretch the JJC coordinator.

Scope: prevention &/or protection?

There is broad consensus among all stakeholders that the JJC should work with children in conflict with the law, including preventing juvenile recidivism, whereas with general juvenile crime prevention, there are sharp divergences of views and opinions.

According to the original JJC Charter, section two outlines main and other directions of the JJC, including:

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;

The JJC is more of a coordination structure. But the duties right now are too general. It's very much about crime prevention and we don't agree with this. We have crime prevention committees at the ministry which include child crime prevention. This body should work in this direction. The explanation has been that because this committee is not working properly, a parallel structure has been created to work on crime prevention. This is not a good reason for creating parallel structures. Instead, their capacity should be developed. Our opinion is that the JJC should work exclusively with CICAL. If their focus is too general, the JJC will be unproductive.

~ Mr. Bayasgalan, State Secretary, MoJHA

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

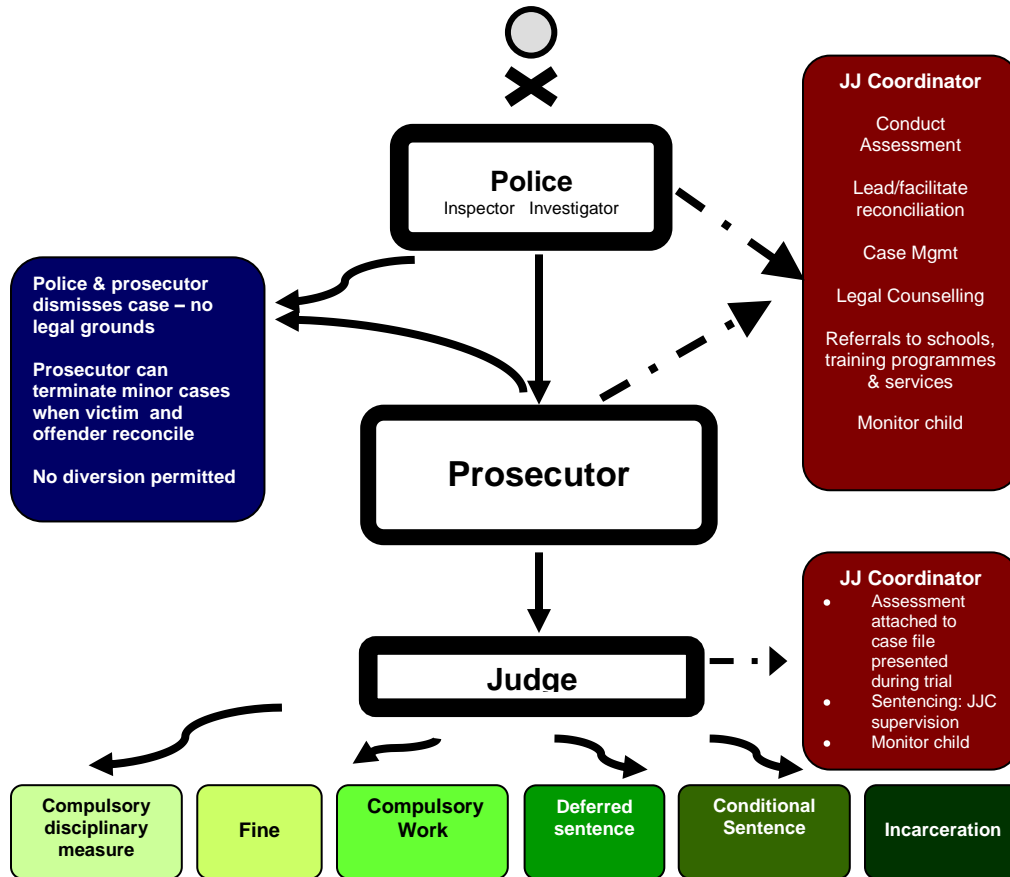
2.2.2. Discover and eliminate the causes and situations in which children are found in conflict with law or in difficult circumstances such as street children;

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

Notwithstanding, according to several stakeholders, the JJC is partially duplicating the work of the Council on Crime Prevention and other organisations. One stakeholder explains, "The general understanding of the public is that the JJC will work on the broader protection of children at risk but this is actually the responsibility of the Crime Prevention Council (CPC) and the National Authority for Children. Therefore, there is protest from state officials and lawyers that parallel structures are being created."⁸⁹ For a fuller analysis of what prevention entails, see Section 3.3.3: Juvenile Crime Prevention.

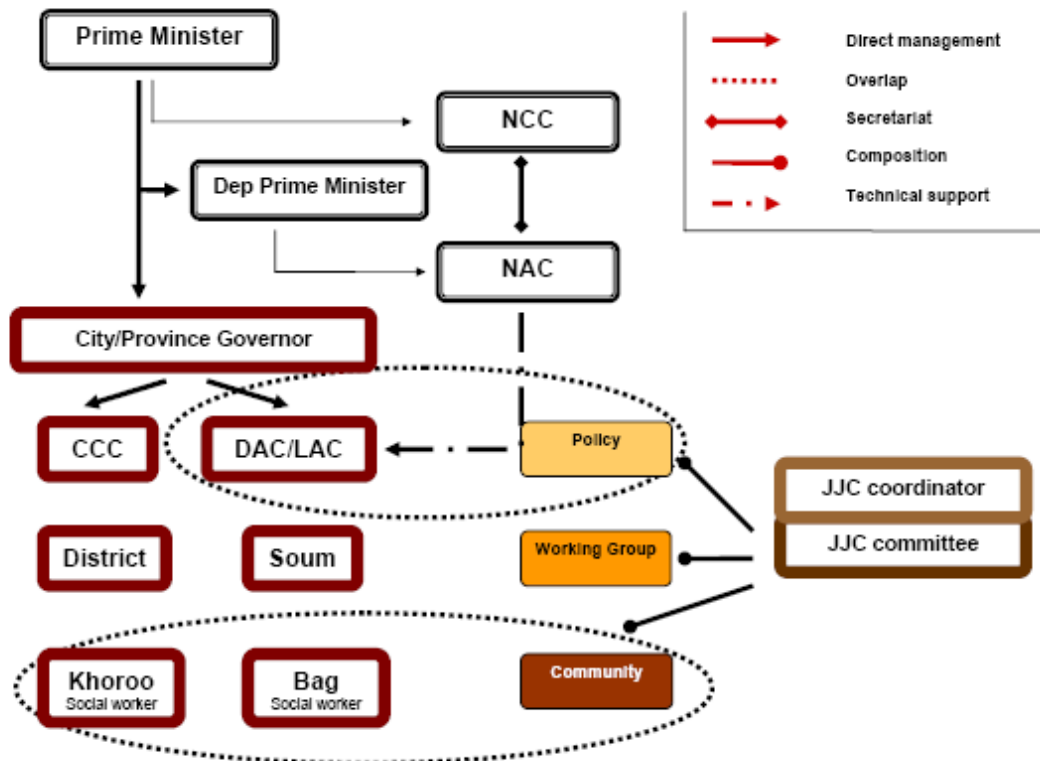
3.2.5 JJC flow chart:

Justice Track



The above diagram presents the basic flow of the criminal justice process in Mongolia: from case registration and investigation by the police to trial preparation and presentation of evidence during trial by prosecutors to decisions handed down by judges. Generally, there are six sentencing options for juveniles. Conditional sentencing, however, is rarely if ever imposed. The most common sentences for children served by the JJC are compulsory disciplinary measures or deferred sentencing/probation. The dotted lines symbolize referral paths to the JJC. While most children are referred to the JJC by the police, prosecutors and judges have also referred children to the JJC.

Social welfare track



The above diagram presents a birds eye view of the social welfare system and national bodies for child rights and intersections with the JJC. The evaluators encountered some challenges in gathering adequate information to illustrate a community based JJC flow chart, in particular the linkages and intersections between the social welfare system and JJC in terms of prevention activities and support services to identified children in conflict with the law, at all stages of the criminal justice process. In part, time constraints did not permit a full mapping exercise but this was also due to the lack of a coherent community-based child protection system.

3.4 JJC in Practice

3.4.1 Summary of key findings

Impact

“Children’s lives are being saved. Sending them to prison will break them with long lasting adverse implications.”⁹⁰

Evaluation findings clearly demonstrate the JJC’s effectiveness as a community-based alternative to detention. Further, the evaluation provides a solid evidence basis supporting the viability of diversion in Mongolia. Although the long-term impact will take years to be felt, the results to date are very promising in three locations where the JJC project is in operation - Bayangol, Baganuur and Khentii:

Obi: Statistical analyses (2005-2008) to be corroborate the below

- || significantly less children are held in police custody
- || pre-trial detention of children has dropped
- || sentencing of children to prison has decreased
- || more children are protected during justice proceedings
- || overall decline in juvenile crimes
- || juvenile recidivism rates have plunged (2: 200+)
- || recognition that detention does not reduce recidivism
- || higher rates of CICL attending school, NFE or vocational training and receiving support services

There are different ways of measuring the impact of interventions. Within a results based approach, which is the dominant framework used in development, one method is to measure the extent to which the objectives outlined in the work plans or logical frameworks are achieved. Unfortunately, as explained below, original project documents were unavailable and the JJC charters and Country Programme Action Plan (CPAP) results framework provided little guidance.

Baseline data is also required to portray the situation before the start of the intervention as a solid base from which to measure impact. No baseline data, however, was readily available. Although several indicators were outlined in the CPAP results framework, they were linked to outputs and revealed little about

the wider impact or influence of interventions on the juvenile justice situation in terms of changes in practices in line with international human rights norms and standards.

In the absence of a clear baseline, it is difficult to assess what impact the project has had on the detention of children, child-friendly practices by justice and social welfare officials and juvenile recidivism rates.

To address this issue, the evaluators established a retroactive baseline on juvenile crime rates, sentencing and imprisonment rates, recidivism rates and pre-trial detention based on existing official data from 2005 to present and JJC data, from 2006 to present (see A- 8: Statistics & General Data: 2005-2008), as well as qualitative information gathered during field research.

It should be noted that impact implies lasting and sustainable consequences. The time frame for this evaluation, roughly 2.5 years, is relatively short to gauge impact. Further, a more thorough assessment of impact involves an understanding of how interventions have changed the wider political and social contexts within Mongolia, which will take years to become apparent. Given the nascent stages of the JJC project, it may be too early to determine whether the observed impacts will continue in the future.

Outcomes for children⁹¹

Obj: Statistical analyses (2005-2008) to be corroborate trial section

CHILDREN SERVED BY THE JJC ARE MORE LIKELY TO:	
Pre-trial	
	be informed of their legal rights by police officers
	be represented by legal counsel during police investigations, prosecutor interviews and trial proceedings
	be accompanied by a parent/guardian and social worker/teacher during police investigations
	be served by a specially appointed juvenile investigator (in addition to traditional appointment of juvenile prevention officer), as well as juvenile prosecutor and juvenile judge
	be treated with respect by the police* (i.e. less/no more yelling,

	punching, kicking, slapping, insults, threats, pressure to confess, etc)
	be released from pre-trial detention at the request of and/or under the supervision of the JJC Coordinator
	be interrogated in child-friendly interview rooms at the police station and interviewed in a child-friendly manner by police, prosecutors and judges
	experience shorter periods of investigation*
	attend school, trainings and/or recreational activities during the pre-trial phase
Trial	
	be represented by counsel during trial proceedings
	be informed of their legal rights by judges
	receive forced disciplinary and educational measures as a sentence
	receive a deferred sentence with probation
	be released under the supervision of JJC
	avoid sentences of imprisonment for minor and moderate crimes

Overall outcomes

Knowledge & Attitudes	
	First time since the demise of the old Commission in 1990 that juvenile justice (JJ) has been visibly raised and addressed at the national, city/aimag, district/soum and khoroo/bag levels.
	JJ now on the radar of all stakeholders (DPM, MoJ & HA, justice sectors, NAC, NCC, MSWL, local parliaments, local governors, crime prevention councils, schools, NGOs, communities, parents, media, universities, general public, etc).
	Unanimous and resounding support by ALL 100 respondent stakeholders for the JJC. All stakeholders cited JJC as beneficial for children.
	Discussions of increased ownership by stakeholders, in particular MoJ & HA, NAC, local parliaments and local governors of the JJC. Policy debates and cost-sharing consideration by local governor (Bayangol) and Local Authority for Children (Baganuur & Khentii).
	Tangible positive shifts in stakeholder attitudes toward children in conflict with the law (CICL), from punitive and rigid views of CICL

	as criminals to recognition of CICL as children who can change their behaviour without severe punishment, including detention, and successfully reintegrate into society.
Practice	
	Greater levels of cooperation and coordination among stakeholders on JJ and child protection across the justice sector, as well as social welfare agencies and child rights bodies
	Multi-sectoral and multidisciplinary working groups at the district/aimag levels collaborating on decisions affecting individual children
	More objective reporting by the media on CICL and juvenile justice
	Less discrimination and stigma faced by CICL in communities due to raised awareness of issues and attitudinal shifts; reports of communities not only giving CICL a second chance but mobilizing support for CICL to prevent recidivism and promote successful reintegration.
Legal context	
	While not in full compliance with the principles of the Convention on the Rights of the Child and other international standards, the legal environment is increasingly more conducive to protecting children in conflict with the law with recent amendments to the Criminal Code and Procedure Code in 2007 and 2008.
	JJC provides a solid basis for diversion; strong support for diversion provisions in two legislative reform proposals (National Legal Centre & National Law School ⁹²) on the Criminal Code & Procedure Code and other relevant laws [Note: current practice offers community-based alternatives to detention at the pre-trial and sentencing phases but does not allow for diversion]
Unintended positive outcomes	
	Rippling effects beyond the scope of this project: local authorities from four additional provinces have requested UNICEF support to replicate the JJC model project in their areas. In 2 provinces (Uvs and Khovd), local parliaments have signed declarations to financially support a similar Committee.

Gaps

Programme design

Despite solid outcomes brought about by the JJC project, there were salient gaps that presented serious challenges in evaluating this project. In the absence of original project documents, the evaluators relied heavily on the institutional memory of UNICEF staff and key stakeholders to discern the original aims of the JJC project. There were, however, variations in respondents' articulation of vision, goal, objectives and strategies.

Meanwhile, the 2007-2011 Country Programme Action Plan Results Framework offered minimal assistance. According to expected outcome number 20, the capacities of judges, prosecutors, law enforcing agencies and social workers will be strengthened on international norms and practices to address juvenile and children in conflict with the law in a child-friendly manner. One expected output 20.2 stated that a diversion strategy and guidelines for rehabilitation of children in conflict with law will be institutionalized. Output 20.2 targets and indicators listed the percentage of children who experienced rehabilitation centres demonstrating improved psychosocial well-being. In addition to an uneasy logic to this chain of results, there is a very loose correlation to the JJC project.

Moreover, the output, targets and indicators are not fully SMART (specific, measurable, achievable, relevant and time-bound), nor linked to sequential actions necessary to achieve results. A diversion strategy, for instance, cannot be put into place without legislative reform; this is not accounted for in the CPAP Results Framework.⁹³ Finally, it is unclear what is meant by 'children who experienced rehabilitation centres' as they do not exist in Mongolia, how psychosocial well-being is measured, or how these indicators are intended to have a bearing on the output: a diversion strategy or guidelines for rehabilitation of children in conflict with the law, presumably for justice sector and social welfare officials.

Although the original JJC charters offer some guidance, it is largely a generic framework without clear goals, objectives, benchmarks, targets, indicators and lines of accountability. The JJC charters also lack a monitoring and evaluation (M&E) plan, including monitoring of budgetary allocations and utilization. As these specific components are not clearly outlined in the charters, it is difficult to measure progress on an ongoing basis, use findings to modify activities accordingly and also can skew the direction and results of the final evaluation, granting too much discretion to the evaluators.

Information management systems

Another gap is the lack of consolidated data across the justice sector, i.e. police, prosecutors and judges, as well as detailed data within respective justice sectors. Presently, very basic data is available. Raw data exists but is not fully analyzed for maximum usage, nor is it disaggregated by age, offence, sentencing, etc.⁹⁴ Based on a review of Khentii court statistics (see below chart), it is not possible to ascertain the number of children in conflict with the law involved in formal justice proceedings by age, sex, region, social and ethnic origin, offence, or sentencing. Nor is it possible to determine which sentences were applied for particular offences or age groups of children. Also lacking are statistics for the number of children deprived of liberty and the 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 – **Obi: please confirm.**

Khentii Court 2007 Statistics: Juvenile crimes

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
Incarceration	1

Another sub-project of UNICEF focuses on the establishment of a child protection database for programme planning, monitoring and advocacy purposes. In 2008, draft child protection indicators were approved by all relevant sectors and the database will be designed in 2009 (see A-10: Child-Juvenile Justice Statistical Indicators).⁹⁵ In the future, greater integration between the JJC and National Child Protection Database projects could help improve impact and efficiency.

Another gap in the area of data collection is the vacuum of official data on children in especially difficult circumstances in accordance with the Law on the Protection of the Rights of the Child,⁹⁶ much less disaggregated data by age, sex, region, education, family background, etc.⁹⁷

Children at high risk

Under Mongolia's Criminal Code, the general age of criminal responsibility is 14 years old. Children between 14 and 16 may be subject to criminal liability for specified offences, including homicide, inflicting severe bodily injury, rape, theft in aggravating circumstances, misappropriation, robbery, deliberate destruction or damage to property and hooliganism in aggravating circumstances.⁹⁸

Children below 14 years old who commit crimes will always be released from criminal liability regardless of the severity of the offence. Currently, juvenile crime prevention activities do not target this group and there is no mechanism in place for referring this group of children to the JJC or social welfare network for voluntary support services.

Further, children over the age of 16 may be liable for administrative penalties under the Law on Administrative Liability. Administrative violations include minor thefts, hooliganism and public order offences. Violations can result in a fine (usually imposed against the child's parents) or "apprehension," or detention for 7 to 30 days in a police detention facility.⁹⁹ Despite the possibility of short-term detention and early warning signs of criminal behaviour, these children are not referred to the JJC in Bayangol, Baganuur or Khentii.¹⁰⁰

Both groups of children should be referred to the JJC and offered an opportunity to benefit from community-based early intervention and support services. Providing social welfare support to this 'individual' target group as one means of juvenile crime prevention is more practical and less discriminatory than canvassing a community for would-be offenders based on an inexact science.

Child Victims & Witnesses

Although the Criminal Code and Law on the Protection of the Rights of the Child explicitly recognise a child's right to be protected against violence, exploitation, forced labour, abuse and neglect, etc., there were limited, if any, actions undertaken by the justice and social welfare sectors and the JJC to prevent or respond to crimes committed against children or to offer special protections to

child witnesses. Moreover, the Criminal Procedure Code does not provide for adequate procedural safeguards of child victims and witnesses during the investigative, trial and post-trial phases.

As a result, the police, prosecutors and judges rarely collect data on reported or actual crimes committed against children or the disposition of proceedings against perpetrators of crimes against children, whether juveniles¹⁰¹ or adults. While the Baganuur police recently started to collect data on child victims of 'criminal crimes,' there was no information on child victims of exploitation or abuse. These acts, however, are criminal offences under Mongolia's Criminal Code. When the evaluators raised the question about child victims and witnesses, responses varied from:

- lack of knowledge about legal provisions which criminalize a wide range of offences against children, to
- remorse that this vulnerable group had fallen through the safety net of a protective environment for children, to
- vigorous calls for the future protection of this vulnerable group

Coherence

Coherence can be improved at various levels within and outside of UNICEF, particularly between the UNICEF Child Protection Programme and Convergent Basic Social Services (CBSS) Programme as well as between UNICEF and UNDP on justice initiatives.

CBSS aims to support the efforts of the Government in institutionalizing the 'Family Empowerment Strategy' at local levels, which serves as the delivery mechanism of basic services in the country programme focus areas, which presumably includes child protection. Although one of the envisaged key results of the Family Empowerment Strategy is aimag and soum level capacity to deliver basic services, there were no obvious linkages with the JJC project. Some community level actors never heard of CBSS while others who have heard of CBSS pointed out that there was no connection with the JJC, either for prevention or reintegration support services to children and their families.¹⁰²

Meanwhile, there were opportunistic synergies between the UNICEF JJC project and UNDP Access to Justice programme, which established legal aid centres in 21 aimags and 9 districts, including Khentii and Bayangol.¹⁰³ Based on interviews with juveniles, their parents and JJC coordinators, children in conflict with the law

were generally represented either by private attorneys (funded by parents or the JJC project¹⁰⁴) or State funded legal aid attorneys.

While this report does not thoroughly examine issues of legal representation, it should be noted that Article 20 of the Criminal Procedure Code makes the participation of defence counsel mandatory at all stages of criminal proceedings. Given the unsustainability of JJC funded legal representation, it is important to ensure children's systematic access to justice which includes quality legal representation at all stages of criminal justice proceedings. UNDP supported 'Access to Justice' data (disaggregated by age, sex, offence, outcome and location) should be maintained at the national level and shared with UNICEF and key stakeholders. More deliberate cooperation should be cultivated between UNICEF and UNDP based on the UN-wide policy on Justice for Children recently released by the UN Secretary-General.¹⁰⁵

3.4.2 Criminal justice process

This section will outline good practices and lessons learned with respect to the criminal justice process concerning juveniles. This forward looking evaluation aims to point out major strengths and weaknesses of the criminal justice system in order to reveal the extent of compliance with international standards and to propose comprehensive recommendations for future action.

Overall, there was a lack of: institutional standards and enforceable accountability mechanisms (e.g. code of conduct for police and detention guards); minimum standards of service provision (e.g. social worker standards for working with juveniles on probation); and child-friendly reporting, monitoring and response mechanisms.

There is also a dichotomy between the social welfare and justice sectors in the juvenile justice arena. In Bayangol, fourteen members of the joint community team echoed deep appreciation for the JJC coordinator, who served as a bridge between the police and courts and the administrative units who oversee the delivery of social services; without JJC intervention, police monitors (post-trial) failed to provide administrative unit leaders or local crime prevention community monitors with detailed information about released juveniles, or juveniles on probation.¹⁰⁶ In practice, however, the justice and social welfare sectors have complementary functions and are part of the same juvenile justice

continuum. Actors of the social welfare system and national bodies, i.e. NAC and NCC, are to varying degrees called upon to prevent juvenile crimes, support juveniles released during the pre-trial stage, supervise juveniles on probation, ensure the successful reintegration of juveniles at various stages, or provide policy guidance in these areas.

Arrest & pre-trial

International experience has shown that youth are at greatest risk of being mistreated or having their fundamental rights violated during arrest or immediately thereafter. Apprehension and detention are severe preventive measures used during the investigation stage, and are widely recognised as being inappropriate for children because they separate them from their families, expose them to physical abuse and to criminal elements, and often involve the denial of other rights such as access to education and health care. Pre-trial detention can also violate a child's right to be presumed innocent until proven guilty, particularly where detention is used or threatened as a form of punishment or to coerce confessions.¹⁰⁷

The CRC and UN Guidelines contain detailed provisions designed to protect and promote the best interests of children who are suspected or accused of committing crimes, outlined below:

- children suspected or accused of a crime have the right to be presumed innocent until proven guilty and to be informed promptly of the charges against them
- children are guaranteed the right to legal or other appropriate assistance and to have the matter determined without delay
- arrest and detention of children must be carried out in conformity with the law, and used only as a measure of last resort and for the shortest appropriate period of time
- where detention is used, children deprived of their liberty must be treated with humanity and respect for their dignity, and in a manner that takes into account their age. Children in detention must be separated from adults and have the right to contact with their family through correspondence and visits, except in exceptional circumstances. Children should be provided prompt access to legal assistance, as well as the right to challenge the legality of the deprivation of liberty before a competent judicial authority
- detention must not does not deprive children of other rights, including the right to education, to adequate nutritious food, to health care, to be protected from abuse and exploitation, and to engage in leisure and recreational activities appropriate to their age

- children must be guaranteed basic procedural safeguards, such as the presumption of innocence, the right to be notified of charges, the right to remain silent, the right to counsel and the right to the presence of a parent or guardian at all stages of the proceedings
- a child's parents must be notified immediately, or within the shortest possible period of time, after his or her arrest or detention
- contacts between law enforcement agencies and a juvenile must be managed so as to respect the legal status of the juvenile, to promote his or her wellbeing and to avoid harm to the child
- arrest and detention pending trial shall only be used as a measure of last resort and for the shortest possible period of time. Whenever possible, alternatives such as close supervision, placement with a family or in an educational or home setting should be used

Furthermore, while not listed above, the UN Minimum Rules on the Protection of Juveniles Deprived of their Liberty (JDL's) include detailed provisions that apply to juveniles held in any kind of detention facility. While the purpose and scope of this evaluation did not allow for a comprehensive evaluation of justice sector practices vis-à-vis conformance with principles in the CRC and UN Guidelines, this section highlights some major findings.

The JJC has proven to be an effective model for community-based alternatives to detention at the pre-trial (and post-trial) phase through weekly meetings with children, legal counselling for children and families, and mobilization of coordinated services to children including life skills training, vocational training, education/NFE, recreational activities, peer educators support, and peer information exchange opportunities.

JJC Coordinators effectively advocated with law enforcement, prosecutors, educators and lawyers, as well as capitalized on public events to promote awareness of the JJC project and encourage referrals of all children in conflict with the law to the JJC. As a result, in Baganuur and Khentii nearly all CICL are referred by police officials to the JJC coordinator. In Bayangol, on the other hand, those not referred by the police are generally referred to the JJC by prosecutors.¹⁰⁸ Occasionally, CICL are referred by other sources such as attorneys and teachers, or by JJC coordinators themselves when visiting police stations.

Prior to JJC's intervention, children were commonly held in police or prosecutors' custody as one means of preventing them from committing crimes.¹⁰⁹

I was investigated by the police for one year due to external circumstances. Everyday, I was asked to come to the police station from 9 a.m. to 6 p.m. When I have trainings with the JJC, I'm allowed to come here. But if not, I have to go to the police station. So I started to spend time at the JJC.

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Juveniles indicated how they were compelled to report to the police station mostly everyday, for varying periods up to fifteen hours a day. Sometimes they were ignored at the station, at other times, they were asked to run small errands for police officers and on occasion they were forced to stand all day, prohibited from eating or using the toilet, harassed and mistreated. Actual interviewing during times spent at the police station however, was rare.

Police officers tended to show less aggression towards children after the JJC's involvement. According to one juvenile, "during my first interview with the police investigator, I was alone and he was angry and yelling at me. He showed a very angry face. But after we met the JJC coordinator, the police investigator stopped yelling and started to interview me like a normal person."¹⁰ Another juvenile in a different location echoed:

"I think it's necessary for the JJC to exist in local areas. If not, the police investigators are very harsh to us. The police inspector arrested me at school in front of my classmates, and handcuffed me. We didn't contact the JJC for the first few months. It was at that time the police asked me to come to the station everyday, threatening to otherwise send me to detention. Mistreatment depended on the personalities of the police investigators. Some officers yelled at me and others kicked and slapped me. My advocate participated several times during police interrogations although my mother was there each time. The police investigator interviewed me almost everyday and asked similar questions because he suspected me of committing different crimes. One time, he questioned me about seven different crimes. Even when I responded that I was not responsible, the police threatened to send me to detention. Already I had a horrible experience at the pre-trial detention centre and didn't want to return there. Sometimes I admitted to crimes that I did not even commit."¹¹

While the evaluators interviewed only several juveniles who experienced pre-trial detention (prior to JJC coordinator's involvement), the following accounts demonstrate clear violations of international standards:

"I was detained for 72 hours. The detention centre staff were scary. Guards put their saliva in our food and covered us with blankets and beat us. At night, we couldn't sleep. The new and younger children were forced to lie on the cold floor and experienced mistreatment by the other children. One

morning, the guard entered the room and all the children stood up except me. The guard then beat me and said, if you don't know the rules, there will be more beatings."¹¹²

Another juvenile shared a similar experience:

"After being detained for 72 hours, I was transferred to a pre-trial detention centre for 14 days. It was a very difficult period because of the pressure from cellmates and beatings. Other cellmates took my clothes. Everyday, other juveniles beat me for very minor reasons and threatened to kill me. Even though we were prohibited from keeping metals in our cells, my three cellmates managed to hide spoons, nails and sharp tools. They used the spoon to hit my face and two or three times, stabbed me with the other sharp objects. I didn't tell anyone because I was scared. The detention supervisor was very harsh on children. I wasn't beaten but witnessed him beat my cellmates for no reason."¹¹³

Generally, however, there were tangible improvements in the treatment of juveniles by police and prosecutors during the pre-trial phase. Fewer juveniles are compelled to spend their days in police stations and prosecutors' offices, thereby allowing them to attend school. Juveniles' parents are usually notified shortly after their child's arrest or detention and lawyers are assigned to represent them, whether financed by families, the State, or the JJC.

Procedural safeguards that include children's right to be informed of their legal rights and their right to counsel and the presence of a parent/guardian at all stages, are taking effect. In fact, the police in Bayangol maintain strict compliance with the requirement that an attorney is present during interrogation.¹¹⁴

We (two juveniles) are members of the JJC. At first it was very scary to speak out especially because the police was there. But the JJC members all encouraged us to share what teens think, including what we think about the police and what happens among children. These adults don't know the simplest things about us so sometimes they receive our information with surprise. They always encourage us to speak and tell us that our voices and opinions are the most important, so we never sit silently. And they listen to us. For example, we told police investigators that when children are asked very heavy questions, we get scared and start lying. We said police should avoid using very heavy language with reference to all the legal provisions. The juvenile inspectors said it was a very good approach that would be tried.

Child friendly interviewing practices are being employed although the extent of compliance requires further assessment. In accordance with Article 370 of the Criminal Procedure Code, some police inspectors and investigators in Bayangol do not interrogate a minor suspect/accused for longer than 2 hours a time or 4 hours total a day.¹¹⁵ Moreover, police custody and pre-trial detention are no longer being used as a measure of first resort although it is unclear whether detention is *systematically* being used as a measure of last resort, for the shortest necessary period of time.

JJC coordinators also played an active role in leading, participating or supporting victim offender reconciliation meetings, which can lead to more lenient sentencing by judges.¹¹⁶ What remains unclear however is the extent to which prosecutors exercise their right to terminate cases pursuant to Article 25 and 208 of the Criminal Procedures Law, particularly when victims of minor crimes have reconciled with the suspect, accused or defendant of the case.

Lessons learned

Despite significant improvements in the administration of juvenile justice, some inconsistencies in practice as well as violations of children's rights persist (although less frequently) due in part to the lack of legal/policy mandates, operational protocols, standards, enforcement and accountability, i.e.:

- police do not refer every CICL to JJC
- police refers criminal cases but not administrative offences to JJC
- police or detention guards commit violence against children, including beatings, verbal abuse, etc.
- police apply pressure to obtain confessions from juveniles
- police compel juveniles to report to police stations, daily from morning to night, thereby interfering with children's education
- there is ad hoc detention of some children during the pre-trial phase
- children are not always separated from adults during detention
- detention guards do not always protect children from violence committed by other children in detention
- there is a protracted investigation period or trial delays
- treatment of CICL is unpredictable and depends on personalities

Trial

The CRC and Beijing Guidelines provide for protections during trial, including:

- ☀ children accused of an offence have the right to have the matter determined without delay by a competent, independent and impartial authority in a fair hearing, with legal or other appropriate assistance, and in the presence of their parents or legal guardians
- ☀ children should be provided the opportunity to be heard in any judicial proceedings affecting them, and to have access to free legal aid where there is provision for such aid in the country
- ☀ children have the right not to be compelled to give testimony or to confess guilt, to examine adverse witnesses, and to introduce witnesses on their behalf under conditions of equality
- ☀ criminal proceedings involving children must be conducive to the best interest of the juvenile and be conducted in an atmosphere of understanding which allows the juvenile to participate and to express themselves freely
- ☀ juveniles' right to privacy must be respected at all stages of the criminal proceedings in order to avoid harm being caused to them through publicity or by the process of labelling. No information that may lead to the identification of a juvenile shall be published

Mongolia does not currently have a separate, specialized court for juveniles. Contrary to popular belief however, the principles of the CRC and UN Guidelines can be met without creating a separate juvenile court structure particularly in countries where it is not feasible or cost-ineffective. In the last few years, juvenile judges have been appointed in Baganuur and Khentii and amendments to the Criminal Code and Criminal Procedure Code carved out separate child-friendly rules and procedures for juvenile court trials. The judge in Baganuur closed juvenile trials to the public to respect juveniles' right to privacy and preclude harm caused through publicity.¹¹⁷ This bodes well for the specialized handling of juvenile cases although it should be noted that the evaluators did not observe trial proceedings or conduct a full analysis of juvenile trials.

While there were some juvenile justice trainings for judges and prosecutors in recent years, they have not been institutionalized as in-service trainings.¹¹⁸ By law, funding for trainings of judges must derive from the state budget although other licensed attorneys can pay for trainings on their own initiative.¹¹⁹ It is uncertain what has transpired from the consolidated National Legislative and Judicial Research, Information and Training Centre established earlier this decade

to conduct in-service training for judges, prosecutors, lawyers and other legal professionals.¹²⁰

Special procedures for juveniles related to trial require parents or guardians to be present, the mandatory participation of a lawyer, and the separation of a juvenile's proceedings from that of an adult co-accused. While these provisions offer some additional protections for children in conflict with the law, they fail to fully reflect the principles of the CRC and UN guidelines (see below). Yet even these limited provisions are not fully implemented. According to one juvenile, the judge failed to inform him of his rights. In fact the judge barely addressed him since the focus was primarily on the other two adults in the group.¹²¹

Based on several interviews with juveniles, there appears to be some court delays in hearing cases. Specific reasons for court delays, however, are unknown. One juvenile recounts: "my case was transferred to the court and for almost one month, I had to come to the court building everyday to wait. I was informed by the court secretary that it was required to check in for 2-3 hours daily as part of court supervision."¹²²

All juvenile respondents were accompanied by parents/legal guardians and represented by lawyers during trial proceedings. Whether or not there was quality representation during proceedings is another matter. Juvenile respondents did not know how to judge the competence of legal representatives or the quality of representation. It is interesting to note, however, that several juveniles commended JJC coordinators for their legal knowledge and expertise.

Sentencing

Sentencing is one of the key areas that should differentiate juvenile justice from the adult court system. Incarceration should be avoided to the greatest extent possible. A broad range of sentencing options should be available, with few restrictions, and there should be a continuum of penalties that allows for graduated responses, or a gradual increase in severity of penalty if the juvenile re-offends. Under no circumstances should imprisonment be used as a substitute form of care for children who lack appropriate parental supervision.¹²³

The CRC and UN Guidelines emphasize the following principles with respect to sentencing:

- sanctions imposed on juveniles must take into account their diminished capacity to understand the consequences of their actions, as well as their increased potential for rehabilitation
- the main objective of the juvenile justice system should be the rehabilitation and reintegration of the young person
- a variety of sentencing options, such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other alternatives to institutional care should be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and to the offence
- imprisonment of a child must be in conformity with the law and must be used only as a measure of last resort and for the shortest appropriate period of time
- capital punishment and life imprisonment without the possibility of release shall not be imposed on children under the age of 18
- juvenile's well-being must be the guiding factor in consideration of his/her case
- before imposing a sentence on a young person, the background and circumstances in which the juvenile is living and the conditions under which the crime has been committed must be properly investigated so as to facilitate the judicious adjudication of the case
- the sentence imposed should be proportionate not only to the gravity of the offence, but also to the circumstances and needs of the juvenile
- imprisonment must not be imposed unless the juvenile has committed a serious act involving violence against another person or persistently commits other serious offences
- a wide variety of dispositions should be available, allowing for flexibility so as to avoid institutionalisation to the greatest extent possible, including: care, guidance and supervision orders; probation; community service orders; fines, compensation and
- restitution; orders to participate in group counselling and similar activities; and orders concerning foster care, living communities or other educational settings
- an appropriate authority appointed to implement alternatives to detention
- efforts should be made to provide juveniles with necessary assistance such as housing, education or vocational training, employment, and other assistance necessary to facilitate rehabilitation
- volunteers, local institutions and other community resources should be called upon to contribute to the effective rehabilitation of juveniles in a community setting

The emphasis on community-based rehabilitation is also grounded in the lessons learned by countries around the world grappling with juvenile crime. Research has shown that institutionalisation has negative effects on young people and

increases the likelihood that they will re-offend. Removing a young person from society increases their sense of alienation and reinforces criminal behaviour. Imprisonment may satisfy the need for retribution and public safety in the short term, but the reality is that once juveniles are released, they are more likely to re-offend if imprisoned.¹²⁴

Experience has shown that successful rehabilitation is the best way to protect society from juvenile crime, and that the most effective rehabilitation programmes are those that take place in a community setting, rather than an institution. Because young people's behaviour is heavily shaped and influenced by their environment (family, community, peers and school), the most effective rehabilitation programmes are those that work with the youth's whole environment to address the underlying causes of the criminal behaviour. Removing children from society does not teach them to deal with underlying issues, including how to cope with negative peer influences or family problems. Community-based programmes that promote accountability and provide support services to juveniles and their families are a much more effective means of protecting society and promoting law-abiding conduct.¹²⁵

The JJC introduced a few good practices that influenced sentencing for juveniles. In Bayangol, Baganuur and Khentii, JJC coordinators regularly conduct comprehensive assessments of juveniles' background, conditions of life and upbringing, causes and conditions facilitating commission of the crime and proposes recommendations. Previously, judges relied on sentencing reports¹²⁶ by the prosecutor and submissions from the prosecutor and defence counsel. According to one judge, however:

“JJC activities are very useful for children and helping so many children in this area. It is very useful to know why juvenile crimes are happening. This gives us a chance to judge it in a correct way. Before the JJC, assessments were prepared by school staff or the bag governor if the child dropped out of school. It was very brief and not very helpful. According to the law, it is the duty of the investigator to prepare assessments. But since the law doesn't describe the contents of the assessment in detail, investigators focused more on arrest and detention and did not include a study of the children, living conditions, underlying reasons for the crime.

“Now with a specialized JJC, it gives us a good new practice. There are standards that the JJC promotes, including how prosecutors should always

attach an assessment of the child. Lately the practice hasn't been consistent so I keep asking for the assessment. While it is not the only basis for making decisions, this assessment is very important in decisionmaking because we know the reason why crimes are committed, the personality of the juvenile, surrounding circumstances around the juvenile and best interest decisions including who will supervise and support the child."¹²⁷

According to the Criminal Code, the Court is obliged to consider the following factors when making decisions on juvenile cases:

- the possibility of deferring the sentence
- the necessity of appointing an educator where conditional sentence is imposed
- the nature and degree of the social danger
- the character of the accused
- the motive or purpose of the crime
- the degree of harm caused and
- any aggravating or mitigating circumstances¹²⁸
- period spent in pre-trial detention may be taken into account in calculating terms of incarceration or imprisonment

There were slight variations in the decisionmaking criteria listed by two respondent judges. One judge indicated the following criteria: condition of crime committed, first time or repeat offence; children's personal behaviour and attitude; family/parent's responsibilities to care for the child; and JJC's recommendations.¹²⁹ The other judge meanwhile noted the following criteria: culpability (including underlying reasons, participants, goal, circumstances); how to prevent re-offending (Art. 62, 69); and actor(s) able to supervise the juvenile.¹³⁰ Interestingly, both pointed to JJC assessments as one factor that, while not obligatory, nonetheless helped inform their decisions.¹³¹

Another practice hailed as positive is the role played by JJC coordinators to facilitate and/or lead victim-offender reconciliation meetings and submit outcomes to the judge for consideration. According to Article 62¹ of the Criminal Code, a person under the legal age who has committed for the first a crime liable to imprisonment sentence according to the Special Part of the Criminal Code has repaired the damages and eliminate the losses caused by the crime, the court may impose an imprisonment sentence for a period shorter than the minimum period for the crime. What is unknown however, and requires further

analysis, is a careful examination of the impact of victim offender reconciliation meetings on court decisions. This should also include the weight given to compensation of damages as a mitigating factor and whether it disproportionately disadvantages children from poor families.

Furthermore, JJC coordinators have submitted letters to the court on behalf of juveniles on probation, requesting discharge of juveniles' penalty based on successful rehabilitation, which has been granted in some circumstances. According to Article 103 of the Criminal Code, the police or district authorities are empowered to submit this proposal and conversely, to invalidate a deferred sentence.

While the above practices have yielded positive outcomes for children, it is important to distinguish between the 'good practice' and whether or not the practice should be undertaken by the JJC Coordinator. This should be considered in light of the Criminal Code, which charges justice officials with similar responsibilities. This requires further discussion among stakeholders.

Lessons Learned

While not a new lesson, the impact of the Criminal Code on juveniles is an ongoing harsh lesson for numerous juveniles and their families:

- certain aggravating circumstances increase the severity of a crime, from minor to moderate, from moderate to serious, and from serious to grave offences
- certain crimes under the Criminal Code carry mandatory minimum penalties of imprisonment¹³²
- judges have less flexibility to reduce the mandatory penalties set for specific crimes
- solitary confinement can be imposed for up to six months for even minor crimes committed by juveniles 16 years and older¹³³

What does this mean in real life terms?

If Batukhan, a 15 year old boy, steals a cell phone, he may get 3-6 months incarceration, or up to 2 years in prison. But if Batukhan steals that same cell phone with friends, he may be sent to prison for up to five years. And if Batukhan was convicted of another theft when he was younger, he may be sent to prison for up to 15 years for stealing this cell phone. By the time of his release, he will have spent half of his life in prison for stealing a single cell phone.¹³⁴

It is difficult to discern whether this was the original intent of the legislators. Regardless, it is indisputable that the current Criminal Code is severe and unforgiving on children in conflict with the law. Also irrefutable, based on international experience, is that this approach simply doesn't work to rehabilitate juveniles. The potential irreparable toll exacted on juveniles and high costs of imprisonment (and eventual costs on society upon the individual's release) call into question the wisdom of the current legal approach.

Although a recent 2008 amendment to the Criminal Code grants judges the discretion to reduce imprisonment by no less than one half the mandatory minimum term under certain circumstances (Article 62'1), this approach has been criticized by the UN Committee on the Rights of the Child as it fails to respect the proportionately principle and limits judges' discretion to tailor the sentencing to the individual child.

Another lesson learned – yet unresolved – is the reality of children “aging out” by the time their cases reach trial. In practice, children have aged out of special JJ protections afforded by the Criminal Code and Criminal Procedure Code. According to one judge, legislative reform is required because she is constrained under current law to treat the child as an adult for grave crimes if he or she reaches the age of 18 at the time of trial; the juvenile's age at the time of commission of the crime is irrelevant.¹³⁵ This requires further examination and resolution.

Further, another lesson learned speaks to unintended consequences linked to the JJC's success. Due to the high regard police, prosecutors and judges have for the JJC coordinator, juveniles are more likely to be released during pre-trial and sentencing under the JJC coordinator's supervision. The JJC has in many ways become the only non-custodial option (other than parents), although the law allows for other organizations and individuals to supervise a child on probation (Art. 62) or subject to compulsory disciplinary/educational measure (Art. 69).

While this brings invaluable benefits for juveniles, it is not sustainable in the long term. Currently, the JJC approach errs on a narrow application of laws and fails to leverage existing entities, and strengthen the overall social welfare system for farther reaching and lasting impact.

3.3.4 Juvenile crime prevention

There were lively discussions on the issue of juvenile crime prevention and in particular, who should be responsible for it and at what level?

First, this section will outline relevant legal standards, then point out broader areas of contention and underscore key reminders before moving into good practices and lessons learned.

Legal framework

Mongolia's general criminal laws place emphasis on crime prevention. The Criminal Procedure Code states that, in the execution of any inquiry or investigation, the police, prosecutors and courts must identify the underlying causes of the crime and take measures to eliminate them (Article 22). The Law on Prosecutors gives prosecutors the power to issue a notice requiring individuals or organisations to eliminate the causes or circumstances giving rise to crime. For juvenile cases, this generally involves sending notices to schools advising them of what factors were found to have led a particular juvenile to commit a crime, and ordering them to eliminate those factors and prevent other children from committing similar crimes. Similarly, the Law on Police gives police the authority to demand that citizens, businesses, and other organizations eliminate causes and conditions affecting crime. Meanwhile, the Law on Crime Prevention indicates that 40% of the revenue collected from the enforcement of court decisions and from traffic fines should be allocated for crime prevention activities (Article 19).¹³⁶

The UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) emphasize and/or recommend:

- the need for proactive, child-centered approaches to crime prevention that are aimed at addressing the underlying social causes of youth crime
- that successful prevention of juvenile crime requires efforts on the part of the entire society to ensure the harmonious development of adolescents, and the focus of any preventive programme should be on supporting the well-being of young people from their early childhood
- the best juvenile crime prevention strategy is one that is linked to broader measures to promote children's rights, to foster community development, and to address poverty and marginalization
- an investment in education, vocational training, and job creation for young people, and requires co-operation between all government and nongovernment agencies, including social welfare, health, education, labour and employment, justice, NGOs, youth groups, community groups and the private sector
- that juvenile crime prevention plans are instituted at every level of government
- that preventative action include an in-depth analysis of the problem, well-defined responsibilities for various agencies, co-ordination between governmental and non-governmental agencies, community involvement through a wide range of services and programmes, cross-sectional co-operation between different governmental and non-governmental agencies, and youth participation in the development of all crime prevention policies
- programmes to prevent juvenile crime are developed on the basis of reliable, scientific research findings, and are periodically monitored, evaluated and adjusted
- emphasis is placed on preventative policies that facilitate successful socialisation and integration of all children through the family, community, peer groups, school, vocational training and employment

The Riyadh Guidelines also caution that crime prevention programmes should take into account the fact that a certain level of misconduct is a normal part of the maturation process, and that heavy-handed, punitive responses only push children further into crime. Whether youth misconduct escalates into more serious criminal behaviour is often influenced by how juveniles are dealt with early on in their involvement with the justice system. The Riyadh Guidelines note that the predominant opinion of experts is that labelling a young person as “deviant,” “delinquent” or “criminal” often contributes to the development of undesirable behaviour by young people.

Areas of concern & paradigm shifts

The debate around juvenile crime prevention raised questions such as:

- should the JJC be involved in juvenile crime prevention at the general level? specific level? individual level?¹³⁷
- should the JJC be involved in serving vulnerable children or only children in conflict with the law?
- should the JJC be working on broader child protection issues or only juvenile justice?
- are the Crime Prevention Council, the police, NAC/DACs, or local social workers all responsible for implementing community based activities to prevent juvenile crimes? If so, what are their respective functions?

As stakeholders continue to debate these issues, it is important to bear in mind the following:

The JJC is composed of 41 members, including representatives of justice and social welfare agencies, human rights and child rights bodies, etc. The JJC is not an individual.
Currently, JJC members - justice and social welfare agencies, NAC/DAC, local governors and others – are members of other councils/committees/commissions and have existing mandates to prevent juvenile crimes. Whether and how that mandate is being carried out is another issue; the philosophies and approach to juvenile crime prevention varies depending on the agencies and individuals
Preventing juvenile crimes (in the first instance or re-offence) requires addressing underlying causes
Underlying causes of juvenile crimes and other child protection issues are often identical or interrelated
Prevention cannot be achieved through police action alone; generally, the social welfare and education sectors are crucial in addressing the underlying causes of juvenile crime prevention
The 'justice' dimension of juvenile justice cannot be separated from the 'social welfare' or 'child protection' dimension of juvenile justice when serving CICL
The human rights of children, whether in conflict with the law or not, are universal, inalienable and indivisible -- and extend to the civil, political, social, cultural and economic realms. The government of Mongolia is obliged to respect the full range of children's rights.
A juvenile in conflict with the law can simultaneously be a victim of a crime or child rights violation
Successful reintegration is key to preventing juvenile recidivism

In reality, there are no easy solutions to put an end to all juvenile crimes, or child protection violations. There are, however, practical ways to ensure that the JJC does not duplicate or supplant existing structures on juvenile crime prevention, for example through: (i) an evidence based strategy that address the underlying causes of juvenile crimes; (ii) mapping, needs and resources assessment; (iii) streamlining of committees and councils based on a mapping exercise; (iv) detailed interagency plan on coordination and cooperation; (v) local governance leadership and ownership and (vi) monitoring, enforcement and accountability mechanisms. This should build on the juvenile crime prevention sub-councils that have been established in all 21 aimags and in each district of Ulaanbaatar, as well as local strategies aimed at preventing juvenile crime and supporting families and children.

Caution should be exercised, however, to avoid a solution based predominantly on individual and social control. Juvenile crime prevention is complex and requires a distinct investment from all stakeholders to resolve the underlying causes. International experience has shown that the most effective crime prevention programmes are those based on police partnerships with community authorities and citizens to effectively target and reduce known risk factors.¹³⁸ And where juveniles are involved, educators and social workers have essential roles to play in preventing them from committing crimes. Active participation should therefore be encouraged from all relevant agencies, NGOs, community members, schools, families and children.

International studies have revealed that young people's propensity to commit crimes is linked to a complex array of socio-economic factors.¹³⁹ Respondent stakeholders, including juveniles, generally agreed that the underlying vulnerability factors for juvenile crimes are: poverty, unemployment, fight for survival, growing disparities, school drop-outs, living on the streets, poor parental supervision, family dysfunction, violence and abuse at home, parental alcoholism, negative peer influences, low self-esteem, rural to urban migration, lack of social services without civil registration, lack of legal knowledge, and inadequate leisure activities.

Moreover, adolescence is a time when young people experiment, take risks, and struggle to define their identity and develop a sense of belonging in the community. This may involve challenging authority and involvement in minor criminal activity. Research has revealed that most youth commit at least one crime during their adolescence, the vast majority of which are minor, property-

related offences such as theft. However, most young people mature out of this behaviour and grow up to be respectable citizens. Studies have consistently shown that between 75 to 80% of young people who commit crimes do not re-offend, and that a small minority of children (5-6%) are responsible for the majority of juvenile crimes.¹⁴⁰

Good practices

Practices that influence the behaviour of juveniles

While evaluators did not have an opportunity to observe services, trainings or activities, the strengths based life skills trainings and recreational activities were especially effective in: boosting the self-esteem of juveniles; encouraging them to reflect on and learn from their experiences in a nurturing safe space; reducing their feeling of alienation; and motivating them to plan for their future.¹⁴¹

The JJC coordinator explained my legal rights and the criminal justice process. The best thing about the JJC coordinator is that she did not treat us as juvenile offenders. She just accepted us as ordinary children. It was very nice. We were asked to participate in trainings, events and other services that benefit us, and they didn't discriminate against us as offenders.

The positive, open and non-discriminatory attitudes of the JJC Coordinators, as well as their extensive knowledge on the legal process and complete accessibility, instilled trust in both children and parents to rely on them as resource and support persons. Juvenile respondents also expressed deep appreciation for being regularly consulted on matters that affected their lives, including their educational, vocational and recreational interests.

Studies on juvenile behaviour have shown that young people who suffer abuse at the hands of police, who are labelled as criminals, or who are subjected to imprisonment are more likely to feel alienated and hostile towards society, and to commit further crimes. Attempts at shaming, repression or social control increase children's sense of isolation and marginalization, causing them to respond by rejecting or acting out against society. This effect is exacerbated in countries in transition, where rapid social and economic change and the breakdown in traditional family, school and State support structures leave young people at higher risk of social exclusion and alienation.¹⁴²

Lessons learned

Juvenile crime prevention was often cited as the *raison d'être* for the JJC project. While it is one main objective, the JJC project was initially established to protect children in conflict with the law, not necessarily to prevent juvenile crimes in order to protect society. As referenced above, a paradigm shift has not yet taken root reflecting that the protection of children – including those in conflict with the law - lies at the core of the JJC project. Also, there has been limited understanding of the interdependence of juvenile justice with children's protection rights. This has diluted a sound analysis of underlying causes, vulnerability and contributing factors which is necessary for the development of effective crime prevention strategies.

There is a widely held belief that poverty, family dysfunction or lack of legal knowledge “causes” juvenile delinquency. Some prevention activities therefore have focused on these areas in isolation. This approach does not, however, accurately reflect the complexities of:

- how underlying risk factors work in combination to contribute to juvenile crimes
- “tipping points” that lead children to commit offences
- how CICL can simultaneously be child victims of violence, exploitation, abuse, neglect, etc.

In order to develop relevant and effective juvenile crime prevention activities, it is necessary to adopt a child-centred lens. The factors that put adults at risk of committing crimes are not the same as those that put children at risk. For this reason, general crime prevention activities are not effective for juveniles. While some studies have been conducted on juvenile crime prevention, it does not appear to be used to inform harder-hitting strategies. A stronger evidence base, informed by monitoring and evaluation of juvenile crime prevention activities, needs to be in place.

One main juvenile crime prevention strategy has been to conduct legal awareness and education activities in the schools. Juvenile inspectors generally visit schools several times on a monthly basis to educate students on topics such as the criminal law and the situation of children in conflict with the law, as well as advise them on the consequences of and ways to avoid committing crimes.¹⁴³

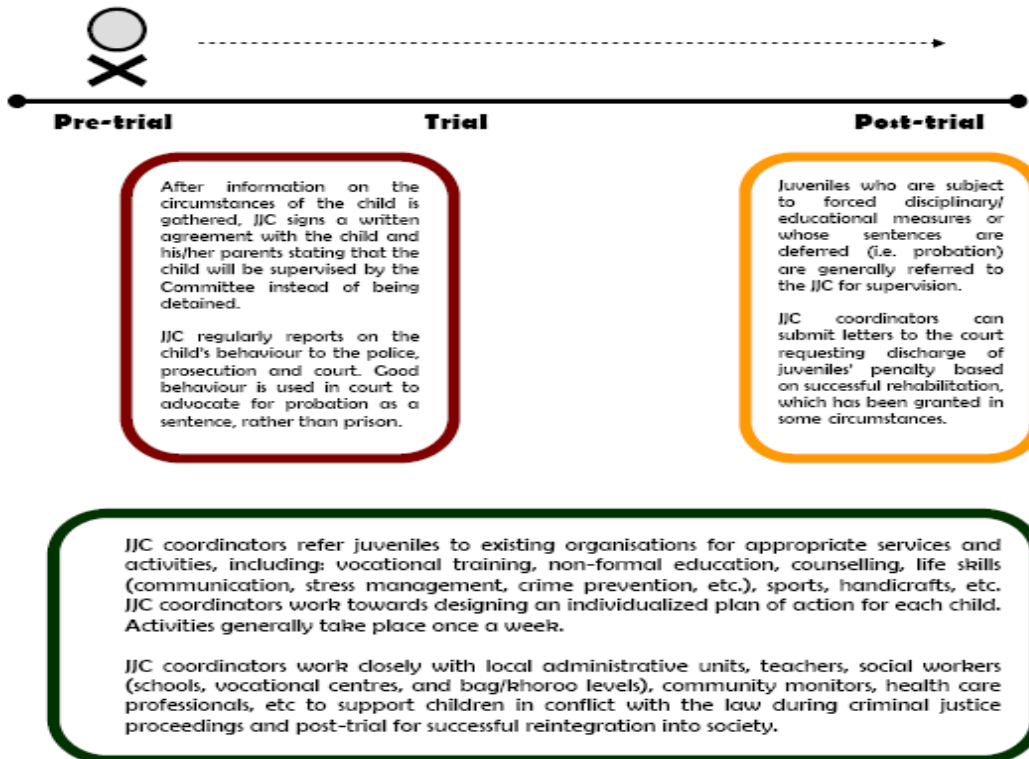
Based on international experience, legal education sessions alone are generally inadequate to effectively deter juveniles from committing crimes.

Another strategy has been for the JJC coordinator to rely on children to identify peers who are at risk of committing crimes. This past year, local agencies for children or community-based agencies have started to create a list of children at risk, including of committing crimes. While peer to peer activities to promote positive peer influence and identifying vulnerable children to provide support are both valuable practices, there is a risk of unfairly stigmatizing or marginalizing children who have not committed any offences. This can have detrimental effects on children and place them at even greater risk of offending. There are also risks of increased police surveillance and control. Formal contact between children at risk and the police should therefore be limited.

One strategy that has not been cited to prevent juvenile crimes, or recidivism, is the strengthening of families, despite the Riyadh Guidelines stating that efforts should be pursued to preserve the integrity of the family. Although lessons were learned about the importance of social work services to juveniles and their families, their role in crime prevention is minimal compared to the police. Social workers (and educators) should play a more central role in providing support (and education) services, including early intervention and family support (access to quality education), in partnership with the police, schools, children's centres, NGOs and local governors.

3.3.4 Service provision

The mandate of the JJ committee is to provide child friendly support and supervision during the pre- and post-trial stages as an alternative to pre-trial detention and custodial sentencing, as well as support the reintegration of children in conflict with the law. Children under the JJC's supervision are between 14 and 18 years old, with some exceptions. Supervision is considered for all types of offences.



Over the past year, JICs have expanded their activities to identify and support children at risk. Vulnerable categories of children include: orphans, half orphans, living with stepfather or step mother, divorced parents, poor or extremely poor households, illiterate, school drop out, no civil registration, abuse at home, no cash assistance, disabled, child labourers, street children, sex workers, suspects or accused of law breaking activities including administrative rules, sentenced by court, former CICAL, neglect of parents/guardians, poor living conditions and alcohol/tobacco use.¹⁴⁴ In close collaboration with community actors (educational, social welfare and labour, civil registration and other departments), JIC coordinators in Baganuur, Bayangol and Khentii have started to provide direct support to address the risks faced by children.

Since the outset, the JIC has served 206 children and their families (see A-11: General data on JIC service provision).

Good practices

Of the 206 juveniles served by the JJC, as reflected in the chart above, only 2 cases of recidivism were reported. The JJC project has provided an effective community-based model for alternatives to detention and reintegration services for children in conflict with the law. This is a positive step forward from the previous State practice which was based on police detention, registration and tracking of unsupervised children. Unfortunately, it continues to be the practice in the majority of aimags and districts in Mongolia where the JJC is not operating – to confirm.

After contact with the JJC coordinator, I participated in several trainings with a group of children where some had committed crimes. Before this, I felt that I was alone, that children didn't like me because I committed a crime. But now I have so many friends and feel very close to them. I've also worked closely with peer educators. They are very good role models. Previously, I had poor grades but the peer educators encouraged me. They said if children try hard, they can do well in their studies. Since starting professional vocational school, I got all good marks and earned a lot of recognition. I was really surprised and also really empowered. My mother is very happy. I changed my behaviour in a very positive way. When I started to come to the JJC, I met well behaved children who were encouraging. I felt positive and that people will respect me so I started to change myself.

The JJC empowered community leaders, educators, social workers, and community monitors through capacity building trainings. Further, the JJC shored up community based child protection networks that identified and supported vulnerable children, as well as supported the reintegration of children in conflict with the law. It is important to distinguish, however, between the good practice as this is a great achievement, and whether this should fall under the mandate and responsibility of the JJC.

The JJC (in this section refers to the coordinator and Joint Community Teams) effectively utilised strategies to build juveniles' trust and self-confidence, to empower them with useful life skills, to engage them through sports and other recreational activities, and to motivate and prepare them for the future with educational and vocational training programmes.

The JJC offered juveniles in conflict with the law and at risk a range of community support programmes, including sports, adventure camps, other recreational activities and psychosocial counselling as necessary. Sports and recreational activities have had a profound impact on reducing juveniles isolation and sense of alienation.

Several juvenile respondents cited adventure camps as a particularly constructive intervention. The activities encouraged juveniles to work in teams, and helped develop their problem-solving and practical coping skills whilst

building their trust, self esteem and social skills. Further, the JJC encouraged juveniles to play a more active role in society. At risk children and CIOL were provided with positive peer role models and influences. By encouraging their inclusion in various activities, it went a long way to help juveniles develop more pro-social behaviours.

At all times, the JJC coordinators actively consulted juveniles on decisions affecting their lives, including inquiring about their educational and vocational interests to develop individualized plans of action.¹⁴⁵ Further, the JJ Committee (Bayangol) encouraged juveniles, including one person previously on probation, to participate as JJC members in quarterly meetings. Their opinions and recommendations were heard and influenced practices by justice officials, i.e. techniques for interviewing minors in conflict with the law.¹⁴⁶

Because I have never personally been in conflict with the law and this was the first accusation against my son, I wanted to talk to someone who had more experience. All of the concerns and questions my wife and I had were fully addressed by the JJC coordinator. She spent almost two hours with us during the first meeting. It was extremely helpful.

Recognising the importance of supporting families, JJC coordinators played an instrumental role in guiding parents of children in conflict with the law through the criminal justice process; promoting positive parent-child relationships; sensitising parents about the challenges their children face; and offering practical advice on how to prevent juveniles from re-offending. After conducting needs assessments, JJC coordinators actively involved parents in their children's individualised service plan.

Lessons learned

While strengthening families is crucial, there may be situations where children are orphans, separated from their parents, or being under the care of parents is not in their best interests. Alternative family-based care for these juveniles is scarce. The lack of viable options can influence the police and court to detain the juvenile and may also eventually undermine his or her successful reintegration.

Respondent parents requested more community-based sports, leisure and academic activities to ensure that the children spend their spare time in a constructive way. In fact, this is one well recognised way to reduce juvenile crime and improve community safety. One respondent also requested that the JJC space be more child-friendly, and heated since the temperature in the room is quite chilly.

At the operational level, there are some areas requiring improvement. Even to the JJC members themselves, it wasn't always clear which entities were responsible for providing particular services at the national and sub-national levels, including service delivery, coordination, advocacy and monitoring on children's rights and child protection issues – both in principle (by mandate) and in practice.

Compounding this uncertainty was the lack of documented interagency referral procedures to promote service delivery coordination between local governor social workers, school social workers, the JJC coordinator, local Crime Prevention Council community monitors, provincial/district Agency for Children, local Council for Children, NGOs and other service providers -- as well as their linkages to the justice sector.

Several respondents also expressed a belief that NAC should assume a stronger leadership role at the policy, advocacy and coordination levels, and entirely move away from direct service provision and project-to-project work.¹⁴⁷ Respondents also pointed out ambiguity and potential overlap of strategies, roles and responsibilities between NAC and other ministries, in particular the Ministry of Social Welfare and Labour.¹⁴⁸ Further, respondents noted that the NCC carries limited authority and legitimacy. Despite its very high profile and large membership of some 70 individuals, the NCC does not issue policy or function very effectively, in part due to their infrequent meetings.

Meanwhile, there were tenuous, if any, links between the JJC and UNICEF-supported Convergent Basic Social Services Project (CBSS); between the JJC and World Vision-supported Area Development Programmes (ADPs) and more generally between the JJC and broader civil society especially at the community based levels. Respondents also raised the issue of clarity of functions. One respondent stated,

“I participated in CBSS and at the grassroots level, it a very good project. But sometimes the decisionmakers are not very supportive and have interests that are different from the project. There are salaries without any criteria linked to payment. That's why I think detailed job descriptions and criteria are very important. And I think this is very much connected to policymaking.”¹⁴⁹

This astute observation resonates beyond CBSS. Currently there are no detailed job descriptions and/or public knowledge of specific functions for local government social workers, as well as school social workers, JJC social workers, NAC child protection officers, and other relevant social service professionals. According to one representative of the Ministry of Social Welfare and Labour of Mongolia,

“There is a lot of criticism about social workers at the grassroots level. There are allegations that social workers are just helpers of local governors. In reality, their salary is very low, but their duties and workload are very high. Their job descriptions are not very clear, nor standardized. This makes it difficult to evaluate their work and assess whether they are working properly. Last year, a group (MoSW, MoE, NGOs, etc) advocated for the approval of social work descriptions – the JDs are being developed - but it has not been approved yet. The process is long because it is still being decided which entity should issue approval: the ministries, the central government or the local government.”¹⁵⁰

While standards were recently passed on child care, children in institutional care, and working with the elderly and disabled, there are no minimum standards for social work practice.¹⁵¹

The Ministry of Social Welfare and Labour, NAC, UNICEF, Save the Children and other groups have recently directed their efforts toward child protection systems building at all levels. It is unclear to what extent juvenile justice is factored in the recently developed national strategy. In moving forward, these two areas should not be treated separately. Child protection systems building can leverage the preliminary groundwork established by the JJC in Bayangol, Baganuur and Khentii. Meanwhile, juvenile justice is one of the key issues that should be addressed by Mongolia’s child protection systems building strategy.

3.3.5 Coordination & cooperation

At the national level, the JJ Working Group members enjoyed good coordination and cooperation on juvenile justice. There is like-mindedness on the importance of promoting juvenile justice in Mongolia although the practicalities of ‘how’ remain elusive. Recognition of the need for more robust government leadership and ownership is growing. And the inclusion of the Ministry of Social Welfare and

Labour and NAC is positive, especially as both entities have responsibilities under the Law on the Rights and Protection of Children for broader child protection issues.

It should be noted, however, that there are uneven levels of partnership, investment and involvement with the JJC at both the national and local levels. In addition, coordination between the national and sub-national levels on juvenile justice can be improved.

Good practices

The JJC created a culture of child/juvenile protection and response as being everyone's responsibility. In all three locations, the JJC to varying degrees served as a bridge between the justice and social welfare sectors working with children in conflict with the law. In Bayangol, respondents indicated that the JJC added value by complementing existing structures and services, as well as promoting coordination and corroboration at the grassroots level among community leaders, crime prevention monitors, schools, vocational schools, social workers, etc.¹⁵²

Lessons learned

As referenced earlier, however, there are several outstanding issues related to structural coordination. Several respondents expressed deep concern that the JJC was operating as an independent project whereby it is not fully integrated into existing structures and therefore leads to the creation of parallel structures or services. The justification for duplication appears to be the ineffectiveness or non-functioning of existing structures charged with service provision, coordination and advocacy for children, both at risk and in conflict with the law. As the State Secretary of the Ministry of Justice & Home Affairs countered, "The JJC is functioning well now because of capable coordinators. What if one day the JJC stops functioning well? Should we then create a parallel JJC structure as the solution?"¹⁵³

While the JJC appears to be well-coordinated, this is based on the strength and compatibility of personalities, not on interagency JJC operational protocols and guidelines. Respondents revealed that there are unclear lines of accountability, responsibility, standards and procedures for service delivery and other functions. There is an ad hoc continuum of care and division of responsibilities connecting

JJC and bag/khoroo social workers for CACL prevention and response. Moreover, there is no clear assessment of who is responsible for what at the city/aimag, district/soum and khoroo/bag levels, what they are doing in practice, and what the barriers are to effective service delivery.

3.3.6 JJC project management

The lack of clarity regarding JJC ownership and leadership invariably impacts JJC management. As aforementioned, there are varying perceptions of who and what the 'JJC' is, as well as blurred top-down and bottom-up lines of accountability. Respondents did not articulate a singular common vision. Ownership and supervision was oftentimes attributed to UNICEF. For example, due to the vacuum of ownership and direction by designated government entities at the national and local levels, the UNICEF legal reform officer served as the de facto supervisor of two JJC Coordinators. This is not, however, a UNICEF project and should not be viewed or managed as such.

Despite the placement of the JJC under the local governor, according to the JJC charters, in practice there were inconsistent management structures and unresolved questions: does the JJC fall under the local governor, the local parliament, or the Local Authority for Children? As described earlier, there were debates on JJC's mandate and target population: Is JJC responsible for prevention (general, specific or individual) and/or response to children in conflict with the law? Should the JJC exclusively serve children in conflict the law, or children at risk?

There were widely held perceptions of the JJ Committee and JJ Coordinator as being one and the same. This was difficult to flesh out in the absence of guidelines clearly delineating the decisionmaking, advisory, supervisory and day-to-day roles and responsibilities of the JJ Committee and the JJC Coordinator, as well as the members of each JJ sub-committee.

Some practices highlighted issues of ownership, leadership and participation. For example, the name of the committee was unofficially changed from "Juvenile Justice Committee" to "Child Protection Committee" due to concerns expressed by children that the committee name led to discrimination and stigma. The validity of these concerns notwithstanding, the committee name change was implemented without JJC consultation or endorsement. Similarly, the original JJC

charters were unofficially amended without involving key JJC members in a consultative process from the outset.

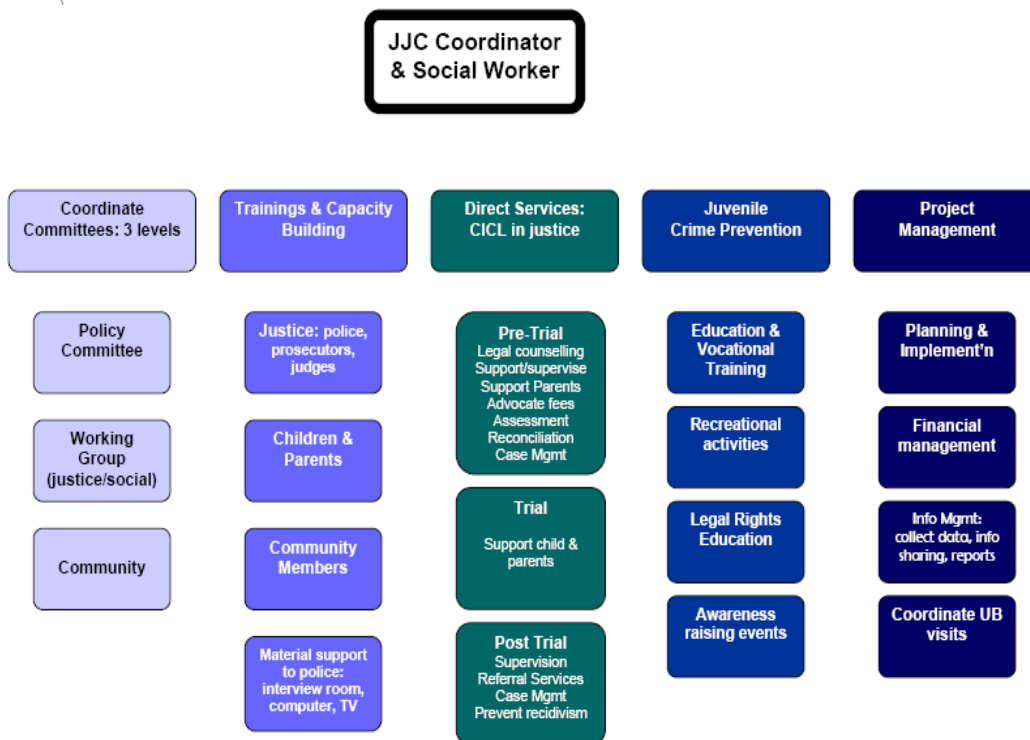
As a result, there are vague accountabilities of the JJC to local governors, local parliaments, Ministry of Justice & Home Affairs and others vis-à-vis main directions and strategic shifts, quality of coordination, information sharing, financial accounting, priorities, fulfilment of responsibilities, etc. Although the JJC coordinator is in principle accountable to the JJC, there were reports that the coordinator did not share budgetary information JJC members on a regular basis.

Processes should be more transparent. This includes justifying the level of staffing and budget allocated to the JJC project sites in Bayangol, Baganuur and Khentii. On its face, it appears even-handed although practically, this doesn't necessarily correspond to the size of the population; the geographic scope; existing structures, services and capacity; the nature and extent of juvenile crimes, etc. Taking for example 2 JJC sites, Bayangol and Baganuur, there are stark discrepancies between these two districts of Ulaanbaatar. Bayangol's population of roughly 160,000 (20 khoroos) far exceeds Baganuur's population of roughly 25,000 (4 khoroos). Yet, the Baganuur JJC project has 2 social workers to the 1 social worker in Bayangol. Annual budgetary amounts, estimated at \$16,000, are also comparable.

JJC coordinator role & capacity

The below diagram outlines the main functions carried out by the JJC coordinator and JJC social worker. If compared against the coordinator's original job description which is largely administrative (see A-7 Juvenile Justice Committee Coordinator Job Description), it is unsurprising that the JJC coordinator is overstretched and works significantly beyond initial expectations.

In each site, the Coordinators wear numerous hats: coordinator, legal advocate, social worker, case manager, trainer, capacity builder, quasi-investigator, counsellor, administrator, JJC project manager. Recently, the JJC expanded its target group, from CICAL to children at risk. Although social workers have been recruited for all 3 sites, this scope of work is unrealistic and untenable for two professionals.



Moreover, there are certain JJC coordinator functions that require clarification vis-à-vis: assessment, victim offender reconciliation, legal counselling, legal representation, direct service provision and advocacy. With regard to legal representation and counselling, potential conflicts of interest may arise in various situations, such as when the juvenile commits a crime against another juvenile or when the JJC coordinator represents one juvenile in a group offence. In other cases when juveniles are represented by defence counsel, JJC coordinators should be cautious regarding the nature and parameters of legal information or “counselling” provided to juveniles and their parents.

Although responsible for building the capacity of others, the JJC coordinator’s capacity has not been proactively assessed and strengthened. Initially hired for their legal qualifications, the three Coordinators had a steep learning curve given the post’s emphasis on social work, probation supervision, coordination, training/capacity building and administrative project management. Among

other key functions, the JJC coordinator is responsible for assessing individual children, developing individualised plans of action for supporting the child and family, and coordinating the delivery of services to the child/family at the local level.

The first major challenge was communicating with children. I was recruited as a lawyer but this job required the skills of a social worker. Through practice, I learned to work with children. Also, I had to learn finance skills in order to prepare finance reports. UNICEF supported many trainings on child protection, counselling, social work skills and some finance trainings.

-Ms. Narangua, Bayangol JJC coordinator

Despite demonstrating strong performance, JJC coordinators can benefit from regular capacity building and basic/advanced trainings. This is especially important in areas where JJC coordinators are charged with leading trainings, such as victim offender reconciliation meetings. Coordinators should also be given direct access to handbooks, manuals and other materials relating to: social worker case management, psychosocial support, family counselling, parenting skills training, mediation/FGC and life skills. Local resources can also be tapped to provide

additional training or mentoring, such as pairing Coordinators with professional social workers or psychologists in UB for the provision of ongoing advice and support, as needed.¹⁵⁴

Case management, data collection & procedures

The JJC's case management and data collection systems, as well as methodologies, processes and procedures require substantive improvement on various levels:

Case Management:¹⁵⁵ A standardised case management system is not consistent in all three locations. Currently JJC coordinators maintain the following general information in case files:

- assessment forms¹⁵⁶
- template contracts (with a child and his/her parents; with MDT members, and with advocates)
- references and request letters for alternatives to detention
- copies of legal documents
- victim offender reconciliation meeting notes

The following information is missing from case files: progress notes, activity plans with deadlines, documentation on group interventions, and attached photos of children. The JJC coordinators explained that progress notes were kept in their notebooks; as standard practice, however, these notes should be maintained in the children's case files. Contracts, on the other hand, should be tailored to the individual juvenile although applicable standard provisions can be maintained. For example, one signed contract required the parents to attend a mandatory 72-hour legal training and to impose a 10 PM curfew on child. In reality, however, a 72-hour training was not available and a one size fits all curfew is not appropriate for all juveniles. It is unclear whether standard criteria exists for opening and closing case files, as well as preserving closed case files for a specified period of time.

One good practice of the Bayangol JJC is the provision of detailed information about JJC services and possible advantages of receiving JJC services in order to facilitate informed consent. It is up to the child and his/her parents to decide whether to receive or not JJC services and, if they agree, write a letter requesting services. Accordingly, a contract is signed between the child, parents/guardians and the JJC. These letters and contracts are maintained on file.

Data collection, analysis & utilisation: based on the previous chart outlining JJC data, standardized data across all three locations is clearly not collected. There are inconsistencies around time periods, as well as the categories of data gathered. Meanwhile, some sites collect data on cases without corresponding numbers of juveniles involved. Data is generally not disaggregated by age, sex, education, region, ethnic and social origin, services, alternative to detention at the pre-trial stage, sentencing outcomes and recidivism rates. Further, it is unclear what information is being systematically collected, analysed, disseminated and utilised to inform and refine JJC project activities.

JJC Project Data

Area	Year	Crimes		Imposed sentences						Detained	Refused from criminal liability
		Number of committed crimes	Number of juveniles involved	Imprisonment	Incarceration	Alternative measures	Probation	Vocational upbringing measures			
Baganuur district	2007										7
	2008	9	20	1	3	6	6	3		4	8
Bayangol district	2007										
	2008										
Khentii aimag	2007										
	2008										
Huvsgul aimag	2007										
	2008			1		9	9	1			
Khovd aimag	2007	9	19	2			11	6			17
	2008	11	17	3			8	6			14

Processes & procedures:¹⁵⁷ overall, the processes, procedures and methodologies used in the JJC project are not systematised or well documented, both of which are essential to draw clear lessons from this pilot and facilitate replication. The methods and procedures used for victim offender reconciliation meetings should also be clearly documented so that it is clearer what is taking place, and what the agreed outcomes are. Any differences in practices in the three locations should be clearly documented, so that cross-comparisons can be made on which approaches were most effective. Clearer distinctions are also needed regarding the respective roles of the JJC coordinator and respective sub-committees when processes are being documented.

3.3.7 Cost Efficiency & Cost Benefit Analysis

Based on the numbers of children in conflict with the law alone, it is difficult to justify the costs of the JJC project in Bayangol, Baganuur and Khentii. The demonstrable impact and outcomes of this project, however, as well as the broad reach of the JJC, offer a stronger justification of the structural investments made to date. Further, if the JJC project serves as a basis for future justice reform and child protection systems building, the JJC project has proven to be relatively cost efficient.

It is also worth conducting a cost-benefit analysis of the JJC project against the costs of pre-trial detention, incarceration, imprisonment, as well as the costs of service provision from pre-trial to trial to probation and reintegration. Future analyses should also examine the costs and benefits resulting from the lack of diversion for minor and moderate crimes (at a minimum), i.e. cost of formal justice proceedings including time and efforts expended by police inspectors and investigators, prosecutors, judges, legal advocates and the community-based social services sector.

3.3.8 Sustainability

Sustainability describes the continuation of benefits from a development intervention after major development assistance has been completed.¹⁵⁸

There is some evidence of the continuation of JCC project benefits particularly with regard to the sea changes in knowledge and attitudes toward children in conflict with the law. Specialised juvenile justice sector officials may maintain child friendly practices. Similarly, local community actors, including administrative unit leaders, community monitors and social workers may continue to be more attuned and responsive to the situation and needs of children in conflict with the law and children at risk.

In 2002, an international consultant conducted an assessment on juvenile justice and her conclusion was that the police was the only force working with children. At that time, it was very challenging to involve legal agencies on JJ issues. Now it's very different. Judges, social workers, educators and others understand that somehow JJ is related to their area of work. So there is a big space for taking this project forward. The main issue is how to incorporate it into existing structures because many view this as a project only, at various levels.

~ Ms. Javzankhuu, DPM advisor

Without the external financial and technical support of UNICEF, however, the JJC coordinator posts may be eliminated and other benefits will in all likelihood fade. In some respects, UNICEF's support emphasized outputs, i.e. numbers of trainings, communication activities, meetings, transport costs, incentives, infrastructure and equipment, etc., rather than strengthening existing systems and building the capacity of partners to carry out the work. While this support has been practical and highly appreciated by counterparts, it raises questions of leadership, ownership and sustainability.

Meanwhile, the exceptional capability of JJC coordinators and increasing responsibilities they assumed has created some dependency. It encouraged some actors to shirk their responsibilities or delegate their work to the coordinator, generally under the veil of JJC proficiency. Also noteworthy is that there were no UNICEF exit strategies for existing locations. As noted by one respondent, "there is this notion that the JJC structure will become official, formally headed by the local governor and paid out of the state budget. But there is strong protest especially from the state policymaking agency with questions such as who is going to pay for the salaries and from which budget?"¹⁵⁹

One major challenge is how to ensure the systematic institutionalisation of the work of the Juvenile Justice Committee and coordinator into existing structures. Other challenges in the future include:

- ownership & leadership
- integration into existing structures
- links to the social welfare system for children & families
- consistency with broader child protection systems building capacities and resources
- coherence with broader 'access to justice' reform
- financial crisis: severe budget cuts

Broader Context

There are broader systemic deficiencies that invariably affect the optimal functioning of the JJC:¹⁶⁰

- low priorities on children
- weak governance
- corruption

- lack of government ownership
- frequent turnovers in ministry staff
- lack of continuity with Ministers
- non-implementation of existing laws
- inadequate resource allocation¹⁶¹

Other operational issues include:

- multiple roles by the same individuals, e.g. heads of executing agencies are also heads of council that work for children's rights – in practice, does not effectively function¹⁶²
- proliferation of councils and commissions with unclear or redundant mandates, same membership, time or labour intensive bureaucratic requirements, or different/disjointed lines of accountability
- limited capacity of officials, service providers and defence counsel
- weak social welfare system for children & families, i.e. blurred or disjointed hierarchy, mandates, practice and linkages: NCC, NAC, Ministry of Social Protection, social workers linked to local governors or schools, NGOs
- unclear linkages between the justice system, social welfare system and national bodies in practice (NAC, NCC, National Human Rights Commission, Council by Children, National)

3.4 Legislative Reform

3.4.1 Legal Context

The legal basis for establishment of the Juvenile Justice Committee is found in international instruments, constitutional provisions, national legislation and policy frameworks,¹⁶³ including:

- ✚ 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 40 of the UN Convention on the Rights of the Child
- ✚ UN guidelines on juvenile justice
- ✚ 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
- ✚ Resolutions of local civil representatives' hural on establishment of Juvenile Justice Committees
- ✚ Decree of local governors on establishment of Juvenile Justice Committees
- ✚ National programme for prevention of child crime and crime against children

While legal provisions influencing juvenile justice can be found in various laws, including the Law on Crime Prevention, Administrative Law, Law on Temporary Detention of Children without Supervision¹⁶⁴ and Education law, the Criminal Code and Criminal Procedure Code are generally cited as the prevailing legal frameworks governing the treatment of children in conflict the law within the criminal justice arena.

Amendments to the Criminal Code and Criminal Procedure Code in 2002, 2007 and 2008 provide additional safeguards for minors by:

- Setting the minimum age for criminal responsibility at 16 (or 14 when certain offences are committed);
- Requiring the notification and involvement of parents at all stages of proceedings involving minors;
- Mandating the involvement of defence counsel at all stages of criminal proceedings involving minors;
- Providing additional restrictions on the use of pre-trial detention for children, and setting a lower maximum length of detention at 18 months;
- Requiring an educator to be present during interrogation of minors;
- Limiting the duration of interrogations of minors;
- Prohibiting arrest or confinement under guard of minors for crimes that are minor or moderate;
- Allowing minors to be handed over under the supervision of parents or other legal representatives;
- Granting parents or other legal representatives the right to participate in judicial proceedings;
- Obliging the court to consider the possibility of deferring sentences against minors;
- Providing for compulsory measures of an educational nature as an alternative to imprisonment for minors;

- Allowing for the deferment of prison sentences imposed on juveniles, placing them under the supervision of the police, parents or some other organisation;
- Allowing for a reduced imprisonment period for first time offenders who repair the damages and eliminate losses caused by the crime
- Establishing 15 years as the maximum imprisonment period for minors;
- Requiring the separation of minors from adults in all prisons and detention facilities; and
- Prohibiting the death penalty for crimes committed as minors.

While these provisions are significant and provide juveniles some protections within a system designed for adults, in many respects Mongolia's current criminal laws and procedures do not fully reflect the principles of the CRC and UN Guidelines.

The CRC and UN Guidelines emphasise that, while young people must be held accountable for their actions, this must be done in a manner that promotes their rehabilitation and reintegration into society. Whenever possible, there should be alternatives to the formal court system. Depriving children of their liberty, either pre-trial or as a sentence, should be a measure of last resort, for the shortest period of time. Judges should be guided by the principles of proportionality, the best interests of the child, the least possible restriction on the child's liberty and the community's right to safety.

Overall, the system lacks a clear and coherent juvenile justice philosophy, and there is no statement of guiding principles to establish the different goals and objectives that should guide justice sector officials when dealing with children. This guiding philosophy should emphasise accountability in a manner that considers the best interests of the child and promotes his or her rehabilitation and reintegration into society.

Limitations of current legislative provisions for juvenile justice include:

Two minimum ages of criminal responsibility (14 & 16 years old) is contrary to the principles of the CRC and Beijing Rules

Diversion is not authorized by the law at any stage of the criminal justice process by police, prosecutors (for repeat offences; moderate, serious and grave crimes) or judges

Sentencing is very harsh for juveniles; options for sentencing are limited both de jure and de facto (lack of viable structures/services on the ground)

Specific aggravating factors affect how crimes are defined and

categorized, e.g. committing theft and hooliganism in a group or by a recidivist re-categorizes the crime from moderate to a serious offence
Minimum and mandatory penalties in the criminal code apply to minors thereby limiting judges' discretion to tailor the sentence to the individual minor taking into account proportionality and other CRC principles
Weak provisions for the protection of child victims and witnesses at all stages of the justice process

Lack of comprehensive provisions for juvenile justice encompassing: jurisdiction, diversion, arrest, police custody and investigation, pre-trial supervision, trial, sentencing, institutional standards and reintegration, records and privacy

3.4.2 Draft Legal Amendments

Since the current legal environment does not allow for separate, comprehensive legislation, juvenile justice reforms are being initiated within existing legislative frameworks, *inter alia*: the Criminal Code, Criminal Procedure Code, Administrative Law, Law on Court Decision Execution, Administrative Law, Law on Crime Prevention, Law on the Protection of Child Rights and Family Law.

The National Legal Centre (NLC) and National Law School (NLS) independently drafted proposed amendments on juvenile justice.¹⁶⁵ Due to the unavailability of draft NLS (and other NLC) amendments in English, this evaluation report comments solely on proposed NLC amendments to the Criminal Procedure Code (see A-14: National Legal Centre Draft Amendments). Reviews of both NLC and NLS comprehensive amendments, including suggestions on reconciling the two drafts, should be immediately undertaken by key stakeholders (including juveniles) as an initial part of the legislative reform process.

Criminal Code

According to the terms of reference, the NLC agreed to propose amendments to the Criminal Code, the Criminal Procedure Code and other relevant laws with a view towards taking the JJC to national scale and promoting juvenile justice. Although not covered at length in this section, it is crucial for policymakers to re-examine the Criminal Code provisions on classification of offences, aggravating circumstances and mandatory sentencing for juveniles.

A closer analysis of the legal provisions should extend to the tenets and philosophy underlying the provisions of the Criminal Code and Procedure Code. Property-related crimes, for instance, invoke harsh sentences compared to other crimes.¹⁶⁶ Under the Criminal Code, the maximum penalties for aggravated theft (Article 145) and rape (Article 126) are the same. In other words, a juvenile who steals a cell phone with some friends can receive the same sentence as a man who violently rapes a woman: up to 5 years imprisonment. In the same vein, a juvenile who commits robbery (Article 147) can receive a sentence up to *twice as long* as an adult who illegally forces a child into labour (Article 121), or up to *thirty two times as long* as an adult who involves a child in prostitution and other exploitative situations (Article 115).

The impact of aggravating circumstances on crimes committed by juveniles can be draconian. For offences such as theft and hooliganism, committing the crime in a group or by a recidivist is an aggravating factor that can escalate the crime category from moderate to serious, or from serious to grave. Hence, although the underlying offence may be minor, if there are aggravating circumstances it may be tried as a grave offence. A juvenile who steals her classmate's coat, for instance, may be incarcerated for a term of 1 to 3 months. If she steals the coat with a group of friends, and it causes 'substantial damages' she can face up to 5 years imprisonment. Under these same circumstances, if she planned the offence in advance with others, she can face up to 10 years of imprisonment. Or, if the juvenile is a recidivist and steals the coat, she faces up to 15 years of imprisonment.

Whether or not the above outcomes were the original intent of the drafters or legislators, it requires urgent re-examination from a child rights and child-centred perspective and amendments, as appropriate. Moreover, there should be a reassessment of the sufficiency of provisions outlining crimes against children and concomitant penalties.

Criminal Procedure Code

This section offers a preliminary analysis of proposed amendments to the Criminal Procedure Code drafted by the NLC (see A-14: National Legal Centre Draft Amendments). In total, 14 amendments were proposed to existing provisions of the Criminal Procedure Code. Overall, the scope of proposed amendments is limited. While it puts forward several key advances, i.e. diversion, it does not promote comprehensive juvenile justice reforms in line with

international norms and standards. Strategic considerations should weigh the advantages and disadvantages of this piecemeal approach to legislative reform.

The first seven proposed amendments will be outlined, followed by brief comments:

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.
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Comments: other undefined terms should be clarified, i.e. minor, curator, supporter, supervision, termination, legal age, legal entity, etc. The age of a "child" and "minor" should be specified as below 18 years old. The proposed definition of an "educator" should be reassessed in terms of practicality, and whether there are enough professionals who can meet this criterion outside of UB. Otherwise, it risks indefinite delays throughout the criminal justice process, which violates children's right to expeditious proceedings.

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 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.	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 ¹⁶⁷ . The Procurator sends the issue to the Juvenile Justice Committee with the child.
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Comments: this amendment requires clearer, fuller explanatory language to ensure that diversion is properly implemented. While a few of the elements are stipulated here, the below should be considered for inclusion. The advantages and disadvantages of exclusively listing the JJC should also be considered.

- a) Requirement to consider diversion: should this also include police (e.g. for minor crimes) and judges?
- b) Type of offences: should this be broadened to include diversion for repeat offenders of minor or moderate crimes?
- c) Prerequisites for the use of diversion: juvenile admits responsibility; child and parents consent to diversion; there is sufficient evidence to prove the offence.
- d) Obligation to monitor: who should be charged with monitoring and regulating diversion, e.g. Ministry of Justice & Home Affairs?
- e) Types of diversionary measures: should these be listed to facilitate diversion, e.g. verbal warning, formal written warning, oral or written apology, referral to a restorative justice process, compensation or restitution, community service, school/vocational training, supervision and guidance, therapeutic treatment referral, etc? Should the availability of specific diversionary measures be linked to certain offences?
- f) Process for decision-making: should this be assigned to a particular justice sector, or also include assessments by a social worker, JJC coordinator, etc; family group conferencing, or pre-hearing by judges?

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”.
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Comments: see above comments.

4	<i>Article 62. Application of measures</i>	Article 65 of the Criminal Procedure provides to apply restraint measures such as giving under supervision of a surety to an adult	Add the following content to Article 62 of the Criminal Procedure: The following measures of restraint
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	<i>of restraint</i>	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.	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.)
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Comments: this is a relatively narrow list of measures of restraint for juveniles. The supervision of parents, legal representatives, other appropriate adults and temporary foster care should be explicitly (re)stated as a measure of restraint. Other measures can include a promise to abide by specific conditions and the second option can be broadened to include: vocational training, competency development programmes, community service work, 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”.
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Comments: suggest broader protective language here, i.e. special considerations shall be accorded for minor suspects, accused or defendants. Confinement under guard may be imposed on minors who committed an extremely grave crime, but only as a measure of last resort and for the shortest possible period of time.

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:
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			<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.
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Comments: instead of broadening the list here, suggest carving out exceptions to and clarifying the existing list. For instance, provisions 72.1.3, 72.1.4, 72.1.5 shall not be applicable to minors and investigators, procurators and judges shall have the right to impose provisions 72.1.1 and 72.1.2 with consideration for the juvenile’s educational needs and his/her best interests.

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.
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Comments: this should be clarified after key stakeholders determine the mandate, scope and parameters of the Juvenile Justice Committee’s work, including the nuances of the JJC coordinator versus JJC sub-committee’s roles and responsibilities.

The balance of proposed Criminal Procedure Code amendments should be reviewed by a team of diverse legal experts with broad-based knowledge of the legislative reform process, as well as expertise on criminal law and procedures, administrative law, family law, juvenile justice, child protection, etc. From the outset, it is important to:

- determine the overall scope of justice reforms;

- ascertain the JJC's vision, mandate, scope, goal, objectives, and functions in order to ensure that legal provisions accurately reflect and advance the JJC's work;
- understand the broader context, including the social welfare system for children and families and the education system, in order to contextualize provisions specific to the JJC and preclude duplication and parallel structures;
- review these and other amendments (e.g. Criminal Code, Administrative Law, Law on the Protection of Children' Rights, etc) in totality.

If comprehensive justice reforms are undertaken, it is important to promote juvenile justice at all stages of the criminal justice process, as well as articulate measures necessary to prevent juvenile crimes and successfully reintegrate juveniles in conflict with the law. Roles and responsibilities of actors across the *social welfare system*, i.e. social workers, the *education system*, i.e. teachers, and *national bodies*, i.e. NAC, NCC, NHRC, JJC (if taken to scale), etc. should complement existing provisions emphasizing the respective roles of justice sector officials. Furthermore, provisions to better safeguard the rights of child victims and witnesses are required (see Section 4.4: Legislative reform recommendations).

IV. RECOMMENDATIONS

4.1 Overarching

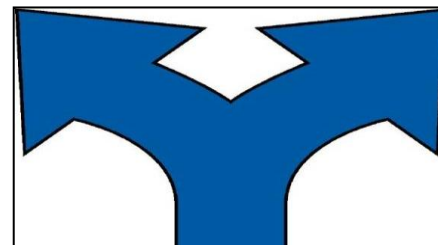
Overarching recommendations set forth in this sub-section are envisioned to take effect from the present through existing (~2011) and upcoming (2012-2016) country programmes, which are endorsed by the Government of Mongolia and UNICEF.

Sections 4.2-4.4 outline detailed recommendations proposed for 2009-2011, the balance of the current country programme. Section 4.5 offers a model 2012-2016 Results Framework on outcomes, outputs and indicators vis-à-vis Justice for Children programming.

4.1.1 Setting the vision

Recommendation: Utilising participatory processes, key stakeholders should collectively develop a vision statement that clearly articulates the long-term vision for achieving justice for Mongolia's children.

While this vision should be aspirational, at the same time it needs to be realistic in light of the country context and socio-economic and political conditions. A vision should be broader than discrete project goals and objectives, should not be limited by the mandate or priorities of agencies, and should span over a number of years, through 2016. This vision should also include a clear model of the national child protection system necessary



If you don't know where your destination (vision) is, any road will take you there

to ensure that justice for children is realised, reflecting current, mid-point and future incarnations. This transcends criminal justice systems and also includes strengthening social welfare systems for children and families and national human rights and child rights bodies, from khoroo/bag up to national levels.

Finally, this vision should guide strategic alliances, future strategies and evidence based programming. Developing a coherent, shared vision of 'justice for children'

and a common understanding of systems building among a broad range of partners is fundamental to advance child protection. This vision should be aligned with the Mongolian Child Protection Strategy.¹⁶⁸

For purposes of this report, the recommendations are based on a general vision ensuring that all children in Mongolia will be: provided access to, better served, and protected by a child-friendly justice system, with clear linkages to the *social welfare system and national child rights and human rights bodies*.

4.1.2 Taking the JJC to national scale

Recommendation: Take the JJC project to national scale progressively using a two-pronged, mutually reinforcing approach: (i) legislative reform (see below) and (ii) replication of the modified JJC in districts and aimags across the country.

The 2009-2016 goal should be to take modified JJC to national scale, with progressive replication whilst solidifying existing Committees. From 2009-2012, existing JJC should be streamlined and standardized, including a common structure and framework, uniform case management forms and standard operational procedures.

In 2009, under the leadership of the Government Cabinet Secretariat and local governors and with the participation of all key stakeholders and technical support by UNICEF, the JJC should develop a strategic plan of action that clearly outlines the steps to be undertaken from local up to national levels, including a replication schedule, methodologies, processes, focal points and timeline. Cost-sharing and in-kind contributions should also be part of this plan, as well as monitoring (i.e. goals, targets and indicators which should be linked to the child protection database) and evaluation.

The replication of the JJC model in four identified aimags (Uvs, Khovd, Khuvsgol and Tov) should reflect this standardized model. Therefore, replication in these four locations should be initiated only after existing JJC are streamlined, revised charters are approved, and standardised forms and procedures are in place. Standardised forms, letter templates, contract templates, sample case files, monitoring tools, financial spreadsheets, reconciliation procedures, etc should be made available to new JJC. Orientation materials, on site trainings and mentoring schemes should also be developed to facilitate replication. Analyses of

the prevalence of juvenile crimes, community needs and resources should help inform the order of priority or investment of energy for replication. Bylaws and charters should be accordingly amended and/or developed for approval by the Cabinet or local Hural.

4.1.3 Leadership & ownership

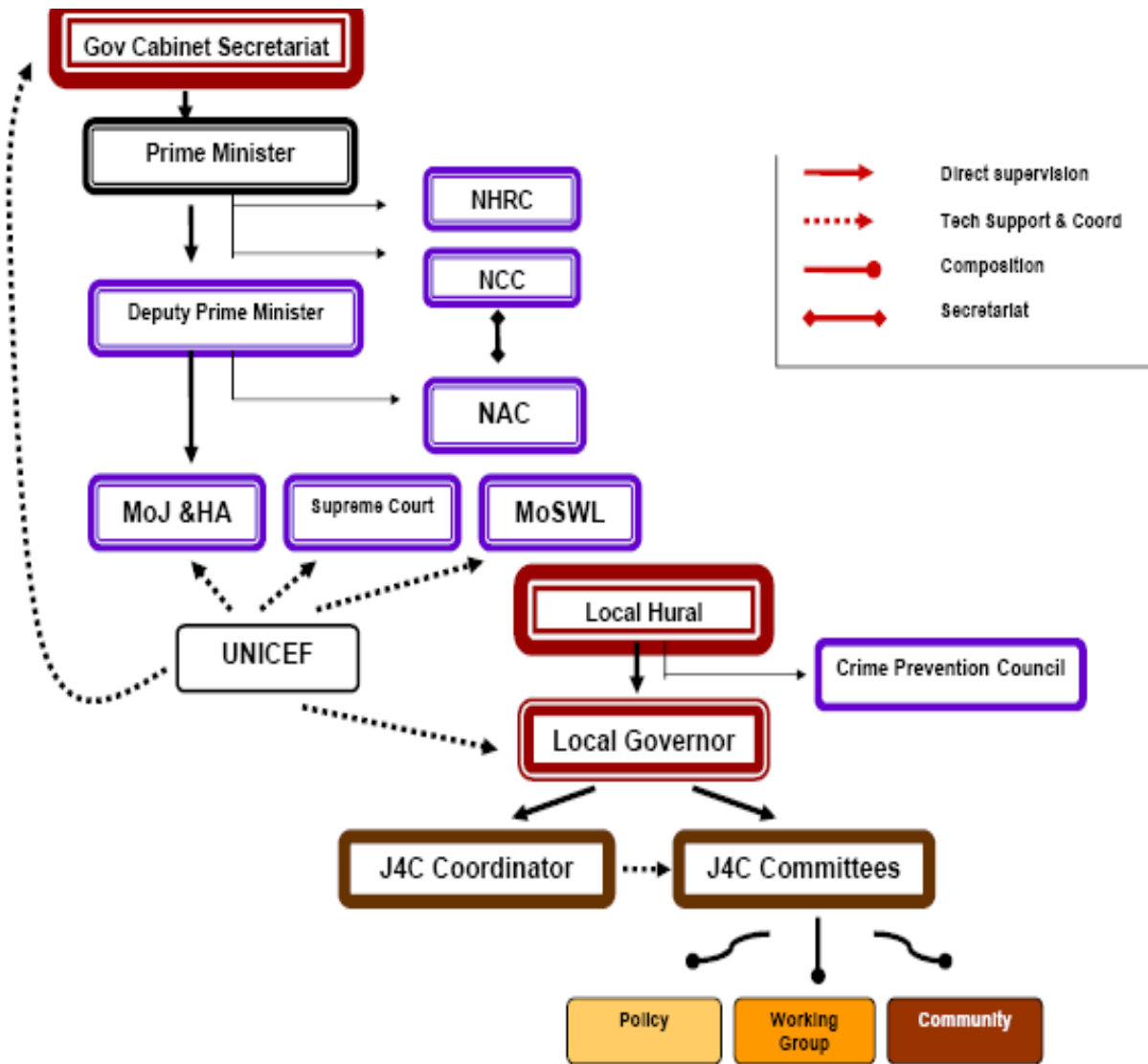
Recommendation: Institute clear lines of leadership, ownership and accountability, as well as specific roles and responsibilities for the management and implementation of the Juvenile Justice Committees (JJC), from local up to national levels. Concrete monitoring and accountability mechanisms should be linked to all levels of JJC functioning and specific entities and actors.

At the national level, the Government Cabinet Secretariat should take leadership and at the local level, the local hural should empower the Crime Prevention Council and appoint the local governor to oversee the administration of the Justice for Children Committee. The Government Cabinet Secretariat, local hural and local governor (denoted by bold red boxes in the diagram below) should be held accountable for the implementation of JJCs, with annual reporting requirements to a designated entity on specific areas.

While the Government Cabinet Secretariat and local hural and governors are tasked with overall leadership, other entities should take ownership of the JJCs at the national and local levels (denoted by purple boxes in the diagram below). Specific roles and responsibilities should be assigned to key entities including lines of accountability and support between the national and sub-national levels. The Secretariat has an (in)direct supervisory line with the Ministries at the national level as well as with the local authorities, which will be crucial in implementation of the JJC.

NAC's role as a top down and bottom up coordinating, policy and advocacy body on children's rights should be well-established in law, policy and practice. UNICEF's role should be limited to technical support, trainings, capacity building initiatives and financial support, as appropriate – primarily to the Government Cabinet Secretariat and local governors to manage the JJCs and thereafter to other key stakeholders, as necessary. Financial support should gradually be phased out as the government initially shares costs and assumes full responsibility for salaries and activities by 2016.

The diagram below proposes an overarching structural framework for the Juvenile Justice Committees, in line with existing structural realities and linking the national level to sub-national levels. Boxes with red borders denote positions of leadership with proposed supervision and reporting accountabilities; purple border boxes denote positions of ownership as these are key entities in the implementation of the J4Cs. UNICEF should move away from its leadership role and instead provide substantive technical support to the Governor Cabinet Secretariat, local governors, ministries and national bodies to assume leadership, management and coordination of the Juvenile Justice Committees. Communications, reporting, information-sharing and other protocols should be developed.



4.1.4 Evidence base & data collection

Recommendation: Develop systematic data collection within the national statistical system on children in conflict with the law, child victims and child witnesses; ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the CRC and UN Guidelines; and seek innovative ways to publish statistics and make statistical information widely available to the public.¹⁶⁹

This should build on efforts underway by UNICEF and government partners to develop a national child protection database (see A-10: Child-Juvenile Justice Statistical Indicators). To date, the indicators emphasize juvenile justice and child labour. It is crucial to re-evaluate and refine these indicators before launching the national child protection database, taking into account:

QUESTIONS	AREAS FOR IMPROVEMENT
<p>✚ Are the indicators SMART (specific, measurable, attainable, relevant & time-bound)?</p>	<p>“# of children whose cases were dismissed” by age, sex, location and crime type – justice sector(s) and reason(s) not specified</p> <p>“# of children who were prevented from crime commitment” – how is prevention measured? Why is source of information limited to the GPD?</p> <p>At times it is unclear at which stage (e.g. pre-trial) information is being sought</p>
<p>✚ Are terms defined to ensure consistency in measurement?</p>	<p>Terms such as “juvenile delinquents”, “torture”, “rehabilitation”, “socialization programme” and “advocacy service” are undefined.</p>
<p>✚ Are there quantitative and policy indicators, organised accordingly and is there logic to the organization of indicators?</p>	<p>Overall organization is not coherent. Content not necessarily consistent with sub-headings, e.g. “attested crimes of child abuse and violence” under “Data on Juvenile Delinquency”¹⁷⁰ sub-heading. Policy indicators and quantitative indicators are not separated for easier reference, and sources of information are incomplete for policy indicators.</p>
<p>✚ Are indicators redundant?</p>	<p>“# of children detained” and “# of</p>

	children serving prison sentences” – both list CDIA as information source
<p>✚ Are there missing indicators?</p>	<p># of children who experienced alternatives to detention during the pre-trial stage by age, sex, offence and location</p> <p>Indicators re witnesses and protections and safeguards for child victims and witnesses, child participation</p> <p># of children participating in hazardous labour, by labour category</p> <p>Child protection systems indicators that gauge the extent of the systems development and functioning</p>
<p>✚ In light of time and resource constraints, are these top priority indicators?</p>	<p>For example, the number of rooms to interview or interrogate a child for case investigation is a good output indicator. A stronger indicator, however, would be child friendly police practices, e.g. % of children who are informed of their legal rights at arrest and before every interrogation; % of children interviewed in child-friendly rooms in accordance with the Criminal Procedure Code (limits on length of interviews, no coercion, etc)</p>
<p>✚ Are categories and classification sufficient?</p>	<p>Inconsistencies with most indicators categorized/disaggregated by age, sex and location and others by location alone – rationale for this is unclear. Similarly for classification, the type of crime and time frames for indicators are inconsistent and without apparent justification.</p> <p>For detention indicators, there should be disaggregated categories for types of detention, e.g. police cell, juvenile detention facility, incarceration, prison.</p>
<p>✚ Are UNICEF global indicators for JJ incorporated into the database?</p>	<p>Some global indicators are included but corresponding definitions are not.</p>

4.1.5 Harmonisation

Recommendation: Ensure that Justice for Children Committees are consistent with and leverage existing initiatives, including *inter alia*: implementation of national programmes of action; governance, access to justice and rule of law initiatives; child protection systems building efforts at the national and community levels; and the UNICEF Education and Convergent Basic Social Services Programmes.

With respect to UNICEF programming, it is recommended that the Child Protection, Education and the Convergent Basic Social Services Programme sectors – under the direction and facilitation of the Deputy Representative -- identify areas with potential implications for cross-sectoral collaboration for future joint actions. As appropriate, UNICEF staff of different sectors should weigh in on respective annual work plans and conduct joint monitoring of programme activities with cross-sectoral dimensions. It is important to note that education can offer a form of child protection in many situations, including within the juvenile justice context. Meanwhile, schools cannot be child-friendly if they fail to address child protection right violations such as violence, sexual abuse and corporal punishment.

With respect to the JJC, CBSS on the ground should explore the possibility of becoming a JJC community team member in the seven locations, commencing with Bayangol, Khentii and Baganuur. Or, JJC should consider integrating its community based activities into the work of the CBSS. JJC and CBSS should also consider collaborating on capacity building initiatives, as well as providing joint technical support on developing social worker job descriptions, accountabilities and coordination on the delivery of social work services.

Recommendation: The Juvenile Justice Committees should also implement recommendations made by the Committee on the Rights of the Child:¹⁷¹

- a) Develop and implement a comprehensive national programme on administration of juvenile justice, including establishment of juvenile courts endowed with appropriately trained professional personnel covering all *aimags*;
- b) Limit by law the length of the deprivation of liberty of persons below 18;

- c) Limit by law the length of pre-trial detention of persons below 18 so that it is truly a measure of last resort for the shortest period of time, and ensure that it is decided by a judge as soon as possible and consequently reviewed;
- d) Encourage the use of alternative measures to the deprivation of liberty of persons below 18, such as probation, community service or suspended sentences;
- e) Where deprivation of liberty is unavoidable and used as a last resort, improve procedures of arrest and detention conditions;
- f) Ensure that persons under 18 have access to appropriate legal aid and defence and independent, child-sensitive and effective complaint mechanisms;
- g) Provide training on relevant international standards to those responsible for administering juvenile justice and consider establishing social worker posts in prisons to assist children in conflict with law;
- h) Ensure that both sentenced and released persons under 18 are provided with educational opportunities, including vocational and life-skills training, and recovery and social reintegration services, in order to support their full development;
- i) Seek technical cooperation and assistance from, inter alia, OHCHR, the United Nations Office on Drugs and Crime Prevention, and UNICEF.

4.1.6 Mongolia Country Programme Mid-term Review

Recommendation: following the mid-term review of the five year Government of Mongolia-UNICEF Country Programme Action Plan, the Child Protection programme should be refined in a few areas: streamlining and standardization of current JJs, replication processes for new JJs, legislative reform, capacity building and finalisation of justice indicators for the national child protection database:

- | | |
|---|--|
| 1 | Clarify JJ management structures, sub-committees (number, purpose, membership, functions, etc) and lines of accountability connecting the JJ to the local governor, local hural, MoJHA, MoSWL, etc. |
| 2 | Amend JJ bylaws and charters in a transparent and participatory process involving key stakeholders, from the outset to conclusion. This should be consistent with legislative reform efforts underway. |

3	Create a plan of action for taking the JJC to national scale, including step-by-step assessment, replication, cost-sharing, monitoring and evaluation. Justification for staffing and budgetary allocation levels to specific sites should be informed by a solid evidence base.
4	Develop guidelines that clearly delineate the decisionmaking, advisory, supervisory, reporting and day-to-day roles and responsibilities of the JJC, the JJC coordinator, as well as the members of each JJC sub-committee.
5	Revise terms of reference for the JJC coordinator and social worker to reflect main functions: to “supervise” children in conflict with the law as an alternative to detention during pre-trial and at sentencing; to help coordinate the delivery of services to children and their families at the local level; and to strengthen networks and capacities. Direct service provision and legal representation should be provided by social workers and defence counsel.
6	Clarify whether the following functions fall under the JJC coordinator or elsewhere: assessment (for court), victim offender reconciliation meetings, legal counselling, reintegration services and advocacy.
7	In line with the national child protection database project, develop a monitoring and evaluation plan that includes indicators; data collection, analysis and utilisation; monitoring and evaluation. This should clearly articulate specific roles and responsibilities by agency/position, as well as information sharing and reporting flows.
8	Standardise a JJC case management system that specifies components of the system, as well as standardises commonly used forms and documents, i.e. JJC services, informed consent form, intake form, assessment form, progress notes, activity plans, individualised plan, contracts (template), reference letters (template), request letters (template), checklist of required documents in every case file, etc.
9	Clearly document all processes, procedures and methodologies used in the JJC programme in order to draw clear lessons, guide replication and facilitate comparative analyses between different locations.
10	Develop concrete training, technical support and capacity building schemes that take stock of current capacities of various sectors. The JJC coordinator’s capacity should also be proactively assessed and strengthened through basic/advanced trainings, mentoring, etc.

Interventions should be aligned with the broader context as well as reflect the magnitude, patterns, forms and dynamics of crimes committed by and against children. Other aspects of refined programming should ensure:

- Child rights based approach to programming
- Gender analysis particularly for crimes against children
- Results based management

- Generation and use of knowledge including good practices and lessons learned
- Strategic partnerships
- Incorporation of children’s and families’ views at all stages of programme design, implementation, monitoring, and evaluation
- Sustainability

4.2 Research || 2009 ||

4.2.1 Social budgeting

Recommendation: With a view towards bridging gaps in the realisation of children’s protection rights, develop child-friendly budgets linked to economic and social policies based in part on a cost-benefit analysis of:

- ☐ JJC/J4Cs against pre-trial detention, incarceration and imprisonment, as well as service provision from pre-trial to trial to probation and reintegration
- ☐ the lack of diversion for minor and moderate crimes (at a minimum), taking into account costs of formal justice proceedings including time and efforts expended by police inspectors and investigators, prosecutors, judges, legal advocates and the community-based social services sector

4.2.2 Evidence based prevention

Recommendation: To inform a comprehensive, evidence-based prevention strategy, conduct comprehensive research on the underlying and contributing factors as well as supply and demand dimensions (for certain offences) of crimes committed by and against children. Good, promising and ineffective practices should be documented and linkages explicitly drawn to child protection systems at the national and local levels. Based on the results of the research, BCC interventions should be tailored for targeted groups as response *activities*.

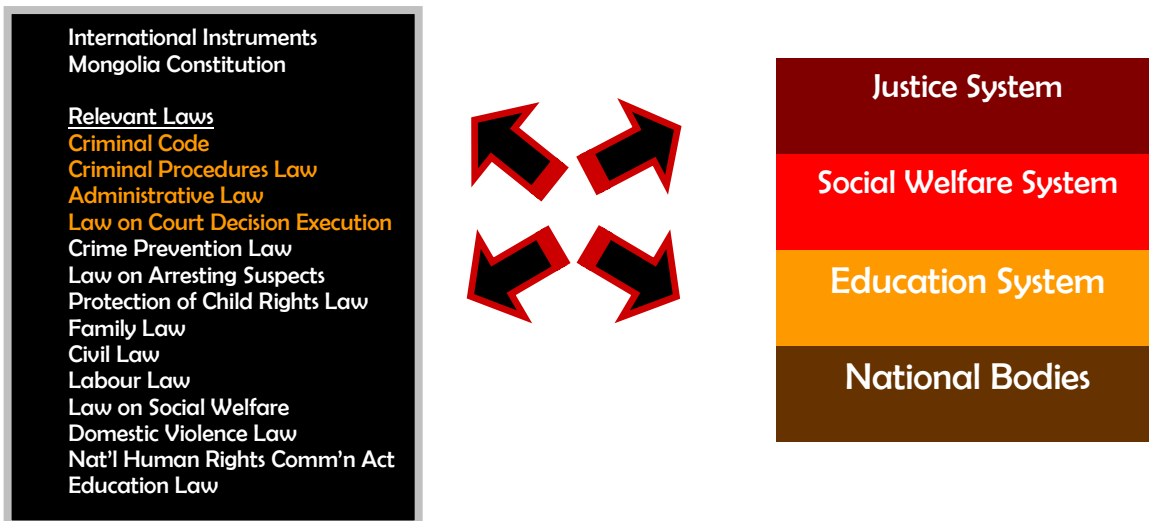
It is important to note the significance of the media’s role and interpersonal communications dimensions related to prevention activities. Prevention efforts

linked to a media campaign or BCC activities are critical to raising target groups' awareness on specific issues of concern and either deterring them from, or empowering them to take, certain actions that prevent crimes from being committed by and against children.

4.3 Legislative Reform || 2009-2010 ||

4.3.1 Legislative Amendments

Recommendation: Separate juvenile justice legislation should not be pursued. Comprehensive amendments to all relevant laws should be enacted to promote justice for children. To facilitate deliberation and approval, draft National Legal Centre and National Law School amendments should be reconciled, consolidated and revised to reflect the broader justice for children direction.



The above diagram illustrates how promoting justice for children requires amendments to numerous laws which impact the justice system, social welfare system, education system and national human rights and child rights bodies. This includes comprehensive amendments to existing laws on juvenile justice, as well as child victims and witnesses.

At a minimum,¹⁷² legislative amendments on juvenile justice should include a single minimum age of criminal responsibility, recommended at 16 years old regardless of the nature of offence. The maximum age for special juvenile justice

protections should be 18 years old. At all stages of the criminal justice process, detention of children should be used as a last resort, and for the shortest appropriate period of time.

Moreover, diversion should be authorised at the discretion of prosecutors and judges for all first time juvenile offenders of minor and moderate offences, as well as repeat offenders of minor offences. Prerequisites should be established for the use of diversion: the child admits responsibility for the alleged offence; the child and his/her parents consent to the diversion; and there is sufficient evidence to prove the offence. Diversion options should be stipulated, including:

- verbal warning
- formal written warning
- oral or written apology
- referral to a restorative justice process such as a victim offender reconciliation meeting
- referral to the Justice for Children committee
- compensation or restitution
- community service work
- school or vocational training
- supervision and guidance of parents, legal representatives, Justice for Children committee coordinator, educator, or NGO
- participation in a competency development programme
- referral to a therapeutic treatment programme

With regard to arrest, police custody and investigation, there should be explicit safeguards incorporated in legislative amendments, including:

Prohibition on the use of violence, coercion or handcuffs, except in exceptional circumstances	Use of arrest and police custody as a last resort, and totally prohibited for minor offences	Alternatives to formal arrest shall be used in minor cases, such as issuance of a summons
Obligation to explain legal rights in a child-	Requirement to separate children from adults	Requirement that all police interviews of

friendly manner during arrest and before each interrogation

during police custody children are videotaped

Any mandatory or minimum penalties for juveniles should be prohibited. In determining sentencing, there should be a provision requiring that the least restrictive options are considered first and detention imposed only if other alternatives have been considered and deemed inappropriate. Sentencing options should also be expanded, encompassing:

- admonishment or reprimand
- good-behaviour bond
- referral to the Justice for Children committee
- community service work with limits
- order to participate in counselling or treatment
- community supervision and guidance order
- intensive support and supervision order
- order to attend a reporting centre (non-residential) for a specified duration

Furthermore, legislative amendments should also include provisions concerning child victims and witnesses, defined as “children and adolescents, under the age of 18, who are victims of crime or witnesses to crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders.”¹⁷³ Criminal Code provisions on crimes against children should be reviewed to assess compliance with international instruments ratified by the Government of Mongolia, namely the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Hague Convention on Intercountry Adoption, Forced Labour Convention and the Worst Forms of Child Labour Convention.

The UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime should serve as a basis for legislative amendments related thereto.¹⁷⁴ The

rights of child victims and witnesses set forth in the UN Guidelines are summarised below:

- the right to be treated with dignity and compassion
- the right to be protected from discrimination
- the right to be informed
- the right to be heard and to express views and concerns
- the right to effective assistance
- the right to privacy
- the right to be protected from hardship during the justice process
- the right to safety
- the right to reparation
- the right to special preventive measures

4.3.2 Bylaws & charters

Recommendation: Ensure that the Justice for Children committee bylaws and charters are consistent with proposed legislative amendments on children in conflict with the law, child victims and child witnesses. Clear lines of leadership, responsibility and accountability, as well as monitoring mechanisms, should be explicit in the J4C charter. The charter should also delineate the J4C's goal, objectives and activities and set out joint indicators (consistent with child protection database indicators), benchmarks and targets for achievement. Budgetary allocations and a progressive cost-sharing plan by central and local governments should be incorporated into the J4C charter.

4.4 JJC Paradigm Shift || 2012-2016 ||

This sub-section recommends a JJC paradigm shift with the inception of the new country programme, effective 2012 through 2016.

4.4.1 Advocacy

Recommendation: From 2009 - 2012, UNICEF, UNDP, NLC, NAC and partners should intensify advocacy activities to promote the *Justice for Children* concept as

well as strengthen capacity building for key justice and social welfare professionals. This should be done in preparation for the 2012-2016 country programme moving towards the establishment of a structural Justice for Children framework that broadens the current JJC mandate and scope, as detailed below.

Advocacy strategies should draw upon research and evidence, including:

- links between crimes committed by children and against children
- examination of laws and policies, mapping of structures and initiatives vis-à-vis child protection including juvenile justice – noting national obligations, as well as implementation overlaps, intersections and gaps in prevention and response
- analysis of costs and benefits of issue-specific interventions (JJC) versus more systematic, child-focused interventions (J4C)
- analysis of intangible costs of crimes committed against children
- interviews of political and community leaders, justice and social welfare officials to ascertain views and concerns in order to develop an effective advocacy strategy that addresses their concerns or promotes their views
- successes of the Justice for Children approach undertaken in other countries across the East Asia and Pacific region, and globally
- effective communication strategies in the Mongolian context

4.4.2 Mandate, scope & structure¹⁷⁵

Recommendation: Coinciding with the upcoming MTR in 2014, the current name, mandate, target population, scope and structural framework of the Juvenile Justice Committee should be amended as follows:¹⁷⁶

Name: Justice for Children Committee (“J4C”)

Mandate: Justice for Children Committees will ensure that all children are: provided access to, better served, and protected by a child-friendly justice system with clear linkages to the *social welfare system and national child rights and human rights bodies*, whether the children are:

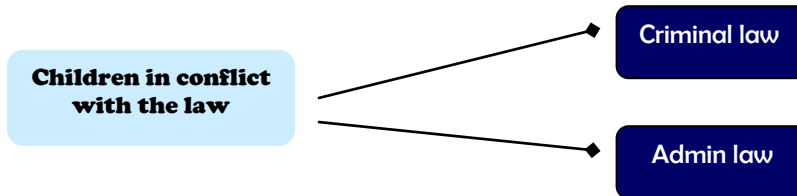


or if they require:¹⁷⁷

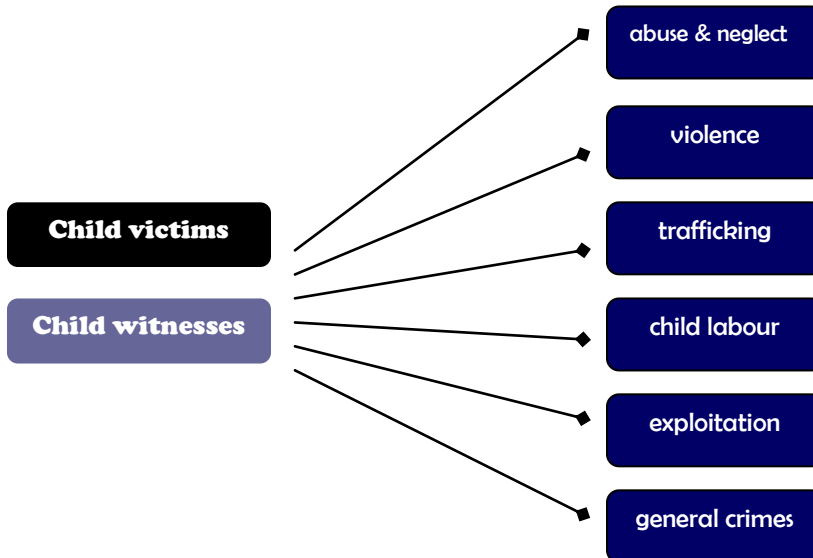


Target Population. Justice for Children Committees should serve three main groups of children:

1



2



3

Scope: Justice for Children Committees should be responsible for both *prevention and response* to children in conflict with the law, child victims and child witnesses.

It should be underscored that this does not relegate full responsibility for prevention and response to the J4C coordinator, nor should parallel structures and services be created. On the contrary, the J4C coordinator should help coordinate crime prevention activities (crimes by and against children), child protection and service delivery based on existing structures and also help strengthen capacities, quality of services, monitoring and accountability. The J4C coordinator should not engage in direct service provision other than maintaining responsibility for 'supervision' of a juvenile in conflict with the law. J4C coordinators should not serve as defence counsel, in any of the locations, due to potential conflicts of interest. Further, J4C coordinators should strengthen the capacity of advocates/defence counsel to provide legal counselling and effective representation throughout criminal justice proceedings. The job description of the J4C coordinator should be revised accordingly.

It is important to remember that although used interchangeably, the JJC Coordinator is not the JJC Committee. Likewise, the envisioned J4C Coordinator is not synonymous with the J4C Committee, which will be composed of members representing a range of justice, social welfare and child rights entities. Within existing mandates, they are already collectively responsible for preventing crimes, exploitation, violence, abuse and neglect, as well as responding to children in conflict with the law, child victims and witnesses. Therefore, while the J4C formalises a streamlined network to promote justice for children, it does not create "new" duties or responsibilities per se. Key to scaling up are the changed attitudes and behaviours of key stakeholders, in particular justice and social welfare officials and professionals, to assume their respective complementary functions under the Justice for Children framework.

J4C Coordinators should provide coordination, advisory and technical support to J4C Committees. Oftentimes the same institutions, as well as justice, social welfare and child rights officials, are charged with preventing and responding to issues concerning children in conflict with the law, child victims and child witnesses. This approach also recognises the interdependence of child protection concerns and hence, the need for an integrated solution. Children in conflict with the law, for instance, may also be victims of violence, exploitation, abuse or neglect. This approach promotes child protection systems building and is more efficient and sustainable over the long term.

Structural Framework. For a broader framework of the J4C, see section 4.1.3. This sub-section covers the structural framework of the Justice for Children committee. According to the JJC model, there are three sub-committees: policy, working group and community team. Before the J4C replicates this model wholesale, a mapping exercise is warranted to map who is officially responsible for what and where at the aimag, district/soum and khoroo/bag levels, what they are doing in practice, and the strengths and barriers to effective and coordinated service delivery.

This should also identify areas of duplication and overlap with existing structures, namely the Crime Prevention Council, local child protection councils and committees, and community based networks. If the membership and functions of the prospective J4C and respective groups are virtually identical, it is advisable to streamline them into a single entity. Whether that entity falls under the J4C or is maintained per current structure with formal linkages to the J4C, what is important is that key functions are covered, lines of accountability are clear, and work is carried out to promote justice for children. The J4C structural framework should be designed based on the findings of the mapping exercise. If J4C sub-committees are created, it is important to outline: purpose, membership, roles, duties, decisionmaking authority, quorum, review of decisions, conflict resolution, meeting rules, secretariat, etc.

4.4.3 Monitoring & evaluation

Recommendation: A detailed monitoring and evaluation (M&E) plan should be developed as an intrinsic part of the Justice for Children programme design. Some tips are provided below:

Indicators

- Based on the national child protection database, the selection of indicators should match the level of progress, i.e. impact, outcomes, outputs, etc.
- Benchmarks and targets should be set
- Terms of art and concepts should be defined
- Sources of verification should be identified

Baseline Data

- Necessary data to be collected & requisite resources
- Data collection tools and methods
- Timeline
- Staff capacity

Planning for Data Collection

- Essential data to be collected throughout the life cycle of the programme to monitor indicators
- Data collection tools and methods to be utilized
- Frequency of data collection
- Person(s) responsible for data collection
- Staff/logistical capacity to collect data
- Data collection reflected in work plan
- Clearly articulated roles and responsibilities for national and local government

Planning for Data Analysis & Use

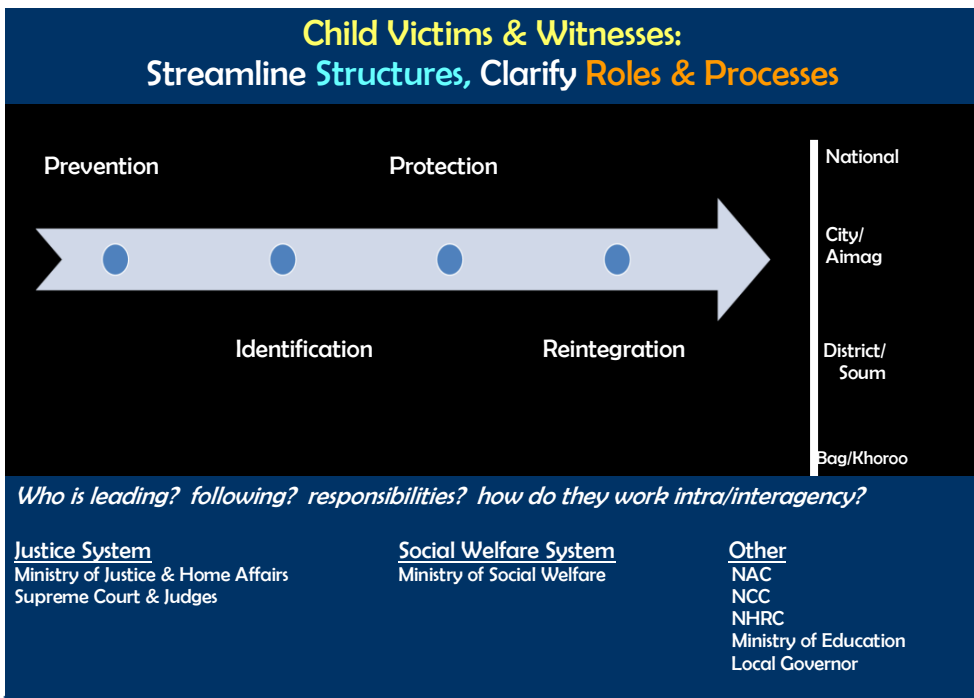
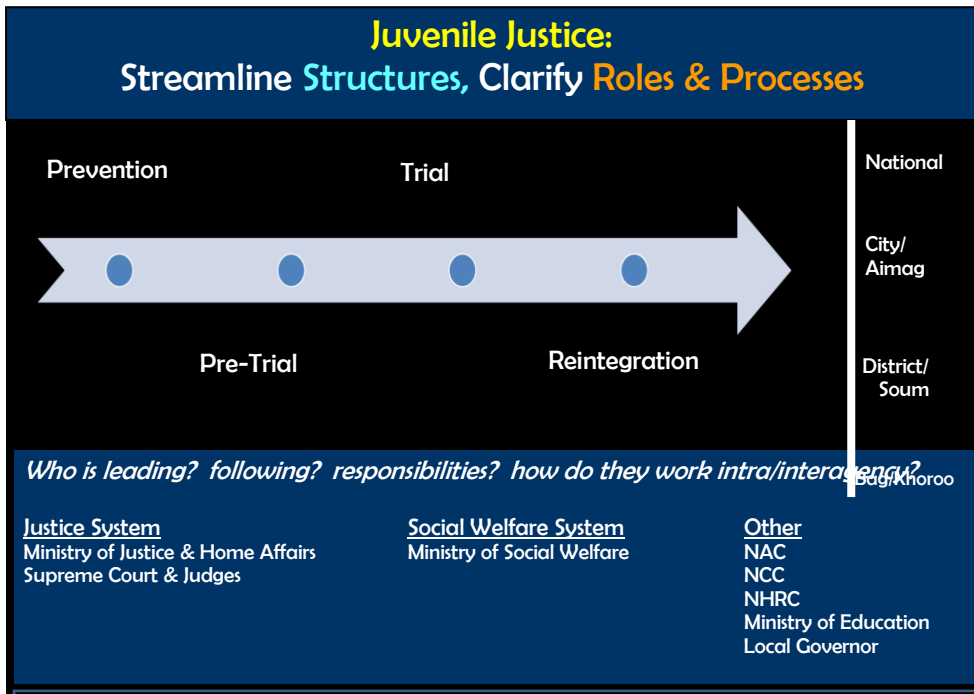
- Frequency of data analysis
- Person(s) responsible for data analysis, including oversight
- Participation of staff, stakeholders, etc in data analysis discussions
- Presentation of data
- Person(s) responsible for decision-making based on data analysis, including refinement of programming
- Communication to staff, partners, stakeholders, donors, etc
- Clearly articulated roles and responsibilities for national and local government

4.4.4 Coordination, cooperation & coherence

Recommendation: As one preliminary step towards ensuring improved coordination, cooperation and coherence, there should be a mapping of all structures relevant to justice for children, including their functions and services, at the national and local levels. This map should also provide a visual representation of the interrelationship of structures at various levels, representing the government, the private sector and civil society.

An analysis of this map should point out structural bottlenecks, including disjointed organisation of structures, such as split lines of accountability of related agencies, e.g. NAC and NCC, and tenuous links between NAC and social welfare agencies. The mapping exercise should also capture strengths as well as gaps in service delivery and conformance with international standards.

The diagrams below offer some guidance on how structures should be mapped not only by level and function, but also vis-à-vis roles at various stages of the process, and interrelationships.



4.4.5 Communication for Development¹⁷⁸

Recommendation: Communication for Development (C4D) should be one of the main components of the Justice for Children programme. C4D can give voice to children, their families and communities to promote child protection. C4D can support social mobilisation, advocacy and behaviour and social change initiatives in order to obtain stronger programme results and policy change to tangibly benefit children in conflict with the law, child victims and child witnesses.

4.5 Realising Justice for Children || 2012-2016 ||

4.5.1 Systems building approach

Recommendation: Adopt a systems building approach to justice for children that mutually strengthens the justice and social welfare systems, and national rights bodies, to comprehensively prevent and respond to children in conflict with the law, child victims and child witnesses. From 2012 through 2016, the Justice for Programme focus should put into practice legislative reforms (presumably enacted), strengthen institutions to prevent harms and protect children, initiate processes to facilitate implementation and solidify an evidence base to inform programming, policy and advocacy.

4.5.2 CPD: proposed outcomes, outputs & indicators

The following Results Framework is presented here for illustrative purposes. It offers preliminary suggestions for a results framework on Justice for Children programming from 2012 through 2016. As this framework is premature, it should serve as a basis for future programming.

UNICEF Programme Component: Justice for Children

Expected Outcomes (Institutional and behavioural level results)	Expected Outputs (Project level results)	Output indicators	Means of Verification
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<p>Strengthened justice and social welfare systems at the national and local levels, which are promoting justice for children in conflict with the law, child victims and child witnesses</p>	<p>Child Protection Systems development</p> <p>Services & Capacities</p> <p>Monitoring & Accountability</p> <p>J4C functioning</p>	<p>Articulated vision, strategy and structure of child protection systems, from local up to national levels</p> <p># of Justice for Children committees functioning in districts and aimags across the country</p> <p># of community-based child protection service delivery networks linked to J4Cs with formal referral mechanisms</p> <p># of curricula on justice for children institutionalised in orientation and in-service trainings for justice and social welfare sectors</p> <p># of social welfare professionals with detailed job descriptions</p> <p># of performance evaluations that assess whether judges, prosecutors, police and social workers are employing child-friendly methodologies</p> <p>Child rights ombudsperson in place; child-friendly mechanisms; # of reports</p>	<p>MoSWL records</p> <p>J4C documents National CP database</p> <p>MoSWL records J4C documents National CP database</p> <p>J4C documents MoJHA records MoSWL records Training curricula</p> <p>J4C documents MoSWL records Job descriptions</p> <p>MoJHA records Court records MoSWL records</p> <p>NHRC records</p>
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<p>Passage and effective implementation of legislative amendments on juvenile justice, child victims and child witnesses</p>	<p>Approved amendments to the National indicators on justice for children (as per the national database) established that institutionalize and operate for programme planning, policy and advocacy purposes</p> <p>Existing policy developed comprehensive National Database on Justice for Children established including effective prevention of the protection of children of conflict with the Protection of the Rights of the Child (witnesses)</p> <p>Justice for children programming modified based on evidence and analysis generated</p>	<p># of (independent) mechanisms national database with disaggregated data on children in conflict with the law, national standards and child guidelines by age, sex, location, social or ethnic origin, education, offence, outcome, service provision, etc</p> <p># of child friendly reporting and complaints mechanisms for child witnesses and institutionalized that up the law justice for children of international justiciary, the monitoring database</p> <p>% of CPC budget allocated for the prevention of juvenile crimes and studies, research and evaluations on justice for children that inform programming policy and for justice for children initiatives</p>	<p>National CP database</p> <p>National CP database</p> <p>J4C documents</p> <p>MoJHA records</p> <p>J4C documents</p> <p>UNICEF Mongolia tracking</p> <p>National and local budgets</p> <p>J4C documents</p> <p>UNICEF Mongolia tracking</p> <p>National annual budget</p>
		<p>% of children diverted who enter a pre-sentence diversion scheme</p> <p>duration of pre-sentence detention</p> <p>% of sentenced children who receive dispositions that are alternatives to imprisonment, i.e. forced disciplinary/ educational measure, deferred or conditional sentence, etc.</p> <p>duration of sentenced detention</p> <p>rate of juvenile recidivism</p>	<p>MoJHA records</p> <p>MoJHA records</p> <p>Court records</p> <p>Court records</p> <p>J4C documents</p> <p>MoJHA records</p>

Endnotes

¹ Lessons learned and recommendations will also feed into the UNICEF Mongolia Mid-Term Review (MTR) exercise planned for the second quarter of 2009.

² As outlined in UNICEF Mongolia's evaluation standards (internal document).

³ Nearly all official respondents waived anonymity and confidentiality.

⁴ UN, 2008.

⁵ *Situation Analysis of Children and Women in Mongolia*, UNICEF Mongolia, 2007, p. 9.

⁶ *ibid*, p. 10. Source: National Statistics Office (2006), *Mongolian Statistical Yearbook 2005*, Ulaanbaatar.

⁷ *ibid*, p. 8.

⁸ *ibid*, p. 11. Source: National Statistics Office (2006), *Mongolian Statistical Yearbook 2005*, Ulaanbaatar.

⁹ *ibid*, pp. 11-12.

¹⁰ *ibid*, p. 12.

¹¹ Country Programme Action Plan: 2007-2011, Government of Mongolia -UNICEF, February 2007, p 3.

¹² *ibid*.

¹³ *ibid*, p. 13.

¹⁴ Many factors have changed the characteristics of family lifestyle during the transition: (i) the overall household income, (ii) the potential earnings of parents in the labour market, (iii) the affordability of mothers to work outside the home in the absence of State-provided childcare services, (iv) the availability and affordability of substitutes for childcare, (v) women's level of education (which influences her employment potential and salary level), and (vi) the overall cost in money and time of raising a child into sustainable adulthood. *ibid*, p. 14.

¹⁵ Over the past four years, there has been an increase in the number of divorces from 5.1 percent in 2002 to 10.8 percent in 2005. *ibid*, p. 14.

¹⁶ *ibid*, p. 14.

¹⁷ *ibid*, p. 21.

¹⁸ *ibid*, p. 29.

¹⁹ *ibid*, p. 30.

²⁰ *ibid*, p. 7.

²¹ *Juvenile Justice in Mongolia*, UNICEF Mongolia, 2002, p. 5.

²² *ibid*, p. 7.

²³ *ibid*, p. 11.

²⁴ *Juvenile Justice in Mongolia*, p. 13.

²⁵ During 2001-2004, theft, mugging/robbery, and hooliganism account for almost 70-80 percent of crimes committed by children. *ibid*. Theft is by far the most common crime committed by young people, followed by hooliganism. In urban areas, this generally takes the form of pick-pocketing and stealing in market areas and train stations. In rural areas, it is mostly livestock theft. In addition, older children reportedly intimidate, steal and extort money from younger school children. *Juvenile Justice in Mongolia*, p. 12.

²⁶ *Situation Analysis*, p. 72.

²⁷ *Juvenile Justice in Mongolia*, p. 12.

²⁸ National Centre against Violence, General Police Department and Save the Children, 2002. *ibid*, p. 72.

²⁹ *ibid*. pp. 72-73.

³⁰ *Juvenile Justice in Mongolia*, p. 13.

³¹ *Situation Analysis*, p. 58.

³² See Articles 114-126, Criminal Code of Mongolia.

³³ See Articles 116, 117, 119 respectively, Criminal Code of Mongolia.

³⁴ *Juvenile Justice in Mongolia*, p. 14.

³⁵ Sources: c – National Statistical Office (2004), National Child Labour Survey, Ulaanbaatar; d – Ministry of Justice and Home Affairs (2005); e – Elimination of Child Pornography and Child Prostitution and Trafficking. *Situation Analysis*, p. 59.

³⁶ *ibid.*, pp. 66-67.

³⁷ Country Programme Action Plan, Government of Mongolia-UNICEF, February 2007, p. 5.

³⁸ *ibid.*

³⁹ *ibid.*

⁴⁰ *ibid.*, pp. 68-69.

⁴¹ *ibid.*

⁴² *ibid.*, pp. 70-71.

⁴³ *ibid.*, pp. 70-71.

⁴⁴ *ibid.*, pp. 70-71.

⁴⁵ UN Committee on the Rights of the Child, CRC/C/15/Add.264, 21 September 2005, para. 59.

⁴⁶ Situation Analysis, pp. 61-62.

⁴⁷ *ibid.*

⁴⁸ Country Programme Action Plan, p 5.

⁴⁹ The CRC states that every child alleged as, accused of, or recognised as having infringed the penal law has the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others, and which takes into account the child's age and the desirability of promoting his or her reintegration and the child's assuming a constructive role in society. State parties to the CRC are obliged to establish special laws, procedures, authorities and institutions specifically applicable to children in conflict with the law, and to develop alternatives to the formal court system.

⁵⁰ CRC articles specific to juvenile justice are Articles 37 and 40. It is very important, however, to regard Articles 37 and 40 in the context of the overall framework of the CRC and its main 'umbrella rights,' including: Art. 6 (the right to life, survival and development); Art. 3.1 (the best interests of the child as a primary consideration); Art. 2 (non-discrimination on any grounds); Art. 12 (the right to 'participation'); and Art. 4 (implementation). In addition, other issues of child justice should be examined and addressed comprehensively as part of justice reform for children.

⁵¹ Juvenile Justice in Mongolia, p. 4.

⁵² 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.

⁵³ Interview with Mr. Narangeral, head of the Mongolian National Law School, 26 March 2009.

⁵⁴ While prosecutors retain a strong oversight role in all aspects of investigation and court decision enforcement, decision-making authority over issues of arrest and detention has been shifted to the Courts. *Juvenile Justice in Mongolia*, p. 9.

⁵⁵ Articles 5 and 6, Law on Crime Prevention, 1997.

⁵⁶ Situation Analysis, p. 4.

⁵⁷ Aimag, soum and district governors are directed to plan and implement integrated measures to eliminate juvenile crime and to organise voluntary citizens patrol units. The Programme states that 5% of the resources allocated for crime prevention under the Law on Crime Prevention should be allocated for juvenile crime prevention activities. Specific laws and rules have also been developed to reduce juvenile crime and to permit police to exert control and supervision over street children and children identified as being at risk of criminal behaviour. *Juvenile Justice in Mongolia*, pp. 9-10.

⁵⁸ Interview with Mr. Narangeral and Mr. Amarbayasgalan, Mongolian National Law School, 26 March 2009.

⁵⁹ CRC/C/15/Add.264, p 18, para. 66-67.

⁶⁰ This section was excerpted in relevant part from *Juvenile Justice in Mongolia*, UNICEF Mongolia, 2002, pp. 8-10.

⁶¹ Situation Analysis, p. 30.

⁶² *Juvenile Justice in Mongolia*, p. 27.

⁶³ Interview with Nasan-Ulzii Enkhnasan, senior officer, Ministry of Social Welfare and Labour of Mongolia, Strategic Planning Department, 30 March 2009.

⁶⁴ *ibid.*

⁶⁵ *ibid.*

⁶⁶ Interviews with social workers, Bayangol and Baganuur districts, March 2009.

⁶⁷ Country Programme Action Plan: 2007-2011, UNICEF Mongolia, February 2007, pp 9-10.

⁶⁸ *ibid.*, p 8.

⁶⁹ Situation Analysis, p 7.

⁷⁰ Strategic Choices for Creating a “Child Friendly” Juvenile Justice System in Mongolia, internal UNICEF document, October 2007, p 1.

⁷¹ 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.

⁷² Interview with Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 17 March 2009.

⁷³ Strategic Choices for Creating a “Child Friendly” Juvenile Justice System in Mongolia, p 1.

⁷⁴ The Working Group, headed by Secretary of State Tserendorj, includes representatives from the Ministry of Justice and Home Affairs, General Prosecutor’s Office, National Police Agency (Crime Prevention Division), Pre-trial Detention Center, the Juvenile prison, National Board for Children, Advocates Association and the National Human Rights Commission.

⁷⁵ Juvenile Justice in Mongolia, p 4.

⁷⁶ Legal reform working group includes Mol (chair), National police agency, Supreme court, Metropolitan police, National prosecution agency, Bar Association, National Agency for Children, Court decision executing agency, Human rights commission of Mongolia and Mongolian child rights centre (NGO). Purpose: creation of a child-friendly legal environment – work includes research on the implementation of child rights, child protection and juvenile justice legislation towards the development of recommendations for an improved legal framework; capacity building of justice professionals (incl. a training manual for professionals, in-service training and an academic curriculum at BA level); advocacy for the replication of juvenile justice committees across the country; drafting of legal amendments; fostering of cross-sectoral cooperation.

⁷⁷ Interviews with Berina Arslanagic, chief of child protection, UNICEF Mongolia, 17 March 2009; Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 17 March 2009; and Yameen Mazumder, deputy representative, UNICEF Mongolia, 30 March 2009.

⁷⁸ Interview with Ms. Narantuya, head, Foreign Relation Division, Ministry of Justice, 18 March 2009.

⁷⁹ Interview with Berina Arslanagic, chief of child protection, and Amaraa Dorjsambuu, child protection officer, UNICEF Mongolia, 17 March 2009.

⁸⁰ Interview with Mr. Narangerel, Mr. Amarbayasgalan and Ms. D. Solongo, National Law School, 26 March 2009.

⁸¹ Juvenile Justice Committee Charter, 2006.

⁸² Interviews with Ms. Narangua, Baganuur JJC coordinator, 19 March 2009; Ms. Dulma, Khentii JJC coordinator, 22 March 2009; Ms. Tsembeima, Bayangol JJC coordinator, 30 March 2009; and Ms. Myagmarsuren, Local Parliament Anti-Crime work coordinator and member of the local Crime Prevention council, 27 March 2009.

⁸³ This diagram represents the broad common strokes of JJ committees in Bayangol, Baganuur and Khentii based on the trip report of Anne Grandjean, child protection specialist, UNICEF headquarters, October 2008. In practice, there are slight variations with regard to membership and functions.

⁸⁴ Trip Report of Shelley Casey, regional child protection legal specialist, UNICEF EAPRO, October 2007.

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- ⁸⁵ *ibid.*
- ⁸⁶ *ibid.*
- ⁸⁷ Focus group discussion with 14 members of the Bayangol Joint Community Team, 30 March 2009.
- ⁸⁸ Juvenile Justice Committee Charter, 2006.
- ⁸⁹ Interview with Oyunbold, Odonchimeg, Odongerel, Ganchimeg, Oyunerdene and Banzragch, staff of the National Legal Centre, Ulaanbaatar, 18 March 2009.
- ⁹⁰ This sentiment was expressly repeatedly by various stakeholders, including juveniles, parents, social workers, police, prosecutors and local community actors.
- ⁹¹ Based on interviews with JJC coordinators, children, parents, social workers and justice sector officials in Bayangol, Baganuur and Khentii.
- ⁹² Mongolian National Law School professor Mr. Narangerel developed drafted new Criminal law on his own initiative. The law draft includes provisions on juveniles that reflected UNICEF findings. The National Legal Centre developed draft amendments to the existing Criminal Code, Criminal Procedure Law and other laws.
- ⁹³ According to Expected Output 19.2, the Criminal Code and Criminal Procedures Law (CC &CPL) will be revised and amendments approved by the Parliament; the indicator is the percentage of domestic violence cases treated in conformity with the law.
- ⁹⁴ Interview with Khugi Khurelmaa, monitoring and evaluation officer, UNICEF Mongolia, 17 March 2009.
- ⁹⁵ Interview with Khugi Khurelmaa, monitoring and evaluation officer, UNICEF Mongolia, 17 March 2009.
- ⁹⁶ See Article 11.2.10 of the Law on the Protection of the Rights of the Child.
- ⁹⁷ Written evaluation comments by Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 30 March 2009.
- ⁹⁸ Article 21, Criminal Code.
- ⁹⁹ Juvenile Justice in Mongolia, p 12.
- ¹⁰⁰ Written evaluation comments by Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 30 March 2009.
- ¹⁰¹ While there are Khentii court statistics available on the outcome of cases involving children in conflict with the law, there is no information on the victims of these crimes.
- ¹⁰² Focus group discussions with local administrative unit leaders, Baganuur, 21 March 2009; joint community team, Bayangol, 30 March 2009.

¹⁰³ Interview with Ms. Davaadulam, governance practice manager, UNDP, 30 March 2009.

¹⁰⁴ There are approximately 11 lawyers who receive a small fee from the JJC to represent children in conflict with the law in Bayangol, Baganuur and Khentii.

¹⁰⁵ Guidance Note of the Secretary-General: United Nations Approach to Justice for Children, Interoffice Memorandum, Executive Office of the Secretary-General, 2 September 2008. Under the leadership of UNICEF in close cooperation with the Rule of Law Unit, this Guidance Note is the result of consultations among justice for children and rule of law specialists within the organization and has been endorsed by the Rule of Law Coordination and Resource Group.

¹⁰⁶ Focus group discussion with joint community team, Bayangol, 30 March 2009.

¹⁰⁷ Juvenile Justice in Mongolia, p 46.

¹⁰⁸ Interviews with parents in Bayangol and Ms. Battengel and Ms. Otgonnorov, Bayangol prosecutors, 27 March 2009.

¹⁰⁹ Interviews with L. Chinbat, police inspector and N.Gulbanu, police investigator, Baganuur, 20 March 2009 and Mr. Uuganbaatar, prosecutor, Baganuur, 20 March 2009.

¹¹⁰ Interview with juvenile, March 2009.

¹¹¹ Interview with juvenile, March 2009.

¹¹² Interview with juvenile, March 2009.

¹¹³ Interview with juvenile, March 2009.

¹¹⁴ Interviews with Ms. Munkhdelger and Ms. Erdenechimeg, private attorneys for juveniles affiliated with the Attorney's Association of Mongolia, Bayangol, 27 March 2009.

¹¹⁵ Interviews with Oyun, inspector, Altantsetseg, inspector, and Enkhee, inspector, Bayangol police, 27 March 2009.

¹¹⁶ According to Article 62'1 of the Criminal Code, in case a person under the legal age who has committed for the first a crime liable to imprisonment sentence according to the Special Part of the Criminal Code has repaired the damages and eliminate the losses caused by the crime, the court may impose an imprisonment sentence for a period shorter than the minimum period for the crime under the Special Part of the Criminal Code considering the personality and the nature of the crime and the reduced imprisonment period shall not be shorter than one seconds of the minimum term defined in the Special Part of this Code.

¹¹⁷ Interview with Judge Tuya, juvenile judge, Baganuur, 20 March 2009.

¹¹⁸ Interview with Oyunbold, Odonchimeg, Odongereel, Ganchimeg, Oyunerdene and Banzragch, staff of the National Legal Centre, Ulaanbaatar, 18 March 2009.

¹¹⁹ *ibid.*

¹²⁰ Juvenile Justice in Mongolia, p 90.

¹²¹ Interview with juvenile, March 2009.

¹²² Interview with juvenile, March 2009.

¹²³ Juvenile Justice in Mongolia, pp 93-95.

¹²⁴ *ibid.*

¹²⁵ *ibid.*

¹²⁶ The sentencing report generally includes information collected by inquiry officers or investigators about a juvenile's background and character, including the juvenile's criminal history, family circumstances, schooling and employment, and any underlying factors that contributed to the criminal conduct.

¹²⁷ Interview with Ts.Saikhanjargal, juvenile judge, Khentii, 24 March 2009.

¹²⁸ Mitigating factors include being under the age of 18 at the time the offence was committed, voluntary compensation of the damage caused or correction of the harm, committing a minor or less serious crime for the first time due to accidental circumstances, and expressing sincere remorse (Article 55). Aggravating factors include repeated commission of a crime, committing a crime in a group, inflicting serious consequences, committing a crime while drunk, committing a crime in a dangerous manner or with use of firearms, explosives, etc, or committing a crime repeatedly during the period of probation or before being deemed as having no criminal record (Article 56).

¹²⁹ Interview with Judge Tuya, juvenile judge, Baganuur, 20 March 2009.

¹³⁰ Interview with Ts.Saiikhanjargal, juvenile judge, Khentii, 24 March 2009.

¹³¹ Interviews with Judge Tuya, juvenile judge, Baganuur, 20 March 2009 and Ts.Saiikhanjargal, juvenile judge, Khentii, 24 March 2009.

¹³² For example, the minimum penalty for robbery is five years imprisonment, for theft committed repeatedly or in a group the minimum is two years imprisonment, for inflicting less serious bodily injuries in a group, three years, for appropriation of property by fraud if committed repeatedly or in a group, two years, or if committed by a recidivist five years, and hooliganism committed with a weapon, five years.

¹³³ Incarceration is defined as the separation of a person from society in a solitary confinement facility for a term of one to six months. It cannot be imposed on anyone under the age of 16 at the time the crime was committed, according to Article 51 of the Criminal Code.

¹³⁴ Interview with Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 31 March 2009.

¹³⁵ Interview with Ts. Tuya, juvenile judge, Baganuur, 20 March 2009.

¹³⁶ This funding may only be used for: financing training and publicity activities on crime prevention 17 organised by law enforcement agencies and NGOs; offering incentives to patrols, guards and community inspectors; awarding bonus to citizens, business and organisations who actively participate in crime prevention activities; and reimbursing citizens who suffered material loss while participating in crime prevention activities.

¹³⁷ Three levels of prevention are outlined in the Crime Prevention Law.

¹³⁸ *ibid.*

¹³⁹ Juvenile Justice in Mongolia, p 11.

¹⁴⁰ *ibid.*

¹⁴¹ This was reported by all juveniles and parents interviewed.

¹⁴² Juvenile Justice in Mongolia, p 16.

¹⁴³ Interview with N.Gulbanu, juvenile inspector, Baganaur, 20 March 2009.

¹⁴⁴ Joint interview with Ms. Tsogzolmaa, head, District Agency for Children and Ms. Narangua, JJC coordinator, Baganaur, 29 March 2009.

¹⁴⁵ Interviews with juveniles in Baganaur, Bayangol and Khentii, March 2009.

¹⁴⁶ Interview with juveniles, Bayangol, March 2009.

¹⁴⁷ Interviews with Ms. Javzankhuu, advisor, Deputy Prime Minister's office, 26 March 2009; Nasan-Ulzii Enkhnasan, senior officer, Ministry of Social Welfare and Labour of Mongolia, Strategic Planning Department, 30 March 2009; Bertrand Desmoulins, representative, UNICEF Mongolia, 17 March 2009; and Injinash Dashdejid, legal reform officer, UNICEF Mongolia, 30 March 2009.

¹⁴⁸ Interviews with Ms. Togtokhnyam, head, National Authority for Children, 17 March 2009; Nasan-Ulzii Enkhnasan, senior officer, Ministry of Social Welfare and Labour of Mongolia, Strategic Planning Department, 30 March 2009.

¹⁴⁹ Focus group discussion with joint community team, Bayangol, 30 March 2009.

¹⁵⁰ Interview with Nasan-Ulzii Enkhnasan, senior officer, Ministry of Social Welfare and Labour of Mongolia, Strategic Planning Department, 30 March 2009.

¹⁵¹ *ibid.*

¹⁵² Focus group discussion with joint community team, Bayangol, 30 March 2009.

¹⁵³ Interview with Mr. Bayasgalan, state secretary, Ministry of Justice & Home Affairs, 18 March 2009.

¹⁵⁴ Trip Report of Shelley Casey, regional child protection legal specialist, UNICEF EAPRO, October 2007.

¹⁵⁵ This sub-section is drawn from the monitoring of JJs in Bayangol, Baganuur and Khentii by Amaraa Dorjsambu, child protection officer, UNICEF Mongolia, February 2009.

¹⁵⁶ Most of the case files have assessment forms that provide information on the following: name of a child, names of his/her parents and other co-habiting relatives; their employment status; and address of residence; information related to the offence for which he/she is suspected or accused: child's reaction and participation of a lawyer/advocate; information related to a condition of a child at home and his/her behaviour; relationship with friends, child's interest and hobbies; other relevant information: age of a child at the time of offence, causes of crime etc; measures to be taken to positively discipline a child and to prevent re-offending; reference/request letter for the child to the law enforcers; activity plans to work in multidisciplinary teams. This important form can provide a wealth of information if properly filled out. However, some of the information seems to be subjective and judgmental. Therefore, close guidance, training and supervision are required for the JJ coordinators.

¹⁵⁷ This sub-section is drawn from the technical support trip of Shelley Casey, regional child protection legal specialist, UNICEF EAPRO, October 2007.

¹⁵⁸ Evaluation standards, UNICEF Mongolia.

¹⁵⁹ Group interview with Oyunbold, Odonchimeg, Odongerel, Ganchimeg, Oyunerdene, Banzragch, legal staff, National Legal Centre for Children, 18 March 2009.

¹⁶⁰ Interview with Bertrand Desmoulin, representative, UNICEF Mongolia, 17 March 2009.

¹⁶¹ The Committee on the Rights of the Child expressed concern that budgetary allocations for children are still insufficient to respond to national and local needs for the promotion and protection of children's rights. The Committee was particularly concerned at disparities between rural and urban areas with respect to services provided to children. CRC/C/15/Add.264, p 5.

¹⁶² Interview with Ms. Javzankhuu, advisor, Deputy Prime Minister's office, 26 March 2009.

¹⁶³ See Juvenile Justice Committee Charter, 2006.

¹⁶⁴ The Law on the Temporary Detention of Unsupervised Children allows the police to apprehend and detain unsupervised children for up to 14 days if their address, parents and guardians are unknown, and there is a potential threat to their life or health due to lack of parental supervision. In addition, decrees issued by the Ministry of Justice and the National Police Agency give the police the authority to impose supervision over street children and children who have been identified as being at risk of delinquency.

¹⁶⁵ Interviews with Oyunbold, Odonchimeg, Odongerel, Ganchimeg, Oyunerdene and Banzragch, staff of the National Legal Centre, Ulaanbaatar, 18 March 2009; and Mr. Narangerel, Mr. Amarbayasgalan and Ms. D.Solongo, National Law School, 26 March 2009.

¹⁶⁶ Under the Criminal Code, crimes are classified according to the social danger and the gravity of punishment to be imposed as minor, moderate, serious or grave.

¹⁶⁷ 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.

¹⁶⁸ Currently pending endorsement by the Government of Mongolia.

¹⁶⁹ Based on the Concluding Observations of the Committee on the Rights of the Child on Mongolia, CRC/C/15/Add.264, 21 September 2005, pp 5-6.

¹⁷⁰ The terms juvenile delinquents or juvenile offenders should generally be avoided; children in conflict with the law is the preferred term of art.

¹⁷¹ Concluding Observations of the Committee on the Rights of the Child on Mongolia, CRC/C/15/Add.264, 21 September 2005, pp 18-19.

¹⁷² For guidance on developing a model juvenile justice law, see Section 4.5: Drafting Juvenile Justice Legislation, Child Protection Programme Strategy Toolkit Justice for Children section, Bangkok, UNICEF EAPRO, January 2009.

¹⁷³ See UN Economic and Social Council. 25 May 2005. Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. E/CN.15/2005/L.2/Rev.1, p 6.

¹⁷⁴ For additional guidance, see A-15: Child Victims & Witnesses Checklist.

¹⁷⁵ See Guidance Note of the Secretary-General: United Nations Approach to Justice for Children, Interoffice Memorandum, Executive Office of the Secretary-General, Unofficial version of the Mongolian Child Protection Strategy (pending official approval), 2009; 2 September 2008; Child Protection Programme Strategy Toolkit Justice for Children section, Bangkok, UNICEF EAPRO, January 2009; and UN Economic and Social Council. 25 May 2005. Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. E/CN.15/2005/L.2/Rev.1.

¹⁷⁶ This is consistent with future directions based on an interview with Berina Arslanagic, chief of child protection, UNICEF Mongolia, 17 March 2009.

¹⁷⁷ From 2009-2016, structural investments will focus on children in conflict with the law, child victims and child witnesses while the next phase (2017-2021) should target children requiring care and custody and protection.

¹⁷⁸ C4D is defined as a systematic, planned and evidence-based strategic process to promote positive and measurable individual behaviour and social change that is an integral part of development programmes, policy advocacy and humanitarian work. C4D uses dialogue and consultation with, and participation of children, their families and communities. It privileges local contexts and relies on a mix of communication tools, channels and approaches. C4D is not public relations or corporate communications. See <http://origin-www.unicef.org/cbsc/index.html>