

JUVENILE JUSTICE SYSTEM REFORM

ASSESSMENT GUIDELINES

The present paper provides a framework and a checklist of issues to be addressed in the juvenile justice assessments to be undertaken by UNICEF in several countries of CEE/CIS in 2008. These guidelines will not be applied to the same extent or exactly in the same manner in each country, due to the fact that juvenile justice systems may be at different stages of formation or reform, and that UNICEF may be playing a different role from one country to another.

This process will be led by a head researcher in close collaboration with national counterparts, in the context of UNICEF Country Offices' mobilisation for juvenile justice reform in each country. These guidelines are organised along four clusters for assessing i) the system; ii) the reform; iii) UNICEF's contribution; and iv) data collection and analysis. This document is not a questionnaire to be administered to informants, but rather a common tool for all players involved to ensure that the different assessment steps (desk review, interviews, focus group discussions, visits) do address the same core issues.

I. GUIDELINES FOR ASSESSING THE JUVENILE JUSTICE SYSTEM

The ultimate aim of support for juvenile justice reform is to bring the system and all its components into compliance with the CRC and related international standards concerning juvenile justice. This requires a comparison of the strengths and weakness of the various components of the system as they are now with their strengths and weaknesses at the time the decision to undertake reform was made.

These guidelines on assessment of the system focus on the main components of the system in terms of their functions. Some overlapping is unavoidable because some institutions serve more than one purpose. (Community based programmes, for example, may serve children at risk, children referred through diversion programmes and children who receive non-custodial sentences; detention facilities may contain children held for investigation, children awaiting trial and children convicted of an offence.) These guidelines may be applied flexibly, taking into account the situation in each country.

In order to provide an overview of the system as a whole, two maps should be prepared: one on the structure of the system, identifying the various actors/components and their mandates, functions and roles; and another on procedures and measures, that describes the working of the system from the perspective of a child who comes into contact with it.

1. Prevention

The assessment should indicate the concept and approach to prevention prevalent prior to the beginning of current efforts to reform the juvenile justice, the infrastructure and programmes then employed for this purpose, and summarize any criticisms of the then-prevailing approach, capacity and/or practices that the evaluation team considers relevant.

The efforts made to introduce reforms in this area and results to date should be described. If no such efforts have been made, the reasons should be stated. If efforts have been made, the extent they were successful and the reasons for the degree of success should be assessed.

Issues to be addressed include:

Is prevention of delinquency cited as a reason for placing children in residential facilities when community-based services would be appropriate? (See art.37(b) of the CRC and Riyadh Guideline No.46)

Are any prevention policies or practices discriminatory? Are sufficient efforts made to distinguish between children who are victims of abuse, neglect and exploitation and those who are at risk of offending?

What programmes and methods are used to reduce the risk of offending? Are they adapted to the needs of the beneficiaries and the social and economic context? Are efforts made to involve and assist the child's family, where possible?

Is the coverage of existing preventive programmes sufficient? To what extent are the human and material resources allocated to prevention programmes adequate?

If prevention programmes have been in operation long enough according to their initial mandate, have they been evaluated? If so, what type of evaluation was it (self-evaluation? external?) and what are the conclusions?

Is there data on re-offending, and if so what does it reveal? Has there been any evaluation of the impact of alternative sentencing on re-offending rates, and if so what does it reveal?? If there is no such data, how do key informants assess the effectiveness of existing programmes?

Are prevention programmes adapted to the needs and specificities of different groups of children (gender, age groups, native languages)?

The assessment of prevention policies and activities may take into account the 1990 UN Guidelines on the Prevention of Juvenile Delinquency, also known as the Riyadh Guidelines, especially Parts I (Fundamental Principles), III (General Prevention) and IV C (Community-based Programmes).

2. Policing and the investigation of criminal activities

Police have an important role to play in protecting the rights of children in conflict with the law, as well as child victims of crime. They are usually the first point of contact between a child and the justice system. Police officers who have frequent contacts with children should have special training, and special police units should be established where feasible. (Beijing Rule No.12)

The provision of the CRC most relevant to the role of police in the juvenile justice system is the first paragraph of article 40, which indicates that children should "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 the child's reintegration and the child's assuming a constructive role in society."

Issue to be addressed:

Key informants should be requested for their views about the police attitudes towards juvenile offenders and children at risk, and their treatment of them. Non-discrimination, as a principle and in practice, should be explored especially in light of the gender and ethnicity of children perceived or alleged as being in conflict with the law. Key informants should also be requested to comment on prevailing attitudes, background, training and standards of policing and investigation in relation with children.

Another important criterion for evaluating the role of the police is the prohibition of illegal or arbitrary detention of children. (CRC Art.37(b)) Illegal detention is detention that is not authorized by the law; arbitrary detention is detention that is unnecessary or disproportionate, even if it may be authorized by the laws or regulations in force.

Issues to be addressed:

The assessment should summarize the legal standards concerning the detention of children and indicate, as far as possible, the extent to which these standards are respected. In addition, the issue should be addressed of whether children are sometimes detained for insufficient reasons when other methods of responding to the situation that brought them into contact with the police would be more appropriate. Key informants are likely to be the best source of information on this.

When a child is detained or held for questioning, his or her parents should be notified immediately, if possible. (Beijing Rule 10.1) Children deprived of liberty also have the right to legal assistance and to contact someone able to provide it, and the right not to be forced to make a confession or give evidence. (CRC art.37(d) art.40.2(b)(iv), Havana Rule 18(a)) Because they are more vulnerable to pressure than adults, children deprived of liberty should not be questioned about their possible involvement in criminal activity unless a lawyer or other 'support person' is present. In addition, children who are taken into custody by the police because of suspected involvement in criminal behaviour must be presented to a prosecutor or judge without delay.

Issues to be addressed:

Compliance with the duty to inform parents, access to legal aid and prompt presentation to a judge or prosecutor should be assessed. Issues include whether law and regulations are compatible with these standards; whether they are complied with in practice and what factors, if any, hinder compliance.

Children detained by the police or other authorities have the right not to be housed with adults, and to humane treatment that takes into account their age and any special needs they may have. (CRC art.37(c), Havana Rule No.27)

Issues to be addressed:

The Havana Rules contain standards on the treatment of children detained for any reason, and should be taken into account in an assessment of the treatment of children held by the police. It will not be feasible to assess compliance with all the rules, but the most significant departures from them should be mentioned. Rules 31 to 37 concern physical conditions.

3. Diversion

Diversion is a way of dealing with offences committed by children without adjudication. It prevents stigmatization resulting from trial, permits a more rapid resolution of the case and, in certain kinds of cases, may be conducive to resocialisation or rehabilitation than formal adjudication. It also has the advantage of not burdening the courts with cases that can be easily resolved. Since forgoing adjudication means renunciation of the legal rights of accused persons, diversion must be accepted voluntarily. (CRC art.40.3(b), Beijing Rule 11.3)

Diversion sometimes takes simple forms, such as a warning. Often it takes the form of an agreement by the child to participate in a programme to prevent re-offending, to make certain changes in lifestyle (e.g. attend school or obtain employment) or to repair the damage done.

Issues to be addressed :

There are three main issues concerning diversion: whether it exists; its scope, and its effectiveness. If diversion exists, what kind of programmes are available? Are they authorized by law and regulations? Is the capacity and geographic availability of diversion programmes sufficient, given the incidence and patterns of offending? Do the authorities have discretion to use diversion in any case in which they believe it would be beneficial, or is it available only in certain types of cases?

If so, to what extent is diversion actually applied? At which stages of the judiciary procedure? What types of diversion are mostly used? Are they adequately followed-up by reintegration measures?

If data on re-offending by juveniles who have participated in diversion programmes exists, it should be analyzed to see whether any conclusions can be drawn about their effectiveness. If not, the views of key informants may be the only way to assess the effectiveness of diversion programmes.

4. Adjudication and sentencing

Children accused of an offence have all the procedural rights listed in the second paragraph of article 40 of the CRC, including the right to be presumed innocent; the right not to be obliged to give evidence (also known as the right to remain silent); the right to legal assistance; the right to be tried without delay; the right to present witnesses, the right to equality before the court, and the right to appeal. Some of these rights, including the right to legal assistance, the right not to be coerced into a confession and the right to equal treatment, apply during the pre-trial stage of proceedings.

They also have some rights that accused adults don't have: the trial should be closed to the public, the child's identity should not be made public and the child's parents should normally be present at trial.

Underlying all these rights is the right to be treated like a child, that is, "in a manner consistent with ... the child's sense of dignity and worth ... and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society." (CRC art.40.1) The Committee on the Rights of the Child has stated that proceedings "shall be conducted in an atmosphere of understanding" and underlined the importance of explaining the proceedings, possible consequences and options to the child in a way that enables him or her to participate meaningfully. (General Comment No.10, para.2.d, citing Beijing Rule 14.1) The arrangement of the room where proceedings take place and the dress and conduct of participating officials may make the atmosphere more (or less) conducive to the understanding and participation of the accused juvenile.

In many cases involving children accused of an offence, victims and witnesses also are children. In such cases, the UN Guidelines on Justice in Matters involving Child Victims and Witnesses also apply. The atmosphere that should exist when children participate in a trial as victims or witnesses is similar to which should exist when a child is the accused.

Issues to be addressed:

In assessing the compliance of legal procedures with the CRC it is not necessary to assess separately respect for each procedural right listed in art.40.2. The assessment should, however, comment on the degree to which the right to be presumed innocent, the right to remain silent, the right to legal assistance and the right to be tried without delay

are recognized and respected in practice, and should point out any other significant issues regarding other procedural rights.

The atmosphere in trials of accused children should be assessed through interviews with key informants.

The principle that deprivation of liberty should be a last resort and for shortest appropriate period of time applies to the sentencing of juvenile offenders, as well as to detention prior to trial. (CRC art.37(b)) Although States have discretion in deciding how this principle should be applied, there are some guidelines that should be taken into account in the assessment. The Beijing Rules indicate that custodial sentences “shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences ...”. (Rule 17.1(c)) The appropriateness of imposing a custodial sentence also depends to a large extent on whether the prior record and circumstances of the offender suggest that resocialisation in a non-custodial, community-based programme is likely to be successful or not. Furthermore, if a custodial sentence is considered to be necessary, the amount of time considered necessary for resocialisation or rehabilitation should be a primary consideration in determining the length of the sentence.

Issues to be addressed:

Both law and practice should be assessed for compatibility with this principle. Data on the sentencing of juvenile offenders may be useful in assessing compliance this principle in practice, depending on the indicators used. In the alternative, data on the population of offenders in residential programmes may be useful.

5. The treatment of convicted juveniles

A. Residential facilities

The assessment of the treatment of juvenile offenders in residential facilities should cover five types of issues: the structure of the system; physical conditions; programmes; interaction with staff and other inmates, and contact with family and community. All of these issues are covered by the Havana Rules, which should be taken into account in the assessment.

Issues to be addressed include the following:

Is the capacity of residential facilities small enough to allow individualized treatment of inmates? Are they distributed throughout the territory in such a way as to facilitate contact between inmates and their families and communities? Are juvenile offenders confined in adult facilities due to the lack of specialized facilities for juvenile offenders?

Physical conditions need not be assessed in detail, but significant deficiencies in terms of overcrowding, sanitation, diet, water and sheltering from extremes of climate should be noted.

Are the criteria for classifying juvenile prisoners and arrangement for housing different groups adequate, in particular from the perspective of protection from peer violence?

The programmes and activities offered should be assessed in the light of the Havana Rules, including the methodology used to rehabilitate inmates and access to recreation, sports, education, work/vocational training and religious and other counselling. These programmes should be reviewed as part of the desk study, as well as in interviews and visits. Informants should be asked whether and, if so, how they think these could be improved, and how feasible this would be.

Interactions with staff and other inmates should be assessed in terms of measures taken to prevent violence and exploitation, access to medical care, disciplinary procedures and sanctions, and procedures for investigating complaints and any other procedures allowing inmates to express their views on matters of concern to them.

Assessment of contact with family and the community should address issues such as support for contact between juveniles and their families, participation in activities in the community, activities of community organisations in the facilities, policies concerning early release and preparation for return to the family or community.

Access to facilities for external observers and independent monitoring bodies should be assessed both in practice and by law.

Any programmes for supporting offenders after release should be described and any available information as to their value and effectiveness should be summarized.

B. Non-residential programmes

Some of the non-custodial measures imposed on convicted juveniles – such as fines – are based mainly on deterrence. Non-custodial sentences that do not include participation in some activity designed to reduce the risk of re-offending need not be assessed (except from the perspective of sentencing, above).

Other non-custodial sentences are designed to provide the offender with assistance calculated to reduce the risk of re-offending and/or to oblige the offender to accept changes in life style designed to reduce the risk of re-offending. Examples include participation in programmes providing a combination of remedial or vocational training, counselling and supervision, or orders that require the offender to attend school or seek employment. Some include community service or reparation of the victim. Such programmes often resemble prevention and diversion programmes - except that participation is not voluntary - and the criteria for assessing them will be similar.

Issues to be addressed:

One of the main issues is what kind of community-based programmes for sentenced offenders exist, and whether their capacity is sufficient to facilitate compliance with the principle that children should not be deprived of liberty except as a last resort. The kinds of programmes that exist, and their location and capacity should be described. Do key informants believe that some convicted offenders are sent to custodial facilities because appropriate non-custodial facilities are not available?

The assessment of existing programmes should focus primarily on their programmes and staffing. Does the case load of the staff responsible for counselling, supervision and similar activities allow them to attend adequately to the needs of individual offenders? Is their training sufficient? Do they appear sufficiently motivated? What is the approach to rehabilitation? Does the kind of assistance offered seem to be appropriate given the needs and potential of the beneficiaries and the socio-economic context? Does the community support these programmes, and do the programmes take advantage of potential sources of support in the community?

The criteria used for evaluating such programmes, if any, should be indicated, and any available data on the impact of such programmes should be summarized. The most relevant indicator is re-offending, but other indicators that may be used, such as the number of beneficiaries who find employment or return to school, also should be reported.

II. GUIDELINES FOR ASSESSING THE PROCESS OF JUVENILE JUSTICE REFORM

1. Policies and advocacy

The Committee has indicated that the CRC “requires States parties to develop and implement a comprehensive juvenile justice policy”, and that such policies must reflect the fundamental principles recognized by the CRC. They must be based on the best interests of the child and designed to further the child’s right to develop; they must respect the inherent dignity of every child and see the child in the context of his or her family; and they must not discriminate and must avoid treating social problems as crimes. (GC No.10, paras.4-14) They should seek to preserve public safety by facilitating the active and constructive participation of children in society, rather than viewing them as objects of socialization or control. (GC-10 para.14, Riyadh Guideline 3) Successful implementation of a prevention policy “requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.” (Riyadh Guideline 2) Advocacy is essential to win support for juvenile justice policies compatible with the rights of the child.

Issues to be addressed include:

Has a national policy concerning juvenile justice been adopted? If so, in what context was it adopted? What authority approved it? What governmental bodies participated in developing the policy?

What role, if any, did civil society have in developing the policy? Did the views and experiences of children contribute in any way to the development or adoption of the new policy?

What influence, if any, did research or empirical data have?

What factors led to recognition of the need for a new policy? What social, political or other actors, if any, actively advocated a change in policy? What influence, if any, did international actors (UNICEF, the Council of Europe, the Committee on the Rights of the Child, international foundations or NGOs) have?

Did public opinion actively support or oppose the new policy at the time it was adopted? Has public opinion regarding the policy changed since it was adopted, and if so how?

What are the most important differences between the present policy and the previous policy or policies?

To what extent is the new policy compatible with the CRC? To what extent has it been put into practice? What factors, if any, have slowed or hindered implementation of the policy?

2. Law reform

Laws in a sense forms the skeleton of a system of juvenile justice. Laws often define the roles of the various actors that make up the system. In principle they determine when children will come into contact with the system. They should recognize the rights set forth in articles 37 and 40 of the CRC and establish rules and procedures that give practical meaning to principles such as the ‘last resort’ principle. It is therefore essential to assess the progress made in bringing the national law into conformity with the CRC and related international standards, as well as the actual implementation of such laws and related legal norms or regulations.

Informants should be sought among MPs that are or have been involved in JJ related legal reform, as well as representatives of the Ministry of Foreign Affairs, Legal Department.

Issues to be addressed include:

Has an analysis of the compatibility of the national law with the CRC and other relevant standards (eg. EU accession, CoE) been carried out? Has an analysis of the compatibility of national law with the provisions of the CRC and other international standards specifically concerning juvenile justice been carried out? If so, what were the conclusions and the outcomes of this process ?

If so, what were the conclusions? What impact did the analysis have on law and policy makers? To what extent have the recommendations concerning juvenile justice been carried out?

Was a strategy for law reform adopted and, if so, by whom? What was the strategy, if any, and to what extent did it have the expected results?

What groups and institutions support(ed) law reform? What groups and institutions, if any, opposed it? What was done with a view to creating a consensus, overcoming opposition or consolidating support? To what extent were the methods or approaches used successful?

If new legislation concerning juvenile justice has been adopted or old legislation amended, is the new or amended law sufficient to bring the national law into conformity with the CRC and other international standards? If not, please identify and explain the shortcomings.

Was the cost of implementing new legislation estimated as part of the process of law reform? If so, how did costing affect the process of law reform and implementation of the new legislation, if adopted?

Are or were new regulations necessary in order to reform the juvenile justice system? If so, have they been adopted and implemented?

If laws concerning juvenile justice have been amended or new laws or regulations have been adopted and entered into force, has their impact been evaluated or assessed? If so, what are the results?

3. Administrative reform, restructuring and allocation of financial resources

Laws alone are not sufficient to change the impact of a juvenile justice system has on children. Programmes and facilities needed for implementation of the law must be established. New bodies may be established to carry out new functions, or functions may be shifted from one ministry to another, from the central to local government or from government to civil society.

The assessment shall distinguish mere administrative re-structuring from administrative reform as part of a comprehensive juvenile justice system.

Issues to be addressed include the following:

Any reforms or restructuring affecting the juvenile justice system or components of the system that have been considered or undertaken should be described, and their

consequences, if any, should be assessed. Administrative reforms or restructuring would include, for example, redefining the aims of any component of the system, introducing new policies or programmes, establishing specialized units or departments, shifting responsibility for certain functions from one ministry or department to another, or establishing new professional categories.

If any such reforms or restructuring have been undertaken, the reasons for them and their aims should be described, and their consequences assessed. This should be done primarily through interviews with key informants, although in some instances statistical data might be relevant, depending on the nature of the reforms.

All components of juvenile justice systems require a sufficient level of resources in order to function adequately. The process of juvenile justice reform also usually requires the allocation of additional resources.

Issues to be addressed include:

The assessment should indicate whether the financial provisions for human and material resources made available to support the juvenile justice system during the period under review were globally sufficient and what impact, if any, insufficient resources have had on the goals of the juvenile justice reform process. Questionable decisions as to priorities in the allocation of resources (e.g. investment in areas having less impact than other areas lacking sufficient resources) if any, should be noted. The usage of local and community resources also should be assessed. Has the community made any additional contribution (eg. volunteers, infrastructure, donations?)

4. Training and capacity building

The Committee on the Rights of the Child has stated that "It is essential for the quality of the administration of juvenile justice that all the professionals involved ... receive appropriate training", including training about the CRC and other relevant international standards, training about child psychology, child development and the causes of offending, and training about methods and techniques for working with juvenile offenders and children at risk. (General Comment No.10, para.33)

Training should be provided at entry into service, and throughout one's career. It should be reinforced by practices that encourage professionals and paraprofessionals to use the knowledge and skills they have acquired, and reward them for developing their abilities. Training that includes activities designed to develop or reinforce appropriate attitudes and values, as well as to impart knowledge and teach skills, also may be useful.

Issues to be addressed include:

Were training needs evaluated? Were budgets foreseen for training and for additional human resources? Was staff made available for training? Is training provided in-service? Is training on juvenile justice planned as a one off specialisation? Is it regular, and if so, how regular?

What was the strategy for training? Was training regarding juvenile included in broader training regarding the rights of children, or offered separately? Were separate activities designed and carried out for different sectors (police, judges and prosecutors etc.), or was an inter-sectoral training offered? Was it incorporated into existing training programmes, or were new training programmes organized? Was training linked to other activities, such as law reform or research?

In what sectors has training occurred? How many persons, and what percentage of the target population, have been trained to date?

How are the aims of training defined? What is the content and methodology of the training offered?

What steps, if any, have been taken to encourage, reward or reinforce training?

Have the training activities been evaluated? If so, what were the aims of the evaluation, and what were the results? How effective have the activities been? What impact have the training activities had?

5. Accountability mechanisms

International instruments on the rights of children emphasize the need for certain kinds of accountability mechanisms, such as mechanisms for investigating complaints of ill-treatment by children deprived of liberty. (Havana Rules 72-78 and 87(c)) While it is essential to ensure that civil servants guilty of crimes against children do not go unpunished, ensuring that juvenile justice systems function adequately requires broader mechanisms for holding individuals and institutions accountable for the way they fulfil their duties. Corruption and neglect are also problems that must not be tolerated.

It may be appropriate for sanitary conditions and educational programmes in residential facilities for juvenile offenders to be subject to inspection or review by health and education authorities. If certain functions (e.g. prevention or diversion) are decentralized, mechanisms for holding local governments responsible may be needed.

In so far as courts are concerned, accountability mechanisms must be compatible with the independence of the judiciary. While this may limit accountability for judicial decisions, judges can and should be held responsible for some functions, such as case load management or failure to ensure that accused juveniles have legal assistance when they are entitled to it.

Issues to be addressed:

The assessment should comment on the usefulness of any pre-existing accountability mechanisms, and describe any new mechanisms that have been proposed or established. If new mechanisms have been established or old ones improved, their effectiveness should be assessed. Any remaining gaps should be assessed. The type and guarantees of independence that monitoring bodies enjoy, as well as their accessibility, should also be assessed. Key informants are likely to be the best source of information on this.

Reports from Human Right institutions (Ombudsmen), Bar associations and international monitoring bodies (eg. CPT) should be consulted. Internal inspections services may also be consulted.

6. Coordination

Juvenile justice systems involve many actors – police, prosecutors, the courts, community-based programmes, residential facilities for offenders. Local government and civil society – NGOs, professional associations, academia – often have roles. The way each component carries out its functions affects the work of others. Coordination is necessary to ensure the smooth interaction of the different parts of the system. Juvenile justice reform should, whenever possible, be based on

an appreciation of the system as a whole and involve all relevant actors. A strong coordinating mechanism can be the driving force of juvenile justice reform.

Issues to be addressed include:

Whether a coordinating mechanism has been established at national level and, if so, what ministries, institutions, agencies and organizations participate. Whether coordinating mechanisms have been established at local levels and, if so, what departments, institutions, agencies and organizations participate. Describe important differences/disparities, if any, from one region/locality to another. Links or relationships between the coordinating mechanisms and higher political authorities, the legislature and international agencies should be described. Links between juvenile justice reform and broader child protection issues and institutions should also be explained.

The accomplishments that can be attributed to the work of the coordinating mechanism, any difficulties or constraints that may have limited its effectiveness and any factors or characteristics that have facilitated or enhanced the effectiveness of its work also should be described and assessed.

III. GUIDELINES FOR ASSESSING UNICEF SUPPORT FOR JUVENILE JUSTICE REFORM

1. Strategy

Juvenile justice reform is normally a complex, longer-term process that cannot be completed within a programme cycle. Programming principles are of limited use in developing a juvenile justice reform strategy, because the course of the reform depends on many variables, some of which cannot be predicted with certainty.

UNICEF COs that support juvenile justice reform do not always have a clearly-defined strategy for this part of their work. A strategy does not guarantee success, and sometimes an approach based on a tacit strategy may be successful. In general, however, a strategic vision of what UNICEF hopes to accomplish, what would be required to do so, and potential allies, opportunities, obstacles and risks will enhance the chances of success in the long-term.

The assessment should indicate whether the UNICEF had a strategy for supporting juvenile justice reform and, if so, to what extent the strategy was successful. A working definition of success for these purposes would be: a process that covers all related areas, addresses the most important issues and, in the circumstances, is making good progress in identifying, winning support for and putting into practice appropriate solutions.

Issues to be addressed include:

How did UNICEF support for juvenile justice begin? At what point did UNICEF adopt a strategy for supporting juvenile justice reform? (A coherent approach may be considered a strategy if it has the essential characteristics of one, even if it has not been formalized.)

Did the strategy adequately take into account all relevant components of the juvenile justice 'system'? Did it identify realistically the kind of changes needed in order to bring the system as a whole into compliance with the CRC and other international standards, and the kind of resources needed? Did it realistically identify and assess opportunities and allies, obstacles and risks? Was it flexible enough to accommodate any difficulties or unforeseen problems that may have emerged? To what extent did the main stakeholders in government and civil society agree with the strategy? Was it developed or applied in coordination with other international actors and, if so, did this make the strategy more effective?

The main sources for this information will be UNICEF documents and interviews with UNICEF staff.

2. Planning

Support for juvenile justice reform involves the development of plans that cover the programme cycle, usually 5 years, and annual plans. Plans are developed jointly by UNICEF and its partners, principally its counterparts in government but also, sometimes, civil society partners. Other international donors or agencies having similar interests also may be consulted as part of the process of developing plans, and sometimes UNICEF plans concerning support for juvenile justice reform form part of broader plans developed by UN.

Issues to be addressed, to the extent feasible, include:

Were all potentially important actors invited to participate in the process of developing plans and if so, did they actually participate actively? If not, why not?

Did the planning process facilitate and encourage to greater coordination among the principal government counterparts involved in the juvenile justice system? Between them and interested sectors of civil society? Did it lead to greater understanding on the part of the relevant authorities of the need for juvenile justice reform and the kind of reforms needed?

Did the plans developed address the most important issues concerning the compatibility of the juvenile justice system with the CRC and other international standards? Were they holistic, i.e. did they address the system as a whole and take into account the interrelationships between different components of the system?

Were they realistic? Were they adapted to the political and social environment? Were they based on a reasonably accurate understanding of the technical and financial resources that were available or anticipated?

Were the long and short-term goals defined with sufficient clarity?

If unexpected developments affecting the course of or potential for juvenile justice reform occurred, whether difficulties or opportunities, were plans adjusted accordingly?

Did UNICEF's plans sufficiently take into account the activities of other international donors or organizations, either regarding juvenile justice or broader, related issues (e.g. law reform, judicial reform, prison reform, social services reform)?

Have there been any linkages between UNICEF support for juvenile justice reform and other UNICEF programmes and activities? Has there been any synergy? Have there been opportunities that have not been taken advantage of? Have any other activities had a negative impact on UNICEF support for juvenile justice reform?

The main sources of information on this subject will be UNICEF documents and key informants.

3. Management

Management of juvenile justice support programmes requires a certain degree of familiarity with the issues. Given the complexity of the system, nature of the issues and number of counterparts, the management of such programmes may require a substantial investment of time.

Issues to be addressed should include:

Did the CO have sufficient human resources to manage effectively support for juvenile justice? Did the responsible staff have the knowledge needed to manage this work effectively, or sufficient access to expertise from other sources?

Did UNICEF respond in a timely fashion to requests from partners? Did it maintain sufficient contact with partners and follow-up the implementation of activities in such a way as to reinforce the commitment of partners and help maintain momentum in implementation?

Did UNICEF's contact with partners, higher political authorities and the public help reinforce the idea that juvenile justice reform is a priority issue?

Did any 'sensitive issues', such as corruption or the abuse or exploitation of children, arise during the course of the juvenile justice programme? If so, how did UNICEF handle them, and how did UNICEF's reaction affect the course of juvenile justice reform?

Have strong linkages been made with other UNICEF sections (eg. HIV/AIDS, Education, etc.)?

What are UNICEF's future perspectives in juvenile justice in terms of strategy? Funding? Partnerships? Priorities?

The main sources of information on these issues will be interviews with key informants.

4. Evaluation

Evaluation, like planning, takes place on various levels. UNICEF should evaluate periodically the way partners carry out the activities it supports, as well as the effectiveness of its own efforts to support juvenile justice reform. Evaluating the implementation of activities by partners may be facilitated by helping them to develop new and more effective methods for evaluating the impact of their activities. Evaluating support for juvenile justice reform requires evaluation of the process of reform as such. Evaluation of the extent to which the juvenile justice system complies with the CRC and other international standards may well require strengthening systems for collecting and evaluating data, or introducing new methods for evaluating the impact of the system on children.

Issues to be addressed include:

Were the aims of activities and programmes defined in terms sufficiently clear so as to allow an objective assessment of the extent to which they were achieved?

Did implementing partners submit reports on activities containing information sufficiently objective and relevant so as to be able to understand what was done and form an opinion on its probable value and utility in terms of the aims of juvenile justice reform? Did UNICEF help implementing partners develop the capacity to prepare reports that contain information sufficient for these purposes?

What markers, milestones or criteria have been used by UNICEF and its partners to assess the progress of juvenile justice reform? To what extent were they sufficient to form a comprehensive and objective opinion on the degree of progress made?

Did UNICEF support the development of indicators, the improvement of systems of data collection and analysis or the introduction of development of new methodologies for

assessing the workings of the juvenile justice system and its impact on the rights of children?

Sources of information on these issues will include reports by implementing partners and coordinating mechanisms, if any; annual reports of the country office and other UNICEF documents and interviews with key informants.

IV. GUIDELINES FOR ASSESSING DATA COLLECTION AND ANALYSIS

Although data on offending by juveniles is collected by law enforcement authorities in most countries around the world, the Committee on the Rights of the Child has expressed “deep concern” about the scarcity of the sort of data, in particular disaggregated data, “necessary for the development, implementation and evaluation of policies and programmes aimed at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of the CRC.” (GC-10, para.98)

Data on offending by children and the operation of the institutions and programmes that make up the juvenile justice system are important not only for managing juvenile justice systems, but also for defining policies and evaluating their impact. Too often, policies and reforms are based largely on traditional approaches, untested theories, or even the narrow concerns of specific institutions, political expediency or public demand for a stronger response to perceived threats.

The prevention of offending and rehabilitation of offenders is not a science; no perfect system exists. But scientific methods can and should be used to measure changes in the incidence of offending and the nature of offences committed, the factors associated with an higher risk of offending, the effectiveness of prevention programmes, the impact of custodial and non-custodial measures on re-offending and other questions that are essential to form an accurate understanding of the impact of juvenile justice systems on children and society as a whole. Relevant and reliable data are needed in order to plan reform, and to determine whether reforms produce the expected results.

Traditionally most countries of the region have had robust systems of data collection, but in some cases the indicators and data management systems have not been adapted to reflect the social, political and legal developments of the last two decades. Among other uses, data and data management systems must allow national authorities to evaluate their compliance with the legal obligations of Parties to the CRC.

For these reasons, the assessment of the juvenile justice systems in these six countries will include a component on data management systems. Since the TransMONEE project has developed a set of indicators designed to facilitate the identification of regional trends in offending and juvenile justice reform, and in order to ensure complementarity of the assessment with this project, those indicators will be used as the basic framework for this component. The focus will be on quantitative indicators specifically concerning juvenile justice, and the aim will be three-fold:

- to determine to what extent data corresponding to the TransMONEE indicators exist and how such data is managed (e.g. to what extent data from different sources is consolidated, whether it is public or confidential and how it is used, whether some indicators are aggregated)
- to identify and propose solutions to any definitional or terminological difficulties affecting the use of the indicators in these countries; and
- to identify other important data concerning offending and juvenile justice not solicited by the TransMONEE indicators that is available

The availability of the following data should be assessed:

Offending and the prevention of offending:

- the number of crimes committed by juveniles, disaggregated by nature of the offence
- the number of crimes committed by underage minors during the year, disaggregated by nature of the offence
- the number of registered juveniles and under-aged offenders during the year, disaggregated by the circumstances of offending (repeat offenders; offence committed in a group; offence committed together with an adult)

Policing and law-enforcement:

- the total number of children detained in police custody following arrest during the year, disaggregated by age and sex;
- the total number of children who entered pre-trial detention during the year and the number in pre-trial detention at the end of the year, disaggregated by age, sex, facility and duration of detention;
- the total number of children arrested on suspicion of committing an offence during the year, disaggregated by age and sex;
- the number of children charged with an offence during the year;
- the number of deaths in pre-trial detention during the year;

Diversion:

- the number of juveniles diverted prior to sentencing to mediation or a socio-educational programme, or given a formal warning or conditional discharge

Trial and sentencing:

- the number of children convicted during the year, disaggregated by sex and type of offence (violent; property; other)
- the number of juveniles committed to prison during the year; the number committed to a juvenile detention facility; the number committed to a closed juvenile rehabilitation facility; the number committed to an open or semi-open school or facility, in each case disaggregated by the length of the commitment order and nature of the authority making it (court or administrative body);
- the number of juveniles given a sentence not involving deprivation of liberty during the year, disaggregated by type of measure imposed.
- The caseload of judges per year (both adults and children, or only children).

Rehabilitation in custodial facilities:

- the number of juveniles in all types of corrective/educational/ punitive institutions (post sentence) at the end of the year, disaggregated by type of institution
- percentage of children released from detention receiving after-care
- the number of deaths in detention during the year
- number of children who have visited/been visited by a parent, guardian or adult family member during the last 3 months

Rehabilitation in community-based programmes:

- number of juveniles given measures not involving deprivation of liberty during the year, disaggregated by measure.

Other

- number of children in temporary accommodation centres that provide short term accommodation for children found begging, migrant children, etc.
- number of underage minors deprived of liberty because of participation in a criminal offence at the end of the year, disaggregated by kind of facility and nature of the body (judicial or administrative) that ordered placement

The assessment should, when possible, give the data for the most recent year available and indicate previous years for which it is available, noting when possible any significant changes in the relevant indicators, law or infrastructure that may affect interpretation of the data.

In addition, the assessment should draw attention to other significant data concerning the issues covered by the assessment that is available, in addition to that solicited by the TransMONEE indicators.

The assessment should describe data collection systems in place at the beginning of the juvenile justice reform process, and any changes that have been introduced. Linkages with databases of other sectors should be described. Confidentiality and use of data should be addressed. The institutions that collect data relevant to juvenile justice should be identified; the indicators used should be listed and defined or explained; the parts of such data that is published or available to the public should be indicated, and the way data from different sources is consolidated should be described. The extent to which data has been used to inform policy also should be described.

The assessment also should mention any significant research on juvenile justice carried out in recent years, and describe any relationship it may have had with efforts to bring juvenile justice system into greater compliance with the relevant international standards.

*Prepared by Dan O'Donnell, international consultant
and revised by Séverine Jacomy, UNICEF RO Child Protection Unit,
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