

**TOWARDS AN INDEPENDENT JUDICIAL SYSTEM  
IN A  
DEMOCRATIC MONGOLIA**

Conference Proceedings

By:  
Heike Gramckow  
Mark Schweikert  
Steven Weller

NATIONAL CENTER FOR STATE COURTS

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT  
AEP-5486-I-00-6031-00 – DO#11

## TABLE OF CONTENTS

Conference Proceedings	1
Section 1. Introduction	1
Section 2. Expectations for the Mongolian Justice System	6
Section 3. Fundamental Values of the Mongolian Justice System	11
Section 4. Strengths and Weaknesses of the Mongolian Justice System	14
Section 5. Basic Issues Facing the Mongolian Justice System	22
Section 6. Work Group Objectives	28
Section 7. A Blueprint for Planning	35
Appendices	
Appendix A. List of Conference Participants	
Appendix B. List of Initial Work Group Members	
Appendix C. Conference Agenda	
Appendix D. Welcoming Address of U.S. Ambassador Alphonse LaPorta	
Appendix E. Keynote Address of Hon. Mark Schweikert	
Appendix F. Short Biographies of Conference Facilitators	
Appendix G. Summary of Post-Conference Comments	
Appendix H. Initial Composition of the Advisory Committee	
Appendix I. Summary of Conference Evaluations	

## SECTION 1. INTRODUCTION

On July 27-29, 1999, a three-day strategic planning conference was presented in Ulaan Baatar by the National Center for State Courts, through USAID funding, for representatives of the Mongolian justice system. The goal of the planning process was to assist in identifying the fundamental values of the Mongolian justice system, determining its desired future and developing a plan of action to work toward that desired future. The conference was facilitated by three American consultants, Dr. Steven Weller, Judge Mark Schweikert and Dr. Heike Gramckow. The participants included representatives from a wide variety of Mongolian justice system agencies and key actors in the justice system, including the Ministry of Justice, the General Council of Courts, the Judiciary, procurators, advocates (defense lawyers), the enforcement agency, the police, and citizens. A list of participants is attached as Appendix A.

This report summarizes the discussions of the participants at the conference, including what the fundamental values of the Mongolian justice system should be, the strengths and weaknesses of the justice system in achieving those values, the major strategic issues to improve the Mongolian justice system, and the initial actions that should be taken to develop strategies to address those issues. This summary presents the views of the conference participants and not the views of the facilitators. It also presents all views expressed, since consensus was not sought for every view. In the final section of the report, the facilitators present recommendations for the next steps to implement the strategic planning process.

### **What is strategic planning?**

Strategic planning may be defined as an effort to guide fundamental decisions and actions that shape and guide what an organization is, what it does and why it does it. Strategic planning looks at the trends, events or policy choices that have a fundamental effect on the organization's ability to fulfill its basic purposes. These are the broad issues that are the root causes of many problems, as distinguished from day-to-day problems that may not be related to each other. Strategic planning makes a justice system focus on its basic purposes and helps coordinate different improvement and change efforts so that they all move toward a common goal. It helps a justice system shape its desired future.

### **Goals of the conference**

As a result of the conference, the participants were expected to achieve the following outcomes:

- identify the fundamental values of the Mongolian justice system and create a vision to help guide and coordinate justice system reforms over the next 5 years so that all reforms move toward a common purpose;

- define the most important issues facing the Mongolian justice system to enable it to achieve its fundamental values; and
- set up work groups to address those issues and a plan of action for each work group that includes tasks, milestones to allow measurement of the progress of the work group, a delineation of resource needs for the work group to conduct its work, and a time line for completion of its tasks.

In addition, the conference was aimed at: (1) developing Mongolian solutions to Mongolian problems, rather than imposing the values of other justice systems on Mongolia; and (2) engaging the participants in system-wide thinking, as every part of the justice system affects how well other parts of the justice system work.

The conference was viewed as a start, not an end point in the process of strategic planning for Mongolian justice system reform. It was to provide a direction and a plan of action for developing a strategic plan. After the conference work groups will be formed to develop detailed plans for the creation and implementation of reforms.

### **Overview of the Planning Process**

The following is a description of the steps in the planning process that were used in the conference.

#### *Planning Step 1: Develop a common understanding of where we are going*

Successful long range strategic planning requires agreement among participants about the scope and purpose of the planning effort and committed and enthusiastic participants. The purpose of this step was to make sure that the participants shared a common understanding of what the conference was intended to achieve.

#### *Planning Step 2: Identify mandates, functions and the expectations of interested parties to help define the justice system's purpose in Mongolian society*

The justice system of Mongolia needs a sense of purpose if it is to function effectively in the long term. A justice system's purpose is determined by what it is required to do by law, the functions it has assumed over time, and its expectations about what it should be doing. The components of a justice system's purpose reflect the expectations, needs, and desires of a variety of diverse interested parties. Interested parties are people, groups or organizations that have a right to expect something from the justice system. In this step the conference identified the justice system's interested parties and their expectations for the justice system.

*Planning Step 3: Develop the fundamental values for the future for the Mongolian justice system*

A justice system must define the fundamental values that it wishes to achieve in the future. Those values must emphasize the positive possibilities for the future and incorporate the expectations of the justice system's interested parties. In this step the conference identified the fundamental values that the Mongolian justice system desires to achieve.

*Planning Step 4: Describe the strengths and weaknesses of the current Mongolian justice system*

Beginning with this step, the focus shifted from identifying the fundamental values of the justice system to determining how the justice system can achieve those values. This step examined the current strengths and weaknesses of the Mongolian justice system in its ability to achieve its fundamental values, focusing on its: (1) structure and organization, including issues of court administration; (2) procedures, including issues of enforcement of court decisions; (3) practices, habits and attitudes, including questions of ethics; and (4) workload and resources.

*Planning Step 5: Identify the basic issues that face the Mongolian justice system*

Identifying basic issues and developing responses to those issues are the heart of long range strategic planning. Based on the assessment of strengths and weaknesses, the conference created a list of basic issues that are likely to affect the ability of the Mongolian justice system to achieve its fundamental values.

*Planning Step 6: Develop work group assignments*

In this step, the participants created work groups to continue working after the conference on developing plans to address the basic issues.<sup>1</sup> The work groups discussed the priority objectives for work after the conference and, where possible, identified tasks, time lines, additional participants and milestones to address each objective.

*Planning Step 7: Develop methods for implementing strategic management*

The final stage in the strategic planning process is to turn a strategic plan into ongoing strategic management. In this step, the participants discussed the need for developing a plan for monitoring and evaluating the progress of the work groups, and forming an Advisory Committee after the conference to oversee further planning efforts.

---

<sup>1</sup> Each work group had its own focus – Legal Environment and Procedure; Ethics and Human Resources; and Management and Organization.

## **Organization of this report**

The remainder of this report describes the detailed results of each of the planning steps undertaken in the conference.

Section 2 describes the expectations of different interested parties in the Mongolian justice system. Twenty-nine different types of interested parties were identified, and the expectations for the justice system of the major interested parties, judges, citizens, advocates, procurators, police, victims and criminals and their families, were listed.

Section 3 describes the fundamental values of the Mongolian justice system that should serve as a guide to all justice system reform. Six fundamental values were identified: independence, responsiveness, accountability, fairness, effectiveness and accessibility.

Section 4 discusses the major strengths and weaknesses of the Mongolian justice system in achieving its fundamental values. An extensive list of strengths and weaknesses were identified. Among the strengths noted were: (1) the constitutional foundation for the General Council of the Courts; the lifetime appointment of judges; the unified national court system; and the relatively fast, low-cost legal process available. The most important weaknesses cited were: (1) the lack of resources, including inadequate salaries for judges, poor facilities and equipment, lack of information on new laws and Supreme Court decisions and inadequate staffing; (2) the inadequate or conflicting laws, particularly a need for laws to deal with new forms of commerce and a need to remove overlaps and conflicts in the package of laws that will be sent to Parliament this fall; (3) the lack of professional training for judges and lawyers, especially training to keep them up to date with new laws; (4) the undesirable structure of the judicial system, especially placing the administration of the courts under the Executive branch; (5) the inadequate enforcement of court decisions; and (6) the lack of adequate self policing of ethics by judges and lawyers.

Section 5 describes the basic issues for the Mongolian justice system identified in the conference. Three basic issues were identified, each of which was the defining basis for creating a work group: (1) management and organization; (2) ethics and human relations; and (3) the legal environment of the courts, including issues of civil and criminal procedure.

Section 6 describes the specific objectives identified by the three work groups and, where it was possible to determine at the time of the conference, the desired work group composition, resource needs, performance indicators and time lines for each objective.

Section 7 discusses future steps that the Mongolian justice system might take, in the short term and in the intermediate and long term, to: (1) complete the plans for the work groups that were started at the conference; (2) implement the work group plans; and (3) make continued strategic planning an integral part of continued justice system improvement in Mongolia.

## **SECTION 2**

### **EXPECTATIONS FOR THE MONGOLIAN JUSTICE SYSTEM**

In the initial working session of the conference, participants identified all agencies, organization, and other individuals or groups, referred to as interested parties, that can be affected or are involved with the judicial system, or that can otherwise place a claim on its operations, resources or services.

A quite inclusive list was quickly developed that included that following:

- Judges
- Citizens
- Advocates
- Prosecutors
- Government
- Police; detectives and inspectors
- NGO's
- Political parties
- Everybody
- Victims
- Legal entities-businesses
- Litigants plaintiff and defendants
- Journalist-media in general
- Third parties in civil litigation cases
- Witnesses
- Guardians
- Legal experts
- Expert witnesses
- Peoples representatives
- Criminals' and their families
- Observers
- Court administrative staff
- Military units and personnel
- Workers and trade unions
- Employers and employees
- Special interest groups (i.e., those representing the elderly, women, adolescents, children)
- President
- Parliament

- Foreign investors.

Building on this list, participants then moved on to consider the special interests each of the groups identified have in relation to the judicial system. Taking a selected group of interested parties representing a broad range of interests, participants were asked to list all of the interests of these parties. In considering all interests participants were also asked to recognize that not all of these interests may be feasible or should be met by the judicial system.

For example, one interest of victims is revenge. This is one interest that needs to be recognized but not generally met by the judicial system.

The group began with identifying the interests of judges. These interests included:

- A high salary
- To be elected to as long as possible-tenure
- Lifetime appointment
- Freedom from outside pressure
- Opportunity to get as much information as possible "about the law"
- Access to good equipment-computers, Dictaphones
- Good, clear laws to work with
- Trust and respect from the general public
- That their decisions are enforced
- Equal status with other branches of government
- Knowledge and skills
- Clear procedures
- Specialized courts
- Laws on ethics for judges
- A clearly defined and fair system of penalties
- A safe environment to work in
- Career opportunities
- Safety for family members
- An appropriate workload.

Next the interests of citizens were identified. These included:

- Compensation for violation of rights
- An accessible court system
- A non-bureaucratic court system
- Information about the judge
- Honest judges
- To live without pressure to have political freedom

- Economic freedom
- Help from the government when it is needed
- Treated with respect
- Human rights and dignity should be respected even for criminals
- Service oriented courts and court staff.

The next group of interested parties selected was attorneys. The interest identified included:

- A high income
- Updated information about the laws
- Want judges to listen
- Win cases
- Consistent laws, clear and stable laws
- Access to all information to defend client (fair discovery)
- Have their interests and rights respected
- Want to do their job within the law
- Opportunities for training
- Equal status with prosecution.

This was followed by listing the special interests of prosecutors. This list included:

- Having a clearly defined status
- Mongolia joining the International Convention on Prosecution
- Have the right to conduct investigations
- A safe working environment
- Social and economic security
- Prosecutor should be able to direct investigation
- Quality prosecutors
- Have the right to file complaints against judge.

The special interests of police were identified next. These included:

- Economic and social security
- Well defined procedure and clear lines of responsibilities;
- Clear lines of jurisdiction;
- Laws that are consistent in defining rights and responsibilities;
- Consistent support from prosecutors on all organizational levels
- Clear criminal procedures
- Fair court decisions

- No outside political pressure during investigations
- Prosecutorial supervision for investigation separated from the charging function
- One designated prosecutor for handling cases from support for police investigation to charging and trial
- Police should be respected by public
- Police should study abroad.

The next group addressed was the business community. The following interests were identified:

- A fair justice system
- Having to pay the least possible tax make the most possible profit
- Minimum government intrusion
- Good laws
- Predictable legal environment
- Environment of fair competition
- Equal access to justice for all size businesses
- The right to have private property
- Minimal government regulation
- Low legal costs
- Consult/lobby the legislature.

The special interests of victims were identified next. These included:

- Compensation of damages
- Criminals are punished fairly
- Restored reputation
- Support from an advocate
- Quick resolution of cases
- Respect of the victim
- Safety for victim
- Considered to be blameless
- Maximum compensation
- Victims should not have to prove criminals' guilt.

The last group of interested parties addressed was criminals and their families. The interests identified for them included:

- Receive the lowest penalty possible

- Protection of human rights
- Presumption of innocence
- Personal safety and security
- Access to affordable legal assistance
- Want to be understood by the court
- Penalties that are imposed on the criminal not on the family
- Freedom from psychological pressure
- Access to resources to prove their case
- Want to be able to return to their community after punishment
- An opportunity for pretrial relieve, possibly on bail (there is currently only limited understanding of what a bail system is)
- Access to care for minor children of convicted criminals.

### **SECTION 3**

#### **FUNDAMENTAL VALUES OF THE MONGOLIAN JUSTICE SYSTEM**

If the entities and individuals that can be affected by or influence the judicial system and their special interests are reviewed, it is possible to develop a good understanding of the expectations that the judicial system has to fulfill. These expectations should be reflected in the fundamental values that serve as guiding principles for the judicial system. Such fundamental values, generally also reflected in the constitution of a country, provide the direction for the development of laws, of the structure and organization of a judicial system and its operations. These fundamental values express a vision for how the system is to function. Using the information participants listed in the previous section, the purpose of this session was to develop a vision for the Mongolian judicial system, to express its fundamental values.

Participants discussed that such values would reflect an ideal system, one that does not currently exist in Mongolia. The notion of an ideal system would not be very realistic. One could, however, discuss some of the major issues that the Mongolian judicial system should accomplish. Participants mentioned some of the principal elements included in the Mongolian Constitution, such as the issue of creating an independent judicial system and the relationships of the courts with other agencies and the public.

The Constitution sets the direction where the country and the judicial system are going to go. It outlines many guiding principles, not all of which have been achieved yet. Assuring that everybody is in compliance with the Constitution is a long-term process. Mongolia is only at the beginning of this process. Currently the judges and the courts are not always in compliance with the constitution.

Other guiding principles contained in the Constitution and reflected elsewhere are:

- The Mongolian judicial system has to be united.
- The Mongolian system has to reflect the relatively small size of the country and the fact that this nation is not a federal state.
- Under the united system there should be first, general courts and secondly specialized courts. The specialized courts can be for administration and arbitration.
- Decisions need to follow the rule of law.
- The judges should be professional. They should be appointed for life.
- The judges should be free from politics.
- The courts should be set up according to law.
- Courts should be set up with the rule of law.
- Courts should not be supervised.
- The principle of self-discipline should rule the courts.
- The President should guarantee the independence of the court, but this does not mean

that the President will rule over the judges even if he appoints them or confirms their appointment.

- Courts should have independent and reasonable budgets. Today all the courts are in debt.
- The salaries of Supreme Court justices and other judges should reflect that the three branches of government are equal. For example, in Poland, the chief justice of the Supreme Court's salary is higher than the President's salary. In Mongolia the Chief Justice's salary is equal to that of the Deputy Speaker of Parliament.
- Overall, the judiciary should have equal status for the judges with other branches of government.

Participants stressed that a distinction should be made between changing the system and reforming the system. To them, changing means total change. Reforming means working with the present system.

- Continuing the discussion on fundamental guiding principles, it was stressed that one key factor is consistency of the system. Currently, the Mongolian system follows the European continental system in criminal matters. In civil cases some elements of the common law system were adopted. This leads to confusion and inconsistencies.
- Courts should be respected.
- The General Council of Courts should not be affected by the collapse of the government. If it is under the umbrella of someone it should be the President.
- The General Council of Courts should insure the independence of the judiciary.
- The General Council of Courts should be elected by the Congress of Judges held at the national level.
- The General Council of Courts should be a working apparatus of the judicial system and independent.
- The court should have suitable buildings to carry out their business.
- The people should perceive the courts as important.
- The judicial system should function in an adequate work environment.
- The caseload of the judge should be balanced.
- Everyone should be equal before the court.
- Human rights should be protected.
- The people should have the right to pursue cases under an alternative court or mediation system.
- Not only state organizations should protect human rights, but also NGOs should protect human rights.
- Insure the legal rights of the parties.
- The judicial independence and independence of the system should be guaranteed.
- Judge selection should be fair, and lawyers should have ethics.
- There should be financial independence for the judges.

- Legal regulations should be cost effective.
- Access to the courts should be affordable.
- The court must be impartial.

At the end of this session it was further discussed that this long list of key factors that are essential to assure a democratic judicial system, can be summarized into a few main categories that describe the fundamental values for the system.

*Independence:* The ability of the judges and courts to serve their constitutional function as a check and balance on executive and legislative power and maintain their independence in light of the pressures of political considerations and public opinion.

*Responsiveness:* The ability of the justice system to anticipate and respond to the changing needs over time that all members of society have in using the justice system, including providing a variety of dispute resolution methods.

*Accountability:* The ability of the justice system to use public resources efficiently. It includes personal accountability on the part of all individuals who work in the justice system for their daily work habits, actions, and ethical behavior.

*Fairness:* The dignified treatment of all and the application of the law appropriate to the circumstances of individual cases.

*Effectiveness:* The ability of the justice system to uphold the law and apply rules and procedures consistently and in a timely manner across cases throughout the country. It includes the ability of the courts to resolve cases with finality and provide decisions that are enforceable.

*Accessibility:* The judicial system should be convenient, timely, and affordable to everyone with legitimate concern.

There was not time in the session to define what the implications of each of these values are in the Mongolian context.

## SECTION 4

### STRENGTHS AND WEAKNESSES OF THE MONGOLIAN JUSTICE SYSTEM

For this and the following session of the conference the participants were divided into three break-out groups, which were identified for purposes of convenience as the Blue Group (facilitated by Steven Weller), the Green Group (facilitated by Heike Gramckow) and the Red Group (facilitated by Mark Schweikert).

The fundamental values for the justice system identified by the seminar participants in the previous session served as the basis for identifying strengths and weaknesses. It is not surprising to find that these fundamental values also reflect the basic values expressed in the Mongolian constitution and in Resolution 18. Actually these basic values are reflected throughout the democratic world as guidance for the justice system independent of its structure, organization or orientation. In this session participants were given the task of identifying the strengths and weaknesses of the current Mongolian justice system affecting its ability to achieve its fundamental values.

To assure that a comprehensive list of work group topics was developed, the three break-out groups were asked to review and group strength and weaknesses into basic topics to be addressed. Based on this assessment four different categories that capture strength and weaknesses were identified. These categories were:

1. Structure and Organization;
2. Procedures;
3. Practices, Habits, and Attitudes; and
4. Resources.

The following discussion presents the analysis of strengths and weaknesses separately for each of the three breakout groups. While there is considerable duplication of results, we chose this method of presentation in the belief that it may be useful for each participant to be able to identify what was discussed in his or her particular group.

#### **Blue Group**

The Blue Group first broke up into three smaller groups to discuss the issues and then reconvened to the group as a whole. The following summarizes the strengths and weaknesses identified by the group, by category.

##### *Structure and Organization*

Strengths:

- The General Council of the Courts is created in the Constitution
- Appointment of judges for life is a strength.
- Mongolian judges follow their rules of ethics.
- Do not need a jury system.

Weaknesses:

- The relationship between the General Council of Courts and the other branches of government is unclear.
- It is unclear who is the real head of the General Council of Courts.
- There are not enough judges on the General Council of Courts.
- There is only one full-time staff person for the General Council of Courts.
- The separation of the enforcement of judgments from the courts means that the courts can't oversee enforcement.
- Centralized structure of the courts is a weakness.
- There is a need for specialized courts to reduce judge workload.
- The arbitration court, which is part of the chamber of commerce, should be part of the courts.
- Better laws for modern commercial transactions are needed.
- There is a need for more input from judges in lawmaking.
- There is a need for more stringent and sophisticated qualification criteria for judges.
- Appointment of judges for life is a weakness.
- Need a jury system.
- Judges sit in panels, which increases workload.
- Prosecutors are now part of the courts but should be part of the executive branch.

### *Practices, Habits and Attitudes*

Weaknesses:

- There is a lack of public respect for the courts.
- Judges need to earn public respect by fairness and the correct application of the law.
- Protecting human rights depends on how the laws are executed.
- The mass media focuses on the negatives.
- There is a need to improve relationships with the mass media.
- Lack of money affects fairness. Banks that have loaned money to the courts may expect favors.

Resources:

#### Weaknesses:

- The process for developing and approving the court's budget results in budget cuts in the Ministry of Finance that ignore the needs of the courts. As a result the courts are underfunded.
- The courts have had to borrow money for facilities and could be sued if they default.
- There is a need for higher judge salaries.
- There is a need for more skilled judges.
- The courts should get a percentage of the national budget.
- There is a need for better training for judges, especially in the rural areas. Perhaps distance training.
- There is a need for staff training.
- There is a need for better technology.
- There are not enough judges to handle the workload.

#### **Green Group**

Considering these values and the many strength and weaknesses identified in sessions before, the purpose of this session is to identify what keeps the current system from achieving these values and how these current deficiencies can be overcome. The goal for this session is to identify main topic areas that workgroups could address over the next 6 months and beyond to address and overcome these current shortcomings.

It was first clarified that resources meant more than just availability of funding. Adequate funding is an essential requirement to assure proper functioning of any part of the justice system. Other resources, however, such as training, competent judges and other staff, equipment, office space, volunteers and good laws are also important.

At this time the question arose, if the discussion, following the title of the seminar should be just limited to the court system. Following the title of this seminar, the focus of all discussion is on the adjudication system. This, however, means considering all components that are part of and influence the adjudication system. Even if the focus is narrowly on the court process, this will also require that, in addition to the judges and other court personnel, the operations of the prosecutor, the defense and the police be considered. They are not only key interested parties, but at one point or the other essential players in the adjudication process. Therefore, it is essential to consider them and their influence in this process.

During this session the following strengths and weaknesses were identified.

#### *Structure and Organization*

#### Weaknesses:

- The selection of judges should be fair and based on national standards.
- The selection of judges by the General Council of Courts should be reviewed.
- Police-prosecutor responsibility for investigations is not always clear and may require some restructuring.
- Lack of specialized courts to streamline caseloads.

### *Procedures*

#### Strengths:

- Relatively fast process.
- Relatively low cost process.

#### Weaknesses:

- The organization and procedures used by the prosecutor's office in response to police inquiries and investigations. From the police point of view it would be beneficial if just one prosecutor would be designated to handle a case from the beginning to the end, and if the prosecutors would be an advocate for the police and provide guidance but leave the control over the inquiry and investigative process to the police.
- A new law on the process of inquiry and investigation and the role of the prosecutor and police should be developed.
- Especially from the prosecutors perspective there should be equality of all parties in the process.
- The collection of evidence should be up to all parties. The accused should be allowed to collect and introduce into court evidence.

### *Practices, Habits and Attitudes*

#### Weaknesses:

- Lack of information about the adversarial process and its implications for the justice system in terms of roles, responsibilities, staffing, resources, and balance of power.
- There is a lack of common understanding of terminology and definitions.

### *Resources*

#### Weaknesses:

- There is no adequate funding for the justice system.
- To assure the independence of the court, courts should have separate building that

- meets the standards of an appropriate working environment.
- All justice agencies should have an appropriate working environment, including equipment, computers and sufficient staff, by 2020.
  - Better information is needed about the difference between civil and common law system and its impact on the structure and operation of a justice system.
  - There is weak infrastructure to the support justice system, especially in the aimags (access, long travel, and communication). No cable based telephones, high costs for victims and witnesses to travel to court.
  - The workloads are too high.
  - Lack of training.
  - Lack of a professional organization that sets standards, provides information and training to its members.
  - Lack of information about legal organizations.

## **Red Group**

The Red group chose to break up initially into smaller groups to discuss the strengths and weaknesses, with each group reporting at least two of each for each of the four categories. When this brief discussion period ended the entire group shared their work. The following is a summary of the strengths and weaknesses identified for each of the four categories.

### *Structure and Organization*

#### Strengths:

- Unified national justice system allows us to communicate with common methods and develop in common direction.
- Judges are free to exercise their discretion when established by law.
- The Mongolian constitution guarantees judicial independence.
- The General Council of Courts helps to guarantee separation of powers between the branches of government.
- The Mongolian constitution has adopted the internationally accepted principles of Democracy and Rule of Law and Judicial Independence.
- The appointment of judges reinforces the independence of the judiciary.

#### Weaknesses:

- The separation of the Constitutional court from the appellate structure of the rest of Mongolian courts causes some confusion in jurisdiction and authority.
- The authority of the Minister of Justice over the General Council of Courts causes instability because there have been and will continue to be changes in the Minister

of Justice, and each time this happens it interferes with consistent and efficient decision making.

- The authority of the Minister of Justice over the General Council of Courts allows for possible influence from that branch of government over the independent judicial branch. The Minister of Justice has great authority over the funding and other policies greatly effecting the courts.
- Lack of specialized courts in the areas of business, minor violations, and family or domestic relations.
- The assignment of judges is by region and not by caseload or workload.
- In the rural areas people have to travel great distances to get to the courts.
- The new code is not complete and some old practices continue, such as the governor of an aimag can confine someone to prison for one month.
- The Courts do not have complete jurisdiction. Some issues are reserved to other non-judicial bodies, such as foreign business issues considered by the Foreign Trade Arbitration and Trade Commission.

### *Procedures*

#### Strengths:

- The judge can decide to spread out the cases.
- The Mongolian courts are introducing the adversarial principle.
- Judges can now make a decision without the people's representative.
- The judge determines guilt.
- The abolition of physical abuse as an interrogation tool.
- There is extensive availability to appeal, up to 5 layers.
- The burden of proof is on the litigant.

#### Weaknesses:

- The procedural code is not complete.
- A court's decision should be supported by the reasoning of how it arrived at that decision. In Mongolia the court announces its decision and then gives reasons later.
- When litigants do not appeal a court's decision the prosecutor in both civil and criminal case should not be able to appeal. The upper courts now can supervise the action of the lower courts on their own initiative.
- Mongolia needs to fully implement adversarial process in criminal law.
- Some court sessions are closed and public not allowed. The law doesn't sufficiently reflect public access to court trials and hearings.
- There is no limit to what and when cases can be appealed. Procedural law doesn't

reflect any reason to deny right to appeal. This overloads court resources.

- In some kinds of cases there is no appeal allowed.
- Clarify order of judgment, enforcement and appeal. In some instances there is enforcement of an anticipated judgment before the case is finally decided. There is no provision for equal opportunity for appeal bond.
- Even when the case lacks evidence they still confine suspect. This allows for human rights violations.
- No system of enforceability.
- Lack of trial by jury as a part of the trial process.
- Court decisions change too many times during the appeal process.

### *Practices, Habits and Attitudes*

Weaknesses:

- Old management methods.
- Discrimination against people in court; lack of respect by court staff.
- People do not know the law (a training problem).
- Lack of social status for judges and court staff.
- Mentality hasn't changed among some judges and lawyers since the collapse of socialism.
- No chance of an individual's getting fair hearing when he has a claim against the government - the citizen may be right but seldom wins.
- Judicial branch recognized as independent in law but not recognized in practice.
- Courts don't do enough public relations.
- Judges are too often biased toward prosecution's case.

### *Resources*

Weaknesses:

- Lack of funds.
- Poor training.
- Lack of facilities, including need for more courthouses.
- Need archival system.
- Inadequate library and research facilities.
- Lack of detention facilities.
- Some courts have become indebted and can't even pay for power.
- General backlog of cases.
- Lack of understanding of relationships that arise in free-market economy.
- Lack of understanding of private property and associated laws.

- Delay in distribution of funds allocated to the courts.
- Courts don't receive a fair share of the state budget, as other branches of government do not recognize the constitutional status of the courts.
- The General Council of the Courts isn't aggressive enough on the court's behalf.
- Low salaries.
- Courts and justice agencies cannot follow procedural rules because they don't have resources to do it. (unfunded mandates).
- Poor management of resources; poor system of responsibility; staff are not accountable for their performance.
- Only the Supreme Court has a research center; lack of capacity for lower courts.

All of the above strengths and weaknesses were raised by one or more participants. There was no consensus sought and there is no representation on the part of the conference leaders that any of these weaknesses actually exist or to what extent they might exist.

## **SECTION 5**

### **BASIC ISSUES FACING THE MONGOLIAN JUSTICE SYSTEM**

Building on the work of the previous sessions that identified interested parties, their expectations of the justice system, the fundamental values that should guide the Mongolian justice system and strengths and weaknesses of the current system, this session identified the basic issues facing the Mongolian justice system. These issues will then serve as a basis for defining the tasks of work groups that will continue to work after the conference. Participants were thus asked to organize their thinking about the major issues in the context of defining those work groups.

As in Section 4 the following discussion presents the analysis of strengths and weaknesses separately for each of the three break-out groups. Again there is considerable duplication of results, but we chose this method of presentation to help each participant identify what was discussed in his or her particular group.

#### **Blue Group**

The discussion listed a variety of major issues that the work groups should consider, including:

- Creating a favorable legal environment for the independence of the judiciary. This will require involving Parliament and other justice system agencies. It will also require some research on how to develop a favorable legal environment.
- Improving the quality of the judiciary.
- Resolution of internal structural and management problems of the courts.
- Issues of procedures and enforcement of court decisions. The relationships among the different agencies in the justice system will be determined by the civil and criminal procedure codes.
- Issues of personnel, such as ethics and training.
- Issues of public relations and creating public understanding about and respect for the courts. Public understanding includes understanding the need for and meaning of checks and balances.

A proposal was made to create three work groups, one for issues relating to the courts, one for issues relating to other agencies of the justice system, and one for personnel issues such as ethics and training. It was thought that a separate work group for the courts was needed to emphasize the court's position as an independent third branch of government. Eventually the group moved away from that proposal.

There was discussion of the meaning of a favorable legal environment for judicial independence. It was noted that in the present system judges are not accountable, although this

was one of the fundamental values discussed earlier in the conference. There is no clear definition of what judicial independence means. Further, while the Constitution sets up an independent judiciary, this is just a declaration that needs to be made a reality. Making the judiciary an equal third branch of government in reality will require creating a legal structure that supports the independence of the courts, improving the quality of the judiciary, improving the court facilities and equipment, and providing proper financing for the courts.

The final suggestions for work groups from the blue group included:

- The legal environment of the courts.
- Procedural issues and enforcement.
- Ethics.
- Public trust and the relationship between the courts and other branches of government.

### **Green Group**

Reviewing the list of current weaknesses the group decided quickly that five major work groups should be established:

1. Administration.
2. Ethics.
3. Process.
4. Human resources.
5. Legal environment.

The group then discussed the objectives and tasks to be accomplished.

#### *Administration*

- Under administration a special focus was on the need to create specialized courts, such as an administrative court and family court, in order to streamline processes and improve the quality of court decisions.
- It was further recommended to review to move the prosecutor's office under the authority of the executive branch instead of the justice department.
- It was strongly recommended to consider separating court decision enforcement.
- Discussion also considered the role of the General Council of Courts in selecting judges. It was suggested that members of the General Council of Courts should consist of judges and be under the authority of the President. The need to assure that the General Council of Courts is independent of the political structure was also stressed.
- For funding purposes the need for long term budget planning was mentioned.

- To improve the condition of first instance courts there should be funding for a main court on the soum level.

### *Ethics*

- The focus of this discussion was on professional ethics, especially for judges but also for other members of the justice system such as police, prosecutors, and court personnel.
- Ethics should support the development of a well educated, courteous and professional cadre of judges and other justice system representatives.
- Judges and others should listen to the citizens they are dealing with carefully.
- Judges should be honest and a good example to others.
- Judges should always, even in their private lives, remember their position as a representative of the state. If judges – and others – want to be respected, they need act professionally and ethically.
- To assure that judges are impartial, they should not engage in political activities.
- Naturally, corruption and other illegal acts are unacceptable.

### *Process*

- The discussion focused first on the role of the prosecutor during the investigation stage versus the role of police. While it was acknowledged that the prosecutor should participate in criminal investigations, it was also pointed out that this participation should be more as an advisor to police and not as the entity that controls the investigation.
- It was stressed that the defense advocate should have some right to collect evidence.
- Further, the need for an alternative to the court process, such as a mitigation system, was stressed.

### *Human Resources*

- Education and training for lawyers in the adversarial litigation process is needed.
- Education of the public about the litigation processes needed.
- Overall, there needs to be more information not just about the details of an adversarial litigation process but about its implications for the roles of all participants and consequences for resources.
- Training should be conducted especially on the local level.
- There is a significant need to improve the infrastructure for communication, especially in the aimags. In addition, especially in the aimags the distances to the court are considerable hindrances to citizens' participating in the court process.
- Another issue that needs attention is the high workload in many courts.

- Further, communication and coordination within the justice system requires improvement.
- The establishment of a Bar association to address issues of ethics, lawyer discipline and training, as well information exchange was recommended.
- It was also discussed that in many cases contradictory court decisions and other justice system responses are a result of a gap in conceptual theories that guide these decisions.
- To assure high and consistent quality of judicial decisions and the work of other justice system members, better standards for selection of judges should be developed.
- In order to assure that the justice system applies decisions uniformly in accordance with the law, it would be helpful to develop something like an encyclopedia of legal terms. At the current time we encounter frequent divergences in interpreting legal terms and laws that lead to miscommunication and even unjustified differences in the decision making process.
- In order to address the high workloads, staff shortcomings and shortcomings related to office space and equipment, a study should be undertaken to identify the resources needs, especially adequate staffing levels.
- In order to assure that judges and others are up-to-date on new developments in the law, continued legal education needs to be systematized and required.
- In order to reduce corruption and increase the attractiveness of positions in the justice system, the current salary structure has to be reviewed. We should establish what the cost of living is for these government employees and assure that they receive an adequate salary in a timely fashion. At the current time salaries for many in the justice system can barely cover general living expenses, and judges in several aimags sometimes did not receive a salary for several month in a row. This is likely to lead to corruption and a low reputation for these positions.

### *Legal Environment*

- There was significant discussion about the review and creation of new laws to improve the operation of the justice system. Participants generally felt that almost all laws should undergo a consolidated revision and that a number of new laws should be developed, including: (1) a separate law on the role and function of the General Council of Courts; (2) a law that regulates ethics for judges; (3) a law on the prosecution function, law on the enforcement of court decisions; and (4) laws regarding the methods for conducting criminal investigations.

### **Red Group**

The Red group was initially instructed to work in small groups to consider dividing the listing of weaknesses into categories that shared a common theme. The leader gave possible examples as groups that share similar causes, or similar solutions or similar

institutions. Questions arose and the group decided to work as whole. The group developed the following issue categories:

*Issues related to the Parliament that would require revisions of law*

- Judicial responsibilities not under current judicial system.
- Modification or renovation of laws on procedure.
- Need for specialized courts.
- Reconsideration of the constitutional court as separate from rest of the court system.
- Old court structures still in existence; for example, only the executive has power in the aimags. Judicial branch needs to take a more active role. Before 1990 the local areas had full authority.
- Some of the administrative functions of the judicial branch are under jurisdiction of executive branch.

*Issues related primarily to funding*

- Shortage of judges.
- Workload too large.
- Court system physically far from general public.
- Poor work environment.
- Debt of courts.
- Labor standards for judges and court staff.

*Management, Ethics and Training*

- Reform of the General Council of Courts:
  - a. Will be responsible for training as required;
  - b. Accountability to the judiciary;
  - c. Improve professionalism of management style and staff.
- Ethics and the need to improve respect for dignity of the individual citizen and for human rights.
- Work with other agencies and Non Governmental Organizations to improve services and increase public awareness of the law and the operation of the courts.
- Improved research services to the courts.
- Standards for advocacy.
- Improve social sense of judges.
- Change people's way of thinking to conform to the constitutional values and norms.

## Plenary Session

After working in break-out groups the participants met in plenary session to report back on the break-out group discussions and decide on the final defining issues for setting up three work groups. These three work groups then met individually to determine the objectives within each of the three major issues that each work group would need to address. The three work groups were:

- ***Legal Environment and Procedure.*** This work group was assigned to consider all reforms of the Mongolian justice system that would require new laws or reform of existing laws to accomplish.
- ***Ethics and Human Resources.*** This work group was assigned to consider issues with regard to creating the conditions for and enforcing ethical behavior for all the actors in the justice system, and issues with regard to the number, qualifications, training, compensation and working conditions of justice system staff.
- ***Management and Organization.*** This work group was assigned to consider issues of structure and organization of the justice system and problems of administering the system, including the use of modern justice system management techniques.

It was recognized that there may be some overlap in the issues that the three work groups were to consider. Coordination among the work groups is thus likely to be an important concern, to assure that the work groups are all working toward the same goals. Achieving the fundamental values of the Mongolian justice system discussed in Section 3 of this report is to be the ultimate goal of all of the work groups.

## **SECTION 6 WORK GROUP OBJECTIVES**

This Section describes the specific objectives or issues identified by the three work groups as their focus and, where it was possible to determine at the time of the conference, the desired work group composition, resource needs and time lines for each objective. Achieving the fundamental values of the Mongolian judicial system is to be the ultimate goal of all of the work groups.

### **Legal Environment and Procedure Work Group**

The assignment for the Legal Environment and Procedure Work Group was to consider all issues that might require new laws or a revision of current law. The work group listed three tasks that it considered high priority:

1. Review the current package of laws relating to the justice system that is being prepared by the Ministry of Justice for submission to Parliament in the upcoming session.
2. Review the laws relating to the legal environment for judicial independence.
3. Review the laws on enforcement of judgments for possible reform or expansion.

The first task selected by the work group was to undertake a review of the current drafts of a cluster of laws being developed in the Ministry of Justice to be presented to Parliament in the fall session, which starts in October. The review will analyze the laws for inconsistencies and conflicts and will also assess the degree to which the laws promote the independence of the judiciary and the fundamental values of the Mongolian justice system. The package of laws includes the civil code, the code of civil procedure, the criminal code, the code of criminal procedure, the law on execution of court judgments and the law of administrative responsibility. There may be several other laws that are added to the package. The review of these laws must be completed in time for submission to Parliament.

The following steps were discussed for completing this task.

1. A subgroup of the work group must be designated to undertake the review.
2. The Director of the Law Reform Office of the Ministry of Justice will create a list of the aspects of the laws to be included in the review, such as appeal provisions, to allow comparisons across all the laws.
3. The laws will be assigned to individuals for review.
4. The individual reviews will be combined into a matrix for comparison purposes.

The final matrix may look as shown below. This matrix would allow comparison of provisions across laws.

Matrix for Comparison of Codes						
	Civil Code	Civil Process	Criminal Code	Criminal Process	Enforcement	Administration
Role of Procurator						
Composition of Court						
Role of Citizen Representative						
Appeal Process						
Etc.						

Some staff time resources will be required to complete this task, including at a minimum: (1) time for a work group leader to monitor the progress of the work group and to assemble the work of the reviewers into the final matrix and to report the findings to the Director of the Law Reform Department; (2) time for the Director of the Law Reform Department of the Ministry of Justice to create the list of the aspects of the laws to be included in the review; (3) time for a group of reviewers to read the laws and fill out their column in the matrix; and (4) time for one meeting of the whole reviewer group to discuss the results.

A second task selected by the work group was to review the laws pertaining to the legal environment for judicial independence. One member of the work group believed that there was both a need for a better definition of judicial independence and a need to improve the implementation of the laws that are presently in effect regarding judicial independence. One important implementation issue is adequacy of resources for the judicial system. Another issue is how to hold judges accountable to assure the quality of the judges. Judges are appointed for life and are hard to remove from office. Mandatory training of judges may provide one way to improve the quality of judicial decisions. No timetable was discussed for addressing this issue.

The final task discussed by the work group was to review the laws on enforcement of judgments for possible reform or expansion. There are techniques for enforcing civil judgments that are used in other legal systems that might be of use in the Mongolian justice system and should be investigated.

### **Ethics and Human Resources Work Group**

The Ethics and Human Relations Work Group was assigned the responsibility of considering issues related to ethics, training, and staff salaries and working conditions. The discussion started with identifying tasks for the work group to consider regarding ethics issues. The group decided that it should accomplish the following tasks:

1. Review ethics rules for judges, police, prosecutors, other lawyers, and other justice system staff.
2. Establish educational standards and develop continued training for judges and other lawyers on ethics, including a single curriculum on ethics for lawyers.
3. Establish of a requirement for all lawyers to take a course on ethics.
4. Develop a textbook on ethics to be written by experts who will be invited.
5. Review the discipline process for lawyers.
6. Increase community understanding of the justice system.
7. Develop information on public perception of lawyers' ethics.

Following a short discussion of the weaknesses in this area identified before, this group first considered the need to establish a standard that all legal education should include a common ethics section. A good book on ethics is needed. Participants pointed out that the Soros Foundation will shortly be announcing a contest for the developing a set of legal books. It may be possible to arrange that one of these books focus on ethics. It was further discussed that, while ethical training may be already a part of the university education, it is also important to make ethics a part of continuing legal education.

Another issue that was addressed was the isolation of the legal profession, especially prosecutors and judges, from the public. This contributes to misunderstanding and mistrust. Isolation also makes it easier for these legal professions to remain non-responsive and act in less than ethical ways. Therefore, efforts should be made to assure that these lawyers become more community oriented in their work. The work group should study which training and information would be needed to make prosecutors and judges more community oriented in their work.

In order to increase ethical behavior the group also noted a need to: (1) review and revise the ethical codes for prosecutors, judges, police and other justice system professionals; (2) strengthen the mechanisms to discipline those who violate the ethics rules; and (3) establish better mechanisms to assure that such violations are reported.

The group then moved on to identify which agencies and professions should be represented on the work group to address the issues. The following participants were recommended for the ethics work group:

1. Representative from the Ministry of Justice;
2. The Chairman of the Standing Committee on Legal Affairs;
3. The Secretary of the General Council on Courts;

4. Judges;
5. Prosecutors;
6. Defense attorneys;
7. Police;
8. Notary;
9. General Department for the Execution of Court Decisions;
10. Chairman of the Administration and Management Department; and
11. Law school representative.

The group also discussed the resources required by the work group to develop the information and plan to address these issues. Without further detail on the exact tasks to be fulfilled, it was difficult to identify the exact resources needs of the work group. The following, however, were deemed essential to support the work groups: meeting space, staff support, office supply, computer with internet access to conduct research on ethics issues, law and ethics books, funds to conduct survey. It was discussed that not all of these items may require external funding. Meeting space, for example may be available at one of the participating agencies, one of the agencies may also be able to donate support staff for the time the work group is operating.

As a last item, the reporting mechanism for the work group to identify progress was discussed. Since the group did not reach the point of identifying and making specific assignments, it was decided that the work group should meet on a monthly basis and provide monthly reports to the Advisory Committee. It will then develop a final report at the end of the planning stage, which may be at the end of month six, that summarizes the activities of the work group and its recommendation to the oversight committee. It was also discussed that there should be a mechanism to communicate with the other work groups to discuss areas that are impacting their work, areas that are overlapping, and to identify work that requires coordination.

The participants then identified the issues the work group should address in relation to training and information. The following issues were identified for the work group in relation to training:

1. Create a center for (re)training judges, including developing curriculum and training methods, planning for continued training, selecting trainers, etc.
2. Establish an information center for the judicial system.
3. Create a journal for judges.
4. Develop a central resource library with Internet connection.
5. Create an encyclopedia for legal terms.

With regard to issues of salary, budget, and improved working environments, the work group identified the following issues:

1. Conduct a national study on lawyers' salary rates.
2. Create a study group to develop ideas on how to increase salaries.
3. Study mechanisms to increase prestige of judges.
4. Study current conditions of working environment and identify needs.
5. Plan to develop additional position for court assistants (where needed).
6. Study staffing requirements.
7. Plan for long term budgeting.

The group then went on to discuss how the work group should be configured. It was decided that the representatives mentioned for the ethics issues should also be available to work on the issues related to human resources. In addition, representatives from the business community and the ministry of education should be included. With regard to the resource requirements for the work group it was agreed that similar support was needed to address the human resources issues as for the ethics issues. Additional resources would be required to conduct the public opinion survey. The reporting requirements should be the same as for the ethics issues, namely monthly reporting, coordination with other groups and a final report at the end of the currently envisioned 6 month planning phase.

It was recognized that specific assignments for further planning tasks could only be made when the specific work group members were decided upon. It was also stressed that there will likely be a need to add other work group members throughout the process.

### **Management and Organization Work Group**

The Management and Organization work group was assigned the responsibility for considering issues regarding the structure and organization of the justice system and problems of administering the system. The work group identified five general issues to consider:

1. Budget;
2. Resource management;
3. Public relations;
4. Liaison with other government branches; and
5. General Administration.

The first area of interest discussed was budgeting. Budgeting was defined as the process by which the courts request funding, determine how much is requested, who is in charge, and how the funds are distributed. Under the current system the General Council of Courts is allocated the whole budget and redistributes it to the individual courts. Each court submits budget requests to the General Council of Courts. The ultimate amount distributed is inadequate to operate the courts. The objective is to change this procedure. It was suggested that a preferred procedure would guarantee a certain percent of state budget be allocated to the court system. Although this would also require Parliamentary action, it was considered as a possible option. Other options discussed included needs based budgeting and greater

involvement of the General Council in the budget development process.

A second area discussed was the organizational accountability of the General Council of Courts. One suggestion was that the accountability of the General Council of Courts should be to the Supreme Court and not the Minister of Justice. This would require action by the Parliament to change.

The group next turned its attention to the general category of court administration. There was objection to the use of the term because it encourages the perspective that the administrator commands the court as it did under communism. It was agreed that a better term would be “court services management.” It was proposed that the General Council of Courts should be “the soldier and not the general,” answering to the court. The General Council should exist to provide services to the court.

The group then proceeded to identify the following tasks under the general category of Court Services Management.

1. Redefine the General Council of Courts as a service provider and not as a policy making agency.
2. Prepare new managers for all levels of the court system.
3. Improve information services to the courts, including (a) updated information on legal related matters and (b) a research center.
4. Provide updated legislation.
5. Provide Training on new equipment.
6. Establish a central judicial academy for continuing education.
7. Provide investment funds to be available for building court houses and other capital expenditures.
8. Improve Court Security Services.
9. Establish a central court archive.

From these tasks, the work group chose to focus in detail on the task of “preparing new managers for all levels of the court system.” The work group first considered any additional people needed to achieve the objective. Proposals for necessary work group members included representatives from the Minister of Finance, the State Property Office, the Supreme Court, the General Council of Courts, the prosecutor’s office, and professors from school of law. The group felt they should consider possible contributions from all existing training programs.

The group next considered what resources would be needed, including resources already available. Resource needs that were identified included:

1. Teachers from both Mongolia and abroad;
2. Training equipment and materials, text books and facilities;

3. Students;
4. Scientific training and experience; and
5. Dormitories for students.

The group then considered the possible benchmarks of progress and achievements. These were described as possible stages in the life of the project that would naturally measure progress toward completion of the objective. The following stages were identified:

1. Develop the curriculum and possible providers.
2. Draft a proposal for General Council of Courts to present to appropriate funding sources.
3. Determine the funding sources and whether funding will be in the government budget or not. If funding will not be in the government budget, then seek a donor.
4. Work with the General Council of Courts to obtain cabinet approval.
5. Start the training.
6. Review the training process.
7. Graduate the first group of students and obtain placement of new students.

Next the group considered how long the process would take from start to finish. They reviewed the above progress indicators and considered the time each would take. This resulted in some changes in the indicators and their order. The group made several efforts to establish a time line for each indicator and for the project overall and determined that the tasks first had to be developed in more detail. Development of a time line was thus left to the next meeting of the work group.

## **SECTION 7**

### **A BLUEPRINT FOR PLANNING**

This Section provides a blueprint for the further work of the work groups identified in the conference. It first presents proposed priority issues for each of the three work groups and then presents an overall approach to developing action plans that applies to all work groups. It should be remembered that achieving the fundamental values of the Mongolian justice system, as described in Section 3, must be the ultimate goal of all the work groups.

#### **Priority Tasks**

From the large number of tasks discussed for the three work groups, the following are our recommendations for the priority tasks for each work group for immediate action, with reasons for the priorities. These recommendations also reflect discussions after the conference with members of the Advisory Committee. It is important that all of these tasks be approached with the view of achieving the fundamental values of the Mongolian justice system discussed above.

#### ***The Legal Environment and Procedure Work Group***

*Review of Proposed Laws.* The most pressing issue for this work group is to undertake a review of the cluster of laws relating to the justice system that is being prepared by the Ministry of Justice for presentation to Parliament in September. The review will analyze the laws for inconsistencies and conflicts and will also assess the degree to which the laws promote the independence of the judiciary and the fundamental values of the Mongolian justice system. Consistent application of legal principles is an important component of the fundamental value of effectiveness, and well thought out laws on court structure and procedures are important to promoting judicial independence. Members of the Mongolian Supreme Court are interested in participating in this review, particularly focusing on the law of the courts, the criminal code and the code of criminal procedure, which will have substantial changes from the previous laws. This step must be completed by September.

*Laws on Enforcement of Judgments.* A second priority issue for this work group will be a review of the laws regarding enforcement of judgments. Lack of enforcement of judgments erodes respect for the courts and obstructs the development of modern commerce by undermining the efficacy of contracts. Enforceability is a critical component of the fundamental value of effectiveness. Techniques for enforcing civil judgments that are used in other countries may be investigated for possible use in Mongolia.

#### ***The Ethics and Human Resources Work Group***

*Training in Ethics for Judges.* One high priority for this work group is developing standards for and training in ethics for judges. Promoting and facilitating ethical behavior of

judges is critical to building public respect and support for the judicial system and is central to the fundamental value of accountability. Developing standards first requires review of the existing standards of judicial ethics. It then includes reform, where necessary, of the judicial code of ethics, improvement of mechanisms to discipline those who violate the rules of ethics, and establishment of mechanisms to assure that such violations are reported. Training in ethics encompasses developing an ethics curriculum for law schools, developing continuing training on ethics for judges and writing an ethics textbook for judges.

*Continuing Professional Training for Judges.* Another high priority for this work group is developing continuing professional training for judges. Professional training is critical for maintaining high quality judicial decisions by keeping judges up to date on new laws, changes in the law and decisions of the Supreme Court interpreting laws. This promotes the fundamental value of responsiveness by keeping the justice system current with changes in the laws. Training will also help assure consistent application of the laws across all courts in the country, thus promoting the fundamental value of effectiveness. Some training tools to be investigated include a center for training judges with distance education capability, an information network to make laws and Supreme Court decisions easily accessible in a timely manner to all judges, a journal for judges, a central resource library with internet connection, and an encyclopedia of legal terms. Among the topics that might be included in the training are: (1) commercial law in a modern market economy; (2) adaptability of common law procedures to a civil law system; and (3) alternative methods for disposition of criminal and civil cases.

### ***The Management and Organization Work Group***

*Professional Training for Court Administrators.* The first priority task for this work group is to develop professional training for court administrators. Training is critical for administrative staff to assure that they are aware of and able to utilize modern management techniques, including the use of technology. Training should also focus on enhancing the capacity of administrators to engage in strategic planning and to collect and utilize caseload and other court statistics. Modern management techniques are important for achieving the fundamental values of accountability and effectiveness. A curriculum on techniques of court administration needs to be developed, including materials and textbooks, and faculty, training equipment and facilities must be identified.

*Improving the Budget Process for the Courts.* Another high priority task for this work group is to develop proposed reforms to the process for preparing and obtaining a final decision on the budget for the courts. It is clear that the courts are underfunded, both in terms of funding for judge salaries and in terms of funding for facilities, equipment and administrative support staff. Some courts are even having trouble paying their bills, and judges in those courts may go for several months at a time without being paid. This opens the door for possible corruption and erodes public confidence in the courts. A rational budget process, based on needs-based budgeting methods, must be developed, so that the courts will

have a clear justification for their annual budget requests based on achieving the constitutional guarantee of judicial independence. Better budgeting and funding is critical to the fundamental values of independence, effectiveness and accountability.

As a final point, the participants at the conference focused primarily on structural issues. Yet many of the problems in the system may be attitudinal. Some of the participants after the conference indicated that they recognized this and hoped that some future activity is directed at changing attitudes, particularly through training.

### **Steps in Developing Action Plans for the Work Groups**

In order to set the planning effort in motion, a number of steps need to be taken by all groups, independent of their topical focus. These next steps, phase two of the strategic planning process, include:

1. Where work group membership has been designated by agency, determine who will represent each agency.
2. Reconvene work groups as soon as possible, at least within 6 weeks.
3. For working group members that may not be able to attend the next meeting(s), consider either a designee or participation by phone.
4. Consider resource requirements for the overall workgroup operations and identify how these resources can be provided (e.g., volunteer time, meeting room at a participating agency).
5. Review tasks and decide on prioritizing, dropping or adding tasks.
6. For each task, assign work group members to work on the task.
7. For each task, develop an implementation plan.
8. Establish mechanisms for the work group to monitor overall progress.
9. Establish reporting mechanisms for the work group to communicate with the Advisory Committee, including the selection of a spokes- person.
10. Establish communication mechanisms to coordinate with other work groups.
11. Continue the planning process over time.

The following sections briefly describe what is involved in each of these steps and different options the working groups may want to consider for accomplishing each step.

#### **Step 1: Determine which individuals will represent each agency**

During the workshop, work group members identified the main agencies that should be represented on each work group. This non person-specific determination was made to assure that the working groups are staffed independent of changes in personnel. In addition, after developing the tasks to be achieved and individual steps to be accomplished (see step 5) work group members may decide that other agencies or organizations, including representatives from different parts of the business community and the general public, should be involved. To

identify additional members the work groups may want to coordinate with the advisory group and request recommendations for representatives from the other agencies that need to be included.

**Step 2: Reconvene work groups as soon as possible, at least within 6 weeks**

In order to commence the activities, work groups have to develop a mechanism to communicate. This communication does not always have to involve a meeting of all working group members in person. For the first meeting it is, however, recommended to try to bring as many work group participants as possible together in one location. During the first meeting a number of issues that determine the key functions of the work group have to be determined, and it is advisable to involve as many members as possible to get their input. It is also recommended that the first meeting be held within a few weeks after the conference. The conference energized work group members. Waiting too long to reconvene these groups and begin their work would disappoint members, and many of the positive dynamics developed during the conference may be lost. Also, currently most members will remember well the issues discussed. After spending too many weeks back in their busy offices, this recollection will be more difficult.

It is also recommended to elect one member of the work group as a chairperson to facilitate the meetings and to assure that meeting minutes are kept and the information developed by the work group is distributed to all members, including those that were unable to attend. The chairperson could also take the responsibility of informing all work group members of upcoming meetings. This assignment as a chairperson can be rotated among work group members on a quarterly basis, if desired.

**Step 3: For working group members that may not be able to attend the next meeting(s), consider either a designee or participation by phone**

Participation of all work group members in all work group activities is important since each of them represents a particular interest and point of view. Since most work group members are already very busy with their regular jobs, participation in all activities and meetings may not be realistic and sometimes too costly. This may be a particularly difficult issue for work group members from the aimags. Nevertheless, their participation is important to assure that all work group activities have a national scope and reflect the needs of justice system throughout Mongolia and not just in Ulaan Baatar. In order to address this issue, work groups could consider allowing work group members to designate someone from their organization to participate in their place if they are unable to attend a meeting. It may also be possible for work group members that are not available for meetings to “attend” by phone, meaning, they call into the meeting where a telephone with speaker is made available and listen and comment over the phone.

#### **Step 4: Consider resource requirements for the overall workgroup operations**

The work groups began to identify resource needs for their overall planning efforts during the conference. These requirements may have to be more specified and in addition the work group needs to determine where these resources will come from. While outside resources may be available on a limited level, the first move for the work groups should be to identify which resources could be accessed without having to rely on outside funding. There are generally many more resources already available than a group initially assumes. For example, a meeting room may be provided by one of the agencies that are participating on the work group. Staff support (e.g., a secretary to assist with distributing minutes from work group meetings), equipment (e.g., telephone), supply (e.g. flip charts) may be available from participating agencies, especially if the work group includes the business community.

#### **Step 5: Review tasks and decide on prioritizing, dropping or adding to tasks**

During the first work group meeting participants may want to review the tasks decided upon during the conference. The work group may want to add additional tasks to address weaknesses in the justice system that are not addressed by the original tasks. In other instances the work group may decide that some tasks may be less important and should be dropped for the current time. Of significant importance is that the work groups prioritize their efforts at this stage. A review of the tasks should indicate which ones are the most important ones to address right away, which ones should be addressed in order to achieve others, and which ones can be postponed until a later stage. Below, we will make a few recommendations for prioritizing tasks that the work groups may want to consider.

#### **Step 6: For each task, assign work group members to work on the task**

Work groups have basically two different options for distributing the work required to accomplish their tasks. First, all work group members can work on all tasks at all times, or second, work groups may divide into subgroups to develop the details to accomplish individual tasks and take on separate assignments. The first option has the advantage that all work group members are always informed about all work of the group and their input is always assured. When a work group wants to achieve more than one task in a relatively short time, the second option is more advisable. To assure that input can still be received from all work group members, the subgroups can regularly report back on their efforts to the larger work group to gain feedback and keep other members informed.

#### **Step 7: For each task, develop an implementation plan**

For each task identified in step 5 above, a detailed step plan for implementation needs to be developed. This plan may be developed by the work group as a whole or may be developed by the work group members assigned to the task and then submitted to the full work group for final approval. A properly organized implementation plan will allow the group to

effectively anticipate the time required to accomplish the task. It will also help the group to avoid unexpected delays. Finally, this step clearly defines the scope of the work to be done so decision-makers understand the effort necessary to achieve each step. Using this information, they can assess the effort required and compare it against the expected benefits from the effort, when making policy decisions. The implementation plan for each task should include the following:

**Step 7.1: A detailed list of steps for completing the task**

In order to organize the work to accomplish the task it is necessary to anticipate the primary steps to be completed. Each step should be described in sufficient detail to define the scope of the step for anyone who will participate in the completion of the step or will otherwise participate in the planning process. The steps should be arranged in the chronological order required for the completion of each task so that all necessary conditions exist for the initiation of the next step. Persons or groups responsible for the completion of the steps should be established, and those persons need to participate in the development of the step plan.

**Step 7.2: A list of resource needs for achieving the task**

Considering all of the steps that must be completed to accomplish the task, a list of resources necessary to support those steps and a strategy to obtain those resources must be developed. This should include estimated requirements for personnel hours, facilities, materials and supplies, and any special equipment. The availability of these resources within the time allocated to the step should be considered and the step plan adjusted accordingly.

**Step 7.3: An Assessment of interested parties**

An analysis of all persons or groups who will be affected by the accomplishment of the individual steps, and ultimately the task, should be conducted. This includes consideration of how those parties can and will assist or obstruct the ability of the work group to achieve the task. It should also include expected ways to encourage their support for the process to maximize the chances of success.

**Step 7.4: A schedule for completion of each step**

Each step should have an anticipated start and end date. Work on various steps may overlap in time if the initiation of one does not depend on the completion of the other. Schedules should realistically reflect the actual time required to complete the step and should anticipate other influences such as vacations, restrictions on resources, the actions of other interested parties, and completion of other steps or tasks.

### **Step 7.5: Milestones for assessing progress**

Milestones are points in the time period covered by the implementation plan when results can be identified and measured by the work group or the Advisory Committee. They are used to assess the progress achieved up to that point. This generally is a point when critical steps or groups of steps should be completed in order to maintain the work schedule.

This should also be a point when the work group or advisory group can make decisions to amend the plan, such as by changing allocation of resources and extending or shortening schedules. These milestones may be set to coincide with routine meeting schedules or may be set to coincide with the accomplishment of specific steps. These milestones should be reflected in the step plan and the reporting mechanisms established in step 9.

The following table provides an example of how an action plan for an individual task might be organized.

Task	Steps	Specific assignment	Specific resources needed	Timelines and milestones
Develop uniform standards for education on ethics	Step 1 Step 2 Step 3 etc.	To be decided by step	Resources for each step to be decided	To be established by step

### **Step 8: Establish mechanisms for the work group to monitor overall progress**

To assist the work groups in their efforts, it is important to develop a mechanism to keep track of all the work completed and the steps that still need to be accomplished. As described under step 7, timelines and milestones for accomplishment of each individual task need to be established and, on a regular basis, reviewed. A similar approach is recommended to keep track of all accomplishments of the work group. This can easily be done by building and completing a chart that provides a quick overview of the status of all tasks. This self-monitoring tool helps the work group to identify if the tasks can be achieved as envisioned, if timelines and milestones need to be adjusted, and if steps need to be added. It provides a quick overview of all the work accomplished by the work group.

### **Step 9: Establish reporting mechanisms for the work group to communicate with the Advisory Committee, including the selection of a spokesperson**

The Advisory Committee will serve an important function to the work groups. It will provide advice and support for individual tasks and steps, facilitate communication among the work groups, and provide a liaison with donors. In order to assure good communication with the Advisory Committee, the work groups should plan to meet regularly with the Advisory Committee, provide monthly reports that summarize work group activities to the Advisory

Committee, and prepare a final report to the Advisory Committee describing the work group's achievements. The work groups may consider designating one member as a spokesperson in addition to the chairperson, to attend meetings with the Advisory Committee and other work groups.

### **Step 10: Establish communication mechanisms to coordinate with other work groups**

In order to avoid duplication of efforts and to assure that all planned activities are well coordinated, it is essential that good communication be developed among the different work groups. The Advisory Committee will serve as one mechanism to assure consistency and coordination. In addition, the work groups may consider sharing their monthly reports and establishing regular meetings of their spokespersons. The work groups may also be able to use e-mail for communication and information exchange.

### **Step 11: Continue the planning process over time**

As mentioned before, the strategic planning process is a long-term, continuous process. It assists with the development of an organization and can also serve as a valuable budget tool.

### **Strategic Planning As a Development Tool**

Strategic planning is a developmental tool that is an essential element of any successful organization. It ensures that sufficient attention is given to enhancing performance, adapting to changing demands and preparing for future needs. It fortifies the stability of the organization and energizes its people. In order to accomplish all these things the process must become routine. At appropriate intervals the plan must be reviewed in detail by the work groups and the Advisory Committee to be sure that it remains consistent with the mission of the Mongolian justice system and its vision for the Mongolian people. Essential to this practice is consideration of the relationship between the accepted tasks and the fundamental values that support the rule of law and an independent judiciary in Mongolia. Work groups should consider the social and practical changes and trends that are influencing the justice system and make adjustments to their plan accordingly by modifying priorities and adding new tasks.

### **Strategic Planning as a Budget Tool**

A strategic plan is particularly valuable as a method to assure funding sources, either internal or external, that the proposal has been thought through in detail and that it will be a successful investment. Generally a bank will not make a loan to business without a clearly developed business plan. Similarly, many government budgeting offices in the US and elsewhere are requiring such plans before supporting large investments in government projects. For this reason likely funding sources should be involved with the plan development. Often these agents can be helpful in providing advice for resource management

in the project. Their involvement will give them an opportunity to fully understand the value of the project to the Mongolian justice system. Often participation in the plan will instill enthusiasm for the success of the group and encourage aggressive support when funding authorities make policy based funding decisions. While it is not recommended that potential funders become work group members, the Advisory Committee may wish to involve representatives of internal and external funding sources, particularly donors, in its meetings.

### **Strategic Planning as a Tool to Coordinate the Work of Donor Organizations**

Throughout this project the facilitators emphasized that Mongolian justice system officials must be the primary spirit and intellect behind the development of the strategic planning process, to assure that all projects address unique Mongolian needs. Ultimately this is beneficial because any change or reform involves risk. The Mongolian officials charged with reform will have a greater level of confidence and commitment to the changes involved when they have determined the priorities and values of the tasks.

As a funding and development resource the international donors active in Mongolia have already determined that investment in this quickly developing nation is important to the world family of nations. It is important that donor activity in Mongolia relating to the rule of law be coordinated and aimed at promoting the fundamental values of the Mongolian justice system that were identified in this conference. The Advisory Committee that has been formed as a result of the conference should provide the Mongolian justice system officials with a vehicle for guiding and coordinating donor activity.

The major donor organizations in Mongolia are forming thematic monitoring groups to set goals and monitor and coordinate their efforts. One thematic monitoring group will be aimed at governance issues. Hopefully this group will become familiar with the results of the conference and work closely with the Advisory Committee to assure that donor assistance is consistent with Mongolian needs and aimed at promoting the fundamental values of the Mongolian justice system.

### **Conclusion**

The Mongolian justice system has taken an important step toward assuring the conditions for judicial independence in this conference. The Mongolian justice system now has a framework and a vision for where the judicial system wants to be and a plan for moving ahead to achieve that vision. The conference participants identified six fundamental values for the justice system: independence, responsiveness, accountability, fairness, effectiveness, and accessibility. They then identified the current strengths and weaknesses of the justice system in achieving those values and the issues facing the justice system in addressing its weaknesses. Three overriding issue areas were identified, legal environment and process, ethics and human resources, and management and organization. The participants then established three work groups to work on those three issues and identified a set of tasks for

each work group. An Advisory Committee has been formed to provide support to and monitor the progress of the work groups.

It is important that the momentum created in the conference be carried forward in the work groups. After all the effort expended at the conference, it will be too easy for the participants to allow day-to-day problems to again dominate their attention. A solid commitment to continuing the work of the conference is now essential. We are confident that this commitment will be made.

## **APPENDIX A**

### **TOWARDS AN INDEPENDENT JUDICIAL SYSTEM IN A DEMOCRATIC MONGOLIA**

#### **LIST OF CONFERENCE PARTICIPANTS**

##### **STATE IH HURAL**

1. D. Huvituguldur  
Chairman, Standing Committee on Legal Affairs
2. S. Tumor  
Member of State Ih Hural
3. O. Enhtuya  
Member of State Ih Hural  
(B. Uranchimeg)
4. B. Delgermaa  
Member of State Ih Hural

##### **SECRETARIAT OF THE STATE IH HURAL**

1. B. Enebish  
General Secretary
2. J. Elbegsaihan  
Head of Research, Information and Reference Department
3. J. Narantuya  
Consultant
4. B. Dolgor  
Consultant

##### **GOVERNMENT SECRETARIAT**

1. N. Batbold  
Officer

##### **OFFICE OF THE PRESIDENT OF MONGOLIA**

1. Ts. Tumenbayar  
Consultant
2. G. Ayurzana  
Consultant

### **CONSTITUTIONAL COURT**

1. D. Chilkhaajav  
Member  
(Ch. Enhbaatar)

### **SUPREME COURT**

1. Ch. Ganbat  
Presiding Justice, Chamber of Criminal Cases
2. J. Dashdorj  
Justice
3. M. Damiransuren  
Justice

### **GENERAL COUNCIL OF COURTS**

1. J. Enhchuluun  
Secretary
2. A. Otgontsetseg  
Specialist
3. D. Erdenchuluun  
Specialist
4. N. Purev  
Specialist

### **MINISTRY OF JUSTICE**

1. L. Tsog  
Minister
2. G. Bayasgalan  
Director,  
Legal Reform Strategy Management  
and Integrated Planning Department

3. D. Ganbold  
Adviser
4. Sh. Suhebaatar (320272)  
Head of Public Administration Management Department
5. D. Odbayar  
Head of Information, Monitoring and Evaluation Department
6. N. Tungalag  
Officer

### **GENERAL POLICE DEPARTMENT**

1. M. Horolsuren  
Senior Inspector for International  
Relations, Administration Division
2. M. Ganbold (322179)  
Head of Organized Crime Department

### **GENERAL PROSECUTOR'S OFFICE**

1. M. Altanhuyag  
General Prosecutor
2. Y. Sagsai  
Senior Prosecutor of Bayan Zurh District

### **GENERAL EXECUTIVE DEPARTMENT OF COURT DECISION**

1. T. Zagdaa  
Head of Court Decision Execution Department
2. L. Ganbat  
Head of Decision Execution Division
3. D. Galsanpuntsag (327574)  
Head of the Capital City Court Decision Execution Department

### **COURTS**

1. D. Damdin-Od  
Judge, Capital City Court
2. A. Chimidsogzol  
Judge, Capital City Court

- (L. Atartsetseg)
3. N. Dagva  
Head of Capital City Court Administration
  4. D. Myagmarjav  
Chief Judge, Darhan-Uul Aimag Court
  5. N. Tuvshinjargal  
Judge, Tuv Aimag Court
  6. D. Chuluunhuu  
Chief Judge, Bayangol District Court
  7. T. Urantsetseg  
Chief Judge, Suhebaatar District Court
  8. D. Puntsag  
Chief Judge, Orhon Aimag Court

### **BAR ASSOCIATION**

1. A. Enhjav (350258)  
Chairman  
State Center for Civil Registration and Information

### **WOMEN LAWYER'S ASSOCIATION**

1. N. Chinchuluun  
Executive Director

### **MONGOLIAN ADVOCATE'S ASSOCIATION**

1. S. Narangerel  
President

### **LEGAL SCHOLARS**

1. B. Chimid (327016)  
Advisor to the State Ih Hural

### **RULE OF LAW PROJECT TEAM**

1. Steven Weller J.D. Ph.D

- Legal Strategist
2. Mark Schweikert  
Honorable Judge
  3. Heike Gramkow  
Expert
  4. Ann W. La Porta  
Adviser, Rule of Law Project
  5. P. Erdenebayar  
Interpreter
  6. B. Bayar  
Interpreter
  7. D. Erdene  
Interpreter
  8. D. Suheemaa  
Assistant, Rule of Law Project
  9. Ts. Haliunaa  
Assistant, NCSC
  10. Jerry Van Mourik  
Assistant

### **USAID**

1. Gene George  
Acting Mission Director
2. D. Sukhgerel  
Program Management Specialist
3. H. Mendsaikhan  
Program Officer

### **US EMBASSY**

1. Lynn Whitlock  
Political Officer

### **UNDP**

1. Bruno Pouezat  
Deputy Resident Representative
2. D. Sukhjargalmaa

- Assistant Resident Representative  
3. Kenta Goto  
Associated Expert  
Governance and Economic Transition, UNDP

**UN HIGH COMMISSIONER FOR HUMAN RIGHTS  
MONGOLIA FIELD OFFICE**

1. D. Amarsanaa  
Coordinator

**THE ASIA FOUNDATION**

1. Katherine S. Hunter  
Representative  
2. V. Bolor  
Interpreter

**SOROS FOUNDATION**

1. D. Odon  
Civil Society Program Coordinator

**JICA**

1. Wakako Hashimoto  
Project Adviser

**GTZ**

1. Dietrich Nelle  
Project Coordinator  
2. B. Javhalan  
Interpreter

**GTZ (STATE AUDIT BOARD)**

1. M. Rossbach  
Technical Adviser

## **HANNS-SEIDEL FOUNDATION**

1. G. Suhebaatar  
Manager-translator

## **OTHER**

1. Alexandra Cohn
2. Mary Core
3. Myagmarsuren
4. S. Narantsetseg
5. N. Oyungerel
6. D. Boldmaa

## APPENDIX B

### LIST OF INITIAL WORK GROUP MEMBERS

#### Work Group on Ethics and Human Resources

1. J. Elbegsaihan – Head, Research, Information and Reference Department, SIH Secretariat
2. D. Chilhaajav – Member, Constitutional Court (Ch. Enkhbaatar attended for Chilhaajav)
3. D. Ganbold, Adviser to the Minister of Justice
4. Sh. Suhbaatar – Head of Department, Ministry of Justice
5. D. Erdenechuluun – Officer, General Council of Courts
6. L. Atartsetseg – Justice, the Capital Court of Ulaanbaatar
7. N.Tuvshinjargal – Justice, Court of Tuv Aimag (Central Province)
8. E. Sagsai – Procurator, Bayanzurh District

## Work Group on Management and Organization

9. B. Chimid – Advisor to State Ikh Hural (hereafter referes to as SIH)
10. J. Narantuya – Adviser to the Secretraiat of SIH
11. M. Altanhuyag – Procurator General
12. J. Enhchuluun – Secretary, General Council of Courts
13. D. Galsanpuntsag – Chief, Ulaanbaatar City Execution Department of Court Decision
14. D. Myagmarjav – Chief-Justice, Darhan-Uul Aimag Court
15. D. Puntsag – Chief-Justice, Orhon Aimag Court
16. N. Chinchuluun – Executive Director, Women Lawyer’s Association
17. D. Chuluunhuu – Chief-Justice, Bayangol District Court
18. N. Tungalag – Officer, Ministry of Justice

## Work Group on Legal Environment and Procedure

19. G. Bayasgalan – Head of Department, Ministry of Justice
20. M. Horolsuren – Senior Officer for International Relations, State Police Department
21. J. Dashdorj – Justice, Supreme Court of Mongolia
22. M. Ganbold – Chief, Organized Crime Fighting Division, State Police Department
23. D. Damdin-Od – Justice, the Capital Court of Ulaanbaatar
24. B. Dolgor – Consultant, SIH
25. N. Batbold – Officer, Government Secretariat
26. Ch. Ganbat – Presiding Justice, Supreme Court
27. A. Otgontsetseg – Expert, General Council of Courts
28. N. Dagva – Head, Administration Division, the Capital Court of Ulaanbaatar
29. T. Zagdaa – Chief, Court Decision Execution Department

## APPENDIX C

## Towards an Independent Judicial System in a Democratic Mongolia

July 27, 1999 – July 29, 1999

### Conference Agenda

#### Tuesday, July 27, 1999

9:30 a.m. – 10:00 a.m. Registration

10:00 a.m. - 10:30 a.m. Welcome and Introductions:  
Minister of Justice L. Tsog  
U.S. Ambassador Alphonse La Porta

10:30 a.m. - 11:00 a.m. Keynote Address  
Judge Mark Schweikert

11:00 a.m. – 11:15 a.m. Break

11:15 a.m. – 12:30 p.m. Planning Session 1 (in Plenary)

#### ■ **Planning Session 1: Develop a common understanding of where we are going**

Description. Successful long range strategic planning requires agreement among participants about the scope and purpose of the planning effort and committed and enthusiastic participants. The purpose of this session is to make sure that the appropriate participants are present and that everyone shares a common understanding of the value, purpose, scope, benefits, mechanics, and potential implications of long range strategic planning. We will also discuss rules for conducting the seminar to assure that everyone is able to share their views in a safe and productive climate.

Outcome. A shared understanding of the planning effort and the rules for conducting the seminar.

12:30 p.m. – 2:00 p.m. Lunch

2:00 p.m. – 3:30 p.m. Planning Session 2 (in Plenary)

#### ■ **Planning Session 2: Identify mandates, functions and the expectations of interested parties to help define the justice system's purpose in Mongolian society**

Description. The justice system of Mongolia needs a sense of purpose if it is to function effectively in the long term. A justice system's purpose is determined by what it is required to do by law, the functions it has assumed over time, and its expectations about what it should

be doing. The components of a the justice system's purpose reflect the expectations, needs, and desires of a variety of diverse interested parties. Interested parties are people, groups or organizations that can place a claim on the justice system's attention, resources or services, or that are affected by what the justice system provides. This session of the seminar will identify the justice system's interested parties and their expectations for the justice system and then identify the elements of the purpose of the Mongolian Justice system.

Outcome. A list of the key components of the purpose of the Mongolian justice system.

3:30 p.m. – 3:45 p.m. Break

3:45 p.m. – 5:00 p.m. Planning Session 3 (in Plenary)

■ **Planning Session 3: Develop a vision for the future for the Mongolian justice system**

Description. A vision statement describes what the justice system desires to become in the future. It emphasizes the positive possibilities for the future, including the values the justice system intends to promote. Also, it incorporates the expectations of the justice system's interested parties. This seminar session will identify the elements of a vision which outlines what the Mongolian justice system desires to become. The facilitators will engage the group in a number of exercises to help them develop a list of expectations for the future justice system.

Outcome. A list of the components of a vision for the future of the Mongolian justice system.

6:30 p.m. Reception and Dinner at Abatai Sain Khan's Palace Company

**Wednesday, July 28, 1999**

10:00 a.m. – 10:15 a.m. Overview of the day

10:15 a.m. – 11:15 a.m. Planning Session 4 (in Break-Out Groups)

? ■ **Planning Session 4: Describe the strengths and weaknesses of the current Mongolian justice system**

Description. This task will help measure the Mongolian justice system's capacity to meet current and likely future demands. Beginning with this task, the focus of long range strategic planning shifts from identifying demands on and expectations of the justice system to determining how the justice system can shape and respond to those demands. This session will examine the strengths and weaknesses of the Mongolian justice system with regard to its: (1) structure and organization, including issues of court administration; (2) procedures, including issues of enforcement of court decisions; (3) practices, habits and attitudes, including questions of ethics; and (4) workload and resources.

Outcome. A summary which (1) identifies the justice system's strengths and weaknesses in relation to its capacity to meet current and likely future demands; (2) provides ideas about how to improve that capacity and minimize weaknesses; (3) outlines a possible plan for building on the justice system's strengths.

11:15 a.m. – 11:30 a.m. Break

11:30 a.m. – 12:30 p.m. Planning Session 4, Continued (in Break-Out Groups)

12:30 p.m. – 2:00 p.m. Lunch

2:00 p.m. – 2:30 p.m. Report Back in Plenary from Break-Out Groups

2:30 p.m. – 3:15 p.m. Planning Session 5 (in Break-Out Groups)

**? ■ Planning Session 5: Identify strategic issues that face the Mongolian justice system**

Description. Identifying strategic issues and developing responses to those issues are the heart of long range strategic planning. Strategic issues are fundamental trends, events, or policy choices that affect the justice system's mandates, functions, values, service level and mix of services, costs, organization, and management. This session will create a list of the major strategic issues emerging from the assessment of strengths and weaknesses that will affect the ability of the Mongolian justice system to achieve its purpose and vision, by building on the strengths of the justice system and minimizing its weaknesses.

Outcome. A list of strategic issues confronting the Mongolian justice system and strategies for addressing those issues.

3:15 p.m. – 3:30 p.m. Break

3:30 p.m. – 4:30 p.m. Planning Session 5, Continued (in Break-Out Groups)

4:30 p.m. – 5:00 p.m. Report Back in Plenary from Break-Out Groups

**Thursday, July 29, 1999**

10:00 a.m. – 10:15 a.m. Overview of the day

10:15 a.m. – 11:15 a.m. Planning Session 6 (in Work Groups)

**? ■ Planning Session 6: Develop work group assignments**

Description. The seminar thus far will have developed a set of strategic issues for the

Mongolian justice system. The next step is to develop specific plans on how to address those issues. Those plans will not be developed in the short time of this seminar. Rather, the seminar will develop work groups that will be given the task of developing those plans. In this session the participants will be divided into the work groups that will continue working after the seminar is completed. Those work groups will then develop a set of assignments for work after the seminar, including time lines and milestones, to develop the specific management strategies needed to address the issues that were identified. The assignments will identify interim objectives so that the oversight committee can determine at regular intervals how well the work groups are making progress.

Outcome. Action plans for developing plans to address strategic issues.

- 11:15 a.m. – 11:30 a.m. Break
- 11:30 a.m. – 12:30 a.m. Planning Session 6, Continued (in Work Groups)
- 12:30 p.m. – 2:00 p.m. Lunch
- 2:00 p.m. – 3:00 p.m. Report Back in Plenary from Work Groups on Action plans
- 3:00 p.m. – 3:15 p.m. Break
- 3:15 p.m. – 4:00 p.m. Planning Session 7 (in Plenary)

**? ■ Planning Session 7: Develop methods for implementing strategic management**

Description. The final stage in the strategic planning process is to turn a strategic plan into ongoing strategic management. As a start it will be critical for the Mongolian justice system to evaluate and monitor the work groups set up as a result of this seminar. On a broader scale it will be important to periodically revisit the strategic plan, resolve conflicts regarding the direction of the plan, and implement changes in furtherance of the plan. The facilitators will assist the seminar participants in developing a plan for monitoring and evaluating the progress of the work groups and in developing methods for ongoing strategic management.

Outcome. A plan to monitor and evaluate the performance of the work groups and methods for implementing strategic management.

- 4:00 p.m. – 5:00 p.m. Final Plenary Session: Review of Seminar; Wrap-up

## **APPENDIX D**

### **Welcome Address by United States Ambassador Alphonse La Porta**

Thanks Tsog. (acting Minister of Justice) distinguished Parliamentarians, and other participants.

I would like to informally share thoughts as to how this project developed. On Dec. 97, I called on the President of Mongolia who told me that legal and judicial reform are top priorities. Similar high priority was given to legal and judicial reform by each Minister, members of Parliament and officials at all levels.

In May 1998, Madeleine Albright met with the President [of Mongolia] who again stressed the necessity of judicial reform. M. Albright said, "I am very glad to hear that. I too think it is one of the most important issues facing countries in transition from socialism to democracy."

Madeleine Albright instructed the Embassy to put together a Rule of Law project and coordinate with other donors. It was very easy to get political interest and support to address these issues. The German President's visit reaffirmed the importance of judicial reform in May 1998.

The American Embassy with other bodies has undertaken consultation regarding basic concepts underlying the judicial system and other issues that should be addressed.

Progress has been made with the concerted effort of the following entities:

Asian Development Bank  
GTZ  
UNDP  
ASIAN FOUNDATION  
USA/Military law

We discovered there was a lack of a common vision as to what the legal and judicial system should look like in 10 or 15 years. There is a wide variety of opinion on basic issues.

1. How independent is the court system suppose to be? Many issues are involved in the answer:

1. Who dismisses judges?
2. Who is responsible for judicial ethics?
3. Who polices judicial procedure?

2. Discussion of how far individual rights extend before the law.

1. Discovery in judicial proceedings
2. Guaranteeing human rights safeguards

3. Discussion of how far legal advocacy extends.

4. Rights of defense lawyers and how are these rights protected in the court proceedings themselves?

5. Different views on human rights practices and how they work.

We read of the continuous imprisonment of government officials and others for charges that would not warrant imprisonment in the USA or other places.

And without answering these questions we hope this judicial conference and a second conference will help crystallize views and answers for these questions. We hope this helps the members of government to identify directions they should go.

I want to emphasize the importance of donor coordination. The reason to have better coordination is important because there are many legal traditions throughout the world and Mongolia should take the best and incorporate these and make a Mongolian system.

It is the responsibility of donors to coordinate with each other, with Mongolian government officials, and to make sure the money being spent is used wisely.

## APPENDIX E

### **KEYNOTE ADDRESS BY HON. MARK SCHWEIKERT**

Judge Mark Schweikert, Court of Common Pleas, Cincinnati, Ohio, USA

Minister of Justice Tsog, Ambassador La Porta, honored guests. TA BUKHNEE AMRYG ERYE ( Greetings to you all). I arrived in Mongolia about 10 days ago, and as I flew into your capital city of Ulaan Baatar, my mind was preoccupied with the earlier surprise at the Seoul airport that one piece of my luggage was lost at the New York airport and was not on the plane with me. But as I looked out the window of the airplane I was greatly impressed with the beauty of the landscape, and my apprehension was replaced with a feeling of awe and anticipation of the adventure ahead. The land trip into the city emphasized the difference of your community from mine. Since then we have

had an opportunity to meet and converse with the people – leaders in your government and courts as well as common folks in the streets, restaurants, and hotel – and I am now impressed with how much we are the same in our human needs and desires and how we interact with the community around us.

My colleagues and I are honored to be with you over these next three days, as you begin this important journey to determine the future of justice in Mongolia.

The process we will be using will be new and unusual to some of you. Mr. Weller will explain this in more detail. This type of exploration can be inspiring, as well as disconcerting. It requires courage and patience to consider new ideas and concepts. It requires determination to devote the required resources to accomplish the task. But, it will leave you with renewed energy and enthusiasm as you redesign the delivery of justice in your country to meet the needs of your people, your government, and the world family of nations.

Please don't consider my words this morning as a lecture for I know that you are very sophisticated in these matters. Consider them rather as a reminder of the solemn nature of the work we are pursuing. In brief, what I wish to suggest to you this morning, is an awareness that your contribution in the next few days and the weeks that follow will be immensely important to the future of your country.

I make this prediction with confidence for several reasons.

First, because you are building from a position of strength, that of the firm foundation you have already laid:

A foundation that includes your adoption of a new constitution; one that recognizes the branches of government and, thus, the importance of checks and balances in a vibrant democracy;

A foundation that includes your systematic evaluation and revision of earlier laws and pending reforms to address new areas including those associated with the transition to a market economy, and modernization of your substantive and procedural codes; and

A foundation that includes the restructuring of your justice system institutions.

I can make this prediction secondly, because so many of you are present at this seminar today which tells me that you are willing to devote your valuable time to this project, and that you understand that continuing reforms are needed and that justice system change requires a multi-disciplinary approach, involving all of the institutions and interest groups that will be affected. As a former court executive, and now a judge, I can assure you from experience that this willingness to go beyond the walls of your respective individual institutions and work together as a whole is enormously important. Just as a basketball team is only effective at putting the ball through the hoop if everyone on the team is focused on the ultimate goal to win the game, you are all interdependent on each other for true success.

Finally, I can predict the important role of your participation in this program because I know you will succeed. This strategic planning process is accepted as an effective process throughout

business, industry and government worldwide. There are hundreds maybe thousands of groups of concerned individuals working together like you will be today toward a successful reform of their organization. In my own state of Ohio, a commission on the future of Ohio's courts is following a similar process considering the possibilities for progressive reform.

You are at a crossroads, a unique time in the history of your nation when you will establish the practical framework that will infuse your justice institutions with the spirit and values you have already established in your wonderful and enduring constitution.

Anywhere you may travel in the world, the quality of justice is the most visible and the most telling story about a particular nation's attitude toward the relationship between its people and its government and its ability to deliver the guarantees of freedom recited in its constitution. In each country, the people depend on the delivery of an effective system of justice to resolve their disputes and differences in a peaceful, consistent and timely way so that they can predict their future condition and make life and business decisions consistent with their personal and individual desires and dreams.

America's first president George Washington once said, "the true administration of justice is the firmest pillar of government." And in the Federalist Paper no. 17, a publication authored to encourage the adoption of our American constitution over 200 years ago, Alexander Hamilton wrote "the ordinary administration of criminal and civil justice, contributes more than any other circumstance, to impressing upon the minds of the people affection, esteem, and reverence toward their government."

Put bluntly, a justice system that is, and is perceived to be, unfair and arbitrary leads necessarily, at some point, to civil unrest. When the state fails to protect its people, their freedom, and their institutions, they will respond, often with their emotions rather than reason and rhetoric, in a violent outburst. However, if your justice system guarantees that final dispositions of cases are fair, reliable, predictable, enforceable, timely, and independent from political or corrupting pressures, and that the law is applied equally to the government as to all persons, it offers incentives for public support, economic growth, internal and foreign investment and international trade. These are the essential elements of the notion defined as the "rule of law", and the governments of free peoples around the world are continually struggling to maximize its existence in their legal systems so that their citizens can reap its benefits.

From what I have seen so far, and the government and community leaders we have spoken to, you are already well on your way in this process. Much further than I expected when I first stepped off that plane at the airport. The importance of your participation in this process to the social and economic well being of Mongolia and its people cannot be under-estimated.

You should be proud of what you have accomplished so far, excited about what the future holds and resolute about the value of your work here. We are privileged to have the opportunity to work with you in this process.

The theme of this conference is, "towards an independent judiciary in a democratic Mongolia." The independence of the judiciary is a term used throughout the world as the centerpiece of good systems of justice and "the rule of law," so I am going to ask you to consider this concept now before we get any further in the planning process. Since it is a concept that inspires our work here and will arise throughout the conference, we should make sure that we all are using the term with a

common understanding.

Judicial independence is a system wide condition that allows the judiciary to operate and make decisions unencumbered other than by the constitutional principles and legitimate laws of the land. Where the law gives the judge discretion to determine the facts and draw conclusions of the relevant law and its application and to formulate appropriate remedies and penalties the judge must be free to exercise that discretion consistent with legal principles and without pressure or fear of reprisal. We have already considered the critical nature of the rule of law to the stability of a free nation. The judiciary is the branch of government entrusted with the responsibility to ensure that the rule of law prevails and enduring governments institutionalize the safeguards that enable judges to fulfill this role. In some countries this means lifetime appointments, the authority to self discipline its own profession according to a code of ethics, self determination of procedural and administrative rules, self determination of qualification and training of lawyers and judges and judicial support staff, and insurance of personal safety and economic security.

This does not mean that there should be no accountability of the judiciary to the government and to the people. Checks and balances remain. Open accessibility to the conduct of trials, hearings and court records by the public, and in many countries to the press and media, as well as inexpensive availability of appeal assure sensible and legitimate decisions. Most countries provide for the removal of judges for serious misconduct through a fair and open impeachment process. Many countries provide the executive branch the ability to challenge illegitimate judicial orders in a higher court. Generally, abusive court administrative spending can be controlled through reasonable budgeting practices. When granted, courts appreciate the independence to self govern and move earnestly to manage professional discipline and training lest they lose the privilege.

You must consider all of these options and determine which combination best suits the individual circumstances of your country. Your constitution already recognizes the concept of rule of law and judicial independence. Now your task is to ensure that the practical operations of the justice system fully reflect those democratic values.

In conclusion,

Just about ten years ago, in the United States, a national conference took place, attended by over 300 justice officials and significant members of the justice community. They were asked to develop an understanding of, and plan for, better justice in year 2020. At the beginning of the conference, its Chair, the chief justice of the Supreme Court of Alabama, said:

"The common picture of an American court is that of an institution rooted in the past, resistant to change, and resigned to inefficiency."

Sound familiar?

He then added:

" Our society needs a court system that can provide justice speedily, efficiently, and

responsively - and needs it too much to allow its future to be left to chance. All of us need to be more active and purposeful in shaping its future. We are the ones who best understand the problems of our justice system; we have given the most thought to solving them; and we are the best equipped to make lasting improvements to the system."

In my view, this is no less and no more than what brings us together here today. We are no longer at a place, whether in the United States or in Mongolia, where questions of justice can be ignored, or where our justice institutions can be allowed to perform poorly. The world is our witness, the walls of isolation have for the most part disappeared, and we all rely on each other to fashion this future well.

Thank you again for allowing us to be part of this event. Our fervent hope is that, by Thursday, you will together have built a solid commitment to justice in Mongolia and reached an understanding of common principles; that over the next few months you will have crafted a pragmatic and viable plan for investigation and implementation; and that through your efforts each citizen of Mongolia will be provided with accessible, fair, and efficient justice and your nation will enjoy the stability and economic rewards that will result.

## APPENDIX F

### Short Biographies of Conference Facilitators

**Judge Mark Schweikert** lives in Cincinnati, Ohio. He was educated at the Ohio State University and later received his law degree from Northern Kentucky University. He practiced law in Cincinnati and served as Court Administrator of the trial courts there for 14 years. He was president of the Ohio Court Administrator's Association and was recognized as Public Employee of the year by the Ohio State Trial Lawyers Association. In 1995 he was appointed as Judge of the Municipal Court and was elected later that year. He served as Administrative and Presiding Judge in 1997 and 1998. He will run for election again in 2000. His court has general trial jurisdiction over felony criminal cases and civil cases.

In 1995 he traveled to Kiev Ukraine with the Ohio Rule of Law program and lectured on Court Administration Issues. In 1998 he conducted a seminar for Ukrainian judges and administrators on the relationship between administrators and the judiciary. He is vice chairman of the Administration and Court Reform committee of the Ohio Judicial Conference, serves on the Court Reform Committee of the Ohio State Bar Association and on the Bench/Bar committee of the Cincinnati Bar association. Recently he addressed the Commission on the Future of Ohio's Courts, a strategic planning effort. He is married and has two grown Children.

**Steven Weller, J.D., Ph.D.** has spent the last 24 years working to improve different aspects of the American Justice System, including courts, police and corrections. His work has included facilitating strategic planning efforts in courts, conducting research into a wide variety of aspects of justice system performance and conducting professional training for judges, lawyers and police officers. Dr. Weller has worked for The National Judicial College, developing curriculum for continuing professional

training for judges across the United States, and for the National Center for State Courts, conducting research on court improvement projects for state courts. He also serves on the faculty of The National Judicial College, teaching alternative methods of resolving disputes in civil cases. He has published widely on strategic planning, the operation of small claims courts, the uses of alternative dispute resolution in civil and family cases, court handling of family violence and child abuse and neglect, and public perceptions of the courts, among other topics. Dr. Weller possesses a law degree from Yale Law School and a Ph.D. in Political Science from Cornell University.

**Heike Gramckow, PhD.**, is the Director for Management and Program Development at the American Prosecutor's Research Institute. She received a doctorate in law and criminal justice and a law degree from the University of Hamburg, Germany. Her work especially focuses on linkages between different agencies and service systems. Her special interests include community policing and community justice, criminal justice responses to drug crime, international comparative criminal justice and legal studies and criminal justice information technology. She has directed and conducted studies related to program management and evaluation of police, prosecution and courts, organizational analyses of State and local criminal justice systems, and other evaluation and survey research.

Dr. Gramckow is the author and co-author of several book chapters, articles and reports published in the United States and Germany related to community policing, community prosecution and community based crime prevention, criminal justice responses to drug offenders, asset forfeiture and money laundering, expedited drug case management, prosecution of complex drug cases, and expert systems in criminal justice. In addition, Dr. Gramckow serves as consultant on broad range of criminal justice issues to several associations and local governments in the US and abroad.

## APPENDIX G

### SUMMARY OF POST-CONFERENCE COMMENTS

This Appendix summarizes the major comments made by members of the Advisory Committee after reviewing drafts of Sections 1, 6 and 7 of the Conference Proceedings. The following summary includes both comments on statements made in the Conference Proceedings and comments amplifying on issues raised in the conference.

Comments on statements made in the Conference Proceedings:

- One person questioned whether the statement that judges were “isolated” from the public was too strong, although he agreed that the link between the judges and the public was weak and that more public education was needed.
- Some propose that the General Council of Courts be attached to the Supreme Court rather than to the Ministry of Justice. At present the composition of the General Council of Courts changes every time that the government changes.

Comments amplifying on issues raised in the conference:

- The Advisory Committee needs to have formal authority in writing in order to be able to act. This authority might come from Parliament, the Ministry of Justice or the Supreme Court. The work groups do not need this formal authority but could draw their authority from appointment by the Advisory Committee. The membership of the Advisory Committee should be by position and not by individual, to give it a more permanent status.
- The work groups know what their tasks are and should begin to work quickly, as soon as the overall authority of the Advisory Committee is established.
- Removal of judges is an important problem due to lifetime tenure, particularly when the

issue is poor performance rather than commission of a crime by the judge. Each court has a disciplinary committee, but the judges are reluctant to judge one of their own. Further, the judges on the disciplinary committee may also be guilty of ethical violations.

- Different methods for selecting judges should be investigated, including having judges in courts of first and second instance elected for set terms or appointed for limited terms rather than for life.
- There are 23 court administrators, all of whom need training. There will be a need for outside experts to provide that training. Also, the court administrators need to be given more local power over the administration of their courts. The duties of the court administrators should be expanded to include: (1) training of judges; (2) strategic planning; and (3) collection of caseload statistics and other data to help in forecasting of trends.
- The conference did not give enough attention to the need for a change in attitudes of justice system officials. Most lawyers and judges in Mongolia are Soviet educated and do not understand some issues that are important in a democracy, such as privatization. There is a need for a new generation of Western trained lawyers and retraining of older lawyers.
- There is a need to find ways to reduce the caseloads of the judges. Two methods in which interest was expressed are alternative dispute resolution and jury trials.
- Issues regarding the police received little attention at the conference. Some important issues are the following: (1) some tasks that the police presently perform should not be police duties, such as issuing passports and directing the work of the fire department; (2) promotion within the police department should be by examination and not by nomination; (3) the organization of criminal investigations needs to be revised, to avoid duplication of effort between the initial inquiry agency (pre-indictment) and the investigation department (post-indictment); (4) there is a need for clarification of the meaning of some criminal laws, such as what constitutes organized crime; (5) there is a need for specialized knowledge to investigate some crimes, such as economic crimes that can arise in modern commerce; and (6) there is a need for better information exchange among law enforcement agencies and other justice system agencies.

## APPENDIX H

### INITIAL COMPOSITION OF THE ADVISORY COMMITTEE

L. Tsog  
Minister of Justice  
Chairman, General Council of Courts

D. Huvituguldur  
Member of State Ih Hural  
Chairman, Standing Committee on Legal Affairs

Ch. Ganbat  
Presiding Justice, Chamber of Criminal Cases  
Supreme Court

S. Bayar  
Chief of Staff  
Office of the President of Mongolia

B. Enebish  
General Secretary  
Secretariat of State Ih Hural

N. Batbayar  
Chief  
Government Secretariat

D. Murun  
Chief  
General Police Department

J. Enhchuluun  
Secretary  
General Council of Courts

G. Bayasgalan

Director, Legal Reform Strategy Management and Integrated Planning Department  
Ministry of Justice

T. Zagdaa  
Head of Court Decision Execution Department  
General Executive Department of Court Decision

S. Narangerel  
President  
Mongolian Advocates' Association

M. Altanhuyag  
Prosecutor General  
General Prosecutor's Office

**APPENDIX I**  
**SUMMARY OF CONFERENCE EVALUATIONS**

Twenty-six participants filled out evaluations of the conference, including:

- 6 judges
- 3 prosecutors
- 1 legislator
- 6 lawyers
- 10 others or people who didn't identify their profession

**PART I. GENERAL**

Question	Excellent		Very Good		Good		Fair		Poor	
	N	%	N	%	N	%	N	%	N	%
Overall, the program's content was	2	8%	14	54%	10	38%	--		--	
Overall, the program's logistical arrangements were	2	8%	11	42%	13	50%	--		--	
Overall assistance provided by the conference staff was	2	8%	14	54%	10	38%	--		--	
Overall, the level and quality of interpretation was	2	4%	4	15%	21	81%	--		--	

**General Comments:**

- The content of the program was very concrete.
- Concerning an Independent Judicial System and creating a plan for it in the future was a very important issue.
- The preparation for the seminar was excellent and the purpose of the seminar was accomplished.
- We should create a project called "Planned implementation program for planned strategy."
- To support Mongolia by developing its independent judicial system.
- Plan to organize more of these kinds of seminars in the future.
- It was a newly arranged seminar format.
- Overview of the day was done only on the first day. For the last two days there was no overview.
- Interpreters for the seminar should be selected from professional lawyers.
- It was good that everybody had a chance to speak.
- To compile the session materials into booklets and distribute them to all members of the work groups.
- It was complicated that the translation of terminology was changing during the session.
- There was not enough time to scrutinize the program closely.

- The valuable comments and ideas that came up during the seminar should be legally confirmed.

## PART II. PROGRAM EVALUATION

Tuesday, July 27

Session	Very Useful		Somewhat Useful		Not Useful	
	N	%	N	%	N	%
Morning sessions: Opening session, Keynote Address and Planning Session 1, Developing a Common Understanding	15	58%	11	42%	--	
Afternoon sessions: Planning Step 2, Expectations of Interested Parties and Planning Step 3, Fundamental Values	12	46%	14	54%	--	

Comments on the above sessions:

- The session was interesting, effective and useful. Its goal was fully accomplished.
- Wasted some of our time discussing obvious questions like identifying interest groups.
- Integrated connections between the tasks to be done in the future.
- It was a beginning of work, which is directed into the future.
- It was good deciding the problems regarding participants' ideas and comments.

Wednesday, July 28

Session	Very Useful		Somewhat Useful		Not Useful	
	N	%	N	%	N	%
Morning session: Planning Step 4, Identifying Strengths and Weaknesses of the Mongolian Justice System	18	69%	8	31%	--	
Afternoon session: Planning Step 5, Identification of Strategic Issues	17	65%	9	35%	--	

Comments on the above sessions:

- The session 5 was extremely important because identifying strategic issues was our main goal to achieve.
- Identifying current strengths and weaknesses was pretty easy. Unfortunately we had too many weaknesses, but they would help to define strategic issues.
- Session's goal was fully accomplished.
- It had a practical importance.
- What we need is to pay attention to further implementation.
- It was interesting for us to rethink about our present legal situation.
- It's good that everybody expressed their ideas freely and equally.

- Discussed about various levels of problems, which were useful to pay attention in order to investigate strategic development issues.
- It was newly arranged session format that established work groups and discussed their presented ideas.

Thursday, July 29

Session	Very Useful		Somewhat Useful		Not Useful	
	N	%	N	%	N	%
Morning session: Planning Step 6, Developing work group assignments	18	69%	8	31%	--	
Afternoon session: Planning Session 7, Developing Methods for Implementation	20	77%	6	23%	--	

Comments on the above sessions:

- It was important to identify future task and work group to implement it.
- It was very beneficial and its goal accomplished. Participants and organizers both devoted themselves to the seminar.
- Creating tasks was relatively easy, but how to implement it would be the issue.
- The importance of the seminar was to establish work groups to continue working and its oversight committee to control it.

### PART III. EVALUATION OF MATERIALS

Question	Very Useful		Somewhat Useful		Not Useful	
	N	%	N	%	N	%
The materials provided were	17	65%	9	35%	--	

Comments on materials:

- It gave a unified understanding on theory.
- The materials were very necessary, supportable and informative for our career.
- It gave an opportunity to create a good manual of our own which we could continuously enrich with materials.
- Good materials to use in our activities.
- There was a misunderstanding because of the terminological translation.
- The material was not fully translated into Mongolian. For instance: some information was in Russian.
- We could have worked on the materials more effectively if it was handed out earlier with the

invitation.

- More material on similarity and differences between American and Mongolian judicial systems.

#### PART IV. OTHER COMMENTS

Recommended changes (topics, formats and process) if a seminar were to take place in the future:

- Make the issues clear relating what branch and what direction it is about., Prepare the materials and discussion in connection with one specific issue.
- Use unified legal terms.
- Take an opinion on a topic of a seminar in advance. Topics should not be changed during the seminar.
- Distribute the materials in advance so those participants will have an idea of what to do.
- To organize a seminar only on the judicial system.
- The format of the seminar was such that everyone could ask a question. It was good.
- Plan strategy in detail.

Additional comments:

- In order to implement the planned task effectively, it is important to support the working group at any time when they need help and work with them in close contact.
- Judicial staff who implements an independent judicial situation should be well trained and sent abroad for experience.
- It's necessary to organize such seminar as a series. In order to do it the topic should be classified.
- Should organize a final seminar with the same composition.
- Pay attention on keeping this productive climate and keeping work groups united and firm.
- Give an opportunity for Mongolian judges to take part in such seminars abroad.
- If seminar was organized only among judges, they might come up with other ideas and comments.
- Be aware of time