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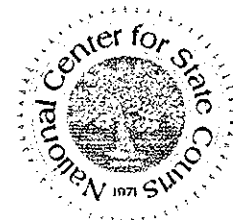
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NATIONAL CENTER FOR STATE COURTS
International Programs Division
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
www.ncsconline.org

Mongolia Judicial Reform Program

2001 ANNUAL REPORT

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**MONGOLIA JUDICIAL REFORM PROGRAM – 2001 ANNUAL REPORT
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MONGOLIA JUDICIAL REFORM PROGRAM – 2001 ANNUAL REPORT EXECUTIVE SUMMARY

The U.S. Agency for International Development (USAID) awarded the Mongolia Judicial Reform Project (JRP) to the National Center for State Courts (NCSC) on January 26, 2001. The project proposal responded to the priorities defined by the Ministry of Justice and Home Affairs and is designed to assist in the implementation of the Strategic Plan for the Justice System of Mongolia, a plan developed by Mongolian stakeholders in 1999-2000, and passed by Parliament in 2000.

The project team of three Americans arrived in Mongolia in March and April, and the office was opened by the end of April. In those first six weeks, staff met with more than 45 key stakeholders in the judicial system to learn more about current needs and develop the first year workplan. The workplan was submitted to USAID in May, along with the first year procurement plan and Performance Monitoring Plan (PMP). The workplan was presented to Mongolian stakeholders at a conference in late June. After some negotiations, USAID and the Ministry of Justice and Home Affairs (MoJHA) signed a Memorandum of Understanding (MOU) to govern the JRP.

During the summer months, staff conducted baseline assessments and reviews of legislation, to determine current needs and identify opportunities and priorities for improvement. The baseline assessments included informal meetings, focus groups, and a legal sector survey, and provided the JRP with information to fine tune the program. A public opinion survey was conducted in November, providing the final elements for the 2001 baseline data. The PMP was revised, substituting less relevant indicators with questions from the legal sector survey and court statistics that provide better information about project progress in achieving the goals.

The justice system in Mongolia faces significant challenges – chronic underfunding, traditionally centralized decision-making and power structures, and limited mechanisms to demonstrate accountability and transparency. The six priority tasks selected for the first year aim at addressing these challenges. They focus on strengthening national-level court administration, improving case management in the courts, supporting a process for qualifying legal professionals, establishing sustainable Continuing Legal Education systems, supporting the development of a National Legal Training Center, and strengthening ethics among the legal profession.

As the program progressed, changing circumstances required that some activities be added and others dropped or postponed. While these are described in the body of the report, one important addition was the provision of comments on the draft Criminal Procedures Code. The tasks undertaken, the subsequent accomplishments, and the direction for 2002 are summarized below.

Priority Task 1: Court Administration

Activities in 2001 focused on needs assessments, reviews of legislation, policies, and procedures, providing recommendations for improving judicial selection and evaluation, judicial budgeting, the structure and functionality of the General Council of Courts (GCC), conducting a workshop on workload projections, and procurement for the GCC.

Three technical assistance reports were submitted to the MoJHA. In addition to suggesting processes and procedures that increase efficiencies, these reports aim to change the relationship between the Executive and Judicial branches of government by providing measures that increase judicial independence and support greater internal and external accountability. In 2002, JRP staff will work with relevant actors in the judicial system to develop a consensus for how these recommendations can be implemented.

The equipment provided to the GCC will help it to better manage human resources in the court system, conduct audits of local courts, develop budgets and manage facilities. Strengthening the GCC's capacity increases efficiency and accountability of the court system. The equipment will also assist in making laws and other legal materials more available to the courts.

The JRP will build on these accomplishments in 2002. Using the technical assistance report on the structure and functionality of the GCC as a guide, staff will work to build consensus for the appropriate model for the GCC. The JRP will work to strengthen local-level court administration focusing on communication between the GCC and individual courts, procurement, and procedures manual and training. The JRP will contribute to workload projections by helping to create better data collection methods and facilitate reporting of that data in a GCC Annual Report.

Priority Task 2: Case management.

Activities in 2001 focused on providing recommendations to enhance caseload management, improving caseload and records management in the Capital City Court, assessing the automated software provided by GTZ in six District Courts, and limited procurement.

JRP-funded equipment and structural improvements in the Capital City Court, an appellate court that handles approximately half of all appeals in the country, provided for automation to better manage case files and records, thereby increasing efficiency and transparency. The assessment of the few automated courts revealed that judges were not making use of all functions in the software, particularly the feature that provides for random case assignment. JRP recommendations to address these problems will contribute to greater transparency and accountability.

In 2002, the JRP will focus on improved case management, expanded information dissemination, and better court proceedings. Activities include the establishment of links between prosecutors' offices and pilot courts to enhance caseload management throughout the system and facilitate information access and exchange, procurement of court recording equipment for pilot courts and development of better procedures, and promoting judicial independence.

Priority Task 3: Qualifying Exam.

As the JRP team arrived in Ulaanbaatar, developing a qualifying exam was a top priority for the Ministry. The approach initially envisioned by the Ministry lacked transparency and had the potential to disqualify enough professionals to paralyze the legal system. The JRP's efforts in 2001 focused on providing alternatives to the Ministry. Working with other donor organizations, the JRP developed the outline for a workable bar examination system that ensures an effective approach to testing and qualifying legal professionals, which was ultimately accepted by the Ministry.

The JRP anticipates supporting the effort in 2002 by providing technical assistance to develop the qualifying exam and assist with the establishment of a Council to govern the process. The JRP will support training for examinees using a Training of Trainers approach. Testing is expected to begin in 2003.

Priority Task 4: Continuing Legal Education.

The JRP plan for this component recognized that several donors were directly involved in providing training to the legal profession in Mongolia, particularly to judges. Plans for a comprehensive, sustainable Continuing Legal Education (CLE) system were not in place. The JRP consequently took a multi-pronged approach that would begin the conceptual planning for a CLE system and undertake a series of

activities to fill existing gaps in the availability of legal resource materials and training on specific subjects. The accomplishments are noted below.

A Rule of Law Newsletter, developed by the JRP, provides highlights of activities being undertaken by justice system actors in Mongolia. This well received newsletter is a much-valued mechanism for information exchange and assists in identifying areas of duplication and opportunities for cooperation between donors and Mongolian institutions.

English language training for 48 judicial sector professionals has improved their ability to conduct legal research, thereby widening the scope of information available on other judicial systems. Supervisors report that the students' productivity and abilities have increased and the JRP has observed that the research materials it provides no longer require translation, reducing costs and saving time.

Training on adversarial skills for two groups of prosecutors, judges, and advocates increased awareness of the advantages of adversarial proceedings and may have prevented code drafters from eliminating their use from the existing Criminal and Civil Procedure Codes. One judge changed how she conducts trials as a result of the training.

The JRP increased the availability of Mongolian-language resource materials by developing much-needed manuals for existing training courses, and publishing the second volume of Supreme Court Interpretations. Proceeds from the sale of Volume II will finance Volume III, potentially making it Mongolia's first self-sustaining legal publication project. In addition, a JRP website is being created to provide access to information.

In 2002 the JRP will continue and expand its efforts to enhance the capacity of legal professionals so that judges, advocates and prosecutors are able to exercise independent, informed, and professional judgment in their work. Donor coordination, particularly with GTZ and Soros, will continue as an important means to achieving these goals.

Priority Task 5: National Legal Training Center.

During 2001, the Government of Mongolia and the World Bank reached agreement on the development of a National Legal Training Center to provide ongoing training to legal professionals. All JRP training activities are designed to become part of a national center when it is eventually established. The JRP's contribution in this effort focused primarily on advice to the World Bank teams that have been deployed to Mongolia to develop this project.

The JRP has been concerned about duplication with its activities, and the management structure for the Center. Communication between USAID, the World Bank and the JRP revealed that the World Bank proposal did not duplicate JRP activities, and the Deputy Minister requested that World Bank funds not duplicate activities the JRP is undertaking, effectively giving JRP a lead role. While reviewing a draft document describing the Center's management structure, the JRP offered suggestions that would greatly expand membership on its governing board beyond the executive branch, and increase input from judiciary, prosecutors and advocates.

These kinds of activities – support through advice and cooperation – will continue in 2002 as part of the JRP's efforts to strengthen continuing legal education.

Priority Task 6: Ethics.

When the team arrived in April 2001, the GCC had decided to develop a new ethics code for the judiciary, simultaneously with government efforts to define appropriate ethical standards for government officials. The JRP agreed to provide technical assistance. JRP staff reviewed and prepared comments on the draft ethics code, and collected international materials and commentary.

At its November meeting, the GCC endorsed the JRP draft judicial code combining recommendations from the JRP and the American Bar Association (rejecting more modest recommendations submitted by the Ministry) and asked the Deputy Minister of Justice to incorporate it into a new draft. The revisions will increase the requirements for judicial disqualification and disclosure, and reduce ex parte conversations. Extensive comments will serve to educate the judiciary (and the public) about the application of the new rules.

These changes should result in greater accountability and improved public perception of the courts. In 2002, JRP will assist with developing consensus for implementing the new code, drafting revisions to the Law on the Courts, and establishing an effective enforcement mechanism.

Special Opportunity: Legal Commentary.

Originally, it was not envisioned that the JRP would provide drafting assistance on the major codes under discussion in Parliament in 2001. After learning that provisions of the Criminal Procedure Code reflected little change from the socialist era, JRP staff sought the opportunity to recommend more democratic regulations. Working on a tight deadline, the JRP provided comments that illuminated problems in judicial review of arrest decisions, standards for arrest, and the right of the defendant and attorney to appear before a judge. The recommendations played a useful role in framing the debate within the legal standing committee and in the content of the final law. The ensuing discussion also created a record that will be useful when the Supreme Court issues an official interpretation.

As a result of these and other comments provided on legislation before Parliament, JRP has expanded this work into a priority task for 2002. Activities in 2002 will focus on ensuring that the existing legal codes and their implementing regulations support due process and human rights, do not conflict with each other, are appropriate to the resource limitations facing Mongolia, and support efficient and sustainable processes.

MONGOLIA JUDICIAL REFORM PROGRAM – 2001 ANNUAL REPORT

A. BACKGROUND

In January 2001, USAID awarded the National Center for State Courts (NCSC) a five-year, \$10 million Cooperative Agreement to implement the Mongolia Judicial Reform Program (JRP). This program builds on the Strategic Plan for the Justice System of Mongolia developed in 1999-2000 through extensive consultations with Mongolian stakeholders in the judicial system. The Strategic Plan was adopted by the Parliament in May 2000 and was endorsed by the new government following the June 2000 elections, a tribute to its broad-based political support.

The objective of the JRP is to assist the Mongolian judicial sector institutions in becoming more efficient, more effective, and more capable of adhering to the rule of law. In order to achieve this objective the following results are targeted:

- **Intermediate Result 1:** Court administration and case management capacity strengthened.
 - IR 1.1:** Capacity of the General Council of the Courts (GCC) strengthened.
 - IR 1.2:** A sustainable case tracking and management system established.
 - IR 1.3:** Court system information technology needs analyzed.
 - IR 1.4:** Responsibilities and jurisdictions of courts/agencies clarified and rationalized.
- **Intermediate Result 2:** A legal training center, providing continuing education for legal professionals, designed, developed and made operational.
- **Intermediate Result 3:** An effective standardized qualifying system (which all lawyers will be required to pass before they are permitted to practice law) developed and made operational.
- **Intermediate Result 4:** Revised ethical standards for legal professionals developed, adopted, and enforced.
- **Intermediate Result 5:** Access to the Mongolian justice system broadened and improved.
 - IR 5.1:** Alternative dispute resolution mechanisms, including small claims courts and criminal process alternatives, designed and implemented.
 - IR 5.2:** Procedures, informational materials, and training materials developed to promote adoption of the adversarial principle in Mongolian courts.
 - IR 5.3:** Capacity of legal clinics expanded.
- **Intermediate Result 6:** Law school standards raised.
- **Intermediate Result 7:** Independence of the judiciary strengthened.

The Mongolian Ministry of Justice and Home Affairs (MoJHA) identified 6 priority tasks that address Intermediate Results (IRs) 1-4 above as being particularly urgent needs of the justice sector. These priorities, and their relationship to the IRs, to the illustrative activities specified for the IRs, and the Mongolian Action Plan are:

- Court management and administration (Action Plan section E2, IR 1 – activity 1 and parts of activity 2)
- Case management (Action Plan section E1, IR 1 – activity 1)
- Review of the organization, structure, jurisdiction, and responsibilities of all courts and other justice system components (Action Plan sections F1, F4, IR 1 – activity 6)
- Training and continuing education of legal professionals (Action Plan section C2, IR – activity 4)
- Establishment of a professional Bar system (Action Plan section C3, IR 1 – activity 5)
- Ethics for the legal profession (Action Plan section D2 [D3], IR 2 – activity 1)

Further consultation with USAID, the MoJHA, and other judicial system stakeholders led to the establishment of the following priority tasks for 2001:

1. Strengthening national-level court administration capabilities at the General Council of Courts (GCC);
2. Developing a comprehensive manual case management system in two Ulaanbaatar courts, including the Capital City Court, and exploring enhancements to the automated GTZ and Soros courts to accommodate a streamlined case management system for the courts with linkages to the prosecutor's office;
3. Assistance for the development and administration of a qualifying exam for all legal professionals in Mongolia;
4. Developing capacities to build a continuing legal education system for the judiciary and other legal professionals, including the development of solid curricula and the expansion of a pool of highly qualified trainers and some English language training;
5. Initial planning support for the establishment of a National Legal Training Center; and
6. Assistance to advance ethics for the legal profession.

As the year progressed, some elements did not develop as anticipated and additional elements were added. In particular, the JRP became briefly but intensively involved in legal reform as it reviewed a number of draft codes, particularly the Criminal and Civil Procedures Codes. Comments pertaining to these laws are discussed with relevant priority tasks. An additional section on legal commentary discusses JRP contributions on the Criminal Procedures Code.

There are significant constraints to achieving these JRP objectives. One key constraint is the Mongolian Government's lack of commitment to adequately fund the judicial sector. Judges' salaries are insufficient to support a family, and salaries have been paid more than a month late several times in 2001. The inability of courts to afford basic supplies, such as paper and ink jets, has constrained the JRP's ability to introduce automation, which could significantly reduce manual workloads and increase transparency. The JRP has begun a process of teaching modern budgeting practices, including workload studies, so that existing resources can be allocated more rationally and well documented requests for budget increases can be presented to the Ministry of Finance and Parliament. Without funding increases, corruption, opacity and inefficiency will continue to plague the Mongolian Courts.

Of the various institutions within the judicial sector, the MoJHA is the JRP's most dynamic counterpart. It originates and implements more ideas for reform than most other government bodies, and has a talented and motivated staff. Ministry leadership also demonstrated a desire to control the judicial sector and the JRP in ways that present obstacles to judicial reform. JRP's recommendations on judicial budgeting, judicial selection, and reforming the structure of the GCC aim at reducing executive authority in these areas, but will require assiduous consensus building and careful diplomacy to come to fruition.

B. OVERALL PROJECT DEVELOPMENT

1. Project launch

With the bid awarded at the end of January 2001, NCSC finalized contracts with the proposed staff and recruited replacements when necessary. NCSC signed contracts with Robert La Mont as the Chief of Party, Herbert Bowman as the Legal Training Specialist, and Charles Ferrell as the Court Administration and Technology Specialist. Kim Mahling Clark was recruited to serve as Project Manager.

An introductory meeting was held in early March to review the project's goals and objectives prior to the team's deployment. Michael Miklaucic from the Office of Democracy and Governance also participated in this meeting and provided the background on USAID's involvement in the judicial sector in Mongolia.

By mid March, Mr. La Mont and Ms. Mahling Clark arrived in Mongolia, followed by Mr. Ferrell at the end of March and Mr. Bowman in early April. In the first six weeks on the ground, the team held more than 45 meetings with judicial sector stakeholders, including the Minister of Justice and Home Affairs, the Prosecutor General, the Secretary General of the General Council of Courts (GCC), the Chief Justice of the Supreme Court, the Chief Justice of the Capital City Court, the Chair of the Legal Affairs Standing Committee in Parliament, and others. The team also held meetings with USAID and other donor organizations active in the judicial sector, including the German Technical Cooperation Agency (GTZ), Soros Foundation, the Asian Development Bank (ADB), the World Bank, and the Hanns-Seidel Foundation (HSS).

During this time, the NCSC renovated the office offered in the MoJHA building, registered with the government as a representative office of an American non-profit organization, obtained office equipment, and interviewed and hired local staff, including program coordinators, an accountant, a receptionist and a driver. In late April, the JRP organized an Open House for representatives of Mongolian judicial system and donor representatives. Additional staff were added in subsequent months, and in July, the NCSC opened a second office in a nearby building because the first site was too small. The office currently employs 10 Mongolians full-time.

2. Workplan development and dissemination

The team's introductory meetings provided a basis for developing the first year work plan. Through meetings with Mongolian stakeholders, staff determined first year priorities, and spent the month of April working out the details for what could be accomplished and when, and how it would advance the project's objectives. This workplan (Appendix A) was submitted to USAID and approved in May.

In late June, the JRP organized a one-day conference, "First Year Implementation of the Strategic Plan for the Justice System of Mongolia," for key stakeholders and donors active in the justice sector. The goal of the conference was to enhance understanding of the JRP's first year workplan and develop a cooperative environment for the implementation of the Strategic Plan for the Justice System of Mongolia, the document that serves as a reference point for JRP activities. At the conference, staff disseminated a shortened and translated version of the approved first year workplan and solicited comments and discussion from the audience. The conference clarified what the JRP would and would not be working on, and invited collaboration from other donors. During the discussion, key players in the judicial system expressed support for the JRP and recognized how its work relates to the Strategic Plan, creating much needed support for the changes that the JRP will advocate. The conference report is included as Appendix B.

3. Memorandum of Understanding

In late August, USAID, the MoJHA, and the NCSC reached agreement on a Memorandum of Understanding (MOU) to govern the JRP. Signed by USAID and the MoJHA, the MOU creates a Coordinating Board consisting of representatives of the MoJHA, the GCC, the Supreme Court, the General Prosecutor's Office (GPO), USAID and NCSC. The Coordinating Board will advise on the preparation of annual workplans and the implementation of the project, and USAID will approve workplans in agreement with the MoJHA.

Reaching agreement on the MOU required careful negotiation. The MoJHA's first draft showed a preference for placing all authority to direct and monitor NCSC activities with a small Coordinating Board consisting of a representative each from the MoJHA, GCC, Supreme Court, GPO, and USAID. The mechanism for approval of workplans was not specified, but could have been understood to be by majority vote or consensus. Either approach would have diluted USAID's authority and would be in violation of USAID rules and regulations as well as the Cooperative Agreement between USAID and NCSC. NCSC proposed to expand the Coordinating Board to include other key stakeholders and give the board an advisory role, which was unacceptable to the MoJHA. A compromise was found that gives the Coordinating Board broad opportunities for input without going beyond the legal boundaries of the Cooperative Agreement between USAID and NCSC. The Coordinating Board met for the first time in November 2001 to discuss and support the second year workplan.

4. Performance Monitoring

After initial start-up activities had been completed, staff began the task of developing baseline information, needs assessments, and contributing to the Performance Monitoring Plan (PMP). The Legal Training Expert and the Court Administration and Technology Expert conducted field trips to different Aimags (Darhan, Selenge, Tuv, Khovsgal, Bulgan and Orkhan) and courts in Ulaanbaatar to assess the state of judicial administration and training programs. They collaborated on assessments that identified the training, technical assistance, and resource needs of judges and court administrators.

As part of this effort, the JRP collaborated with the MoJHA to administer a questionnaire to judges, prosecutors, and advocates around the country. The purpose of the legal sector survey was to identify respondents' needs for training, information and other technical assistance to operate efficiently and effectively in a democratic court system that supports a free market economy, to assess how respondents perceive courts operations in relation to fundamental democratic values, and determine respondents' perceptions of the skills of judges, prosecutors, advocates and other court staff.

The survey was administered to 1,438 participants, but the report focuses on judges, prosecutors and advocates. Of these 543 respondents, 42 percent are judges, 36 percent are prosecutors, and 22 percent are advocates. This represents 54 percent of all prosecutors and 87 percent of all judges. The number of advocates participating in this survey was low due to the focus on justice sector staff. The survey results provide valuable information about the areas where key judicial system participants require technical assistance and training and their perception of court operations and judicial system capabilities. This latter information provides baseline data for the PMP. The survey results are included as Appendix C.

The JRP also assisted the MoJHA in conducting its own assessment of judges, court staff and other legal professionals operating in the court inquiring about their perception of professionalism and ethical behavior. This assessment instrument was designed by the JRP to replace an inquisitorial, Soviet-style questionnaire.

Working closely with the survey research firm Sant Maral, the JRP then designed and conducted a public opinion survey to ascertain public perception of the judicial system. The survey sought information on the general public's confidence in different institutions in Mongolian society, respondents' views on how courts handle different kinds of cases, personal involvement in the courts and resulting experiences, views and knowledge of the courts, sources of information generally and specifically on the courts, views on how well the courts perform certain tasks (e.g. protecting citizens' rights), the costs associated with going to court, and perceptions of favoritism or corruption in the courts. The questionnaire largely reflects indicators of judicial sector quality as expressed in trial court standards used in the United States. The use of this instrument, with a few adaptations to the Mongolian situation, allows for interpretation of the results in a comparative perspective. Since courts are rated low in many countries, including the United

States, this comparative information will assist in placing the results into perspective. The cost of this survey was shared with the Gobi Initiative, another USAID-funded project that needed to field a public opinion survey as part of its performance monitoring.

The PMP was first revised and submitted in May 2001 with the first year workplan, with a total of 28 indicators. Roughly half of the indicators report on the program's progress at the macro level, and are used in USAID's annual reporting procedures. The other half reports on the program's progress at the micro level. As the program progressed during the year, it became clear that several indicators showed little relevance to measuring program achievement. Instead the data collected through the legal sector survey included quantitative information that, over time, would be more indicative of positive change. As staff began preparing the December baseline data submission, 10 indicators were dropped or replaced with information from this assessment. The revised PMP contains 30 indicators. The revised PMP, with 2001 data, is included as Appendix D.

5. Donor Coordination

As in many other countries, donor coordination of judicial strengthening activities in Mongolia has been a challenge. For example, millions of dollars have gone into training programs for judges since the democratic transition began in the early 1990s. However, no comprehensive sustainable approach has been developed and, with the current results do not appear to justify the amounts spent. Donor organizations supported USAID's effort to develop a Strategic Plan for the Justice Sector so that Mongolian stakeholders could establish global priorities and donors could coordinate their assistance around these priorities.

The donor organizations that have allocated the most resources for the judicial sector are the GTZ, Soros Foundation, and the ADB. The World Bank is becoming a bigger player with the expected provision of a \$5 million loan to build a National Legal Training Center and conduct other activities. The Hanns-Seidel Foundation (HSS) is also influential, though it has fewer resources. JRP staff members have established productive working relationships with all of these programs.

The JRP created a monthly Rule of Law Newsletter and Calendar of Activities to improve donor coordination and exchange information about ongoing activities throughout the judicial sector. Mongolian courts, prosecutors' offices, the MoJHA, donor organizations, and others provide information on a monthly basis on the activities they are undertaking. Publishing the information keeps everyone informed of what is going on regarding training, technical assistance, and upcoming events. The Mongolian stakeholders appreciate having this information. The JRP is informed about others' activities, and uses this information to shape its activities and reduce duplication of efforts. In addition, the more proactive Aimag courts have begun to contribute information on their training activities, and giving them an opportunity to share may encourage other courts to follow suit.

Other steps taken involved an agreement between the JRP and GTZ to closely coordinate their activities for 2002, in judicial training, case management software development and a pilot project that links the courts and prosecutor's office in one Aimag. Joint or closely coordinated activities will contribute to the JRP's cost-share goals. JRP has also encouraged Soros Foundation to continue funding the Judicial Retraining Center (JRC), in conjunction with JRP and GTZ training activities. In addition, the British High Commissioner agreed to coordinate the Embassy's small legal assistance program with the JRP, and staff worked with the Japanese Embassy to prepare for and then brief the Japanese Justice Ministry's visit to Mongolia and review its assessment report for future justice sector funding.

In addition, JRP staff cultivated contacts with other organizations as a part of a comprehensive outreach effort. JRP staff members routinely meet and collaborate with other USAID-funded organizations and

Mongolian organizations. The Chief of Party and other members of the JRP team also met frequently throughout 2001 with most of the organizations that visited Mongolia temporarily to work in this sector. The JRP attended all of the significant conferences given by donors and the important agencies of the judicial sector as well as the Ikh Hural, (Parliament), the Human Rights Commission and others.

C. TASK-SPECIFIC ACTIVITIES

Priority Task 1: Court Administration

Objective: Develop an effective and functional national-level court administrative office by enhancing the operations of the General Council of Courts (GCC).

Initially, the JRP estimated that much time would be spent much time to develop a legislative basis for the GCC with would provide it with sufficient powers to perform the tasks of providing administrative and material support to courts throughout Mongolia. The initial assessment revealed that the GCC, on paper, has many of the powers it needs, but is starved for resources and personnel. In addition, there are significant misallocations of scarce resources provided to the court system.

The JRP has provided limited equipment to make better use of personnel through increased automation and, at the request of the Deputy Minister of Justice, has made recommendations on judicial budgeting and selection and conducted a workshop on projecting court workloads. The purpose of the latter is to help the judiciary, through the GCC, to better allocate resources and demonstrate to the other branches of government the legitimate need for funding. Better use of existing resources has already resulted from these efforts.

Needs Assessment. Upon arriving in April, the Court Administration and Technology Specialist and others met with judges and court staff from different courts and the leaders and staff of the GCC to identify areas most in need of technical assistance, ascertain baseline information, and develop a workplan for the first year.

As mentioned above, a survey to assess judicial sector needs for technical assistance and training was conducted. The results, combined with information from focus groups, identified training and technical assistance needs and provided baseline information. Participants reported that their most pressing needs are in training on new laws and technology, equipment to do their jobs, better conditions to perform their work, and financial independence.

In addition to interviewing GCC staff in Ulaanbaatar, JRP staff conducted several combined assessments and focus groups. These included a field assessment in Darhan and Selenge in early June; a field assessment in Tuv in July; participation in a conference of judges and court personnel from five different Aimags in Erdenet in mid July; and a daylong session with the Capital City Court staff in late October.

When asked about the GCC and how it might be improved, court staff and judges responded that funding was a priority and a requirement for the courts to operate effectively. The courts receive insufficient operating funds from the national government. Concerns were raised with regard to these courts being able to sustain a technical environment given the limited amount of operating expense funds provided by the GCC.

When discussing judicial accountability and independence, participants had a mixed reaction to providing the public with statistical reports on workload and performance. Some judges understood the importance of accountability, whereas others were less enthusiastic that any scrutiny of their performance could become public. Every judge associated judicial independence with financial and material resources,

stemming from the Soviet era when apartments and other material resources were provided. Judges generally do not think of independence in terms of the ability to make a decision without internal or external influence.

Review of existing policies, procedures, and legislation. During the summer, staff conducted an assessment of the GCC and reviewed court administration models from other countries. The existing law on the courts, different proposals to amend this law, and current procedures and operations in the GCC and individual courts were examined. Staff in Washington researched court administration in other countries, with an emphasis on Europe. Western European countries present a variety of models for court administration, particularly through examination of the different reforms that have taken place. This comparative information was summarized in a set of charts comparing the different bodies' responsibilities in the selected countries.

Using the review of existing policies, procedures, and legislation, as well as the information collected on judicial governance in other countries, the JRP prepared a report on the structure and functionality of the GCC, submitted to the Deputy Minister of Justice in November. The report provides an overview of the GCC, similar councils in the United States (California and Utah), and select European Countries, both Western and Eastern. The report (Appendix E) assesses the strengths and weaknesses of the GCC and its ability to function as the national-level policy and administrative council for the Mongolian court system, and provides recommendations for strengthening the GCC. Once translated, the report will be distributed to members of the General Council of Courts, Parliament, the Supreme Court, the Chief Judges of the Aimag and Capital City Courts, and members of the Cabinet of Mongolia.

The report makes several recommendations: The GCC's membership should be expanded to include other representatives from the Executive Branch, academia, and the Advocates' Association. The GCC's overburdened staff should be enlarged. The GCC should concentrate on system-wide court administration policy. The GCC should develop a strategic plan for the court system, in order to demonstrate its needs and requirements to external audiences (e.g. Parliament and the public at large). The GCC should develop the basic elements needed to improve the infrastructure of the court system, and be provided the resources need to achieve those improvements. The Ministry of Justice and Home Affairs should consider rotating the chairmanship of the GCC to reduce permanent executive branch control of the Council.

These recommendations aim to change the relationship between the Executive and Judicial branches of government by providing measures that increase judicial independence and accountability. Some of these changes require changes to the laws that guide the GCC, while other changes can be achieved through policy and procedure revisions. In 2002, JRP staff will work with relevant actors in the judicial system to develop a consensus for how the GCC should be structured and a strategy for achieving these reforms. Already, the draft Law on the Courts, to be discussed in the Spring 2002 Session, incorporates some suggestions from the JRP. The MoJHA has proposed expanding GCC membership to include, among others, the Ministry of Finance. This is a positive step, given the Finance Ministry's significant role in budget development and allocation (see below for more information). Expansion of the GCC could also allow it to establish committees to provide oversight in specific areas.

Recommendations on Judicial Selection and Evaluation. Stemming from ongoing work to review the Law on the Courts and develop court administration models, Deputy Minister of Justice Munh-Orgil requested in early August a review of judicial selection procedures and evaluation criteria. The Law on the Courts currently gives the GCC and a commission that it appoints a large role in judicial selection. The Arlington office researched and provided sample judicial applications and criteria, along with existing guidelines for judicial selection commissions that the field office adapted to the Mongolian context. The document submitted in September (Appendix F) includes proposals for establishing a

judicial selection commission, revamping criteria for evaluating candidates' qualifications, and improving the selection process. As part of this, the JRP drafted a revised judicial application process and a system for selecting and appointing judges to the trial and appellate courts. Specifically, this defines who can apply, how they will be considered, and their presentation to the President for ultimate appointment.

Staff met with the head of the GCC and the Deputy Minister of Justice to discuss the proposed revisions. Recommendations for a candidate questionnaire and means to evaluate their writing skills were accepted into a new regulation to be promulgated by the GCC, which should increase transparency and merit selection in the short-term. The process will be based on more objective testing and fixed criteria, as opposed to the current emphasis on recommendations and subjective evaluation. Tests will be developed in advance by outside experts and answers will be made available after the tests, improving accountability in the process. Sitting judges will be evaluated in part on the quality of their written opinions, currently a weak point in the judicial process. As such, they will have an incentive to improve their skills in this area, which will increase transparency of court processes.

Recommendations on Judicial Budgeting. At the request of Deputy Minister of Justice, the JRP prepared a report on judicial budgeting (Appendix G), submitted in September. The paper recommends giving the judiciary greater control over its own budget and financial affairs, but requiring a higher level of accountability to Parliament and the public in general.

Along these lines, there are several specific recommendations. The judicial budget should be submitted directly to the Parliament, and the Ministry of Finance should have no authority to reduce the courts' budget. The GCC should have the authority to allocate funds across line items and programs without prior approval of the Ministry of Finance. The GCC should develop and adopt performance standards that Parliament can use to evaluate the success of judiciary programs implemented by the courts and financed by Parliament. Parliament should involve the GCC in determining the costs of proposed legislation affecting the court system. The GCC should inform the public and the Parliament about key issues facing the judiciary. Funding increases and court initiatives should be tied directly to a strategic plan for the courts. Justifications and monitoring mechanisms must be included to measure the progress and success of these initiatives.

These recommendations, as a group, change the relationship between the Judicial and Executive branches of government on budgeting matters. If accepted and implemented – a JRP priority for 2002 – they will represent a significant step toward greater judicial accountability and independence. The report was also provided to the International Monetary Fund office in Mongolia because of its considerable influence in the budgetary process. The JRP is translating the report and will disseminate it to a wide array of stakeholders.

Workload Projections. At the request of the Deputy Minister of Justice, the JRP organized in September a workshop, "Projecting Staffing Needs in the Justice Sector," for representatives of the MoJHA, the GCC, the Supreme Court, other courts, the GPO, and the Ministry of Finance. Leading the workshop was Dr. Gramckow, who has conducted several weighted caseload studies for prosecutors' offices and courts in different jurisdictions in the United States. USAID donated the workshop venue.

The focus of the presentation (Appendix H) and subsequent discussion was to introduce the broad range of concepts and methods applied for workload projections in the United States and other countries. Various concepts and methods have been developed in the United States to project the number of judges, prosecutors, and lawyers that are needed in justice sector agencies. Similar approaches are used in several European countries. The benefit of reliable projections is that they allow government and judicial officials to better predict staffing and related resource needs. The information developed provides a solid basis for staff allocation and focusing resources and training funds based on needs. This not only reduces

misallocation of scarce resources but also provides solid information to justify budget requests to the legislature and the public at large. The discussion introduced how to develop the databases and capacity to estimate staff resource needs, the need for this type of information, the different approaches used, and how these methods might be applied in Mongolia. Since the best methods for workload assessments are also the most involved, require access to good data, and time and effort, they may not be applicable for the Mongolian situation at the current time.

The workshop provided the participants with an opportunity to explore the different concepts and engage in a brief workload assessment exercise that increased their understanding of the information that has to be collected and the significant effort involved. At the end of the session, an initial Action Plan was developed. All participants agreed that there was a dire need to develop better information about workloads. The result of the action planning activity was that the main organizations responsible for data and budget development for the courts and prosecutors' offices would work with the JRP to begin a workload assessment in the following year. The research center of the Supreme Court and the GCC would both seek to include a workload study in their next year's Strategic Plan. The Prosecutor General agreed to be part of this effort if the JRP could provide the substantive information and technical assistance needed. The Supreme Court's Strategic Plan for 2002 includes efforts to begin a workload assessment. The issues of including this effort in the GCC's annual plan are to be discussed at its next meeting. The GPO is ready to assess the availability of the data needed once the JRP provides the details.

The next step is for the JRP to provide and outline of the data to be collected or developed by each of the Mongolian entities and begin the process of designing initial data collection instruments. The data availability and data collection requirements will be discussed at a workshop next spring that will be designed to initiate a pilot study to be conducted in early summer 2002.

Procurement. In order to enable the GCC to better fulfill its function as a national-level administrative office, the JRP purchased computer and basic office equipment for the GCC. This included three personal computers (PCs), one laser printer, one CD writer, two Universal Power System (UPS) units, and one photocopier. The CD writer will enable them to save larger amounts of text to a CD, while the UPS units will protect the equipment from power surges. The equipment was delivered and installed in the first week of July. In December, the JRP provided five additional PCs and a Local Area Network (LAN) server for the GCC. The equipment will be used in managing human resources, conducting audits of local courts, developing budgets and managing facilities. Strengthening the GCC's capacity increases efficiency and accountability of the courts. The JRP will assess in greater detail the impact of this procurement in 2002.

Priority Task 2: Case Management

Objective: Assist the MoJHA, GCC and local-level courts in developing a sustainable case management system that supports efficient case processing and provides greater accountability and transparency.

The JRP initially assumed that, like many countries, Mongolia suffered from a backlog of cases and inadequate case management systems. Improving the automated case management system seemed to be a logical place to start to remedy such problems. An analysis of the statistics and visits to the courts confirmed that Mongolia does not suffer from a backlog of cases at the trial court level and that the manual case management system is well developed. However, current case management practices lack transparency and accountability. Since the GTZ had developed software to automate case management that would increase transparency and accountability the JRP cooperated with the GTZ to provide enough equipment to pilot courts to test the ability of these systems to increase transparency and accountability. In particular, the JRP has sought ways to make random case assignment mandatory. The automation has

so far shown good signs of increasing transparency, and recommendations on the draft laws allow for mandatory random assignment. This limited automation will also increase the ability of the courts to collect accurate processing data, increasing accountability. Increased transparency and random assignment are expected to reduce the opportunity for corruption and increase public confidence in the justice system.

Caseflow management report. At the request of the Deputy Minister of Justice, the JRP prepared and submitted in September a report that assesses the problems in caseflow management and provides recommendations for addressing those problems (Appendix I). The problems identified include: limited training of advocates in the process of examining and questioning evidence and witnesses, lack of an expanded set of *Rules of Evidence* for all case types, insufficient training of judges in court procedure, ex-parte conversations between the judge and parties in a case, insufficient training of judges and staff in recording interim events, and insufficient statistical reporting.

To resolve these issues, the JRP recommends improved records management and better data collection to allow for the generation of interim reports on continuances and delays. For the courts that operate with manual case management systems, there are two alternatives to collect this data: either retain the current procedures and develop reporting forms for the judges to complete and submit to the chief judge for data entry or change the procedures to include a central filing clerk who receives all pleadings and motions who logs the data and then forwards to the assigned judge. Either of the two aforementioned procedures will require commitment from the judges in each court. Larger courts will require more technology to collect and use the data. For the courts that operate with an automated system, these elements can be designed into the software, but clerks and judges will need to change how they collect this information. Ideally these should be integrated into the statistics required by the Supreme Court because the information currently collected provides insufficient information on judicial workload.

Improving the caseflow management reporting system through better data collection will provide a wealth of information on caseloads for individual judges, courts, and the court system as a whole. Improving data collection and rendering it public will increase accountability within the judicial system and accountability to external audiences, such as the Parliament, the Executive, and the public at large.

Improving caseflow and records management. In the Capital City Court, the JRP focused on improved case and records management, and started with a thorough assessment. The largest court in Mongolia, Capital City Court hears approximately half of all appellate cases in the country, provides budgetary and administrative supervision to the District Courts under its jurisdiction, and hears serious felony cases as a court of first instance. Staff met with Chief Judge Batgerel on numerous occasions to get more information on their equipment and structural needs, and the case management system currently in use.

In particular, the CCC was using four different registers to keep track of its caseload. Individual judges kept case files and were often the only ones who knew the status of a case. Files were in the hands of judges, so clerks were unable to provide basic information to litigants on the status of their case. The records room was also chaotic, making it difficult to track down information. To resolve these problems, the JRP provided computer and office equipment, upgrades to the archival room, and limited training and technical assistance, described in greater detail below.

JRP staff reviewed the staffing pattern in the Court and determined the appropriate number of PCs for the staff: six for the law clerks, four for the administrative assistants, five for the court administrative office, three for decision clerks, and two for the chief judge and his secretary. The physical layout of the court on two floors requires two servers, seven printers, one copy machine, and five CD read/write drives. A Request for Bids (RFB) was prepared and issued in August, with the equipment procured and installed in September. As long as the judges hand write each and every decision, order or notice, case processing

will not reflect much, if any, improvement. The use of standardized templates that can be edited on-line provides consistency and fairness because cases with general same facts and issues are treated equally. As such, the JRP provided in December each judge with a PC so that they can generate decisions and use templates of orders and notices to facilitate case processing. This required 18 PCs, one server and two printers.

JRP also provided a public information terminal that allows any member of the public to check the progress of any case without having to speak with the judge, thereby reducing the potential for improper contact and the opportunity to "bury" improper decisions. The JRP will examine the use of the database and public information terminal in 2002 to determine its actual impact.

The Capital City Court submitted a report to the JRP, indicating the following results:

- Judges have reduced the amount of time it takes to write decisions, rulings, resolutions, judgments, protests and replies to citizen complaints. They also use the computers to write reports, studies and prepare trial notices.
- Courtroom secretaries use the computers to enter 21 registers into the database, advertise trials weekly, and write monthly, quarterly, and annual reports.
- By maintaining the different registers electronically, the archive room can find cases more quickly and thus serve citizens, organizations, and businesses faster.
- Litigants can inquire about the status of their cases at the front desk, and no longer need to circulate throughout the building looking for a judge.
- With a copier, all courts and judges now receive recommendations, instructions, and orders issued by the courts.
- Registers of the assets and working capital, budget accounts, and relevant supplemental accounts have all been entered into the computers, making it possible for timely inventories and account settlement.
- All judges now have access to laws electronically.
- Judges and employees have been given a chance to learn how to use the equipment.
- Registers allow for immediate control over case adjudication and administrative tasks.

The report concluded by noting that the computers have been helpful in decreasing the daily workload of all judges and employees, improving document record keeping, reducing and eliminating numerous registers and paperwork, and allowing citizens to obtain information on case status and adjudication. The JRP will explore these issues in greater detail with the Capital City Court, specifically by making an effort to quantify the improvements in efficiency through a user survey.

In addition to providing equipment, the JRP also worked with the Court to improve its records management practices. It found an archival room that was unorganized and in need of basic shelving to make case files more accessible. JRP remedied the record retrieval problem very inexpensively with steel shelving that allows case files to be stored with the numbered bindings visible. Some upgrades took place in October, and the work is to be completed in early 2002.

On a technical level, the JRP determined that the manual case management practices that for the most part are standardized nationwide are essentially adequate in supporting timely case disposition. The proposal had assumed significant a case backlog, but the team concluded that most cases are adjudicated within the time period proscribed by law, 45 days for civil cases and 30 days for criminal cases. Nonetheless, the Court Administration and Technology Specialist and Chief Judge Batgerel realized that the statistical reporting could be improved, so the Chief Judge asked the JRP to provide examples of additional statistical reports that would facilitate case monitoring. These basic reports reflect the age of pending

cases, time from filing to disposition and age of decisions from date of trial. In November, the Court worked with the local firm that GTZ had hired to improve their case management software to develop these reports, an important cost-share contribution.

These steps should produce greater transparency, accountability, and efficiency. Case delays will be immediately apparent to anyone who reviews the record. Likewise, rulings will become public knowledge. Chief judges will be able to monitor more closely the performance of the judges in their court. Improper influence in delaying a case or making a ruling without notice or a proper hearing will be more difficult to hide. Improved internal accountability could also lead to improved public perceptions, an element of JRP's 2002 workplan.

Assessment of GTZ automated courts. The JRP indicated in its workplan for 2001 that it would review operations in the Songino-Khairkhan District Court, a court that received hardware and case management software from the GTZ. This review was instead expanded to include the five other automated District Courts (Chingeltei, Bayangol, Bayanzurkh, Khan Uul, and Sukhbaatar) to make the assessments more comprehensive and identify all problems and successes. The Court Administration and Technology Specialist also participated in joint assessments with GTZ in Dundgovi (June and September) to assess the impact of their case management software, another important cost-share contribution.

It was concluded that the automated software for case management used in the six Ulaanbaatar courts has the capabilities to reduce and enhance the day-to-day work of the courts and provide up-to-date management reports for the chief judges to monitor the flow of cases in their courts. Since late 1999 and early 2000, when GTZ and Soros implemented the system, only two of the original six chief judges remain in their positions and utilize the full capabilities of the system. The two courts that continue using the complete system are the Songino-Khairkhan and Khan Uul District Courts, though the Khan Uul Chief Judge was recently appointed to Supreme Court. In these courts, chief judges use the system to obtain immediate case status information and generate court judgments and orders.

Overall the GTZ system has the functionality and the capabilities to reduce the workload of the judges and staff and provide the necessary information to promote openness and transparency in the respective courts that are using the full capabilities of the software. Although there are some arithmetic errors in the statistical reporting module, the system still provides a large amount of information and reduces the time required to compile the quarterly statistical reports. In the new *Judge 2001* system these errors in the statistical module have been corrected.

In the four other courts that are not using all of the system components – automated judge assignment, statistical reporting, case management reporting – the problem appears to lie in educating the chief judges, none of whom were involved in the software development and implementation in 1999-2000. In these courts, the new chief judges fear losing control over case assignment if they use the GTZ software. They are also concerned that the arithmetic errors in the statistical reporting module will report false case statistics to the Supreme Court and they will consequently be subjected to disciplinary actions. The GTZ offered training to the new chief judges and explained the system's functionality and the usefulness, but it is difficult to change the legal cultural and procedural mindset of these judges from one of total personal control to one of openness and transparency by using an automated system.

The JRP recommends that the GCC be involved to eliminate these problems. One possibility is to mandate that the system be utilized to its fullest capabilities, which the GCC and Minister of Justice could require by resolution. Any court that receives hardware or software, regardless of the donor, could be required to use all the features and case management and statistical reports. In addition, appropriate training has to be made available.

Procurement. In addition to the procurement in the Capital City Court, the JRP obtained UPS systems for six District Courts in Ulaanbaatar to protect their equipment from destructive power failures. The JRP agreed to provide each court with adequate UPS systems (38 total) because these are courts where JRP, Soros, and GTZ will cooperate next year. While not in the first year procurement plan, the JRP obtained limited equipment for the GPO, Sukhbaatar District Court, Tuv Aimag Court, and Songino-Khairkhan District Court. The cost associated with this additional procurement is extremely modest, and advanced JRP goals in several areas, described below.

Early on, the JRP concluded that equipment and hardware upgrades in the courts had outpaced the capabilities of the prosecutors' offices. For the courts to function efficiently, prosecutors need the minimal equipment to function effectively and not impede the operations of the courts. As such, a decision was made to outfit the GPO with three PCs, one printer, one server and other items to expand its Local Area Network and improve the statistical reporting system for the collection and compilation of data from local prosecutors. Better data collection and reporting will improve accountability within the judicial system.

In 1998, the GTZ and Soros Foundation provided computer equipment to the Sukhbaatar District Court, the first court to receive any equipment, to run case tracking and management software. Power outages had permanently damaged three PCs and one printer beyond repair. Replacing this equipment enabled staff to enter case data and speed up case processing time by having better access to case information.

To facilitate legal research in the adjudication of cases, JRP provided a PC to Tuv Aimag, replacing one that had been moved to a different location. The GCC provided a technician to transfer files from the old system to the new system, and agreed to continue this practice for future procurement. The Tuv court will continue to use the latest case laws and codes. In addition, the MoJHA proposed that at anytime the JRP staff visits a court, it would provide a CD or Zip file of the latest laws and decisions to update the PCs in that court.

To improve transparency and openness in the courts, the Songino-Khairkhan District Court agreed to install a PC and printer in the lobby of the courthouse that will allow the public to inquire about court cases. When the software changes are developed, the JRP staff will develop a methodology to track the number of inquiries and responses provided by the public access terminal. The Chief Judge has identified the processes to be used for the public inquiry terminal and contracted with a computer programmer to make some minor changes in the software to facilitate entering requests for information. In addition, the Chief Judge installed a PC in the civil and the criminal courtrooms to facilitate the issuance of court orders, decrees and judgments immediately or at the conclusion of a court procedure. The court will also use these PCs to record the minutes of each court procedure while the trial or procedure is in process.

Legal Commentary. Staff unexpectedly became involved in finalizing articles pertaining to case assignment in the draft Criminal and Civil Procedural Codes. Legal drafters were considering changes to the Civil Procedure Code that were in direct conflict with other laws and would have undermined efficient case management by the courts. Random assignment of cases would have been impossible under the proposed Civil Procedure Code and the means for assigning cases would have been inconsistent for civil, criminal, and administrative cases. JRP recommendations that allow for random case assignment were incorporated in the laws enacted this fall. Random case assignment is essential because it reduces the opportunities for cases to be assigned to judges who may be influenced to rule in favor of one of the parties to the case. The JRP will continue to monitor the draft Law on the Courts this spring to ensure that changes pertaining to case assignment do not undermine or conflict with the changes incorporated in the Civil and Criminal Procedure Codes enacted this past fall.

Priority Task 3: Qualifying Exam

Objective: Develop an effective Mongolian system to qualify lawyers.

When the JRP team arrived in April 2001, the MoJHA stressed its intention to introduce legislation in the Fall Session that would require testing of all lawyers (judges, prosecutors, and those in private practice). Testing was to begin in 2002, leaving less than a year to develop a test and allow examinees time to prepare. The proposal had the potential to disrupt the legal system by instantly disqualifying an unknown percentage of judges, prosecutors and advocates, and had, not surprisingly, generated a great deal of controversy. While there was and is considerable support for testing as a mechanism to improve the quality of those who practice law, the MoJHA's approach would have been logistically difficult, if not impossible, to implement.

While supportive of the concept, the JRP expressed strong reservations about the approach proposed. Repeated suggestions to modify the timetable were rebuffed, as were similar suggestions from those affiliated with the GTZ. The MoJHA did not acknowledge the controversial nature of its proposal and the daunting logistical task.

The JRP overcame these obstacles by working closely with other donors to prepare an alternative proposal. Dr. Gramckow and Mr. Jupp Joachimski, a German prosecutor and principal consultant for the GTZ, outlined a more realistic process for developing a qualifying exam. JRP and GTZ agreed that the primary goal for increasing and testing professional capabilities is to not only impart and test knowledge of the law, but also professional skills and job-related capabilities. The ultimate goal for future training and testing should be to ensure that all lawyers operating in the courts are knowledgeable in their field of work and have basic skills and knowledge to quickly adjust to other specialty areas if assigned elsewhere.

A July letter to Deputy Minister Munh-Orgil signed by the GTZ consultant, the HSS representative, and Dr. Gramckow gave recommendations for a general approach and the reasons why the timetable for implementing the exam was inadequate. The eight-page proposal contained the following elements:

- First, the current state of legal professionals in Mongolia and the logistics required to mount the training suggest that a minimum of six months of training is required: three months in substantive and procedural law and three months in job specific skills.
- Second, while the qualifying exam is a necessary prerequisite to ensure the quality of legal professionals, the type of exam to be conducted depends on its goal. Multiple choice tests can be quickly reviewed, require little interpretation of answers, and overall are the most transparent approach to take, but do not necessarily test substantive knowledge or skills. Essay type exams require highly trained graders, are more subjective in the grading process, and take more time to review. A mix of the two may offer the best course. A representative body of legal professionals should make these decisions.
- Third, passing the qualification exam should become a prerequisite for practicing law or becoming a judge or prosecutor, but the requirements for passing the exam should vary according to the candidate's assigned position. More stringent requirements for higher positions could serve as an incentive to do better on the exam. Candidates who fail the exam should have the opportunity to repeat.
- Finally, neither phase should render the justice system in operational. As such, no more than 20 percent of all legal professionals currently operating in the public sector should undergo the preparation and testing phase at any given time. As that pace, the retraining and testing of all legal professionals will require five years.

These combined efforts ultimately had positive results as the MoJHA significantly altered its approach. The MoJHA is now planning to introduce a draft law to the Spring 2002 session. The draft law currently in circulation adopts most of the JRP recommendations, including a gradual process that starts by examining new attorneys. Though the draft law has not been finalized, the Ministry has requested JRP's assistance in developing the qualifying exam and study materials, and in preparing a core group of trainers, all of which are elements of the JRP's second year workplan. The training and first exams are currently anticipated for 2003.

In the long-term, these qualifying exams will ensure a higher quality of advocates, judges, and prosecutors, and have the potential to improve the public's perceptions of judges in particular. JRP will follow this issue closely to ensure that the final draft creates a workable and transparent system, but its efforts were critical in refocusing an attempted reform that might otherwise have had disastrous results.

Priority Task 4: Continuing Legal Education

Objective: Assist the Mongolian government in developing a comprehensive Continuing Legal Education (CLE) system.

When the JRP planned its activities, it recognized that several donors were directly involved in providing training, but that planning for a comprehensive, sustainable Continuing Legal Education (CLE) system was not taking place. The JRP proposal concentrated on curriculum development and other aspects needed to plan for and develop a CLE system for judges and all legal professionals. As the JRP worked with Mongolian institutions and other donors, it became apparent that the Mongolian institutions could not absorb immediate assistance in establishing a comprehensive CLE program because human resources with sufficient experience to benefit from such assistance were scarce. The JRP decided that it would be best to participate in training by coordinating with the most effective donors and building the capacity of the Mongolian institutions to create a successful CLE system. In addition, a solid strategic planning process for this effort has to be undertaken.

Donor Coordination. An important component of the JRP is donor coordination in the development of a comprehensive CLE system in Mongolia. When JRP began its investigation in 2001, it found an array of programs funded by different donors and, while providing significant training assistance, did not prioritize by greatest training needs. Neither had there been an attempt to coordinate program activities. While many recognize that training for the legal profession is fragmented, few in the donor community or the Mongolian government have shown an inclination to coordinate training efforts. Each donor organization is guided by its own set of priorities and views the Mongolian training picture through its own individual lens. This reality makes coordination difficult, but not impossible, and obtainable only through great diplomacy.

In the first weeks and months of the project, the JRP Legal Training Specialist and other staff met with representatives of the various donor organizations involved in training of legal professionals in Mongolia, namely Soros Foundation, GTZ, HSS, ADB, and the World Bank. Staff also met with representatives of the entities that are supported by donor funding, the Supreme Court's Judicial Retraining Center (JRC) and the Legal Retraining Center (LRC). Staff also met with the GPO, the MoJHA, law professors, lawyers and trainers of the various programs. The purpose of these meetings was to become familiar with the full range of training activities currently being conducted in Mongolia. The relationships that developed laid the groundwork for the donor coordination that has been achieved in the training field since then.

One of the first activities undertaken was publication of a calendar of training activities. This calendar listed all of the training activities sponsored by donor organizations in upcoming weeks and months.

Donor organizations and Mongolian stakeholders alike were enthused about the calendar, and eager to have their activities listed. While helping to prevent scheduling conflicts and duplication between the different donor programs, the calendar has also conveyed the message that a great deal of training is going on without addressing the real needs of those receiving the training.

This calendar quickly evolved into a broader Rule of Newsletter that lists activities being undertaken by different actors in the judicial system, whether Mongolian or foreign. Published on a monthly basis, the newsletter provides brief information on what each office or group is doing, or important information they have to convey. The newsletters have published information on activities and other items from the JRP, Tsets (Constitutional Court), Supreme Court, GCC, MoJHA, GPO, Court Decision Enforcement Agency, Police Academy, the Asia Foundation, HSS, UNDP, the Japanese International Cooperation Agency (JICA), Soros Foundation, LRC, JRC, Center for Legal Reform Support, Mongolian Crime Prevention Foundation, Mongolian Human Rights Center, Mongolian Women Lawyer's Association, and the National Center Against Violence. The newsletter is sent to 100+ organizations, including all courts in Mongolia and all organizations conducting legal training. English translations of the newsletter and calendar are included (Appendix J).

The JRP has made significant progress in coordinating the donors active in the training field. In meeting with the LRC, staff learned that the ADB will fund the program for another year and its training program and schedule will not change substantially. The LRC anticipates being folded into the National Legal Training Center in 2003, the result of an agreement between the ADB and the MoJHA. The LRC requested a projector to improve its training capacity, which the JRP anticipates providing in 2002 for future use in the National Legal Training Center, pending a written agreement between the MoJHA, LRC and JRP on ownership and custody of the equipment.

After a series of progressively positive meetings, the JRP reached an agreement with GTZ to closely coordinate their judicial training activities in the year 2002. The GTZ intends to train every judge in Mongolia on the new changes to the Civil Code. The JRP, at the MoJHA's request, intends to train all of Mongolia's judges on the recent changes in the Criminal Codes, as well as on the topics of Ethics and Advocacy. The JRP/GTZ coordinated program will conduct a series of regional trainings. All of the topics will be presented in a series of two-week training blocks. The first week will be dedicated to the teaching of the new Civil Code and will be taught by GTZ trainers. The second week will be dedicated to teaching the new Criminal Codes, as well as Ethics and Advocacy, and will be taught by JRP trainers.

In these meetings, JRP learned that Soros intends to withhold funding for the JRC in 2002. JRP, GTZ, and Soros began discussions for coordinating their respective training programs. This would be a program that would encourage the sharing of resources, eliminate redundancy and lay the foundation for building a truly integrated training program. The JRC also agreed to work with the GTZ and JRP to create a coordinated training plan for Soros' consideration. The three organizations envision creating a board of Mongolian judges to advise and eventually be responsible for the judicial training efforts. The coordination creates an opportunity for the JRC, a Mongolian NGO, to make sustainable use of the trainers, materials and experience of the donor organizations, JRP and GTZ. This will also strengthen the independence of the judiciary by giving it a voice and resources and experience to resist excessive control by the executive branch over judicial training when it is integrated into the National Legal Training Center program.

If Soros agrees to continue funding, and if the JRP, GTZ and the JRC are able to coordinate and integrate their programs, this overall effort may represent the most extensive coordinated training effort in the former socialist states.

Assessment, Evaluation and Conceptual Planning. In May, NCSC developed a survey of legal professionals that inquired about respondents' skills and training needs based on the type of cases they had been handling during the past year.

As part of the initial training needs assessment, the Legal Training Specialist attended different trainings conducted by others to gauge their effectiveness and assess availability of training resources. He visited the JRC classroom in the Supreme Court building and observed a class on Corporation Law for judges from the Aimags. These judges were the last group being trained in a Soros-funded series that began last year. He observed the lack of written study materials. He attended a GTZ-funded judges training and observed that while it was very well structured and seemed to focus on core areas of the law, the participants had no real training materials to work with. In subsequent meetings, staff determined that the JRP could remedy the lack of solid training materials.

In June, JRP staff traveled to Khovsgal, Bulgan and Orkhan Aimags where they met with judges, court personnel, prosecutors, and advocates, and observed a trial. Judges, lawyers and court personnel were interviewed extensively in all three Aimags to determine what they believed their training needs to be. They indicated that in the substantive law area, they had a great need to be trained in areas involving modern business practices and institutions, e.g. company law and banking law. They also expressed a need to be trained in new skills such as adversarial process advocacy and adjudication and opinion writing. The JRP concluded that the largest area of concern from the standpoint of reform is the relative lack of due process afforded to parties in both criminal and civil proceedings.

Using the information gathered in these assessment and evaluations, staff began to write a concept paper for CLE in Mongolia. The paper summarizes the current approach, including the array of existing training programs and the strengths and weaknesses of each program, and proposes a method for developing a comprehensive system. The paper emphasizes that the training structure must be realistic, encourage the development of legal institutions that will support a democratic form a government and a free market economy, and be sustainable over the long-term with Mongolian resources. The draft will be provided to the Deputy Minister of Justice and then circulated to relevant parties, both donors and Mongolians. The concept paper is intended to provoke a discussion of where to go from here.

Training Activities. Through extensive initial meetings and observations the JRP has been able to identify obvious gaps in the existing training scheme. Some of the JRP's first year activities aimed to fill these gaps. The JRP planned for the following programs: a) English language training for selected legal professionals, b) adversarial skills training, and c) prosecutor training.

a. English language skills

As described in the first year work plan, the JRP is funding English language training for Mongolian public sector officials working in the justice sector. The purpose is to enhance the capabilities of Mongolian legal professionals to assess foreign law and legal concepts.

The JRP issued a RFB in September, to which four organizations responded. The bid submitted by Santis Language School (an Inlingua affiliate) was the most competitive with regard to cost and quality. As such, a contract was developed and executed with Santis.

The MoJHA, GCC, GPO, Supreme Court, and Capital City Court provided 48 candidates to participate in this class. Classes began October 1 and will last for six months. Students are broken into five groups according to their skill levels. Classes are two hours in length, and take place Monday-Friday. Santis' evaluation of the first month of training was generally very positive particularly for the students' level of effort. The JRP Coordinating Board was unanimous in its view that skills had improved significantly and

students who were participating in the English-language training course were doing better research, and specifically requested that the course be repeated for an additional set of students. The JRP will conduct a more detailed evaluation after the course is completed.

b. Adversarial skills training

During the assessments, judges, prosecutors, advocates and lawyers of all levels expressed a desire for more information about the adversarial process. Although Mongolia law dictates that the adversarial process will be used in court hearings, it is rarely employed. Most judges and lawyers are not familiar with adversarial procedures. Their trial process remains strongly inquisitorial, the Mongolian form leaving much to be desired in the way of fairness and due process. The GPO feels that training in adversarial proceedings is a key area to pursue, since the Criminal Procedure Code clearly states that court proceedings should be adversarial, even though current practice is otherwise. Many of the members of the Mongolian judiciary also mentioned adversarial proceedings as an important focus for the JRP training efforts.

Adversarial practices applicable within the Mongolian law are rarely if ever used and there is considerable disagreement among practitioners as to what the law permits. The training courses were designed as a way to introduce the practical benefits of adversarial and oral approaches in the courtroom, and prepare for a discussion of the benefits of adversarial procedures in the courtroom.

The JRP held two adversarial skills training workshops in 2001, the first on September 7-9 and the second on November 7-9. The purpose of the workshops was to introduce and train, using interactive techniques, a select number of judges, prosecutors, and advocates on the use of adversarial principles in the courts. Eight judges, eight prosecutors, and eight advocates participated in each seminar, with a number of observers attending the November seminar. Under the Civil Law system the judge relies primarily on the review of written documents submitted by the parties. During the hearing, the judge takes the lead in interviewing witnesses. This contrasts sharply with the common law system, where the judge is passive, most evidence is presented orally, and counsel have the primary responsibility for questioning the witnesses.

Participants were introduced to American and Australian adversarial processes, as well as the current situation in Mongolia. Presentations were given by the JRP Training Specialist Herb Bowman, Susan O'Brien, an Australian lawyer and advisor the National Center Against Violence, and Zumberellkham, a Mongolian lecturer with the LRC. (Ms. O'Brien donated her time spent for preparation and the actual training.) The second and third day were devoted to mock trials that relied on adversarial principles, in which participants gave opening and closing statements and interviewed witnesses. The seminar concluded with a session in which the participants offered their critique of the program. Participants also completed written evaluations.

For the November seminar, the JRP sought to expand its impact by inviting select professionals from the legal sector to observe the program. Each day, 9-17 observers were present. More important than the number was their affiliation. Three members of the Ministry's legal drafting committee observed the first day. This was important because they were studying the possibility of revising sections of the procedural codes (both criminal and civil) to make the use of adversarial principles easier and more consistent with sections of the code that require an inquisitorial approach. Several teachers from other donor-funded legal training programs were present, including three from the LRC, who were also interested in the interactive techniques employed in the seminar. Others included an instructor in criminal procedure from the Law School at the National University of Mongolia, representatives of the Advocates' Association, the GPO, and the GCC Training Advisor, and representatives of the Open Debate Society.

Both seminars were well received by participants, with the first seminar generating significant enthusiasm for the second. There were numerous indicators of the program's success:

- In their written evaluations, participants emphasized the mock exercises as being the most helpful. When asked what was the least helpful part of the seminar, the majority said there were none. Their recommendations for improving the course included making the handouts longer, developing and submitting proposals for the draft procedural codes, conducting more training after the laws have passed, and arranging a discussion on the implementation of adversarial principles among advocates, judges, and prosecutors.
- The Chief Judge of the Chingeltei District Court asked to be included in the November training because of the good things she heard about the first training. Similarly, the Prosecutor General asked if more prosecutors could attend the second training.
- After participating in the first training seminar, Saikhantsetseg, a judge from the Songino-Khairkhan District Court, decided to use adversarial techniques in a trial. Instead of relying on police reports, she required witnesses to be present in the courtroom and interviewed by the defense counsel and the prosecution. After hearing their testimony, she concluded that the reports included errors of material fact, and relying on reports alone would have led her to wrong conclusions. As a result, she has begun to run her courtroom differently. She is encouraging the parties to participate more actively and has changed the layout of her courtroom to give the prosecution and defense equal standing, important because prosecutors historically have been the dominant players in the judicial system.
- An advocate and law professor at the Ulaanbaatar law school indicated she was impressed with what she had learned, concluded that Mongolia should pursue the use of adversarial principles in court proceedings, and shared the written materials with her colleagues.
- Purevnyam, an Assistant to the President of the Association of Mongolian Advocates, stated that it is difficult to reconcile the provision in the current procedural codes that support the adversarial principles with those in the codes that support the use of inquisitorial methodology. He felt that it would be difficult for judges, prosecutors and advocates to vary significantly from the current practices until the codes are changed to give clearer guidance. Purevnyam was so affected by the first training that he wrote and published an article about what he had learned in the *Daily News*, one of the larger and most influential newspapers in Ulaanbaatar. The article was entitled, "Adversarial Proceedings, We Are On Our Way."
- It was reported informally to JRP staff that the members of the legal drafting committees who had been advocating that adversarial principles be eliminated altogether from the procedural codes had changed their opinions after hearing about the workshop.

Taking advantage of the momentum created, the JRP will endeavor to develop a training module for wider implementation. This module will most likely be in the form of the Advocacy Skills course planned as part of the GTZ/JRP coordinated training plan.

c. Prosecutor training

Staff met with the General Prosecutor and his staff on several occasions to identify essential training needs and develop a concept for systematic training. NCSC also met with the GTZ, which is currently sponsoring prosecutor training on very general areas of the law. These discussions led to an agreement to

identify training priorities and to work together to coordinate training activities. The GPO is currently creating a list of specialized areas of the law where it needs to develop its staff expertise, and the JRP has agreed to assist in the creation of training programs that will create this expertise.

To assess prosecutors' needs, staff met with the Chingeltai Prosecutor, attended a criminal trial, and visited a crime lab to review how crime scene evidence is processed. One of the conclusions staff drew from these visits was that the effectiveness of Mongolian prosecutors would be greatly enhanced by the development of specialized knowledge and ability within the prosecutor's office. For example, there does not appear to be a program to develop special abilities within the prosecutor's office to understand and apply modern principles of forensic evidence. There does not appear to be any active effort on the part of the prosecutor's office to work with the police on developing forensic evidence collection and analysis abilities.

On November 1, staff met with the General Prosecutor to discuss a possible training agenda for prosecutors. The Prosecutor General was especially enthusiastic about training on domestic violence. He claimed that 40 percent of the cases the prosecutors handle are related to domestic violence, and designated two members of his staff to work with the JRP on this matter. The JRP is working with the National Center Against Violence to organize a training session in March 2002 for prosecutors on this subject. The session will feature a prosecutor from the San Diego District Attorney's office and will focus on how, over the past decade, the police and prosecutors made arresting and prosecuting domestic violence offenders a priority.

Legal resource materials. Gaps also exist in the legal resource materials available to the justice sector. The JRP contributed to the development of legal resource materials by focusing its attention in 2001 on the following areas: a) the creation of a JRP website, b) manuals for existing or anticipated training courses, and c) publishing Supreme Court Interpretations.

a. Website development

In discussions with other donor organizations, JRP staff concluded that creating a website and expanding Mongolian legal websites could contribute to the dissemination of Mongolian laws and legal information. The JRP website would include or link to current statutes, past and current and Supreme Court interpretations, and Mongolian language legal resource materials. Staff met with a web designer to develop the content and structure.

JRP and Supreme Court staff met to review the database and search engine created by the Supreme Court's software developer to house opinions and interpretations. The Chief of Party met with the Chief Justice of the Supreme Court, who agreed to prepare Supreme Court Interpretations and certain case law for posting on a web site, if JRP would be willing to pay for hosting the site and provide some technical assistance. The JRP agreed to purchase a computer, scanner, and printer to facilitate website maintenance. This equipment will be delivered and installed after the JRP and the Supreme Court have signed a Memorandum of Understanding (MOU) that addresses the Supreme Court's responsibility in maintaining and updating the website.

In addition, Development Alternatives Inc. (DAI) is working to develop a website in the Prime Ministers' Office that will house draft commercial laws and business-related legislation to facilitate public comment. The U.S. Embassy is also interested in this effort as it relates to keeping the American business community informed of legislation in Mongolia. JRP, DAI, and the Embassy agreed to collaborate on the effort. JRP staff reviewed the new law on submission of draft laws and obtained copies of the related implementing regulations. The new law is an improvement, but does not provide enough detail on public comments. DAI and the Embassy will work on creating an implementing regulation that will require

publishing and posting on the Internet most laws and give a set length of time for public comment. DAI and JRP also developed plans to transfer translations of the draft codes from DAI to the JRP, for posting on the JRP website when the draft laws are enacted. This cooperation will increase the availability of laws in English. JRP is also contributing to the Embassy and DAI's efforts to ensure that there is a forum for public comment on all legislation presented to Parliament. JRP is working in close cooperation with the MoJHA to integrate the JRP website with the ones planed by the MoJHA and enable them to sustain it after the conclusion of the JRP.

b. Training manuals

JRP's analysis of existing GTZ, LRC, and JRC training programs indicated that courses were taught with very few, if any, training materials. Staff concluded that developing manuals for these courses was a quick way to contribute to and sustain existing training activities. GTZ, LRC and JRC leadership enthusiastically supported the idea and indicated their appreciation for JRP's contribution in this area.

Staff selected two authors to write a contract law manual and two authors to write a company law manual, and signed the contracts in October. Three of authors teach for the LRC, GTZ, and JRC respectively, while the fourth is a well-known legal scholar who has published books in her field and teaches at the University level. The manuals are to be no more than 50 pages in length, and staff received the first draft of the company law manual at the end of November. It was longer in length than anticipated, and staff worked with the author to condense the material. The manuals will be printed using low-tech approaches to contribute to their long-run sustainability.

c. Supreme Court Interpretations

Enkhuluun of the LRC approached the JRP with a proposal to publish Supreme Court Interpretations. Mongolian law gives the Supreme Court the responsibility of issuing official interpretations of new laws, an important task because these interpretations often help to clarify intent and meaning of the law. Even though it was not in the first year work plan, staff realized the project could be done at little cost or effort, was within JRP goals, and complemented the development of training materials and a website. Training that takes place with judges, prosecutors and advocates has to be based on the legal body of the country, of which Interpretations form a critical part.

The JRP signed an agreement in October with the JRC to publish and distribute Volume II of Supreme Court Interpretations. The JRP paid a publishing firm to design the layout and print 1,000 copies, which was completed at the end of November. The agreement calls for the JRC to give 500 copies to a predetermined list of judges, prosecutors and government officials, which have been delivered. The remaining 500 are being sold to lawyers, law schools and law students. JRC will use the proceeds from these sales to publish Volume III. Within weeks, the LRC received more than 250 orders for purchases from entities such as the GPO, the Court Decision Enforcement Agency, the Advocates' Association, the State Investigative Department, the Police Department, the Law School at the National University of Mongolia, and two other private law schools. The JRP will consider printing additional copies if the first set sells out quickly. The effort has the potential to become a sustainable legal publication project. The Chief Justice of the Supreme Court thanks USAID and the JRP in the acknowledgement, included as Appendix K.

Priority Task 5: National Legal Training Center.

Objective: Support the planning and development of a National Legal Training Center.

The Government of Mongolia and the World Bank have agreed to the development of a National Legal Training Center to provide ongoing training to legal professionals. All JRP training activities are designed to become part of training to be conducted under the coordination of a National Legal Training Center when it is eventually established.

Various activities in 2001 contributed to the development of the Training Center. In April, NCSC staff inspected and evaluated a building sought by the MoJHA to house the training center, but concluded it was not suitable for training and would be prohibitively expensive to renovate. Staff also cooperated with the World Bank in creating a plan for funding the construction of a building to eventually house the center. A different site was eventually secured.

The World Bank fielded a technical team to Mongolia in November to develop its program to fund construction of the Training Center and other activities. Staff had several meetings with the World Bank team to discuss coordination of activities, especially the training center development and structure, Administrative Court training, Law School curriculum development and legal qualifying examination. Initially, JRP and USAID staff were concerned about duplication of activities, but worked out ways to ensure that the activities are complementary. The Deputy Minister requested that World Bank funds not duplicate activities the JRP is undertaking, effectively giving JRP a lead role.

Staff subsequently reviewed a draft document from the MoJHA describing the management structure of the proposed Training Center. The concept calls for a center that is heavily dominated by the Ministry, with little or no input from judiciary, prosecutors or advocates. The JRP offered to draft a new document that would create a more open and democratic model, which was accepted. In a subsequent meeting, staff suggested that an Advisory Committee made up of representatives of the main stakeholders govern the Center. While each branch should be responsible for the training of its own people, the Advisory Committee would work together to share resources and look for ways to do joint training where appropriate. The other main management figure would be a Facility Manager. He would answer to the Ministry and be responsible for the maintenance of the facility as well as coordination of training schedules. In later conversations, the Deputy Minister verbally agreed to the JRP's suggestions.

Priority Task 6: Ethics

Objective: Assist the advancement of ethics for the legal profession.

When the team arrived in April 2001, the GCC had decided to develop a new ethics code for the judiciary, simultaneously with government efforts to define appropriate ethical standards for government officials. The JRP agreed to provide technical assistance to develop an enhanced ethics code in line with the Strategic Plan for the Justice System of Mongolia.

In April and May, JRP staff met with Mongolian counterparts to determine the current ethics rules and how they are enforced. This entailed meetings with the MoJHA staff who had begun drafting the new ethics code. While the new draft drew heavily on the American model, a likely by-product of Supreme Court Justice Sandra Day O'Connor's visit to Mongolia in 2000, the MoJHA was interested in other examples and having a broader discussion on the most appropriate model for Mongolia.

JRP staff reviewed and prepared comments on the draft ethics code. To support this effort, Arlington staff collected examples of ethics codes from other post-socialist countries, model codes of conduct for lawyers and judges from the American Bar Association (ABA), and information on disciplinary mechanisms at the state level in the United States. The NCSC also asked an ethics expert at the ABA office in Chicago to review the Ministry's draft code. In September, the JRP submitted a report to the GCC and the MoJHA (Appendix L) that provided comments on the Ministry's draft ethics code and

made, proposed alternatives, and recommended the creation a new enforcement mechanism. Mr. La Mont and Dr. Gramckow discussed implementation of the recommendations with the Deputy Minister of Justice in September.

At its November meeting, the GCC endorsed the JRP draft judicial code combining ABA and JRP recommendations (rejecting more modest recommendations submitted by the Ministry) and asked the Deputy Minister of Justice to incorporate it into a new draft to be voted on at its next meeting. The new draft will increase the requirements for judicial disqualification, disclosure and reduce ex parte conversations. Extensive comments will serve to educate the judiciary (and the public) about the application of the new rules.

These changes should create greater transparency in the courts, which should in turn result in greater accountability and improved public perception of the courts. In 2002, JRP will assist with developing consensus for implementing the new code and with drafting the changes to the Law on the Courts to establish effective enforcement mechanisms to advance judicial ethics.

Special Opportunity: Legal Commentary

The JRP had not intended to provide drafting assistance on the major legal codes being enacted in 2002, but became concerned about the content of the Criminal Procedure Code, as very little changed from the socialist-era code. While the decision to hold a suspect and determine the legality of an arrest had been transferred from the prosecutor to the judge, the change would be ineffective because neither the accused nor his lawyer had a right to appear before the judge, nor had a standard for arrest (e.g. probable cause) been clearly articulated. The new draft created a special category of judges to handle these hearings, which would further strain the judiciary's limited resources.

The Chairman of the Legal Standing Committee expressed great interest in receiving the JRP's comments, but needed them within a week because of an already scheduled hearing. In two days, JRP developed recommendations on the most important points. The Legal Standing Committee used the recommendations to discuss the code provisions with Justice Minister Nyamdorj.

JRP's comments on the Criminal Procedure Code were accepted in part. JRP recommended that a clearer standard for arrest be incorporated into the law. While there was some interest in this in Parliament, the Minister of Justice insisted that by reading certain sections together, the proper standard for a legal arrest could be determined. This view seems to have prevailed, so proper Supreme Court interpretation of the code may be needed to ensure that the standard is properly understood. The JRP recommended that the arrestee and his attorney have the right to appear before the judge determining the validity of his arrest. The law seems to have been amended to allow the attorney to be present. The rationale for not giving the arrestee the right to be present is that the arrests may take place in the Soums, while the court is in the Aimag capital, and there would be insufficient time to transport the arrestee. This section may become an issue with respect to the requirement of the International Covenant on Civil and Political Rights. The draft also gave the judge only the right to order detention, but left it to the police or prosecutor to order lesser forms of restraint. The JRP recommended that the judge should have the sole authority to order any form of restraint after the hearing. It is not clear if this recommendation was incorporated in the final draft. The JRP's recommendation that special additional judges were not necessary for processing arrest warrants appears to have been accepted. Finally, the JRP recommended that the defendant be allowed to collect and present evidence on his own behalf, or at least that the court have the power to order that evidence desired by the defendant be collected. It does not appear that this recommendation was adopted. The JRP will assess the full impact of its recommendations to the Criminal Procedure Code when it is published in March 2002.

D. PRIORITIES FOR 2002

The JRP began its efforts by focusing on baseline assessments and reviews of existing legislation, policies and procedures to determine current needs and identify areas for improvement. Based on these assessments and reviews, the JRP offered recommendations for change to its counterparts and initiated relevant activities. The JRP will build on this work in the second year of operations by working with its Mongolian counterparts to build a consensus around the recommendations offered in the first year and assist with their implementation. Activities initiated in the first year will continue and expand in the second year.

Considering the significant challenges the current system faces, the JRP will continue to emphasize donor coordination and close cooperation with stakeholders in order to achieve sustainable changes. In the second year, the project will continue activities begun during the first year and, in close coordination with the Coordination Board, start new activities to achieve the results desired. Work proposed for these priority tasks is summarized below.

Priority Task 1: Develop and strengthen court management and administration at the national and local court level.

The objective of this priority task is to strengthen the General Council of the Courts (GCC) in order to consolidate judicial policymaking within the judicial branch and ensure efficient management of court information and operations. Building on the progress in the first year, JRP will undertake several activities. First, the JRP will use the report on the structure and functionality of the GCC, as well as those on judicial budgeting and selection, to build consensus around the appropriate model for judicial governance in Mongolia. This will involve recommending changes to the Law on the Courts. The JRP will take key actors to visit judicial and prosecutor councils in the United States to help them understand their options. As with all NCSC study tours, the participants will develop an action plan for next steps in the process. Second, the JRP will implement various technologies to improve court administration, including relevant equipment procurement and the establishment of pilot communication and Internet connections with select courts. Third, the JRP will develop and publish a procedures manual on court administration, and conduct training with court staff using this manual. Finally, the JRP will continue its work on workload projections in the court by reviewing existing court statistics and helping to develop better data collection methods that will generate the needed data. Better data and better dissemination of this data, through an Annual Report, will increase transparency and accountability within the judicial system.

Priority Task 2: Strengthen local case management systems and access to justice.

The objective of this priority task is to improve efficiency, transparency and accountability in the courts through improved case management, expanded information dissemination, and better court proceedings. Several activities are contemplated for 2002. First, the JRP will establish Internet links between prosecutors' office and pilot courts that have adapted automated case management practices and otherwise revised their procedures. The purpose is to help Mongolians disseminate their own best practices, thereby creating and expanding communities of innovation. The JRP will subsequently develop a plan for implementation in other sites based on the experiences in the pilot courts. Second, the JRP will obtain court recording equipment for pilot courts and work with them to develop better procedures for creating an accurate and complete record of court proceedings. Finally, the JRP will work with key actors in the court system to promote judicial independence. This could entail workshops, recommendations to improve legal codes and procedures, training on judicial decision making and opinion writing, and promoting innovative judicial leadership.

Priority Task 3: Re-examine the jurisdiction of all courts and related justice system institutions.

The objective of this priority task is to work with justice sector institutions to ensure that the existing legal codes and their implementing regulations support due process and human rights, do not conflict with each other, are appropriate to the resource limitations facing Mongolia, and are sustainable. First, the JRP will help clarify the recently enacted Criminal and Civil Procedure Codes through amendments, interpretations or commentaries, provide assistance in projecting the structural, organizational, and financial impact of these new codes, and help devise implementing regulations. Second, the JRP will provide expertise on the draft Law on the Courts, and assist with its implementation once enacted. Third, the JRP will work with the research departments of the Supreme Court, the GCC, the GPO and the MoJHA to clarify their respective duties, making recommendations to eliminate duplication and improve overall efficiency. Fourth, the JRP will assess current sentencing practices to identify discrepancies and their causes.

Priority Task 4: Develop a continuing education system for all legal professionals.

The objective of this priority task is to build human capacity in all branches of the legal profession so that judges, advocates and prosecutors are able to exercise independent, informed, and professional judgment in their work. First, the JRP will continue its efforts to develop a Continuing Legal Education system. Second, it will continue to develop training courses and materials to address already identified needs. These include training nearly all the judges and prosecutors in Mongolia on the changes in the Criminal Code and Criminal Procedure Code as part of a cooperative effort with other donors; English language training for select public sector employees; expanding the pool of written legal resource materials; training on ethics and advocacy skills for judges, prosecutors and advocates; specialized training for prosecutors; and specialized training on adversarial and oral courtroom skills. Fourth, it will continue to assist in planning for the development of the National Legal Training Center. Fifth, it will develop and implement, through a subcontract with Pact, a public education program that will increase public awareness of the role and function of the court system in a democratic society. Donor coordination, particularly with GTZ and Soros, will continue as an important means to achieving these goals.

Priority Task 5: Develop an effective Mongolian System to qualify lawyers.

The objective of this priority task is to ensure the competence and status of legal professionals to enable them to fulfill their independent roles in the justice system. If the law on the qualifying exam ultimately enacted establishes a fair and transparent process, the JRP will support the effort by providing technical assistance to develop the qualifying exam and assist with the establishment of a council to govern the process from design through implementation. The JRP will support training for legal professionals who will be required to take the exam using a Training of Trainers (TOT) approach. Testing is expected to begin in 2003.

Priority Task 6: Enhance adherence to professional ethics among legal professionals.

The objective of this priority task is to improve the ethical behavior of legal professionals to increase public confidence and gain support for their independence. First, the JRP will support the implementation of the new ethics code. Second, it will support the development of a Legal Ethics Enforcement Body and a Judicial Selection Commission through technical assistance and limited procurement of office equipment. Third, it will provide technical assistance on prosecution of judicial sector corruption. Fourth, it will conduct workshops on alternative ethics enforcement mechanisms.

E. LIST OF APPENDICES

- A. JRP First Year Workplan
- B. First Year Implementation of the Strategic Plan for the Justice System of Mongolia: Conference Report
- C. Judicial Sector Baseline and Needs Assessment: Survey Findings
- D. Performance Monitoring Plan: 2001 Baseline Data
- E. The Structure and Functionality of the General Council of Courts: Report and Recommendations
- F. Judicial Selection
- G. The Budget Process of the Mongolian Judicial System
- H. Estimating Staffing Needs for the Justice Sector
- I. Caseflow Management in Mongolia
- J. Rule of Law Newsletters
- K. Supreme Court Interpretations, Volume II (acknowledgement page)
- L. A Review of Judicial Ethics Issues Raised by the Draft Law on the Courts of Mongolia
- M. Mongolian newspaper articles

Appendix A

**NATIONAL CENTER FOR STATE COURTS
MONGOLIA JUDICIAL REFORM PROGRAM**

Year 1 Workplan

Project Period: Jan 26, 2001- Dec. 31. 2001

APPROVED BY USAID

ULAANBAATAR, MAY 31, 2001



**NATIONAL CENTER FOR STATE COURTS
MONGOLIA JUDICIAL REFORM PROGRAM**

Year 1 Workplan

Project Period: Jan 26, 2001- Dec. 31. 2001

A. YEAR ONE PROJECT OVERVIEW

This year one workplan presents the tasks and activities the National Center for State Courts (NCSC) forsees to conduct under the Mongolian Judicial Reform Program (JRP) during the first year project period. The current plan was developed after intensive meetings with the Deputy Minister of Justice, Munkh-Orgil, meetings with representatives of key stakeholder agencies and other foreign donors, and feedback from USAID/Mongolia.

The following workplan projections as well as the accompanying procurement plan and budget estimates will be adjusted throughout the year as needed.

Following the feedback from the MOJ and USAID, the project priorities identified for year one are:

1. Strengthening National Level Court Administration Capabilities at the General Council of Courts (GCC);
2. Developing a comprehensive manual case management system in two Ulaanbaatar courts, including the Capital City court, and exploring enhancements to the automated GTZ courts to accommodate a streamlined case management system for the courts with linkages to the prosecutor's office;
3. Assistance for the development and administration of a qualifying exam for all legal professionals in Mongolia;
4. Developing capacities to build a systematic continued legal education system for the judiciary and other legal professionals, including the development of solid curricula and the expansion of a pool of highly qualified trainers and some English language training;
5. Initial planning support for the establishment of a National Legal Training Center; and
6. Assistance to advance ethics for the legal profession.

These tasks address the Priority Tasks 1, 2, 4, and 5 outlined in NCSC's proposal. As indicated below, these priority tasks focus primarily on USAID's IR 1 and 2. The remaining Priority Task 3 and 6 and activities proposed to be conducted under IR 3 and 4 will either be addressed within the concept of the other tasks or will become more prominent in the following years.

Considering the priority emphasis on building a solid manual case management system first before court automation can be enhanced, and the fact that the National Legal

Training Center will not be a reality for at least two years, the procurement needs for the first project year will be limited.

The question of project guidance to be provided by an advisory board consisting of key judicial system representatives will be more specifically outlined in the Memorandum of Understanding (MOU) between the MOJ, USAID and NCSC. After the MOU has been signed an advisory board (AB) meeting will be held to discuss the year one activities, come to a mutual agreement about the role of the AB, and responsibilities and commitments for each AB member.

The start-up activities included a preparation meeting for the expatriate staff in San Francisco, office set-up supported by home office staff, introductory meetings between project staff and all key stakeholders and foreign donor representatives, and a very successful "Open house" after the office space at the MOJ was completed. Next, NCSC is planning to conduct a JRP Conference in June to outline year 1 of the implementation of the Strategic Plan. The purpose of this conference will be to present the JRP plans and to provide an opportunity for all key stakeholders and other donors to discuss their plans to implement the Strategic Plan for the Mongolian Justice System passed by parliament in 2000.

The following section outlines the project activities projected as well as subcontractor involvement for the first year followed by a section describing project management plans, including staffing and staff development, coordination with other donors, monitoring and evaluation plans, and sustainability approaches.

B. FIRST YEAR PRIORITY TASKS PLANS

Priority Task 1: Develop and Strengthen Court Administration at the National Level and Local Levels of Courts. (IR 1., Activity 1- Strengthen Court Administration)

Objective: Based on the Strategic Plan's Strategic Principle 3.4, Task 3.4.1, the goal of this priority task is to assist the Ministry of Justice (MOJ) in developing an effective and functional national level court administrative office by enhancing the operations of the General Council of Courts (GCC).

Context

The existence of a well functioning national level agency charged with supporting the operations of the courts is essential to assure that all courts have equal access to support and that court operations throughout Mongolia are standardized. Such a national level agency has to be designed as support mechanism that enhances local court administration capacities, complimenting their administrative structures not replacing them. The GCC currently has responsibility for the financial and administrative well being of all the courts. In order to better serve all courts in Mongolia these responsibilities may have to

be revised to support training for court administrators and judges and to provide information and assistance to the judges and administrators particularly in the areas of budgeting, human resources management, and court administration in each Aimag.

Opportunities and Constraints

The fact that Court Administration in Mongolia is in its early development stages at both the national and local level of courts provides an opportunity to create a well functioning modern system of administrative support for all courts. Currently several entities such as the MOJ, the GCC, the Supreme Court, the General Prosecutors Office and Capital City Court have been delegated certain administrative responsibilities in supporting the Mongolian Courts. The GCC has the responsibility to provide administrative and financial support for the day-to-day operations of the courts. In order for the GCC to function as the national level court administration agency, the operations of the GCC must be enhanced to fully meet the many needs of the courts. The current distribution of responsibilities for administration of the courts to various agencies may also have to be reviewed. In order for the GCC to fulfill its responsibilities as the designated organization responsible for court administration steps need to be taken to increase the capabilities of the GCC's staff particularly in areas of budgeting and human resource development; to train court administrators in the Aimags; to enhance and expand the level of technology and software in the GCC to provide staff with the tools required to administer budgets and a personnel system.

Planned Activities

During the first project year, NCSC will concentrate on identifying the most efficient structure for the GCC and establishing a sound infrastructure for the GCC staff. NCSC will collaborate closely with the GCC, MOJ, the Supreme Court and other agencies to identify and address the issues that affect the ability of the GCC to function as the national level office responsible for administration of the courts. NCSC will assist in identifying those areas that are priorities for technical assistance and training for the GCC.

Task 1: Assess the needs of the courts in Mongolia for administrative support (Months 1-2 after work-plan approval)

NCSC, in close coordination with the GCC, will develop baseline information about the GCC's institutional accomplishments to date, identify areas most in need of technical assistance (such as budget development, human resource management, improving access to laws and judicial decisions), and assess which form of support delivery by the GCC is the most efficient to reach all courts in Mongolia.

This baseline information will be gathered through:

- a. A survey of a representative sample of judges and court administrators to identify court needs for administrative support to be conducted in cooperation with the MOJ.
- b. Focus groups with judges and court administrators, one in Ulaanbaatar and 3 in selected Aimags. The purpose of these focus groups will be to review the survey results and develop more detailed information about the support needs and possible structures for support provision.

Using this information and international best practices a model for a more efficient GCC will be developed to provide the appropriate national level administrative support to all courts in Mongolia without replacing those functions that can be carried more efficiently on the local court level.

Task 2: Review the current capabilities and legal framework for the operations of the GCC (Months 3 after work-plan approval)

In order to identify how the organization or operations of the GCC may be changed to better meet the needs of the courts, NCSC will work closely with the MOJ, GCC, the Supreme Court and other relevant agencies in assessing current capacities of the GCC and other organizations that provide administrative support to the courts as well as the legal framework that guides their operations. This will include:

- Review of statutes, policies, and procedures that address court administration at the national and lower court levels
- Review any proposed legislation affecting the administration of the courts by the GCC
- Assess the impact of budgetary recommendations that affect the operations of the courts and the GCC
- Collect and review policies and procedures of the GCC
- Interview GCC staff

This information will be developed into a report that outlines the current strengths and weaknesses of the GCC to address the needs of the courts in Mongolia as well as recommendations for organizational, policy, statute and rule changes to assist the MOJ, GCC, and other judicial officials to explore and review international best practices in court administration in light of these recommendations and move toward a consensus for adoption of court administration practices for Mongolia.

Task 3: Develop priorities and an action plan to enhance the operations of the GCC (Month 4 after work-plan approval)

Using the model GCC report and recommendations for changes to the current GCC operations, NCSC will work closely with the affected agencies in developing priorities and an action plan for implementing changes. This plan will address internal operations, priorities and initiatives to assist the courts, and enhanced methods for communication between the GCC and the courts.

Task 4: Implementation of Recommendations (Beginning in Month 4 after work-plan approval)

Based on the action plan NCSC will assist the GCC in developing the needed support structures, including:

- Defining the needed personnel structure
- Clarifying GCC roles and responsibilities
- Recommending various technologies to enhance the GCC's capabilities for budgeting, financial management, personnel management and professional ethics
- Developing a curriculum and training program in *Court Administration* practices for training Aimag court administrators and staff.

In addition, based on already identified needs, NCSC will conduct a three-day workshop for staff of the GCC on budgeting, human resource management and professional ethics. Other representatives of key agencies involved in the same processes, including the General Prosecutors Office, Capital City Court, the Supreme Court, the Ministry of Justice, and the Ministry of Finance will be invited to attend.

Partners

The primary partners for this task are the MOJ, GCC, GSO, Capital City Court, the Mongolian Supreme Court, and the Prosecutor General's office all of which have major responsibilities for the administration of the courts. The NCSC will also work closely with the GTZ and the Soros Foundation in the areas of training to insure there is no duplication of courses.

Anticipated Results (including indicators)

The ultimate result of this priority task will be a well functioning national level structure for providing management and administration support to the courts in Mongolia. The GCC will be strengthened to better support the lower level courts administratively. The GCC staff will have the ability to train local court administrators and judges in court administration, budget and human resources management. Administrative procedures in the courts will be more unified. The GCC will have the capacity to collect information on the operations of the courts and justify budgetary requests for funding the Mongolian Court system. Resource allocations to the courts can be made in a fair and equitable manner based on individual court needs.

Intermediate indicators will include (1) the capacity of the GCC will be strengthened; (2) responsibility for the administration of the courts clarified; (3) uniformity and standardization of administrative practices enhanced at the local court levels.

Time Lines

The assessment and clarification of the different roles and responsibilities of the various providers of administrative support to the courts (MOJ, GCC, Supreme Court, General Prosecutors) will be finished by early summer which provides an opportunity to submit any needed adjustments to the legislation in the fall session of the Great Hural. NCSC will identify the needs of the GCC to build their capacities and resources to function as the national level court administrative office during the summer of 2001. The budget, human resources management and professional ethics workshop will begin in late summer, early fall. Plans for future training of staff, implementation of technologies, and strengthening the organizational capacities of the GCC will be ready by the fall. The development of a training curriculum for the local administrators and judges and related training for GCC staff will occur after the recommendations report has been delivered.

**Priority Task 2: Strengthening and Development of a Case Management System.
(IR 1- activity 2: Design and implementation of a case management information system)**

Objective: In support of Strategic Principle (SP) 1.7, Task 1.72, SP 3.4 Task 3.41, SP 6.2 Tasks 6.2.2, 6.2.3, this component will assist the MOJ, GCC and local level courts in developing a sustainable case management system for the courts that supports the efficient processing of cases and provides a system of accountability and transparency.

Context

Good case management is not only a tool to increase the efficiency of the courts but to make the court process more transparent, reliable and predictable. The key elements of any well structured case management system include procedures that assure that the pace of litigation, i.e. how long it takes for specified types of cases to be processed, is clearly established; the commitment of judges and administrators to process cases in a timely manner; the capability to continuously monitor the progress of each and every case to identify where problems with timely processing exist; modern case filing techniques, and efficient case records management. A well-developed case management system can be a manual system or an automated system for processing cases. First an efficient manual system for processing cases has to be in place that then can be transferred to a sustainable automated system.

Opportunities and Constraints

With few courts in Mongolia having access to computers and other technologies, and the limited resources available to sustain automated courts throughout the country, the development of a solid manual system to make their processes more efficient can make a significant long-term contribution. At the same time, the opportunity to work closely with the current users of the GTZ software provides an ideal starting point to implement good case management practices with the support of sustainable technology. The GTZ and Soros have recently enhanced the software based on recommended changes to the system from the users. The GTZ and Soros will also expand the software to include a

module for the Prosecutor General's Office. This will allow a direct link from the prosecutors office to the courts that improves the coordination between them, eliminates the duplication of data entry, and potentially reduce case processing time.

Planned Activities

NCSC's strategy is to develop a well functioning manual system that later can be supported by automation. NCSC will first assist the Capital City Court in this process. Based on the outcome of this work, the system will be adjusted and replicated in the other non-automated courts in Ulaanbaatar. The experiences will be used in year 2 to make software adjustments for the automated courts in Ulaanbaator and continue replication in select non-automated courts in the Aimags.

Task 1: Development of a Manual Case Management System and Priorities for the Implementation in the Capital City Court (Months 1-3 after work-plan approval)

In order to assure that the changes to be introduced at the Capital City Court reflect the needs of all users, the affected parties have to be involved in the development process. Gaining the commitment and consensus of all interest groups is a critical first step in implementing court administration reform. After consultations with all parties affected and assessment of the court's operations, NCSC will conduct a two-day workshop for the judges and personnel, prosecutors, defense and private lawyers operating at the Capital City Court. Observers from other courts involved in the project at a later time will be invited to participate. A pre-workshop memorandum will be distributed to all participants one week in advance, presenting the results of the analysis conducted as well as the issues to be addressed at the workshop. Through a variety of presentations and discussion groups, the workshop will emphasize the importance of judicial leadership and the assertion of judicial control over cases (e.g., efficient scheduling, granting continuances in only the most exceptional circumstances, levying fines and other sanctions for the failure of attorneys to appear when scheduled), as well as the significance of an efficient and effective court system to Mongolia's economic development and democratization. The workshop will provide a forum for sharing project specific information, discuss perceived and real processing problems, and reach a consensus for establishing case management system priorities, including timeline objectives for the disposition of various common types of cases.

With these users NCSC will establish priorities for adjustments to the current procedures used and for later automation. The consensus reached at the workshop will be summarized in a report and distributed each participant. Similar workshops will be conducted at each of the courts involved later in the project.

While a comprehensive case management system will involve automation of as many court processes as feasible, automation is not a necessary requisite for efficient court information management. A system to efficiently process, retrieve and track cases throughout the system does not require an automated system but may require some limited automation support if a high volume of cases has to be handled.

Task 2: Review the Songino-Khairkhan District Court Operations (Month 2-3 after work-plan approval)

To assure that the new case management system can later be automated with little effort, NCSC, in concert with the GTZ and Soros, judges and staff, will review the current processes used in the automated court of the Songino-Khairkhan District and propose modifications required to facilitate the filing of cases, streamlining administrative procedures used by the court, consolidating paper-based case documents and records in a single file, and facilitating locating and retrieving the file.

Task 3: Implement the Case management System in the Capital City Court (Month 4-7 after work-plan approval)

Using the workshop information NCSC will develop the design for the manual case management system to be implemented and conduct a training workshop for all judges and staff in the Capital City Court, together with local prosecutors, investigators, and private lawyers. The purpose of this workshop is to ensure that all parties understand the changes to be implemented, why they are needed, the responsibilities of each party, and how target results will be monitored and measured. A limited amount of equipment will be required to support this system as well as the improvement of their record-keeping processes.

Task 4: Assessment of the case management system results and adjustments for replication in other courts (Month 5-7 after work-plan approval)

Part of the Capital City Court implementation and Songino-Khairkhan District Court assessment will be the development of a mechanism to continuously track processing information from the courts to identify if the new processes function as expected and provide the results desired and if adjustments need to be made to the software. The information gained from this continuous monitoring process will not only assist in optimizing the operations in this court but will provide useful information for the next implementation phases.

Task 5: Court Management System replication at two non-automated courts in Ulaanbaatar (Month 8-12 after work-plan approval)

Based on the experience of the Capital City Court, NCSC will identify the resources and training needs to sustain the new operations and to expand the project to the two non-automated District Courts (Nalaikh, Baganuuz) in Ulaanbaatar. This information will also be used to develop a plan for long-term resource allocation and training needs for other courts throughout Mongolia.

After the new processes have been operational for three months and monitoring information has been analyzed to make adjustments to the initial concept, the first replication phase will begin using the same approach as the one described for the first

court. As for the Capital City Court, these courts will require limited automation and improvement in their record-keeping practices.

Task 6: Conduct a Detailed Examination of Current Operations in the Ulaanbaatar automated courts (Month 12 after work-plan approval)

Using existing statistics from the automated Ulaanbaatar District Courts, and possibly the newly automated Mandalgovi court, NCSC will examine the processing of cases at each stage, from filing through disposition, using available aggregate statistics, samples of case records for representative types of cases (e.g., property crime, serious violent crime, personal injury, contract or other business dispute, and a common type of family case), interviews, and observations. Based on this review, the team will develop recommendations for timelines for the full disposition of cases in the automated courts by cases type as well as the percentage of cases that should be disposed at various points in the process (e.g., the time required to fully process 50%, 75%, and 95% of each type of case, as well as the proportions for completion of each key interim step).

Task 7: Assess Software and Hardware Currently Used in the GTZ automated courts (Month 12 after work-plan approval)

In order to identify automation requirements and priorities for the implementation of a case management system in the automated replication courts, NCSC will review the existing software and hardware used in the Mongolian courts (GTZ funded and others). The assessment will use a multi-pronged approach, looking at seven factors for each system:

- The ability to capture, store, and retrieve information on persons (e.g., litigants, witnesses, attorneys, and judges) to answer such questions as in which cases they are involved and where they can be reached
- The ability to handle case information (e.g., whether or not the information can provide clear case histories and allow easy checks of case status);
- The ability to handle time information, such as the elapsed time between processing stages (e.g. initial filing, preliminary hearings, trial), overall elapsed time, and when events should be scheduled;
- The ability to handle financial information resulting from cases (e.g., fines, fees, and judgment orders);
- The ability to produce management reports, including reports to monitor and assess timely case disposition and diversions.
- The ability to maintain data security;
- The ease with which the system can be used, maintained, and upgraded.

One small but essential area NCSC will address is the availability of adequate Uniform Power Systems (UPS) to protect the value and utility of the computer hardware in these courts. Electrical surges can have a debilitating affect on computer equipment. One of the most cost effective areas NCSC can address is to ensure that the existing Servers and Personal Computers are protected from power surges.

The assessment will result in a report outlining the adequacy of existing systems and software to support the new case management system.

Task 8: Develop a Court Management System Implementation Plan for the Automated Courts (Month 12 after work-plan approval)

Based on the activities described above and engaging the court user groups, NCSC will begin to formulate a comprehensive implementation plan for the six other automated courts in Ulaanbaatar.

These plans will specify for each court time standards for case processing; the precise procedural and technological changes that will be implemented (e.g., random assignment of cases, modern case filing, tracking, and record-keeping approaches; required staffing changes; steps required by project staff, judges, court staff, prosecutors, and other key actors to achieve the goals; a refined timeline (including training seminars); interim targets; and the methods for monitoring progress and results. In drafting the plans, the project team will ensure that procedures, and particularly the recommendations regarding hardware acquisition, though tailored for these courts can later be integrated into a national strategic plan to implement manual and automated case management systems. The plans may have to be designed for a multi-phase implementation to reflect resource needs and the time that may be needed to enact necessary legislative and administrative changes.

Project staff will review the plans with the courts and other involved groups and incorporate their input into final documentation for submission to the MOJ.

Partners

The primary partners for these tasks are the MOJ, the GCC, the Capital City Court, the General Prosecutors Office, the GTZ and Soros, and key stakeholders operating in the Ulaanbaator and other GTZ court sites.

Anticipated Results (including indicators)

The results to be derived from this task will be the development and implementation of a case management system in the project courts that will enhance the processing of cases and provide a measurable standard for case processing to be used throughout Mongolia. The court processes will be more predictable and transparent. The public and litigants will have greater confidence in the court system that cases will be judged expeditiously. The judges and court staff will have better tools and mechanisms to monitor and process cases.

By the end of the second project year at least one rural Aimag court, and all District Courts in Ulaanbaatar will apply the new case management system. They will be automated to some extent or their existing automated systems will be upgraded to

accommodate this system. This will provide a solid cadre of courts to interconnect with the GCC for administrative and management reporting purposes and to serve as models to coach other courts to implement similar changes.

Intermediate Indicators will include (1) Strengthening of case management techniques and processes in the project courts; (2) A baseline of statistical information to monitor and assess the timelines in adjudicating cases and: (3) Technology needs for the courts have been assessed and evaluated.

Time Line

Initial assessments of the Capital City Court have begun as well as close coordination with the GTZ to determine the status of their software development timetable. The development of standardized procedures and better records management principles for the Capital City Court will begin later during the summer, followed by a 3 months implementation phase during which the first automated court operations will be assessed. Then, the manual case management system will be taken to the remaining non-automated courts in Ulaabaatar. Next Year, after assessment and analysis of these courts' needs and requirements, the new operations will be taken to the automated courts in Ulaanbaatar.

Priority Task 4: Develop a System for Continuing Legal Education. (IR 1- activity 4: Establish a standardized and continuing legal education system)

Objective: To assist the Mongolian government in developing a comprehensive continued legal education system in support of Strategic Principles 6.5.1, 6.5.4, and 6.5.10.

Context

Enhancing the capabilities of the legal profession in Mongolia is the key to assuring that the justice system is just and fair and supports a free market economy. In order to assure that judges, prosecutors, defense attorneys and private lawyers possess the skills needed, it is essential that a comprehensive system of continued education and qualification requirements is established.

Opportunities and Constraints

The strong desire of the World Bank to provide funding for building a modern training facility provides a unique opportunity to design a comprehensive system of continued legal education for all lawyers in Mongolia. The planning for this facility is, however, only in the beginning stages. It is anticipated that the negotiations between the World Bank and the Mongolian government regarding the construction of the center will be completed in the winter of 2002. After an agreement is reached, funding will have to be allocated and it will take a significant amount of time to construct and equip the building. In the meantime, the training of legal professionals will continue, training needs not

already covered have to be addressed, and a comprehensive system for continued legal educations has to be developed that assures the quality of the legal profession.

Currently a number of donor organizations are supporting legal training in Mongolia, particularly for judges. NCSC will coordinate with other donors and Mongolian agencies to assure that efforts are not duplicated and that resources are shared.

Planned Activities

The development and administration of the requalification exam training outlined under Priority Task 5 will be a large undertaking and will account for some of NCSC's first year training efforts. In addition, NCSC plans to:

1. Assist in the development of a comprehensive continued legal education system.
2. Provide support for existing judicial training programs particularly in curriculum development, training evaluation, and trainer development.
3. Assist in planning for the development of a National Legal Training Center.

The following sections describe the work to be conducted by NCSC in the first year:

Task 1: Assist in the development of a comprehensive continued legal education system

While the existing donor-assisted and self-supported training programs for legal professionals have covered considerable ground, there are still members of the legal profession and court system that have limited access to quality training. In addition, many key areas of Mongolian law and practice have not been adequately addressed. More importantly, continued legal education is frequently ad hoc, not part of a systematic approach to providing quality education for the legal profession and not tied to a merit system for advancing in one's profession.

As outlined below, to assist in the development of a comprehensive continued legal education system NCSC will identify gaps in the legal training currently available, support the development of the principles of systematic, modern continued legal education in Mongolia, and develop courses for legal professionals and court administrators on topics not covered by existing training programs.

Task 1.1: Identify training gaps, training priorities and the principles for continued legal education (Month 2 after workplan submission and ongoing)

Using the results of a survey of legal professionals, focus groups with legal professionals, and reviews of currently available training programs, material and trainer capacities, NCSC will outline the current education and training resources needs. The survey will be conducted in collaboration with a survey of all legal professionals undertaken by the MOJ later in May. In addition, NCSC will collect international models and practices of continuing legal education and observe training currently conducted in preparation of a

two-day workshop with key stakeholders to share information and develop recommendations for:

- Establishment of guiding principles for judicial and other legal practitioner education in Mongolia.
- Identifying priority training areas
- Establishing the subject matter and format of anticipated training programs.
- Identifying existing training capacities to cover these gaps.

Task 1.2: Develop training courses for already identified areas of need (Month 3-12 after workplan submission.)

The MOJ, the GCC, the Supreme Court, the Prosecutor General and other related agencies have already indicated the need for specialized training in the following areas: Basic English language training for a select group of key justice agencies staff, court administration, and specialized prosecutor training that enhances court efficiencies.

Task 1.2.1. English Language Training (Beginning in September 2001)

One goal of the JRP is to increase the capacity of legal professionals to absorb and evaluate foreign legal concepts and models. Exposure to foreign ideas and practices is the most effective way to assure that Mongolians can make informed decisions about the transformation of their justice system. Today, English is the unofficial language of international law and commerce, and the language of the Internet. As a result, foreign models and concepts of law and justice are difficult to access by lawyers who cannot read English texts.

To enhance the capabilities of lawyers in key justice system agencies to assess foreign law and legal concepts, NCSC will support a one-time English language training for selected members of the legal profession. These individuals will come from the MOJ, the judiciary, the prosecutor's office, and may include police officers and bailiffs. Approximately 40 individuals will be selected.

The course will involve daily half-day sessions to be conducted over a 6-months period. Salaries for those participating will be borne by their relevant agency. All students who receive English training will be asked to remain a resource for English language needs of their agency for a number of years as determined by the agency. Those who receive sufficiently high test scores at the end will be asked to teach English in their agency and will have an opportunity to participate in a specialized train-the-trainers course. A bidding process will be initiated to select the organization to conduct this training.

Task 1.2.2 Court administration training (Month 6-9 after workplan submission)

As outlined under Priority Task 2, NCSC will develop a court management manual for court administrators and judges. The proper implementation of this manual will be

greatly assisted by training GCC staff in training court administrators and judges in the implementation process.

Further training for court administrative personnel may be needed in other areas of court administration particularly after new case management processes have been implemented in various courts (see Priority Task 2).

Task 1.2.3: Specialized prosecutor training (Months 3-12 after workplan submission)

The majority of the donor effort to date has been aimed at judicial training. Although the proper functioning of the legal system, especially the ability of the courts to process cases efficiently, greatly depends upon the professionalism and efficiency of the prosecutors, prosecutor training has been largely ignored. The General Prosecutor's Office has taken the responsibility for conducting training courses as well as establishing training priorities for its lawyers, but does not have the resources to address the broad range of training needs of prosecutors to fulfill their mandate in a democratic free market society. The GTZ recently provided some assistance but lacks the resources to support the development of the more extensive training needed.

In order to assist current efforts of the General Prosecutor's Office and the GTZ in building a comprehensive, sustainable prosecutor's training program that will enhance the Mongolian prosecutors' capability to efficiently fulfill their dual role as gate keepers to the justice system and attorneys for the people, NCSC will conduct the following activities:

Develop a prosecutor training plan (Month 1-2 after workplan approval)

After coordinating meetings with the GTZ to explore the possibility of sharing resources, NCSC will meet with a designated group of representatives of the Prosecutor General's office to assess the office's current training plans and develop a comprehensive program. Activities will involve:

Selection and development of priority curricula. The curricula will be chosen with the goal of enhancing the practical application of existing Mongolian law and procedure. At least for the first year, they should also augment the prosecutors' preparations for the qualifying exam. It is estimated that NCSC will support the development of 6 courses for approximately 20 prosecutors each. At least one of these courses will be scheduled to be held outside of Ulaanbaatar.

Selection of instructors. While most instructors will be prosecutors, NCSC will encourage the use experts from other legal fields, especially judges. This will increase the uniformity of understanding and practice of Mongolian law among judges and prosecutors; help create a training pool of judges who can be used to teach other judges, and lay the foundation of joint prosecutor, judge training in specialized areas.

Identification of training sites. For training in Ulaanbaatar the facility at the Prosecutor General's office is available. In addition, prosecutor training could be held at the Judicial Training Center, the Legal Retraining Center and other appropriate locations. If the training is held at the Judicial Training Center, it presents an important step in building a multi-discipline, coordinated training that can later be moved to the National Training Center. While most training courses will be held in Ulaanbaatar, providing training opportunities in the Aimags is essential and a particular challenge. NCSC will coordinate with the GTZ and possibly the Hans-Seidel-Foundation to explore with the Prosecutor General's office the availability of appropriate training locations outside Ulaanbaatar as well as the feasibility of distance learning technologies.

Development of a program budget. After a comprehensive training program has been outlined, a budget estimate will be developed to identify which program sections can be instituted with JRP support, which parts can be conducted by the Prosecutor General's Office and where additional outside funding is needed.

Collection and creation of training materials. Based on already existing training material curricula will be updated or newly developed to reflect adult learning principles and include interactive training exercises, "real life" hypotheticals, and videotaped training scenarios. A special emphasis will be on developing stand-alone curricula that can be used as self-study material and for distance learning.

Creation of a training schedule. Training schedules will be designed according to priority training needs and assure that training does not conflict with the requalification exam preparations.

Training of Instructors. The selected instructors will undergo a 2-3 day training seminar. This seminar will include a "Train the Trainers" module conducted by an adult education consultant. It will also allow time for the instructors to develop the program's training goals and strategy.

Task 1.3 Support of Existing Judicial Training Efforts (Beginning immediately and ongoing)

Coordination with the ongoing donor-supported programs involved in training the judiciary is essential to avoid duplication. NCSC will identify if ongoing programs require support, such as curriculum development, including distance learning components for specific subject areas, enhancing trainer capacities and training evaluation, facilitation of cooperative agreements between government and donor entities, or providing JRP staff expertise for select training programs. Possible recipients of these kinds of assistance are the Judicial Training Center, the ADB sponsored Legal Retraining Center, the GTZ supported judicial training programs, and the training supported by the Hans-Seidel-Foundation.

NCSC's resources will be focused on programs that stress the practical application of existing Mongolian law, are key for a continued legal education system, can be sustained

in the long run and can be easily integrated into the training concept for the new National Legal Training Center.

During the first program year NCSC will take the following steps:

- Observe and evaluate ongoing judicial training programs sponsored by the GTZ, SOROS, the ADB and the Hans-Seidel-Foundation. NCSC will evaluate the curricula, the effectiveness of instruction techniques and the quality of the instructors.
- Identify areas of the law and legal practice not covered by other training programs. Examples of such areas are:
 - Judicial Ethics
 - Rules of Court
 - Computer Training on New Case Filing Systems
 - Sentencing Law and Practice
 - Rules of Evidence
 - Judicial Decision Making and Management
 - The Adversarial Process
- Identify areas where NCSC may provide assistance to the existing Training Centers, particularly assistance in the form of training materials, visual aids or distance learning material and expert staff support.

NCSC projects that it will support the development of 2 new training courses for judges (one to be held in Ulaanbaatar and one outside) in addition to providing technical and material support to existing course to address priority training needs. The first specialized judges training will be conducted over a three day period in Ulaanbaatar for approximately 20 judges with the support of one out of country expert. A similar training program in November-December will be held for judges in one Aimag.

Task 1.4 Assist in planning for the development of a National Legal Training Center (Ongoing)

Since the new National Legal Training Center will not be built for at least the next two years, NCSC's main mission during that time will be to assist in the development of the concept for the center, including organizational plans, developing plans for faculty and staff recruitment, assist in the creation of training programs and materials, and coordinate donor efforts to make the center a sustainable institution.

Partners

Partners in this priority task, particularly in the effort to build and sustain a National Legal Training Center will be the MOJ, GCC, the Supreme Court, the Judicial Training Center, the Legal Retraining Center, the Prosecutor General's Office, GTZ, Soros, the World Bank, and the Hans-Seidel-Foundation.

Anticipated Results

The ultimate goal of this priority task is the development of a standardized continuing legal education system for all legal professionals. The project activities proposed for this year establish the basis for such a system by identifying training needs and gaps and linking current training efforts. The efforts geared to support courts administrative functions will prepare court staff to efficiently administer handling of cases. Training for prosecutors will increase their ability to present cases in court more efficiently potentially reducing the burden on the courts, assist the judges in their efforts to make the courts run efficiently and will help increase public confidence in the system as whole. The support for existing judicial training programs will enable judges to render better-informed decisions and the number of revisions of these decisions should decline. Cases will be decided more efficiently and with a greater degree of finality. The efficiency of the entire system will be enhanced.

The ultimate result of the English language training will be that key Mongolian legal professionals will be better able to evaluate foreign legal models and absorb foreign expertise. They will have the ability to gain a fuller understanding of international standards and the best practices in foreign countries. Indicators will be that training participants are sufficiently competent to read documents and conduct basic research in English after one year. Measurement will be by means of Toefl or other recognized standardized test.

Time Lines

The identification of training gaps and observation of on-going training has begun. The first workshop to begin the development of the principles for continued legal education in Mongolia will be held later this summer.

After bids have been received, the English language training is planned to begin in September 2001 and to continue for 6 months, followed by a language skills test.

Initial communications with the Prosecutor General's office have begun. The office has designated a liaison for this component and will designate select prosecutors from various court levels in Ulaanbaator and from Tov Aimag to participate in program development roundtables by May. By June-July the Curriculum and instructors and training sites will be selected, and a budget created. By August-September, training materials will be developed or purchased. A Train the Trainers Seminar (2-3 days) will be held by early October.

The timeline for supporting ongoing judicial training will begin in May with a donor coordination meeting, followed by the donor program assessment and judicial training needs assessment to be completed by June. In July a roundtable discussion will be held with the JTC and others to develop specialized judicial training programs. This will be followed by planning for the first specialized judges training to be conducted in the early

fall. A similar training program in November-December will be held for judges in one Aimag.

Priority Task 5: Development of an Effective Mongolian System to Qualify Lawyers (IR 1 – activity 5: Design and Implement a system of legal qualifying exams).

Objective: To create uniform mechanisms for qualifying legal professionals in support of Strategic Priority 2.5, 6.5 – Task 6.5.7

Context

A key mechanism to assure that those who are practicing law in court possess the necessary qualifications is the requirement to pass a standardized qualifying exam. The need for such an exam has been recognized by all stakeholders involved in the development of the Strategic Plan for the Justice System for Mongolia when they formulated Strategic Principle 2.5 – To create a uniform mechanism for qualifying legal professionals. Similarly, the Ministry of Justice has identified this as one of its most immediate priorities. Legislation mandating testing of judges, prosecutors and private attorneys will be proposed in the Fall 2001 session of Parliament. Passage is expected by September and testing could potentially start in the late spring of 2002.

Opportunities and Constraints

Widespread support for implementing standard qualification requirements for the legal profession provide an opportunity to develop a testing mechanism that is one piece of a comprehensive system to assure that legal professionals are well equipped to operate in a democratic justice system. Generally such qualifying tests are designed to test new lawyers. The German model for conducting these tests may reflect the needs of the Mongolian system more closely but poses a number of difficulties for the current Mongolian situation. In Germany, these tests are held after an intensive two year internship period. The high costs of this approach have lead many German states to reconsider this concept and require significant adjustments for the Mongolian situation. A mixed system using American Bar Exam elements as well as elements of the German testing model is currently proposed for Mongolia. Of particular concern for administering the first test is that the best hybrid model is impractical for testing all currently practicing legal professionals in a fair and transparent manner within the proposed time frame. Both, the time to prepare for such a test is insufficient for the professionals and the difficulty of training sufficient graders to analyze responses to essays questions from approximately 370 judges, 350 prosecutors and up to 700 advocates would pose insurmountable obstacles to testing in early 2002. Only the use of multiple-choice tests for all legal professionals, possibly with a follow-on essay test for judges and prosecutors who pass the first part, would significantly alleviate these problems.

It is essential that these tests are administered in a transparent manner that will be seen as fair and relevant to the new laws. If conducted in a fair and open manner, testing

provides an opportunity to improve the public's perception of the competence of the legal profession and the justice system.

Testing also creates an enormous demand for training in preparation of the tests. The existence of an effective entrance examination for the legal profession will create a demand for improving the curriculum and standard of teaching in the law schools. This may become an important activity in subsequent years.

Planned Activities

Task 1. Test Development (Month 1-5 after workplan approval)

The NCSC can use its familiarity with the experiences of other transitional legal systems and its expertise with German and American practices to assist the Ministry of Justice in the design and implementation of such an examination for attorneys that reflects both the Mongolian legal system and the best practices from the German and American testing experience.

NCSC will assist the MOJ and the GCC in examining the experiences of other countries in their efforts to re-certify legal professionals, particularly in the context of the transition from Marxist to democratic/market societies. Georgia is recognized as having had the most thorough examination process and a leader of this effort will be invited to participate in a one day workshop on the lessons learned and the changes wrought through their re-certification experience.

Following the German model, NCSC will assist in the establishment of an Examination Council to lead the testing effort. Such council should consist of representatives of the MOJ, judiciary, the prosecution, private bar, and academia. Working with German donors, the JRP will assist in developing the test format for the 2002 testing. (NCSC will also participate in the design of the test format in subsequent years, but given the preference for the German model, it is anticipated that the GTZ and other German donors will take the leading role.) The NCSC staff and Mongolian and German experts will work with the MOJ and the Council to design a format for the examination. The NCSC will facilitate a conference later this summer or early fall to introduce the testing concept and training plan (see below) to Mongolian stakeholders.

Working in conjunction with Mongolian stakeholders and other assistance providers, NCSC will facilitate a three day workshop for up to 30 Mongolia participants to prepare them for the task of developing the exams and exam writing techniques. NCSC will explore opportunities to work with the GTZ and the Hans-Seidel- Foundation to provide the German expertise needed.

If the relevant legislation is passed NCSC would facilitate the printing and particularly security arrangements for the examination early next year. This is to insure that public perceptions of honesty and transparency of the examination process is maintained.

Task 2. Training to Prepare Legal Professionals for the Examination (Month 5-12 after workplan approval)

In order for the requalifying exams for already practicing professionals to be fair and transparent legal professionals have to have the opportunity to adequately prepare for the examination. In addition to assisting in the creation and presentation of the exam NCSC will create a training program designed specifically to prepare legal professionals for the exam.

Unlike other anticipated NCSC training efforts, this program will focus on transferring substantive knowledge of the law. It will be designed to train every judge, prosecutor and lawyer in the country who wishes to attend. It will be designed with the expectation that the exam will be given not only in the year 2002, but in an adjusted format, also in following years. It is the expectation that the training program will always be a part of the exam process. The training will be designed therefore to be practical in its scope, streamlined in its organization and sustainable in all of its aspects.

Realization of this program is dependent upon passage of legislation creating an examination process. NCSC can participate in the examination program only if the new examination legislation establishes a fair process of creating the examinations and administering them that complies with the requirements of the Mongolian Constitution. If such legislation is passed, the following steps will be taken:

Gathering and developing teaching materials: In close cooperation with the authors of the exam questions NCSC will assist the Council to develop the training materials that will best prepare the judges and lawyers for the exam. The current assumption is that the tests will focus on 6 subject areas. For each subject specialty a Mongolian expert will be recruited to develop the test questions and training material.

Recruiting and Training Instructors: Working closely with the MOJ and other partners NCSC will identify instructors that are true expert in the field(s) of law he or she will teach. They can come from academia, the judiciary, the General Prosecutor's office, the Ministries, advocates, or from the teaching staffs of ongoing training programs. The program will recruit two teams of instructors to take turns training in Ulaan Baatar and in the Aimags. While one team is training in UB, the other will be training in the field. Fifteen to twenty instructors will be needed.

The instructor training will focus on teaching judges, prosecutors and other lawyers the basic law as well as some exam taking techniques. NCSC will sponsor a three-day seminar to prepare the trainers to teach the course. This seminar will stress the importance of uniformity and consistency in presenting the topic areas to the legal professionals. This will help avoid any criticism that the same quality instruction was not provided to all participants.

Locating Training Facilities and Establishing Training Schedule: Engaging the MOJ and other partners NCSC will identify appropriate facilities in UB and in the Aimags.

The training sessions will be scheduled close to the time of the exam but spread over time to insure that every judge and lawyer has the opportunity to be trained. NCSC will meet with the Examination Council to determine a training schedule.

In early 2002, NCSC will assist in distributing training materials to insure that the participants have the materials far enough in advance to study and be prepared for the test. The actual Test Preparation Training will be given over a 2-3 month time period early in 2002. Each training session will last two weeks and cover the topics to be tested in the exam. NCSC, in coordination with other partners will monitor the training effort around the country to ensure quality and consistency of the instruction.

Partners

A task force including the Ministry of Justice, the General Prosecutor's Office, and the Supreme Court is taking responsibility for the drafting the necessary legislation for re-qualification of lawyers. According to the proposed law, the MOJ will be responsible for the creation and administration of the tests. Design of the test will involve cooperation with legal experts who will actually write the questions. The experts will come from the Ministry of Justice, the courts, the Prosecutor General's Office, universities, NGOs and other donors, such as the Hans-Seidel-Foundation and the GTZ. Testing of questions will undoubtedly involve these entities and the Lawyers Association under the direction of bar testing experts.

Anticipated Results [including indicators]

The ultimate results will be a test that will be perceived by the public and lawyers as fair both in its administration, and in the effectiveness in certifying attorneys have the knowledge they need to practice law.

The ultimate result of the training effort will be that every judge and lawyer in Mongolia will be given the opportunity to be prepared for the qualification exam. Every judge and lawyer who participates will be given the same quality instruction, the same study materials. This will establish confidence among the practitioners and the public in the fairness of the process. It will help support the legitimacy of the eventual results of the examination.

Intermediate indicators will include (1) cooperation with leading academic, justice system representatives, and civil society experts in the creation of test questions; (2) successful design of a transparent test format and grading system. Media coverage of the passage of the law and preparation of the tests will be a significant indicator of changing public perceptions of the competency of the legal profession.

Impacts of the re-certification of legal professionals would be that legal professionals themselves will have an immediate incentive to improve their skills relative to the new laws of Mongolia. The broader impact will be on public confidence in the legal profession, and thus the overall legal system.

Time Line

Assistance in design of Test will begin in May. Exam topics will be identified by June. A conference on the concept and draft law on re-certification will be held in June or August. A workshop for examination writers will be conducted in August or September. The passage of the relevant law is supposed to happen in the fall of 2001. Training instructors and training facilities will be identified, training materials prepared (Books, videos, radio/TV scripts) late in the fall of 2001. Instructors will be trained and a training schedule established in the winter of 2002. Training materials will be distributed and training held in the spring of 2002 with testing to begin in early summer of 2002.

Priority Task 6: Assistance to advance ethics for the legal profession

IR 2: Activity 1: Revised legal ethics standards created, adopted and implemented

Objective: In support of Strategic Principle 6.5 – Task 6.5.2, the purpose of this task is to assist the Mongolian government and legal profession in advancing ethics for the legal profession in Mongolia.

A. Context

Ethical behavior of legal professionals is a corner stone of a fair and democratic justice system that has the trust of the general public. In order to provide the legal profession with the tools to define, enhance and enforce the ethics rules several elements have to be in place, including an adequate legal framework, practitioner oriented training, and mechanism to report and enforce unethical decisions.

B. Opportunities and Constraints

In order to assure that the legal framework for legal ethics correspond to the requirements of a democratic market society, the GCC is in the process of developing a new ethics code for the judiciary. At the same time efforts to define appropriate ethical standards for government officials are being discussed. This represents an opportune situation to review the current system available to advance ethics among the legal profession.

C. Planned Activities

In order to assist the Mongolian legal profession in advancing the understanding of legal professionals' on ethical decisions the following activities will be conducted:

Task 1. Provide research and consensus building assistance (Month 3-6)

NCSC will provide research assistance and materials to the drafters of the proposed code of ethics for judges and those working to develop a new system for evaluating judicial candidates. Later this year NCSC will facilitate a stakeholders workshops to insure that

widespread consideration is given to the code and to insuring that the different branches of government involved reach a consensus on the proper criteria for judicial selection.

D. Partners

The GCC and the MOJ will be primary partners working on research for the ethics code and the selection methods for judicial candidates. Other partners will be the Supreme Court, the Prosecutor General's office, academicians and representatives of the private bar. The office of the President will be invited to participate in the workshops on all issues, but particularly the judicial selecting mechanism where its role in appointment most directly impacts the judiciary.

E. Anticipated Results [including indicators]

The ultimate result would be public and official faith in the honesty of judges and other legal professionals. Intermediate indicators include adoption of a new judicial code of ethics, and implementation of transparent procedures for screening judicial candidates that yield highly qualified candidates and are universally agreed to be impartial.

F. Time Line

Research materials to will be provided to the drafters of the new codes and regulations beginning in May. A Workshop on Ethics for the Legal Profession is planned for the late Summer or Fall 2001.

SUBCONTRACTOR ACTIVITIES

NCSC had proposed the use of three US subcontractors. The *East-West Management Institute's (EWMI)* contribution to this project was designed to support the JRP training component. Activities under the new priorities do not require their involvement until possibly later this year when the assistance of EWMI's expert for new judicial training efforts may be needed. *Pact's* contribution to this project was planned to focus on the communication component, particularly linking the judicial sector and possibly a public education piece. The priority tasks for year one do not initially lend themselves to either of these efforts. NCSC and Pact will explore when the timing will be best to begin these efforts and how Pact can best contribute its expertise during the first project year. The *American University* will be tapped for special training in human rights in the US, as well as for the provision of academic feedback. The current 1st year plan does not reflect the need for this particular training. The academic expertise available at AU may be tapped for one of the proposed activities.

C. Management Plans

Regular reporting and communication processes have been established between the home office and the Mongolia project office. The project office reports to the home office in writing at least on a bi-weekly basis. Timesheets are submitted bi-weekly. Office and

project expense accounting is submitted monthly. Home office support had been provided for the first 6 weeks to assist in the office set-up and hiring. The Project Director traveled to Ulaanbatar to review the office set-up and operations, to finalize project negotiations with the MOJ and USAID, finalize the workplan and procurement plan and to develop the first year budget. The next management visit is scheduled for June to participate in the JRP Conference and other project activities planned for that time. Another management visit is tentatively planned for September to assess project progress and provide any on-site substantive support that might be needed. Another focus for each of the management visits is to engage the German donors operating justice reform projects in more detailed planning and coordination efforts.

Office space, staffing and staff development plans

The project established an office at the MOJ. In order to accommodate all staff additional office space is needed and project staff is in the process of identifying additional premises.

Despite some changes in the project priorities no major adjustments to the proposed staffing structure appear necessary. The decision for hiring one of the three full time program coordinators and the accountant have been finalized. Other staff is currently employed on short-term contracts to allow the project to make adjustments depending on the final project priorities and to allow for review of their capabilities. Based on project needs the hiring of the procurement officer, technology and IT staff will be postponed until later.

The project is designed to develop the capabilities of the Mongolian staff to incrementally take over the responsibilities of the expatriate staff and ultimately replace them. The expatriate staff will involve the Mongolian staff in all project activities and assess if special training, in addition to the on-the-job training, will be required.

The project has arranged for training for the accountant in using Quickbooks and payroll set-up. Training on most of the standard office software is available to project staff free of charge through NCSC's on-line self-study program Learn2.

Coordination with other donors and cost sharing

Initial meetings with other international donors have been conducted to discuss their current areas of involvement in justice system reform as well as plans for the future to identify mechanisms for coordination.

For the activities to be conducted in year 1, priorities for coordination will be as follows:

- GTZ – for court automation, development of the qualifying exam, and prosecutor training
- Soros – for court automation and training provided at the Legal Retraining Center
- WB – for the development of the National Legal Training Center

ADB – for training provided at the Judicial Training Center
Hans-Seidel-Foundation – for development of qualifying exams, coordinated training, particularly in judicial decision making
Asia Law Centers in Melbourne and Seattle – for an upcoming conference on Law Reform in Developing and Transitional Economies.

In order to begin the process of information sharing, NCSC will develop a Calendar of Events to track various conferences, workshops and other key events for the judicial sector. Regular donor coordination meetings will be scheduled for the following months.

Monitoring and evaluation plans

Baseline data collection is under way. Initial review of court data indicates that, while most data to be collected for the PMP and other project tracking from the courts are accessible, not all of them are reliable. A discussion of the data available and their limitations will be submitted with proposed timelines to collect the remaining data and suggestions for a revised PMP based on the year one priority tasks. While the majority of the baseline data will be available and analyzed by the initial June 1 deadline, some collection efforts will require more time. This is particularly true for the public opinion survey. For the survey of judges and court personnel arrangements are being made with the MOJ to coordinate their survey efforts with the JRP survey. The MOJ will survey a representative sample of judges, court staff, and other legal professionals at the end of May. NCSC considers to add a number of questions to the existing survey and share the costs for administrating the questionnaires and analyzing the results with the MOJ.

Sustainability approaches

NCSC's approach involves careful planning of each activity to maximizing the use of available resources by coordinating related activities to share of resources, staff, information, and experience. All activities will consider not only current needs, but also future needs, including long term cost implications for maintaining activities, programs and equipment after the JRP ends.

In addition, the JRP will use every opportunity to create in-country capabilities by involving and training local staff to assume project functions and carry out reforms. NCSC will build capacity both formally, through training and guided discussions, and informally, through on-the-job training, coaching, modeling, and consultation. To promote sustainability, NCSC will also help build on other projects (e.g., the Gobi Initiative network to disseminate information to courts and other justice system agencies outside UB), stimulate donor coordination for both present and future development, and work with the Mongolian stakeholders to identify alternative sources of continuing support (e.g., the business community, resource sharing with other organizations and NGOs, and internships and volunteer opportunities). To encourage the growth of sustainable capacity outside the formal justice system, NCSC will seek opportunities to outsource project work, such as the English language training, baseline and needs

assessments, database development or training to qualified Mongolian institutions, universities, and individuals.

Initial sustainability plans for the first year priority tasks will be developed after the workplan has been accepted. These plans will consider human and other resources available in Mongolia and will be adjusted in the process as more information about local capacities and capabilities becomes available.

Appendix B

**Mongolia Judicial Reform Program (JRP)
National Center For State Courts (NCSC)**

**First Year Implementation of the
Strategic Plan for the Justice System of Mongolia:
Conference Report**

**Held June 28, 2001
Conference Hall A
Government House**

National Center for State Courts
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201

Cooperative Agreement
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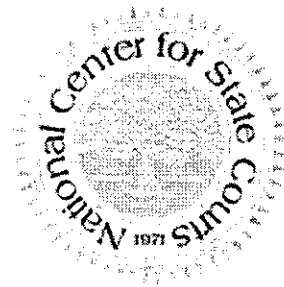


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Conference Goal, Objectives, and Participants

Goal: To enhance understanding of the JRP workplan among stakeholders and develop a cooperative environment for the implementation of the Strategic Plan for the Justice System of Mongolia over the next five years.

Objectives: Present the Mongolian Judicial Reform Program (JRP) first year activities, as elaborated in its Year One Workplan, and begin the process of developing a coordinated approach to implementing the Strategic Plan.

Participants: Mongolian stakeholders and foreign donors involved in the justice sector, particularly those who participated in the development of the strategic plan.

1. Opening Remarks

Minister of Justice and Home Affairs, Ts. Nyamdorj

I am pleased to open this Conference that intends to acquaint all relevant Mongolian and donor organizations with the First Year Plan of the Judicial Reform Program managed by the United States based National Center for State Courts and to discuss the future cooperation for the implementation of the Strategic Plan for the Justice System of Mongolia. The Judicial Reform Program recently started its activities in Mongolia with the purpose to assist the Government of Mongolia in implementing the priority objective of our legal system to establish and strengthen an independent and fair judiciary, and to enhance the efficiency of justice system agencies.

The Strategic Plan for the Justice System of Mongolia sets the values that define the future shape of the judiciary and the Strategic Principles with the Tasks determined to allow a comprehensive and coordinated approach in implementing them. Given that the implementation process is a delicate and complex task requiring time, funding, experience, expertise and extensive consensus, the solicitation of the participation and assistance of relevant Mongolian institutions and foreign donor organizations has been the guiding principle of the implementation policy from the beginning. We have gathered here today to learn about the activities planned for the first year of the Judicial Reform Program and discuss the opportunities for cooperation throughout the duration of this project.

The leadership of Mongolian justice institutions and officials in charge repeatedly expressed their opinions on the measures, resources assistance necessary to enhance the capacity and competence of their institutions in the course of numerous meetings and discussions. We see that the Draft Workplan of the Judicial Reform Program previously circulated among several agencies reflects/incorporates the above concerns.

I understand that the main objective of this Conference is thorough consideration of tasks to be incorporated in future workplans, ensuring and enhancement of coordination, and clear determination of expected results. Furthermore the intent to combine efforts is another important objective that will actually ensure the participation of all organizations, the representatives of which are present here today.

The outcome of the Judicial Reform Program will depend greatly on the participation of donor organizations, harmonization and coordination of their activities ensuring the conditions to support and complement each other, and the productive application of different legal system elements, and effective utilization of donor funds by Mongolian organizations. The Ministry of Justice and Home Affairs will provide support and actively participate in the above activities.

2. Implementing the Strategic Plan – Goals and Expectations

Dr. Heike Gramckow, JRP Project Director

The purpose of this session is to review the priority goals for implementing the Strategic Plan, the priority tasks for the Judicial Reform Program for the next 5 years and for the first year, and discuss expectations of USAID, other foreign donors, and Mongolian stakeholders.

The JRP builds on the Strategic Plan for the Justice System of Mongolia developed in 1999-2000 through extensive consultations with Mongolian stakeholders in the judicial system. NCSC had the honor to assist the Mongolian stakeholders in this process by providing assistance to the working groups developing the Strategic Plan.

The Strategic Plan was adopted by the Ikh Hural in May 2000 and was endorsed by the government following the June 2000 elections, a tribute to its broad-based political support. A favorable political climate for judicial reform continued after the elections in 2000. President Bagabandi has since stated publicly that judicial reform is a priority for his second term.

The Strategic Plan envisions broad-based reform to enable the entire justice system to enhance its operations in a modern, democratic society that supports a free market economy. Such broad-based reform needs the commitment and cooperation of all Mongolian stakeholders and international donors. No single organization can make the needed changes happen. USAID has chosen to focus its support on the judicial sector, meaning working with all courts, the GCC and agencies that operate in the courts, such as prosecutors. This work has to be coordinated with other donors and Mongolian agencies not just in the judicial sector but also with other legal sectors (police, corrections, private attorneys) to assure that the entire system can function smoothly.

Results to be achieved by the JRP

The objective of the JRP is to assist the Mongolian judicial sector institutions in becoming more efficient, more effective and more capable of responding to the needs of a democratic society and supporting a free market economy. In order to achieve this objective the following results, stated in the Strategic Plan, are targeted:

Result 1: Court administration and case management capacity strengthened.

Result 2: A comprehensive system for continuing education for legal professionals, designed, developed and made operational, possibly enhanced by the development of a National Legal Training Center.

Result 3: An effective standardized qualifying system (which all lawyers will be required to pass before they are permitted to practice law in courts) developed and made operational.

Result 4: Revised ethical standards for legal professionals developed, adopted and enforced.

Result 5: Access to the Mongolian justice system broadened and improved.

Result 6: Law school standards raised.

Result 7: Independence of the judiciary strengthened.

Priority Tasks for the JRP

Results one through four are priority tasks that were identified by the Mongolian Ministry of Justice and other stakeholders as being particularly urgent needs of the justice sector. These priorities are the main focus of the JRP for the next 5 years:

Priority Task 1: Court management and administration (Action Plan section E2, Result 1)

Priority Task 2: Case management (Action Plan section E1, Result 1)

Priority Task 3: Review of the organization, structure, jurisdiction and responsibilities of all courts and other justice system components (Action Plan sections F1, F4, Result 1)

Priority Task 4: Training and continued education of legal professionals (Action Plan section C2, Result 2)

Priority Task 5: Establishment of a professional bar system (Action Plan section C3, Result 3)

Priority Task 6: Ethics for the legal profession (Action Plan section D2 [D3], Result 4)

USAID goals and expectations

USAID's commitment to support Mongolia in implementing the Strategic Plan is clear - the agency is ready to commit \$10 million IF progress towards the goals of the project is being made - that is, Mongolia's justice system agencies are committed to operate in a democratic system and support a free market economy. This means, among others, a system, that provides equal access to justice, transparency, participatory approaches, adherence to the rule of law, and judicial independence - all of which are the basic values that the Mongolian justice system

supports as expressed in Mongolia's constitution and many other documents, and as formulated by all stakeholders during the first strategic planning workshop in 1999.

In addition, USAID, and thereby the JRP, focuses on supporting activities that are sustainable over the years.

Sustainability implies that activities are structured so Mongolian agencies have the capacities and resources will be available to continue the process initiated by the JRP in the future without donor support. In a country like Mongolia, where needs are high and resources are scarce, this means that the JRP must create and use opportunities from the very beginning to involve local agencies to share responsibilities for planning, implementation and particularly for long-term institutionalization. All JRP activities need to be very carefully planned to ensure that resources are available over time and to coordinate related activities so that resources and staff can be pooled, and information and experiences shared. It also means that JRP work will be based on careful assessments of current and future needs and resources for each project supported. The guiding principle for the JRP is to present the Mongolian decisions makers with a range of options for each activity to be tackled that will allow them to develop the best approach possible with limited funds, outlining what can be achieved in the long-run if no outside funding is available and how foreign assistance can strategically be added to enhance the process, not fund the process in its entirety.

Following this premise, NCSC will build on other existing projects, focus on coordinating with other donors not just for ongoing activities but especially for planning future work, and identifying possibilities for alternative resource development (e.g., through the business community, resource sharing with other organizations and NGOs, developing internships and volunteer opportunities).

The JRP will focus particularly on opportunities for guided outsourcing of project work to qualified Mongolian institutions, universities, and individuals through subcontracts (for example, conducting background research and needs assessments, or just components of it).

First year JRP workplan

Following feedback from the MOJ, other stakeholders and USAID, a workplan for the first year was developed and approved by the end of May. The tasks in the first year are:

1. Strengthening national-level court administration capabilities at the General Council of Courts (GCC);
2. Developing a comprehensive manual case management system in two Ulaanbaatar courts, including the Capital City Court, and exploring enhancements to the automated GTZ and Soros courts to accommodate a streamlined case management system for the courts with linkages to the prosecutor's office;
3. Assistance for the development and administration of a qualifying exam for all legal professionals in Mongolia;
4. Developing capacities to build a systematic continuing legal education system for the judiciary and other legal professionals, including the development of a comprehensive

- plan for continued legal education, curriculum development courses, the expansion of a pool of highly qualified trainers, and some English language training;
5. Initial planning support for the establishment of a National Legal Training Center; and
 6. Assistance to advance ethics for the legal profession.

Discussion: The discussion brought to the forefront three interrelated issues: monitoring the implementation of the Strategic Plan, monitoring the implementation of the JRP, and the role of different Mongolian institutions, namely the Parliament and the Supreme Court in these monitoring activities.

Several participants talked specifically about the implementation of the Strategic Plan. Former Minister of Justice Ganbold observed that the Government's decree was different than the plan adopted by State Ikh Hural, which led him to ask if Parliament was aware of these changes. Chief Justice Ganbat noted that implementation of Strategic Plan is the duty of the Mongolian government and State. The State Ikh Hural should adopt all necessary acts that are required for implementation of Strategic Plan. The government has to give the necessary resources. Amarsanaa disagreed, considering the Strategic Plan a flexible document because many things that were not considered in adoption of Strategic Plan and the adoption process went very hazardously.

Amarsanaa suggested that who is responsible for implementing the Strategic Plan should be clarified. On the Mongolian side, a Management Board and a Regulatory Board should be established. The Management board should have four members: the Minister of Justice, General Prosecutor, President of Union of Mongolian Advocates, and Chairman of Constitutional Court. These four people should evaluate the national needs of Mongolia and on basis of this evaluation should recommend to USAID the financing of some definite activities. For instance the Strategic Plan will be implemented over decades, but each year these people can define what are the most important needs for Mongolia. The Members of the Regulatory Board, perhaps 10 people, could establish a bridge between the Management Board and JRP and provide expertise. The Deputy Minister of Justice, State Secretary of the Ministry of Justice, Vice President of Union of Mongolian Advocate, Dean of the Law School of the NUM and Deputy Minister of Finance could be members of the Regulatory Board.

This led to a discussion about the role of Mongolian Institutions in the implementation of the JRP. Several participants noted that Parliament is concerned with the creation of an appropriate legal environment to support, and the Ministry is drafting several acts that address a range of concerns. Some activities in the Strategic Plan were agreed to be completed with assistance of foreign donors. Bayasgalan noted that the MOJ has addressed these issues with donor agencies, and reached an agreement to implement them together. JRP staff noted the importance of working together with other donors and with all three branches of government, all of whom have a role in implementing the Strategic Plan and the JRP. Many preparatory meetings were held with Parliament, the Courts, and the Ministry to develop the workplan. The purpose of the conference is to communicate what part of strategic plan the JRP is implementing and what part others are implementing.

Several participants asked who is to monitor the JRP. Staff responded that this question was being addressed and was to be decided in the next two months. The NCSC hopes that participants become actively involved in assisting us develop the plan and getting the type of input and supervision that this project needs. USAID, as the donor funding the JRP, has significant authority, specifically to approve the annual budgets and workplan, as well as possible audits. Amarsanaa noted that the workplan circulated to the participants indicated that USAID approved the workplan on June 13. He argued that it should have definite dates and amounts of money for each activity. In addition, reports or memoranda should be prepared to show what is being done and seek further input.

3. Strengthening Court Operations in Mongolia

Charles E. Ferrell, JRP Court Administration and Case Management Specialist

The purpose of this session is to consider the implications of the Strategic Principles related to strengthening court administration in Mongolia on the national and local level, review the overall concepts proposed and the Year One activities to implement these concepts, deliberate the need for possible adjustments, outline the work with current partners (GCC, CCC, other trial courts, GTZ, Soros), and identify potential areas for further cooperation, particularly cooperation with additional stakeholders.

Priority Task 1: Develop and strengthen court administration at the national level and local levels of courts

The size and complexity of the Mongolian court system requires that court administration at the national level provide leadership and guidance for local administration in the individual courts. The General Council of Courts (GCC) has the following responsibilities:

- Develop programs and methods to support and improve local court administration.
- Develop and administer the national judicial budget.
- Audit all the Aimag court financial records.
- Administer judicial payroll and manage human resources programs.
- Analyze statistical information on the courts' workload and develop reports on court activities.
- Conduct studies and review programs to support legislation to improve the courts.
- Provide training programs to local-level court administrative offices.
- Issue manuals, directives and other publications.
- Serve as the information resource to the public and media on courts activities.

To assist the GCC in performing these responsibilities is the task of the Secretary for the GCC, Ganbayar. His small staff monitors and assesses the operations of the courts, provides financial support, and makes recommendations for new policies and procedures to the GCC. They also implement and promote the GCC policies and decisions in the local courts.

The administration of the courts at the Aimag level is the responsibility of the Aimag court administration offices. While visiting over 12 courts and meeting with the chief judges and local

court administrators JRP staff has been impressed with the efficiency of the operations of the courts in Mongolia. It is important that local administration offices be allowed to plan, organize and manage their own business activities and expenditures. By decentralizing these administrative responsibilities, the local level courts and citizens benefit because this type of administration reduces bureaucracy and encourages good management and economy.

During this first year of operations, the JRP will perform the following tasks and assist in strengthening court administration at the national level (i.e. the GCC) and at the local levels. In performing these tasks, the JRP will address Strategic Principles and Tasks that are contained in the Strategic Plan of the Justice System of Mongolia.

- JRP Task 1: Review the statutes, policies and procedures that address court administration at the national and local levels. (Strategic Principle 3.4, Task 3.4.1, Task 1.1.5)
 - Review any proposed legislation that may affect the administration of the courts.
 - Assess the impact of budgetary recommendations that affect the operations of the courts and the GCC (Strategic Principle 1.4).
 - Develop a report that outlines the strengths and weaknesses of the GCC to address the needs of the courts in Mongolia. Recommendations for changes in the GCC or local administrative departments will also be included with this report.
- JRP Task 2: Assess the needs for administrative support in the courts.
 - In cooperation with the Ministry of Justice and the Supreme Court, conduct a survey to identify the administrative needs of the courts.
 - Hold workshops for judges and court administrators to discuss court needs.
- JRP Task 3: Using the report created in JRP Task 1.3, the NCSC will develop an action plan with prioritized recommendations for changes and enhancements to the GCC to strengthen court administration at the national and local levels.
- JRP Task 4: The JRP staff will develop training curricula to enhance court administrative practices. This entails developing a course on court administration and conducting a training seminar on budgeting, human resource management and professional ethics (Strategic Principle 6.5, Task 6.5.10).

Priority Task 2: Strengthening and developing a case management system

Case management is the systematic monitoring of a case through the judicial process from time of registration to the rendering of a decision. A basic requirement for any case management system is a good records management system. Strategic Plan Principle 6.2 calls for uniform court forms. Implementing a case management system requires uniform court forms and a good records management system to track the progress of filed cases. The key elements of any case management system are:

- Uniform records management system.

- Established timelines for deciding cases.
- A commitment by the judges to process cases within timelines.
- The ability to continuously monitor the progress of cases.
- A statistical reporting system to track the progress of cases.

A case management system can be automated or manual. The GTZ and Soros have implemented an automated system in six District courts in Ulaanbaatar. This system has a well-developed reporting system to monitor the progress and timelines for cases. Several other courts have implemented a series of manual registers and indices to monitor and track cases.

The JRP staff will work closely with the GTZ and Soros to enhance the current software. The GTZ and Soros are incorporating changes to the reporting system to include the requests from judges to develop better and more comprehensive management reports. The software will also be expanded to assist the Prosecutor General's office in filing cases. The JRP staff will work closely with the GTZ to recommend any changes to the software to enhance the case management functions. During this first year the JRP will perform the following tasks to strengthen and develop a case management system for Mongolia:

- JRP Task 1: Develop a case management system for implementation in the Capital City Court (Strategic Principle 6.2. Task 6.2.2, 6.2.3).
 - Assess current operations.
 - Evaluate record keeping practices and recommend changes as necessary.
 - Meet with judges, lawyers and staff for consultations.
 - Develop recommendations for case management practices in the CCC.
 - Conduct workshop for all personnel affected by case management.
 - Assess technical requirements for implementation of case management system.
- JRP Task 2: In cooperation with the GTZ and Soros staff, evaluate the automated case management system implemented in the Songino-Khairkhan District Court.
- JRP Task 3: Develop the design for a case management system for the Capital City Court and conduct a workshop so that all parties are aware of the changes to be implemented.
- JRP Task 4: Install the case management system in the Capital City Court and develop a mechanism to monitor and track the progress and results of the new system.
- JRP Task 5: Based on the results of the Capital City Court implementation and the evaluation of the automated court in Sogino-Khairkhan, develop a plan and identify the requirements for implementation of a case management system in the District Courts in Nalaikh and Bagannur.
- JRP Task 6: Conduct a detailed hardware and software assessment of the other automated District Courts in Ulaanbaatar. Collect and evaluate management reports from these courts and develop recommendations for changes in case management practices as necessary.

- JRP Task 7: Develop a detailed implementation plan to upgrade and install equipment and software in all the District Courts in Ulaanbaatar. Evaluate the feasibility of connecting all the courts together.

Comments: Chief Justice Ganbat emphasized several priorities from the Strategic Plan, starting with capacity building in the GCC and establishing the Council's appropriate function. In addition, the term court management should be clarified. Who should participate in this management and how should it be implemented? The participants heard the word "management" many times, but have only a superficial understanding of it. He also noted that the provision of needed equipment and other resources is of great concern and recommended that the information system include the Supreme Court.

Ganbat suggested that the program should include two rural courts as well, perhaps one Aimag court and one Intersoum court. All four courts together should represent the courts' status overall. Organizing seminars jointly with the Supreme Court on human resources management and resource management is a good idea.

Dulgur, a Member of Parliament, noted that the Spring session considered several drafts related to powers of the judiciary and some of these legal acts will be considered in the Fall Session. The JRP plan contains many useful measures and ideas that should find their expression in the new or amended Acts. For example, there is a law on the courts of Mongolia, and it will be revised adopted in September or October. If the report on the GCC comes out this summer it might have direct impact on adoption of the new law. They expect that according to new regulations, the GCC will become a more independent body and more important for implementation of the spirit of the Strategic Plan. So the JRP and the legal standing committee should work closely on this matter.

Chimmid, a legal scholar and advisor to Parliament, noted that Parliament is adopting laws, but it is not clear that courts receive copies. Courts may be using old laws. Newspapers may publish mistaken laws. It is unclear if the courts are using the right laws. Mongolia needs a system that gives courts information on changes parliament adopts within one day. Though the project would like to have a website for new laws, Chimmid rightfully pointed out that it is difficult to use the Internet, especially for judges in rural areas. Disseminating official information is not even budgeted. While the judge can buy copies of laws, one can find different versions of the labor law that do not match. The laws are not delivered to judges and judges do not have the money to buy them. JRP staff noted that automated systems will give judges quicker access, but the laws would not be official versions. JRP is working with the Supreme Court to make sure that the laws are provided, and will also work closely with GTZ on the distribution of their CDs. Chimid added that Legal information in computer, digital, or CD form must be on line and printed because of the difficulties in accessing the on line version in countryside.

JRP staff noted that the issue of disseminating information to Judiciary will involve close collaboration with the GCC and the courts. It is resource-intensive to provide all information needed as printed matter, but only a minority of judges and prosecutors outside UB has access to the Internet. The JRP are looking into how Internet access can be provided outside UB, together with other programs. Using computers in remote Aimag is difficult because of service and

technical problems. Chimmid noted that the secretariat of the State Great Hural has initiated a project to establish a modern computer legal information system. Project papers are ready, but they are looking for funding. Access to local courts through Internet should look at the computer system of Parliament an government office, and join it into one network because it might save a lot of resources to rely on existing resources.

4. Developing a Comprehensive System of Continuing Legal Education

Herbert Bowman, JRP Training Specialist

Developing a continuing legal education program for Mongolian judges and lawyers figures prominently among JRP priorities. This session addressed the existing continuing education program in Mongolia, outlines what it will look like in the future, and introduces the steps the JRP intends to take in the first year to move toward making that picture a reality.

Priority Task 4: Training and continuing education of legal professionals

All branches of the legal profession—judges, prosecutors and advocates—have their unique roles to play in the judicial process. They should function, in the managerial and administrative sense, independent of each other. However, each branch is part of the same system. For the system to function effectively, each branch must function effectively. In this sense, the branches are interdependent. This being the case, all branches of the legal profession should be equally well-trained in law and practice.

Because each branch of the legal profession is separate and plays a different role in the system, each branch has separate training needs. Therefore, each branch should take the major responsibility for training their own members. Since training resources are limited, each branch should seek ways to share their training resources with the other branches.

Currently, everyone seems to agree there are too many law schools graduating too many lawyers who are ill prepared for the practice of law. The school curricula are diverse and many are reported to be weak in substantive law content.

There is no “bar exam” or other type of qualification examination. Therefore, there is no screening mechanism to ensure that all practicing lawyers possess the core amount of legal knowledge necessary to begin the practice of law.

Efforts have been made in recent years to provide continuing legal education for judges and lawyers. At present, there are many organizations involved in training legal professionals: the Legal Retraining Center funded by ADB, the Civil Law Training Series sponsored by GTZ, the Judicial Retraining Center supported by Soros, the Hans-Seidel Foundation legal conference series as well as several others. There has been some exceptional work done by these organizations, but there has been little coordination between them. The result has been that large gaps exist in the knowledge and skill levels of practicing judges and lawyers.

The structure we hope to help build

The continuing legal education structure envisioned by the drafters of the Strategic Plan should have the following elements:

- A bar or qualification exam that all legal practitioners are required to pass before practicing law (or at least appearing in court). This examination should be given soon after graduation from law school.
- An introductory training program for new judges, taken in the first year of their judicial practice.
- An introductory training program for new prosecutors, also taken in the first year of being hired as prosecutors.
- Continuing Legal Education (CLE) programs for each major branch of the legal profession: judges, prosecutors, advocates. Each CLE program should be designed with the specific needs of its constituent members in mind. Each branch should be responsible for developing the curricula and sponsoring the training for its members.

This training structure will consist of many different pieces. One cannot build the structure all at once, so the focus will be on creating some of the most important pieces. The main pieces of the structure break down into four categories: curricula, training faculty, written training materials, and donor support and coordination.

First year priorities

➤ JRP Task 1. Coordination and Cooperation with Existing Programs

With the goal of coordinating donor and stakeholder training efforts, JRP will publish a Training Calendar and Program Newsletter, and develop from ongoing programs a list of necessary training topics, quality instructors, and written training materials.

➤ JRP Task 2. Legal Resources and Training Manuals

After four months of interviewing Mongolian legal professionals, it has become clear that Mongolian judges and lawyers need better access to information, specifically, written legal materials.

JRP intends to address this need in the first year by creating, or helping create, the following:

1. JRP Website to include or link to:
 - All current Mongolian statutes.
 - Past and current Tsets and Supreme Court opinions.
 - Mongolian language legal resource materials.
 - English language versions of Mongolian law and English language versions of Mongolian legal resource materials.
 - Links to relevant legal websites.

The idea is to combine the creation of this site with the JRP long-range plan to provide some technical support and training to Mongolian courthouses and court staff. The most logical starting point for the technical support aspect of the program is in courthouses located in areas that currently have Internet access.

2. Training manuals. The JRP will sponsor the creation of training manuals in subjects of greatest use to Mongolian legal professionals. These manuals will be designed for use in ongoing training programs and even perhaps in law schools.
3. Glossary. The JRP will assist in the creation of a glossary of legal terms.

➤ JRP Task 3. Special Training for Prosecutors

To date, most donor training resources have been spent training judges. Little effort has been made to train Mongolian prosecutors. This being the case, JRP intends to work together with the General Prosecutor's Office to create a series of training sessions on special topics. The goal of these training sessions is to create "experts" within the prosecutor's office who are capable of handling special types of criminal cases. Such specialty training might include forensic evidence, financial crime, domestic violence, and investigation and prosecution of sex offenses.

While the subject matter of the training may be forensic evidence, financial crimes, or some other area of criminal law, the sessions will also be designed to teach broader skills and principles such as protection of human rights, adversarial process skills, advocacy skills, and comparative legal studies.

➤ JRP Task 4. Special Training for Judges

In its first four months of operation, JRP has already identified (through many interviews and discussions with the Mongolian judiciary) areas of law and practice that existing programs have not been able to adequately cover. JRP intends to develop and present training programs in a few of these select areas. These specialty trainings will be created with the goal of eventually placing them in slots in the overall training scheme. These specialty trainings may include decision writing, adversarial process, ethics, and judicial independence.

➤ JRP Task 5. English Language Training

Knowledge of the English language can be extremely helpful to Mongolian justice sector professionals. Knowledge of English can assist a judge, prosecutor, or other official access to English language resources from the Internet and elsewhere and can facilitate the exchange of ideas and information with foreign colleagues. Justice sector professionals with new information and ideas will help develop the Mongolian justice system.

With this in mind, the JRP and the Ministry of Justice are currently working on a plan to provide English language training for 40 Mongolian legal professionals employed by the state in the justice sector. These professionals will be chosen by the Ministry, but will be representatives of

the major branches of the profession – the courts, the GCC, the General Prosecutor's Office, and the MOJ. The anticipated starting date for the training is September 2001.

Discussion: The Prosecutor General suggested theoretical training as important for all legal professionals, regardless of the branch of government they work in, because these lawyers do not have a clear understanding of the society they live in and the market economy. Attorneys need to know about things like stocks and privatization. A lack of knowledge of these things embarrasses the judicial system of Mongolia. Ganbat noted that establishing the right structure of legal training is important. "We should pay more attention to the establishment of this system. We think that it means some building will be built and all training centers will be under one roof. But before that, we have to clarify what the structure will look like."

4. Ethics for the Legal Profession and Judicial Independence

Robert La Mont, JRP Chief of Party

The purpose of this session was to address the key components required to strengthen ethical behavior among the judicial profession and their implications for Judicial Independence. The session further addressed how provisions outlined in the Strategic Plan envision the implementation of a system to strengthen legal and judicial ethic, the first year and future JRP plans, and activities currently planned by the Mongolian stakeholders and foreign donors.

An ethical judiciary is more important than any other aspect of the judiciary. Human rights cannot be protected, nor will private citizens invest in Mongolia if the judiciary is not ethical in its work. Yet ethics reflect a very complicated pattern of behavior and motive and are not easy to instill. While everyone may know the difference between right and wrong, the ethical behavior of judges is more demanding than that of private citizens and is dependant on specific rules governing the role of a judge within a nation's justice system.

The first step in fostering judicial ethics has to be a code of ethics that reflects the needs and temptations of the court system in a market economy. Mongolia needs to define ethical behavior that is realistic, given prevailing conditions, and do it in a way that the public can understand and support. The JRP will provide research materials, primarily examples from other countries, to the drafters of this code. The JRP will be available to interpret and translate these materials.

If a new code is elaborated, the JRP will provide a forum for discussion of this new code by facilitating a workshop to make sure that all elements of the legal community are satisfied with it and that it meets Mongolian needs, not just foreign standards.

The next step needed to promote ethics is an enforcement mechanism. Many ethical requirements are already in statutes, but the means to enforce them are weak. The JRP will provide examples of disciplinary systems from other countries to those working on a new system.

The current enforcement mechanism treats professional mistakes in the application of the law as ethical violations. Definitions need to be created that separate true ethical violations from

mistakes that, while unfortunate, are morally innocent. Different approaches are needed to deal with ethics and mistaken application of the law. More emphasis needs to be put on explaining ethical rules, particularly those involving the adversary system, which is new to judges. It must be easy for anyone with reason to suspect a judge's ethics to make a complaint, but judges must be protected from the vengeance of disappointed litigants.

If requested, the JRP will facilitate a workshop to discuss the proposal for a new disciplinary mechanism to ensure that enough input has been received so that the mechanism can work fairly, transparently and efficiently.

In subsequent years, the JRP would be willing to provide training on the new ethical standards to the judiciary, procuracy and advocates. Ethics training can be incorporated into training on other professional skills. If an agency to enforce ethical standards is created with a mandate to enforcing the new standards while maintaining judicial independence, the JRP would consider providing staff training.

Other steps are of course necessary to ensure the ethical behavior of judges. Mongolia must commit sufficient resources to pay judges salaries that will allow them to live comfortably on their income and feel no need for outside income. Nothing the JRP does can achieve an ethical judiciary if judges do not make enough money to feed their families.

There must be clear definitions of professional mistakes in interpretation of the law, ethical violations and criminal violations. Clear rules must be in place and enforcement mechanism for each. The JRP will help with the drafting and revision of regulations and legislation and in the creation of the enforcement mechanisms.

Discussion: Justice Batsaihan asked if the ethics of lawyers and judges were to be treated separately and if ethics will be included in curriculum of Universities and educational programs. JRP staff responded that the ethics tasks will be on-going. The focus in the first year is on creation of a code. In subsequent years activities could include creating materials and including it in educational programs. Justice Batsaihan further asked for a clarification on the difference between ethics and mistakes of interpretations, and whether a judge will be punished. JRP staff responded that an evaluation by Mongolians as to whether it would be better to separate out normal mistakes from moral ethical violations, so that mistakes would result in training, not disciplinary action. Examples from the United States and Europe suggest treating mistakes as different from other violations and only if the mistakes amounted to incompetence would it result in disciplinary measures.

Ganbat agreed that the issue of professional ethics is important, and suggested that the program discuss these issues with judges and other institutions working with the courts. This would provide an opportunity for judges and others to convey what is needed as well as their expectations.

Ganbat agreed that protecting judges from the vengeance of disappointed litigants is important. He noted that, in Germany, the judge might be a member of a political party, and in this case the

party protects this judge. In some places judges are like workers who are members of a trade union that can advocate on their behalf.

5. Developing Partnerships and Next Steps

Robert La Mont, JRP Chief of Party

The purpose of this session was to outline current plans for cooperation with both Mongolian stakeholders and other donors and to present the next steps for the JRP to enhance coordination and partnerships and to gain input for JRP future activities.

Cooperation is essential to judicial reform in Mongolia because of the limited resources and the urgency with which Mongolia is pursuing reform. This cooperation must be both among the Mongolian institutions we work with and among donor organizations.

Mongolian institutions

By arriving at the Strategic Plan, Mongolia has made an enormous contribution to coordination. It is a blue print for justice sector reform. But, Mongolian institutions need to work together to achieve adherence to the rule of law promised by the Strategic Plan. For example, the qualification of legal professionals is one area where there are different interests that must be reconciled, and the public's interest in competent legal professionals must be honored. The JRP will only participate in a testing program that is effective and has the backing of all branches of the legal system. The JRP is ready to assist in all phases, but the responsibility rests with the Mongolian institutions to come up with such a program.

The JRP will look to its Mongolian partners to provide feedback on the results of its work and to help prioritize the tasks in the Strategic Plan for next year's workplan. The JRP will look for opportunities for partnership with Mongolian institutions. Suggestions for new ways of implementing the Strategic Plan will be incorporated into next year's workplan.

Donor organizations

Every donor organization is in favor of cooperation, but each donor organization has its own plans and priorities. This means that cooperation must be long-term; so that each donor can set its future plans with an understanding of the role the Mongolians want it to play in an overall structure. The Strategic Plan is a first step at creating this overall structure, but it needs to be amplified and clarified by consultation among all the donors. In order for this consultation to work, there needs to be a great deal of common understanding of each other's programs by the donors. Coordination must result in some benefit to each donor's program.

NCSC will facilitate this process of cooperation in several ways. The newsletter and calendar we are creating and circulating to donors and Mongolian stakeholders will provide much greater information and understanding of the several law reform programs operating in Mongolia. This monthly visual presentation of all the training programs will make it easier to assess any duplication and the gaps.

Relying on this information, the survey of legal professionals conducted by the GCC, MOJ and Prosecutors office earlier this month, and our consultation with the donors, the JRP will create a preliminary draft of a comprehensive systematic retraining program. This draft will attempt to chart out how all of the legal professionals in Mongolia can be given the training they need to do their jobs in the new legal and economic environment. The draft program will identify the institutions and donors that are conducting training and show how their contribution fits into the over all program. It will also point out gaps. In consultation with Mongolian institutions, we will make sure that the program meets their needs for training. Working with the other donors the JRP will identify their training can better fit into a comprehensive systematic program, and how gaps can be filled by each organization.

On court administration, the JRP is working with GTZ and Soros to improve and expand their work on court administration and computerization in more courts. The JRP will participate with them in the design of new software.

The JRP will look for areas outside the narrowly defined justice sector to areas like education, where our work can be combined with that of other donors to achieve results that go beyond what a single donor acting alone could achieve.

The JRP will look for opportunities to include professionals outside the judiciary in training and to coordinate with other donors so that legal professionals are not without the training that they need to do their work in a new legal and economic system.

Discussion: Chief Justice Ganbat asked if the provisions in the qualifying exam refer to all lawyers without exception or just attorney and judges who are new to the bench or the practice. JRP staff responded that the information about this law was provided by the MOJ. The qualification of lawyers is in the Strategic Plan and part of the work the JRP contemplates. JRP will cooperate if all the stakeholders agree to it. A GTZ consultant has written a plan for testing all legal professionals that the JRP could support if adopted. A program for testing new graduates and practicing attorneys has yet to be adopted by the government or Parliament, so no one knows exactly what that program will be.

Bayesgalan from the Ministry noted that there are two separate issues. One draft law aims to establish a bar association, like other countries. This draft will be submitted this fall. The government is also looking for other measures to implement. The second activity is establishment of a state exam system for graduates of the different law schools. The government will introduce a single standard for all students, which is now done separately by different Universities. Examining all practicing lawyers is different and should be considered in relation these two issues.

Ganbat concurred that the issue of qualifying lawyers is important, but must first be enacted by Parliament. We should look at how lawyers should be tested and allowed to practice, and then how judges should be selected from among lawyers. The evaluation of lawyers already working in institutions is separate and should be decided by each branch.

6. Addressing Other JRP Priorities and Strategic Plan Topics

Dr. Heike Gramckow, JRP Project Director

This session reviewed plans to address other JRP Priorities (e.g. judicial independence, clarification of agencies jurisdictions and authorities, increased coordination, alternative judicial system mechanisms, uniform information system) and their relations to other Strategic Plan topics. A special focus was on addressing the linkages between various topics and JRP tasks, outlining the limits of the JRP scope and discussing mechanism for coordination to address topics outside the scope of the JRP.

Implementing other JRP tasks

The tasks for the first year do not address Priority Task 3 and activities proposed to address Results 5-7 will either be dealt with within the concept of the other tasks or will become more prominent in the following years.

Priority Task 3. Review of the organization, structure, jurisdiction and responsibilities of all courts and other justice system components

Following extensive consultations with Mongolian stakeholders and counterparts in the MOJ, it was determined that several pieces of pending legislation could dramatically impact the current areas of responsibilities and jurisdictions for courts and other related agencies. As a result, activities to support Priority Task 3 were postponed until next year.

Coordination among different agencies within the justice system is essential to its functioning. Lack of communication and coordination increases turf issues and reduces efficiency and effectiveness. While never an easy issue, coordination among the different courts and justice system agencies in Mongolia, be it at the national level, within and among Aimags, or at the local level, is further impeded by unclear legislation that does not explicitly outline the roles and responsibilities in several areas, such as who has the power to issue warrants in what type of situations, the level of supervision the prosecution has over police investigations, the power to detain individuals before trials, regular review of incarceration decisions and conditions, as well as probation and parole supervision. In addition, lack of rules and guidelines, or insufficient understanding of the existing laws, continue to create confusion about the role of the appeals courts, the responsibilities of the Supreme Court vis-à-vis the GCC, and the role of the Tsets and its responsibilities vis-à-vis the Supreme Court.

To address these issues, the project will work with all stakeholders to identify what activities should be conducted in the coming years, which could include:

- Assessing current lines of authority as delineated in the law and in practice among police, prosecution, all courts (including the Tsets), corrections, and other regulatory administrative agencies.
- Developing several models defining roles and cooperation that are based on U.S., European and other international best practices.

- Workshops to discuss the various models and their implications for the individual agencies, including resources.
- Develop draft legislation to accomplish needed changes.
- Develop and implement new responsibilities and decision making models through procedural guidelines, memoranda of understanding, liaison functions, development of needed resources, including training material, trainer development, development of shared communication mechanisms.
- Develop public information material and develop appropriate dissemination mechanisms to educate the public about the role and functions of each agency, including the Tssets.

Through communication with all stakeholders, NCSC will develop a plan to address this issue in the coming years.

Result 5: Access to the Mongolian justice system broadened and improved.

Ensuring that all who need the assistance of the courts have access to its services is a fundamental responsibility for the judicial system. Without equal access to justice there is no justice. Currently there exists limited information about the barriers citizens may face when they are seeking the help of the courts. It is further unclear if alternative mechanisms, such as specialty courts, mediation, alternative dispute resolution (ADR), or diversion programs for low-level criminal cases offer better solutions to enhance citizen access to the courts.

Some of the work the JRP addresses, such as enhanced court administration on the local level and training to increase justice system capabilities, contribute to increased access to the courts. In addition, NCSC will work with local partners to identify the right mix of alternatives to enhance access to the courts, including ADR, alternatives to criminal court procedures, small claims and administrative courts, and legal clinics. These can take many different forms, and address many different types of disputes. NCSC will work with nongovernmental organizations (NGOs) and justice system representatives throughout Mongolia to identify the right mix of alternatives that fit with the formal system and with local customs and perceptions.

Result 6: Law school standards raised.

The introduction of a standardized qualifying exam for legal professionals who want to practice law in the courts will impact the current curricula taught at law schools throughout Mongolia. In the long run, students will expect that their law school education will adequately prepare them to participate and hopefully pass this exam.

While the scope of the JRP does not involve direct and intensive work with law schools, the JRP will explore opportunities to assist in analyzing international best practices for entry level education needs and requirements. The JRP training work can provide models for the application of modern teaching methods. In addition, the JRP may provide assistance to one or two legal clinics in the future.

Result 7: Independence of the judiciary strengthened.

All activities of the JRP will be designed to strengthen judicial independence. It is important, however, to consider that judicial independence has various features in different countries and its core meaning is that judges are independent only in their decision-making – bound only by the rule of law. As a result, initial JRP work will focus on strengthening judicial decision-making, possibly through special judicial training. Providing better access to legal information and higher court decisions further strengthens judicial decision-making.

In the following years, the JRP will partner with the judiciary in reviewing different models of judicial independence and their fit with the Mongolian system and culture. The JRP's approach is to help the Mongolian judiciary and other relevant institutions to explore different views on the meaning of judicial independence and how it can be guaranteed.

Implementing other parts of the Strategic Plan

Besides the many areas that the JRP will engage in there still remain many parts of the Strategic Plan that are not within the scope of the JRP. The JRP will assist the Mongolian government and other stakeholders in identifying ways to address these areas either with their own means or by working with other international donors. NCSC will closely work with those targeting other areas of the Strategic Plan to assure the development of well-coordinated justice system operations.

Discussion: Several participants agreed that coordination among donors and Mongolian institutions is very important. Amarsanaa observed that in some projects there is a lack of understanding and no cooperation among them and some projects are very independent and push away the others. For instance, in this plan there is an issue of evaluation of computer work of GTZ. But instead of this we need other information about receiving information about networking.

Several participants reiterated the importance of judicial independence, primarily in terms of the judicial budget and in terms of the draft laws being considered in Parliament. Amarsanaa noted that law reform under consideration should strengthen judicial independence. Dulgur noted that the law on the state budget must be amended in order to increase independence of judiciary. Batsaihan, the head of criminal chamber at the Supreme Court, noted that the Strategic Plan calls for the judicial budget to be set at a certain percent of state budget. The budget for the courts this year is 0.33% of the state budget, so there is a dire need to increase the budget for the courts.

JRP staff noted there are different ways to develop a judicial budget, looking into what the needs are vs. simply asking for a percentage of the over all budget. The JRP can provide expertise and training to the GCC and other institutions, but any decision to make changes to the budget process needs to be made in combination with the Ministry of Finance and Parliament.

The Strategic Plan called for the establishment of a fund for Judicial Reform in Mongolia, which should be done by government, but the plan now calls for the World Bank and IMF to take

responsibility for financing this fund. Chief Justice Ganbat agreed that establishing various funds are issues for Mongolian government institutions rather than foreign donors.

Gemigidorja, Justice of the Supreme Court, agreed that the establishment of funds is very important. According to the Strategic Plan, this fund should start next year but she asked if it was possible to establish this fund earlier, particularly as it concerns housing and salary increases for judges. JRP staff noted that the program can assist in the development of needs-based budget for the judiciary, but cannot make the political decisions that rightfully rest with the Ministry of Justice and Home Affairs, the Ministry of Finance, and Parliament.

When asked if the JRP could do anything to pay judges' salaries, staff noted that USAID funds cannot be used to pay salaries and the Mongolian Government will have to raise these funds. Nonetheless, JRP will encourage Parliament and the Government to provide the necessary funds.

7. Closing Remarks

Sharavdorj, Chair of the Legal Standing Committee, State Ikh Hural

Good afternoon ladies and gentlemen,

I would like to express my gratitude to the management of the Judicial Reform Program for giving me the opportunity to speak at this important event.

Adoption by Parliament on May 4, 2000, of the Strategic Plan for the Justice System of Mongolia has set the vision of the future justice system within the framework of the current legal reform program. The Strategic Plan reflects the goals and objectives of the important and noble mission to realize the justice system and the judicial branch stipulated by the Constitution of Mongolia.

In adopting the Strategic Plan, legislators primarily focused on providing clear and accurate definitions for independence, accountability, responsiveness, fairness, accessibility and effectiveness, the core values to evaluate the activities of the justice system.

One year has passed since adoption of the Strategic Plan, and I am pleased to note that foreign countries such as the USA and Germany that have considerable experience in the related field are providing assistance in its implementation. One example of this cooperation is the Mongolia Judicial Reform Program implemented by the NCSC. The JRP is addressing several Priority Tasks of the Strategic Plan, specifically:

- Strengthening capabilities of the General Council of Courts (GCC);
- Developing a comprehensive case management system;
- Developing capacities to build a systematic continued legal education system for the judiciary and other legal professionals;
- Assistance for the development and implementation of an effective qualifying system for all legal professionals in Mongolia; and
- Assistance to advance ethics for the legal profession.

I am confident that these very important objectives will be successfully accomplished during the first year of the program.

In its spring session, Parliament considered several drafts of important legal acts such as the Criminal, Criminal Procedure, Civil, Civil Procedure and the Administrative Codes that may affect the judicial reform process. The Parliament is intending to pass these Codes in the fall session. Here I should note that the draft laws envision principal changes that would extend the role and functions of the justice system institutions. In implementing the judicial reform, we should strive to make it comprehensive. We need to introduce international standards to bring the system closer to the international best models. Unfortunately, some institutions are very conservative; they pursue parochial interests without looking into the future, which impedes the reform process. Taking this opportunity, I would like to make comments concerning some aspects of the judicial reform process. Forgive me if some overlap with things already discussed.

The Strategic Plan sets an objective to determine standards for and establish a system for the selection and qualification of legal professionals. The JRP is supporting this process and has indicated in its first year workplan that it will assist in developing and implementing an effective qualifying system for all legal professionals in Mongolia. This is an issue of crucial importance for us. I request of you to be conscientious and effective in implementing this activity.

The personnel policy should base on the notion that all legal professionals should be good professionals, and judges in particular. Furthermore, we need to introduce a systematic, standard process in appointing and assigning legal professionals. At present legal institutions, for instance, the police, the prosecutor's office, the advocacy, the courts, all have separate personnel policies. As a result, graduates of public and private laws schools after holding various jobs in different public and private institutions become assistant judges and over time, they are appointed to judicial office. The lack of a uniform policy leads to negative practices. On the other hand, skilled legal professionals that work in police, prosecutors' offices and law firms are not likely to become judges. There is no mechanism to recruit these legal professionals to judicial office. The process is sporadic at this point. The judgeship must be the ultimate ambition and the crowning point of a legal professional's career. Judges should be selected from those legal professionals that are recognized as decent, fair, honest, competent and skilful professionals, that in fact "appear" as role models for others. My words may seem harsh. Unfortunately, in my opinion, there are no other ways of establishing a sound judiciary without setting high qualification standards for legal professionals, and without implementing a competent personnel management policy. This is the main reason why we need effective qualifying system and standards for all legal professionals. All legal professionals should be competent and skilled and the best ones should become judges.

As we know, there are several projects implemented by donors in the legal sector. As a result, various training and retraining courses, training centers and an Academy have been set up in order to upgrade the qualifications and skills of legal professionals in Mongolia. However, I should note that there is some overlap and duplication of their activities and that coordination is needed.

A Council was established on September 14, 2000, with the purpose to coordinate, monitor, assess and evaluate foreign assistance projects and programs in Mongolia. The Council's main function is to coordinate projects to increase their effectiveness.

The JRP included in its workplan an objective of crucial importance - assistance to advance ethics for the legal profession. I fully agree with the statement in the workplan saying that the "ethical behavior of legal professionals is a cornerstone of a fair and democratic justice system that has the trust of the general public." Ensuring economic guarantees of legal institutions and providing training will have no effect if judges, legal professionals do not adhere to their professional code of conduct. We should always ask each other whether high qualification, competence, fairness, integrity, independence and adherence to the law are attributes of our judges and legal professionals. Whether the professional ethics are enforced, advancing the ethics of judges, and legal professionals is a vital element of judicial reform. I hope that all legal institutions – police, prosecutor's office, advocacy and courts – will succeed in advancing their ethics in close cooperation with JRP.

The President of Mongolia noted in his speech at the conference, "Judicial Power - New Century," organized few days ago, that all lawyers should consider the law as their God, and professional ethics as God's teaching. This will ensure the reputation of judges and of the judiciary and improve the public perception.

In conclusion, I wish success to the JRP. Thank you for your attention.

Appendix A: Conference Agenda

- 09:00–09:20 Opening Remarks
Ts. Nyamdorj, Minister of Justice and Home Affairs
- 09:20–09:40 Introduction of the JRP Project Team
Robert La Mont, JRP Chief of Party
- 09:40–10:45 Implementing the Strategic Plan – Goals and Expectations
Dr. Heike Gramckow, JRP Project Director
- 10:45–11:00 Break
- 11:00–11:40 Strengthening Court Operations in Mongolia
Charles Ferrell, JRP Court Management and Technology Specialist
- 11:40–12:20 Developing a Comprehensive System of Continuous Legal Education
Herbert Bowman, JRP Training Specialist
- 12:20–13:00 Ethics for the Legal Profession and Judicial Independence
Robert La Mont, JRP Chief of Party
- 13:00–15:00 Lunch
- 15:00–15:20 Developing Partnerships and Next Steps
Robert La Mont, JRP Chief of Party
- 15:20–15:40 Addressing Other JRP Priorities and Strategic Plan Topics
Dr. Heike Gramckow, JRP Project Director
- 15:40–16:00 Remarks
Sharavdorj, Chair of the Legal Standing Committee, State Ikh Hural
- 16:00–17:30 Discussion
- 17:30–17:45 Closing Remarks
Robert La Mont, JRP Chief of Party
Sharavdorj, Chair of the Legal Standing Committee, State Ikh Hural
- 19:00 Dinner at Abatai Sain Khan’s Palace

Appendix B: Conference Participants

Courts

Ch. Ganbat, Chief Justice, Supreme Court
D. Batsaihan, Presiding Justice, Chamber of Criminal Cases, Supreme Court
R. Jamyanchojil, Presiding Justice, Chamber of Civil Cases, Supreme Court
N. Jantsan, Chair, Constitutional Court
J. Byambajav, Member, Constitutional Court
S. Batdelger, Chief Judge, Capital City Court
D. Damdindorj, Chief, SB District Court
U. Munhtuul, Chief Judge, HU District
D. Chuluunhuu, Chief Judge, BG District Court
L. Sarangerel, Chief Judge, Chingeltei District Court
Yo. Tsogtzandan, Chief Judge, Baganuur District Court
N. Dagva, Capital City Courts Administrator

Government of Mongolia

Ts. Nyamdorj, Minister of Justice and Home Affairs
G. Bayasgalan, State Secretary, Ministry of Justice and Home Affairs
N. Batbold, Officer, Government Secretariat
N. Ganbayar, Secretary, General Council of Courts
Otgontsetseg, Specialist, General Council of Courts
N. Tuulhuu, General Executive Department of Court Decision

General Prosecutor's Office

M. Altanhuyag, General Prosecutor
D. Erdenbalsuren, Chief of Control-Instructive, Foreign Affairs Department

State Ikh Hural

S. Sharavdorj, Chairman, Standing Committee on Legal Affairs
B. Dolgor, Member of Standing Committee on Legal Affairs
D. Dembereltseren, Member of Standing Committee on Legal Affairs
B. Chimid, Advisor to the State Ikh Hural and legal scholar

Non-Governmental Organizations (NGOs)

Dash. Ganbold, Head, United Association of Legal Professionals
S. Narangerel, President, Mongolian Advocate's Association
D. Bayanbileg, Executive Director, Center For Human Rights
M. Ichinnorov, Director, Lawyers Center for Legal Reform Support
G. Batbold, Coordinator, Human Rights Strengthening In Mongolia

Donors

H. Mendsaikhan, Program Officer, USAID
L. Tur-Od, Associate Expert, UNDP
N. Tsogt, Research and Programming Expert, Asian Development Bank
Barry Hitchcock, Resident Representative, Asian Development Bank
J. Amarsanaa, Member of Tsets and Director, Legal Retraining Center
Julia Triggs, Advisor, Asian Development Bank
B. Enhbat, Law Program Coordinator, Soros Foundation
J. Enhchuluun, Director, Judicial Training Center
Tetsuo Amagai, Deputy Resident Representative, JICA
H-H. Sawitski, Head of GTZ Office in Ulaanbaatar
L. Erdene, Staff, GTZ
Ochir, Staff, GTZ

JRP Staff

Heike Gramckow, Project Director
Robert La Mont, Chief of Party
Charles Ferrell, Court Administration Specialist
Herbert Bowman, Legal Training Specialist
D. Suheemaa, Program Coordinator
N. Enkh TUYA, Research Assistant
L. Lhaasuren
B. Otgonbayar, Program Coordinator
J. Elbegsaihan
P. Bayarhuu, Accountant
Yo. Gantulga, Administrative Assistant

Appendix C

NATIONAL CENTER FOR STATE COURTS
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
www.ncsconline.org

Mongolia Judicial Reform Program
Judicial Sector Baseline and Needs Assessment:
Survey Findings

February 2002

-DRAFT-

Cooperative Agreement
#492-A-00-01-00001

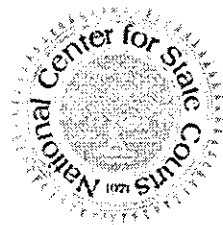


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APPENDIX 57

INTRODUCTION¹

As part the Mongolia Judicial Reform Program (JRP), a project funded by USAID to assist the Mongolian judicial sector institutions in becoming more efficient, more effective, and better able of adhering to the rule of law, the National Center for State Courts (NCSC) conducted a survey of Mongolian judges, prosecutors, court staff and other attorneys practicing throughout Mongolia. The survey was designed to identify:

1. The training, information, and technical assistance requirements that judges, prosecutors and advocates operating in Mongolia's courts need to effectively administer justice in a democratic, free market society.
2. Respondents' perceptions of skills of judges, prosecutors and other judicial sector staff.
3. Respondents' perceptions of court performance in relation to fundamental democratic values.

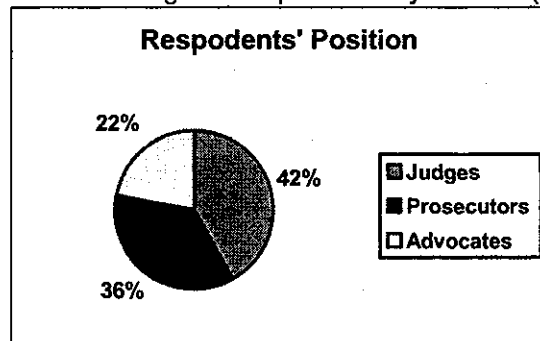
The results of this survey provide valuable information about the areas where key judicial system participants require technical assistance and training and about their perception of court operations and judicial system capabilities. This information serves as baseline information to identify where project activities may be focused and to later assess if related efforts to address these needs achieved the desired results.

Methodology and response rates

Over a period of almost 3 weeks, from May 24 to June 4th, survey questionnaires were administered in person by staff affiliated with the Ministry of Justice and Home Affairs (MOJ) and the General Council of Courts (GCC), as part of a judicial inspection tour, during which judges, prosecutors and court personnel were evaluated on job performance. This survey was distributed along with another survey conducted by the MOJ that inquired about the perception of judges, prosecutors and other justice system staffs' perception of court operations (for details see Judicial Sector Staff Perception Survey Report). The survey was administered to a total of 1438 participants, including 220 judges, 190 prosecutors and 115 advocates. Other participants included court and prosecution staff as well as representatives of the police and corrections agencies. The results reported here focus on judges, prosecutors and advocates only.²

Overall, of the 543 respondents included in this survey report, 42% are judges, 36% are prosecutors, and 22% are Advocates. This represents 54 % of all prosecutors and 87% of all judges. The number of advocates participating in this survey was low due to the survey focus on justice sector staff.

Figure A.1: Percentage of Respondents by Position (N = 543)



¹ The authors of this report are Heike Gramckow, Ph.D., Kim Mahling Clark, and Sara Daleski. The opinions expressed here are those of the authors and do not reflect an official position of USAID.

² Court staff and other personnel in the justice system (prison staff, police) that were interviewed for the purposes of the Ministry of Justice are not included in the analysis.

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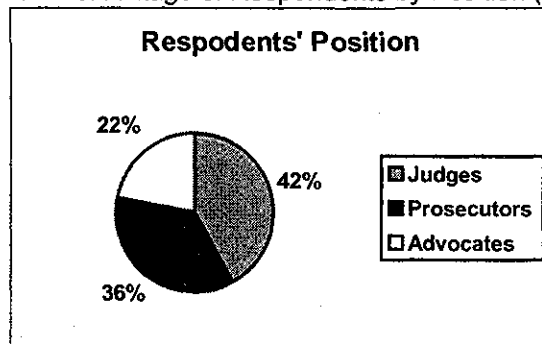
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The overall participation by judges was 68 % while 52 % of all prosecutors were included in the survey. Participation for both professions was lowest in the Western and Khangai region. The following table provides an overview of the representation of prosecutors and judges by region.

Table 1: Respondents by region

Region	Judges			Prosecutors		
	Total numbers	Number of Respondents	% of Total	Total numbers	Number of Respondents	% of Total
Western	52	27	52%	45	20	44%
Khangai	68	39	57%	54	17	31%
Central	86	67	77%	75	41	54%
Eastern	39	41	100%	31	24	77%
Ulaanbaatar	91	56	61%	171	92	54%
Total	336	230	68%	376	194	52%

SURVEY FINDINGS

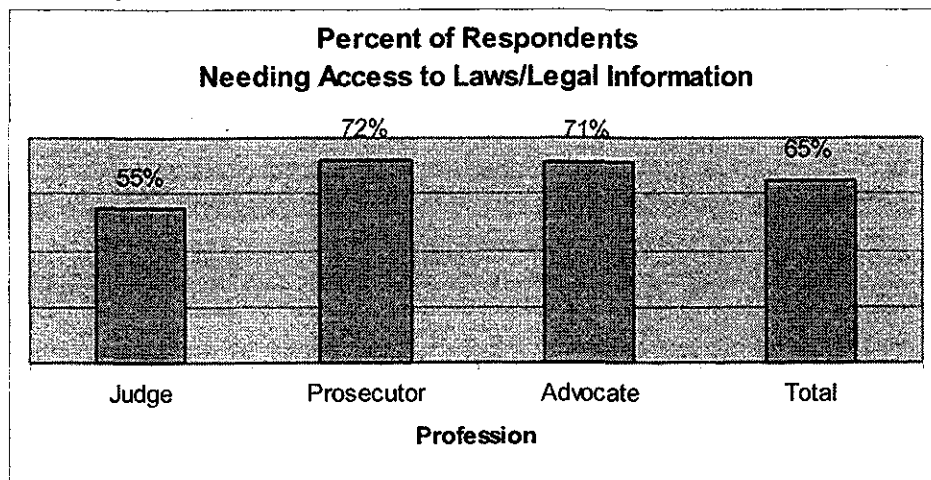
Part A: Legal Professionals' Needs

In order to identify the need for material, technical and training assistance, the first part of the survey inquired about the participants needs in these areas based on the type of cases they had handled during the past year.

Access to Laws and other Legal Information

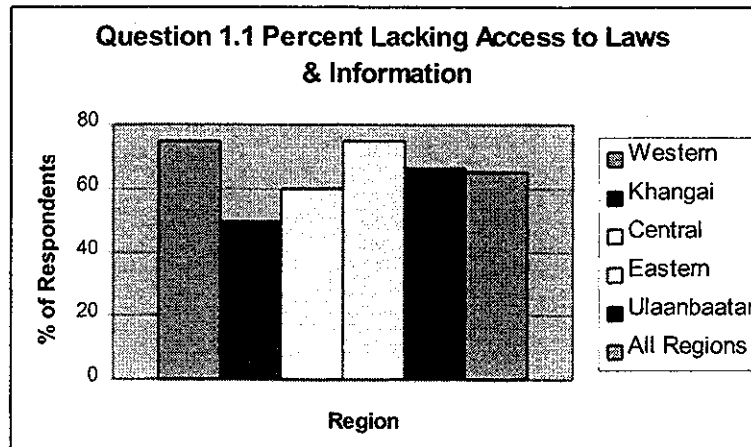
In response to the question "Did you have appropriate access to all the *laws and other legal information* you needed for conducting your work efficiently and effectively during the past year?" a majority of survey participants (65%) reported that they did not have access to all the *laws and other legal information* needed for conducting work efficiently and effectively during the past year. Breakdowns by profession indicate that prosecutors and advocates reported a lack of access to these basic information resources more frequently than judges (See figure 1.1A).

Figure 1.1A: Access to laws and other legal information (N = 525)



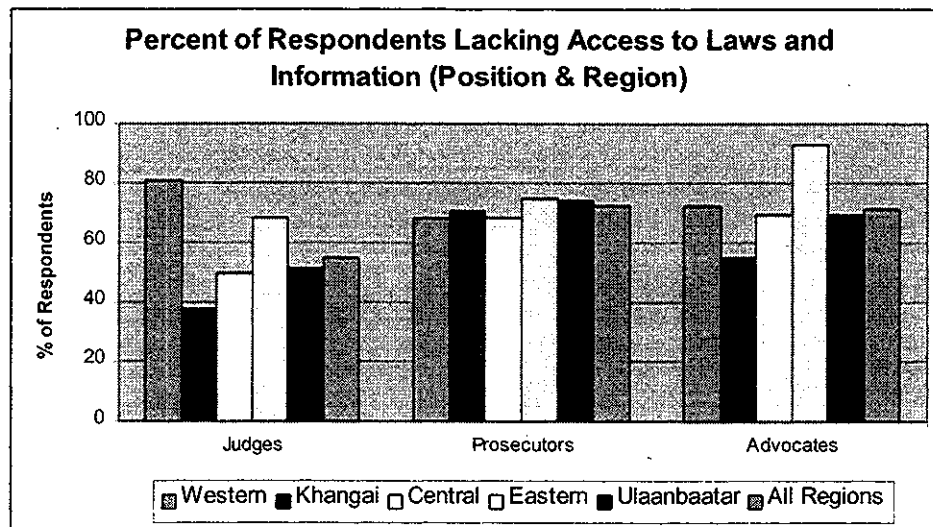
Respondents in the Western and Eastern regions reported the highest need for laws and information. Only about 50% of the Khangai region expressed such need. (See figure 1.1B)

Figure 1.1B. (N=525)



When broken down by region and profession, the responses paint a more detailed picture of where access to laws and legal information is particularly lacking. Of particular concern is that over 80% of the judges in the Western region, over 90% of the advocates in the Eastern region and over 70% of the prosecutors in Ulaanbaatar reported lack of access to laws and legal information. (See figure 1.1C.)

Figure 1.1C.



Respondents who indicated that they had inadequate access to laws and other legal information were also asked for what type of cases they lacked sufficient access to laws and other legal information?

Most frequently reported was lacking access to laws and other legal information for all types of cases (35% of all respondents) and civil cases in general (18%). To a lesser extent, lack of information for criminal cases (eight percent) was reported. In addition, survey participants mentioned a range of special civil cases for which they did not have sufficient access to the laws and other legal information for cases that resulted from the free market economy which included the following types of cases; business and economic cases, partnership and company law,

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commercial cases, land law cases, tax and insurance cases, banking, financial and credit cases, cases involving privatization and private property, as well as intellectual property cases. (See table 2)

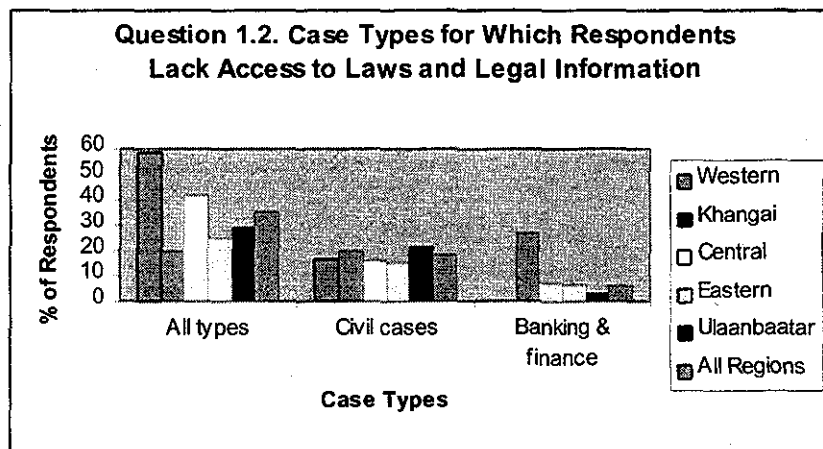
Variations in response rates generally reflect the different scope of responsibilities of the various professions. While advocates (49%) were much more likely to cite lack of information resources for all types of cases as compared to judges (29%) and prosecutors (33%); The lack of access to information resources to handle civil cases generally was mentioned more frequently by judges (21%) and advocates (19%) than by prosecutors (14%). Also not surprisingly, prosecutors are far more likely to report concerns of lack of information sources for criminal cases (18%) than either judges (3%) or advocates (2%). Lack of legal information to handle cases involving abuse of authority and administrative cases was mentioned predominately by prosecutors (14%).

Table 2: Lack of access to information resources by types of cases and position

Type of cases	Position			Total
	Judge	Prosecutor	Advocate	
All types	22 (28.6%)	22 (33.3%)	23 (48.9%)	67 (35.3%)
Civil cases	16 (20.8%)	9 (13.6%)	9 (19.1%)	34 (17.9%)
Criminal cases	2 (2.6%)	12 (18.2%)	1 (2.1%)	15 (7.9%)
Special business and commercial cases	33 (42%)	15 (23%)	13 (27%)	61 (32%)
Abuse of authority and administrative cases	-	9 (13.6%)	1 (2.1%)	10 (5.3%)
Other cases	4 (5.2%)	-	-	4 (2.1%)
Total	77 (100%)	66 (100%)	47 (100%)	190 (100%)

There are few notable variations by region. Respondents from the Western (in particular) and Central regions were more likely to report lacking access to laws and legal information for all types of cases. Important is also to recognize that 27% of respondents in the Ulaanbaatar region reported needing access to legal information for banking and finance cases. (See Fig. 1.2B)

Figure 1.2B. (N=190)

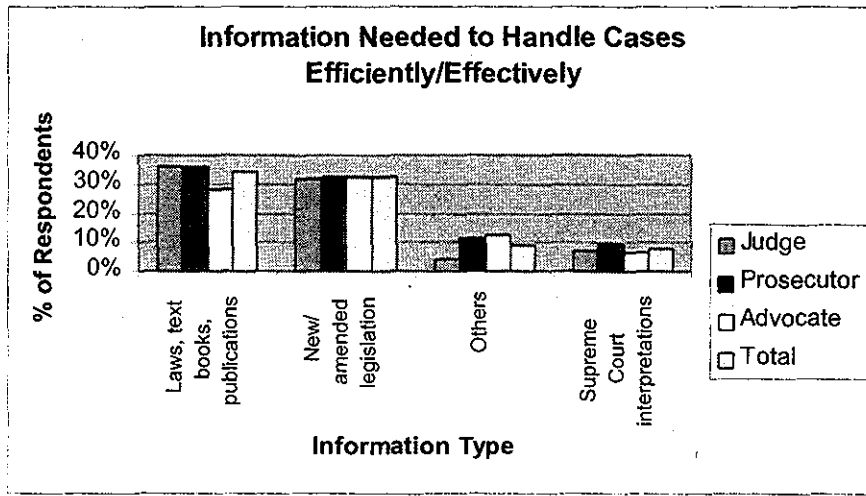


Next, participants were asked about the type of information they would need to handle these cases efficiently and effectively?

Overwhelmingly, respondents mention the dire need for access to laws and textbooks (34%), as well as information on new and amended legislation (33%). About 8 % of the respondents reported a need for Supreme Court Decisions. These responses did not differ much among the

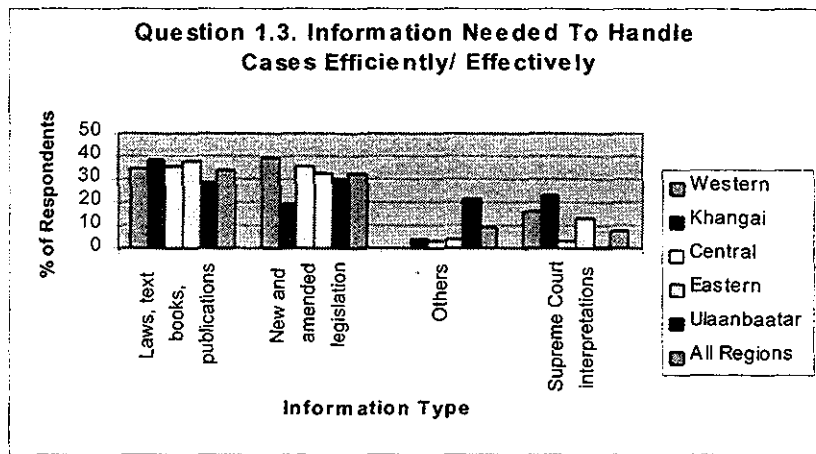
three target professions. However, prosecutors and judges consistently reported a higher need for information in all categories. (See table 1.3A)

Figure 1.3A. (N=293)



Survey participants from different regions varied in their responses regarding the types of information needed. Particularly, those from the Khangai region were less likely to request information on new and amended legislation, while those from Ulaanbaatar and the Central region rarely mentioned a need for Supreme Court interpretations.

Figure 1.3B. (N=293)

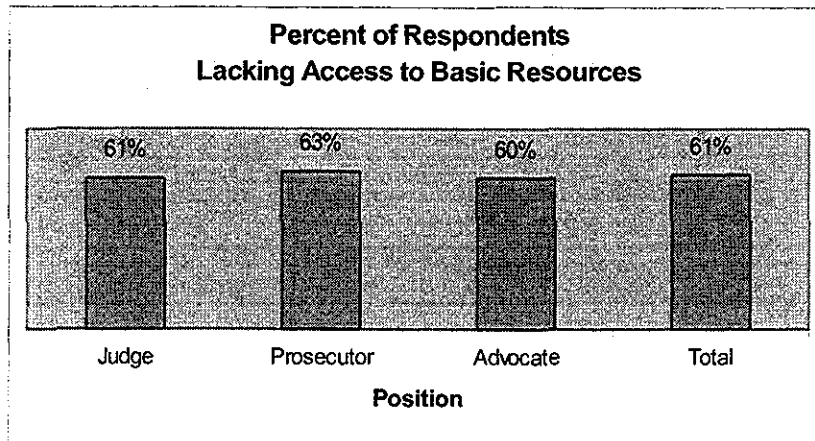


Access to basic resources (Office supplies, communication mechanisms, support staff)

Next, the survey inquired if respondents had access to at least *basic resources* (office supplies, communication mechanisms, support staff) to conduct their work in an efficient and effective manner. About 60% of all respondents, independent of their legal profession, reported a lack of access to basic resources. (See figure 2.1A)

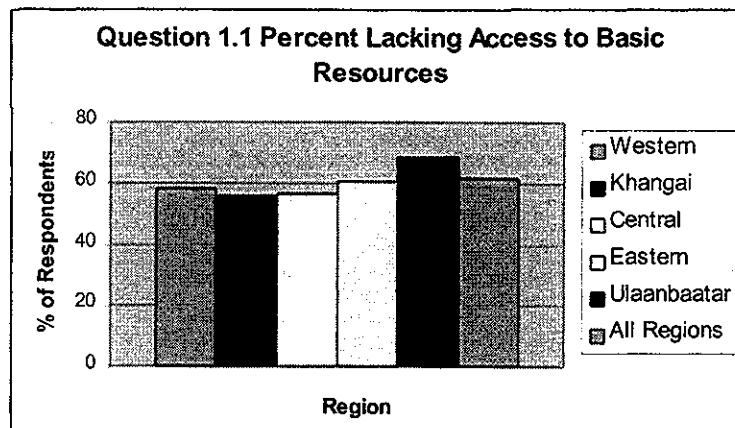
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Figure 2.1A. (N=513)



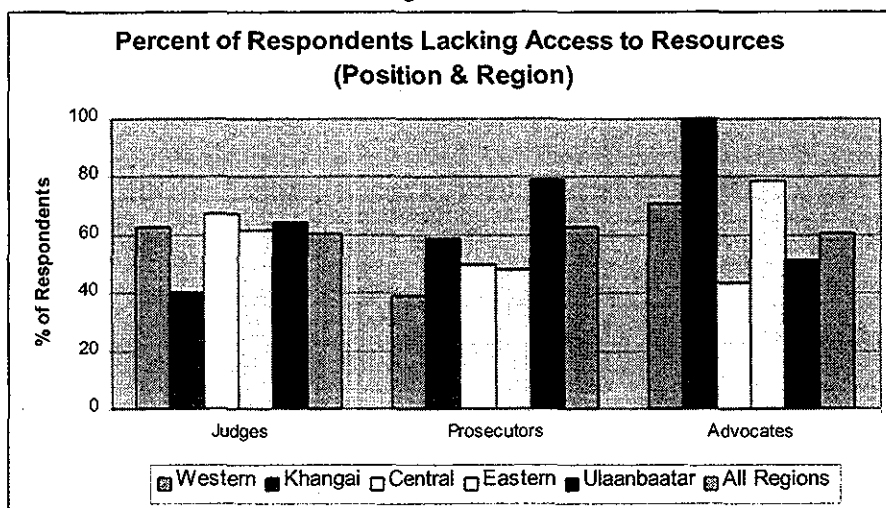
It was surprising that more respondents from Ulaanbaatar reported a lack of access to basic resources than from any other region. (See figure 2.1B)

Figure 2.1B. (N=512)



If broken down by both position and region, some significant differences can be observed. First, judges from the Khangai region reported fewer problems with access to basic resources than judges from any other region, while all advocates from that region reported lack of basic resources. On the other hand, compared to other judges, judges from the central region reported the greatest need of basic resources while advocates from that region had fewer problems than those in other regions. Second, prosecutors from Ulaanbaatar reported the highest need for basic resources compared to prosecutors from other regions. (See figure 2.1C)

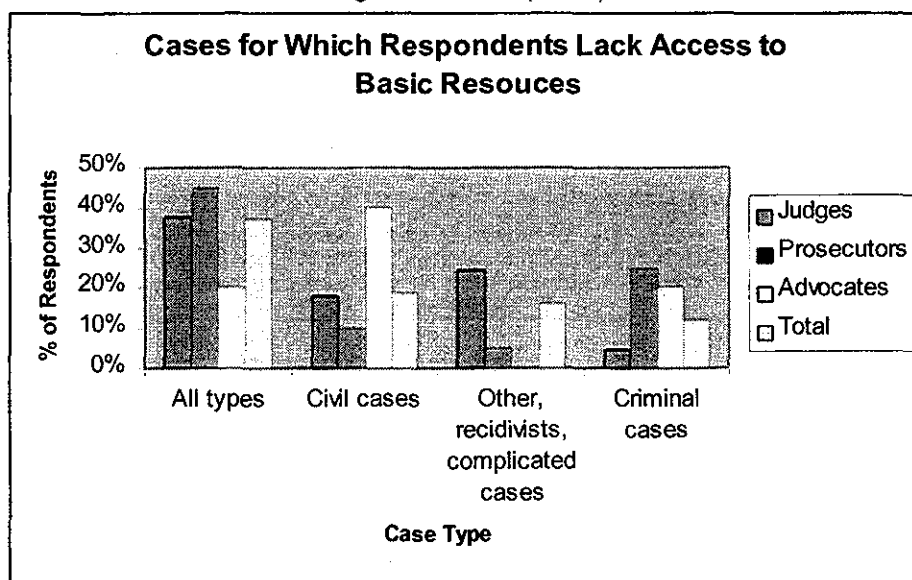
Figure 2.1C.



Next respondents were asked to identify what types of cases were particularly impacted by this lack of resources. The results indicated that 37 percent reported lacking basic resources for all type of cases, 19% lacked resources particularly for handling civil cases, 12% for criminal cases (12%), as well as "Other, recidivists, and complicated cases" (16%).

Overall, Advocates mentioned a need for basic resources particularly for handling civil cases. Not surprisingly, prosecutors required basic resources for criminal cases more than judges and advocates. Ten percent of advocates specified particular problems with basic resources for commercial and privatization/property cases. (See figure 2.2A)

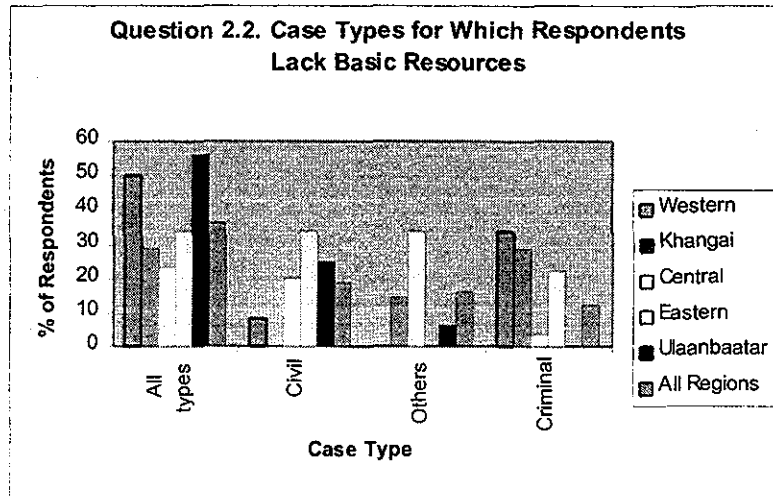
Figure 2.2A. (N=75)



There exist some significant variation in type of cases for which respondents were lacking resources among the regions. Ulaanbaatar and Western region respondents are more likely than average to respond that they lacked basic resources for all types of cases, while Central region respondents are less likely to mention general shortcomings. They do report a lack of resources for "other" cases, i.e. complex cases. Eastern region respondents were much more likely than others to mention lack of resources for civil cases, which was not mentioned at all, by Central

region respondents. Respondents of Khangai (far more than average than other groups) at 29 % responded that they lacked resources for Commercial cases. None of the respondents from Ulaanbaatar reported any special problems with basic resources for criminal cases, whereas respondents from the Western region reported a high need for resources to handle criminal cases. (See figure 2.2B)

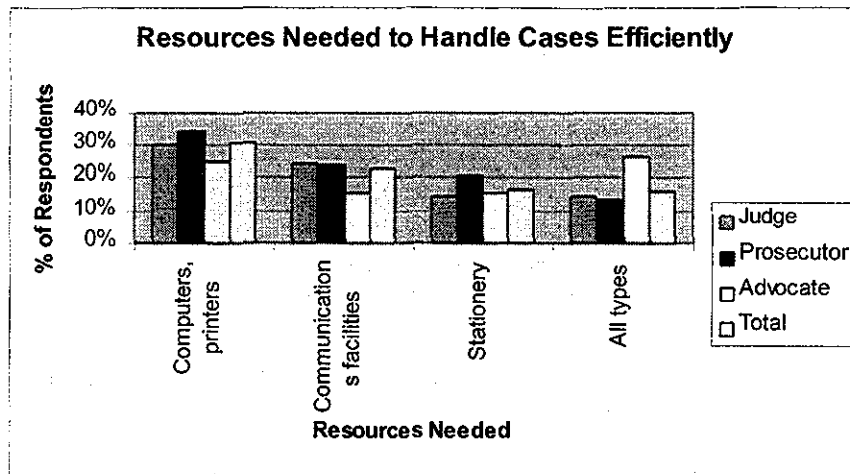
Figure 2.2B. (N=74)



Type of Resources Needed

Respondents were next asked to indicate the type of resources they would need to address any shortcomings. Mentioned in particular were computers, printers, communication equipment, and stationery, as well as all types of resources. Few differences exist in breakdowns by profession, except that advocates report a greater need overall for all types of resources, while judges and prosecutors focused on computers and printers. (See figure 2.3A)

Figure 2.3a. (N=427)



Among respondents from different regions, those from the West indicated the highest need for all types of basic resources, those from Ulaanbaatar indicated a surprisingly higher need for communication equipment than others. (See table 2)

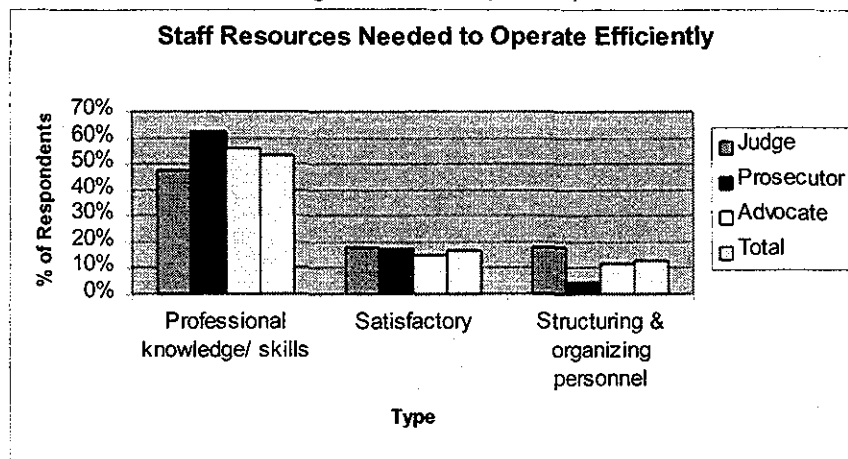
Table 2. Type of resources needed by region

Type of resources	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
All types	27%	11%	17%	16%	10%	16%
Computers, printer	26%	28%	37%	30%	29%	30%
Communications facilities	14%	11%	21%	21%	32%	22%
Stationery	13%	19%	16%	12%	21%	17%
Cables, Other supplies	9%	6%	4%	5%	1%	4%
Transportation & vehicles	4%	9%	4%	5%	3%	4%
Judges' assistants	7%	17%		11%	4%	6%
Total	100%	100%	100%	100%	100%	100%

In order to identify the resource needs respondents were asked to check a list of resources (i.e., staff, office equipment and facilities, other resources, information, technical assistance) to indicate what their court or office needed to operate efficiently. Multiple responses were possible.

Less than 20% of the respondents indicated that staff resources were satisfactory. Staff resources needed to operate efficiently included professional knowledge and skills, and to a lesser extent (particularly for prosecutors), improvement in structuring and organizing personnel. (See figure 5.1.A) Few differences exist by profession or region.

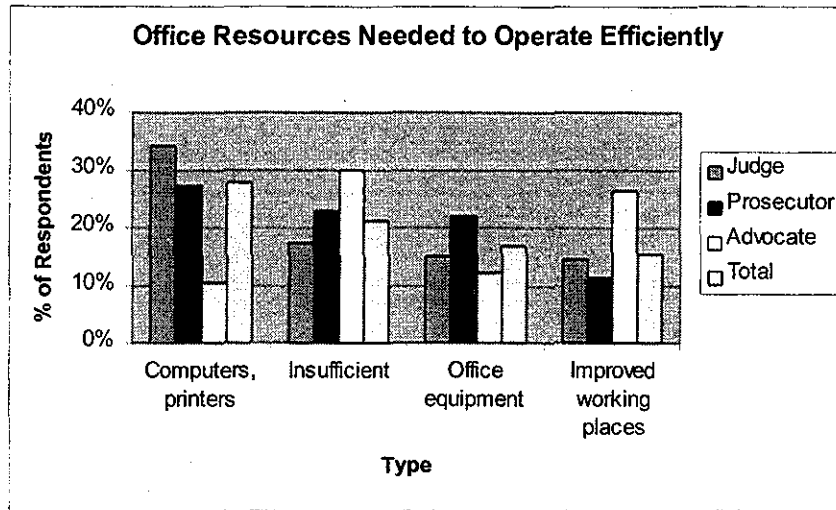
Figure 5.1A. (N=295)



Office resources needed to operate efficiently included primarily computers and printers, followed by other office equipment, and improved working places. Additionally, respondents reported "insufficient" office resources overall. This was particularly true for advocates, who expressed less need for computers, printers, and office equipment, but report "insufficient" resources overall as well as the need for improved work places. (See figure 5.2A) Overall, this trend is mirrored when responses are broken down by region with the exception that respondents from the East reported a higher need for office equipment in general while the concern for the facility conditions was the lowest in the Central region.

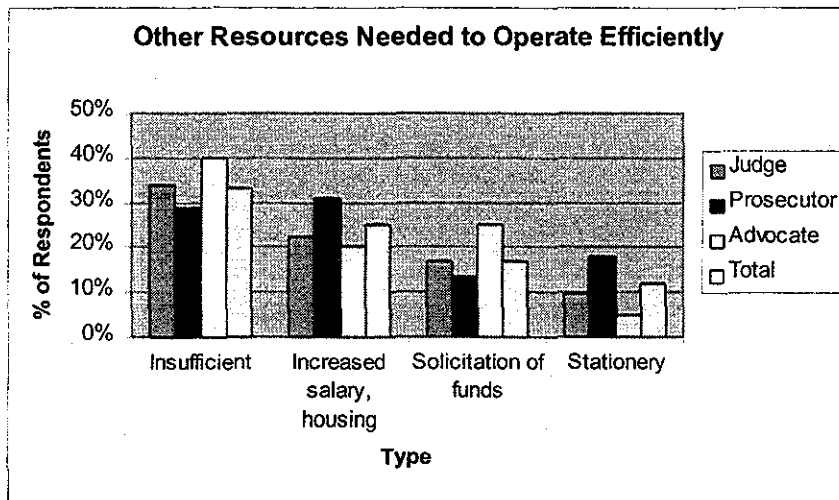
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Figure 5.2A. (N=338)



Other resources needed to operate efficiently included increased salary, housing, other funds, and stationery. Over 30% of all respondents reported that other resources needed to operate efficiently were "Insufficient". By profession, Prosecutors report a greater need for increased salary and housing, and Advocates for other funds. It is notable that almost 20% of prosecutors mentioned that the lack of stationary impeded their ability to operate efficiently. (See figure 5.3A)

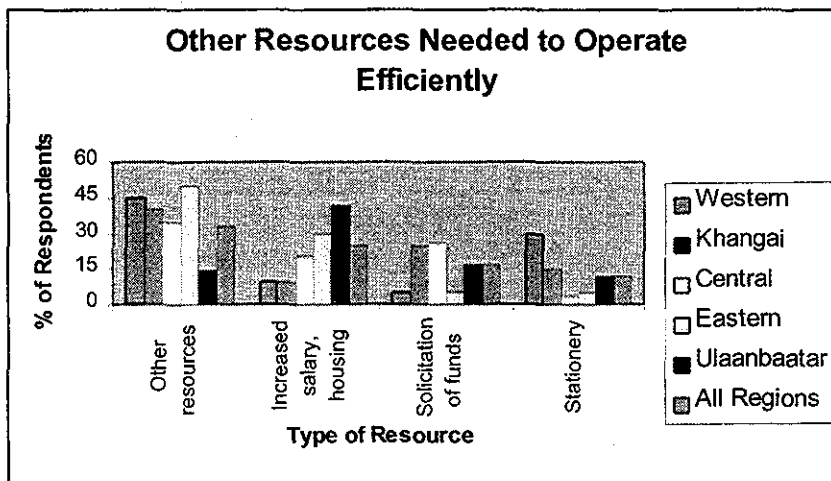
Figure 5.3A. (N=136)



These overall trends could also be observed in the various regions. The few variations expressed are not surprising. Those from Ulaanbaatar reported the highest need for increased salary and housing support and 30% of those from the West lacked basic resources such as stationary. (See figure 5.3B).

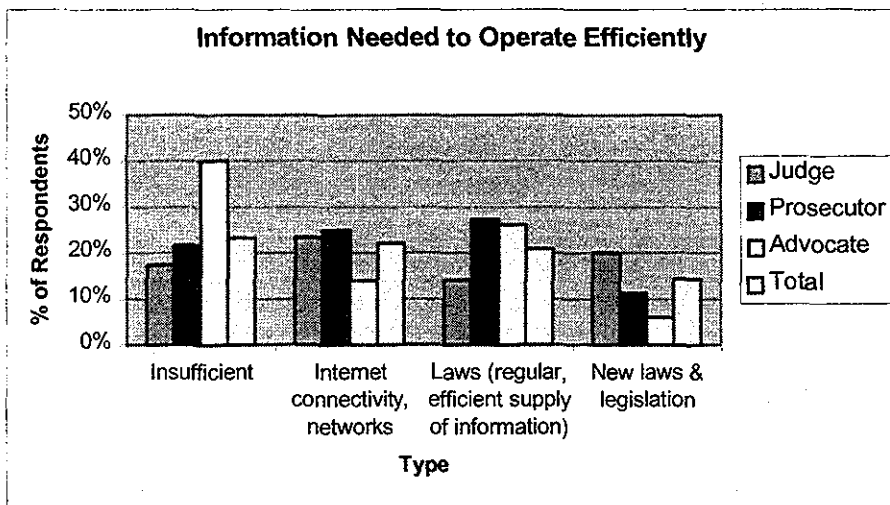
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Figure 5.3B. (N=136)



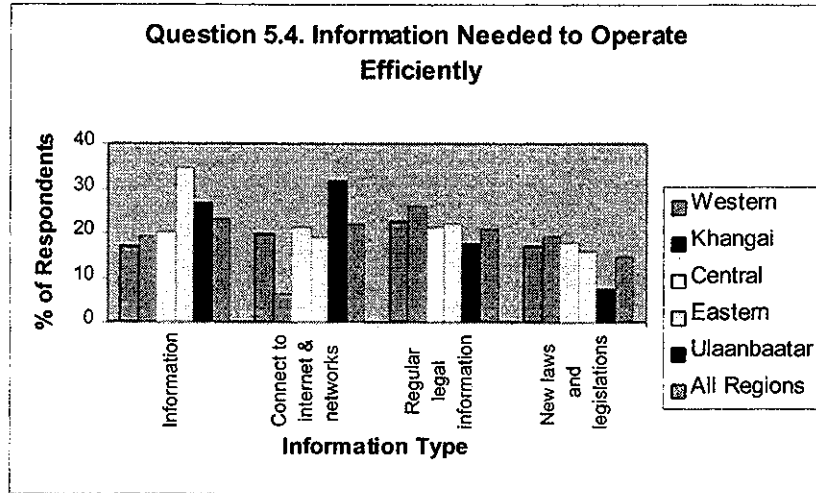
Information needed to operate efficiently included Internet connectivity, networks, and an efficient supply of information about current laws, new laws and legislation. Over 20% of all respondents reported that information needed to operate efficiently was "Insufficient". Few differences exist by profession between Judges and Prosecutors other than the fact that prosecutors indicate a higher need for regular information on current laws while judges stressed access to new laws and legislation. Advocates, on the other hand, reported insufficient information more frequently, but less a need for Internet connectivity, networks and information on new laws and. (See figure 5.4A)

Figure 5.4A. (N=258)



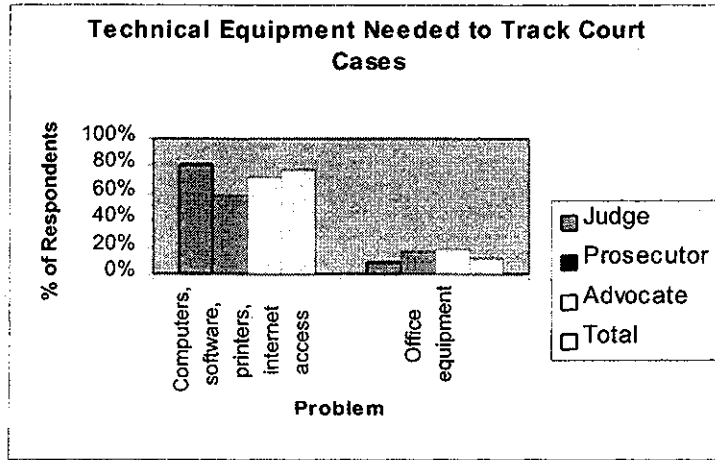
Among respondents from different regions those from the East were most likely to require more information in general. Ulaanbaatar respondents are somewhat more likely to indicate a need for Internet connections, which was rarely mentioned by those from the Khangai region. This may well be an indication of lack of expose to the Internet. Access to new laws and legislation was the least frequently mentioned by respondents from Ulaanbaatar. (See figure 5.4B)

Figure 5.4B. (N=258)



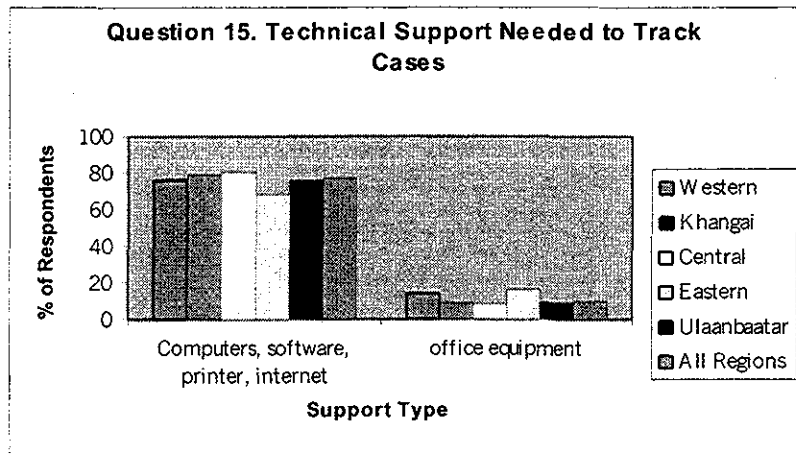
Respondents were further asked what technical equipment they needed to better keep track of court cases. Independent of the profession and region, computers, software, printers, and Internet access were mentioned most frequently. (See figure 15.1A and B)

Figure 15.1A. (N=239)



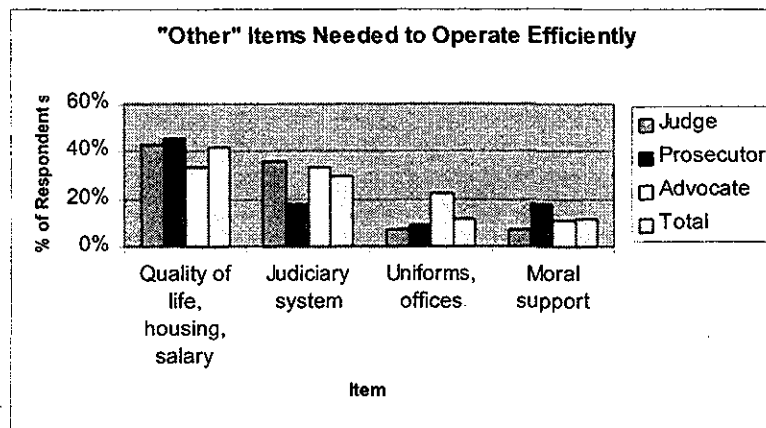
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Figure 15.1B. (N=239)



Other items mentioned that are needed to operate efficiently included items to improve the quality of life, housing, and salaries, followed by judiciary system support (which was less frequently mentioned by prosecutors, better access to uniforms and offices, and moral support. Prosecutors reported more frequently than other professions that they needed moral support. Advocates mentioned access to proper office space more often than any other profession. This can possibly be attributed to the fact that the advocates were at one time housed in the court buildings. (See figure 5.7A). The quality of housing was a particular concern for respondents in the Khangai region. Respondents from the West reported the highest need for support for the judicial system and moral support for most frequently requested by legal professionals from the East. It is important to mention that the responses in this category are relatively low and may not be representative.

Figure 5.7A. (N=34)

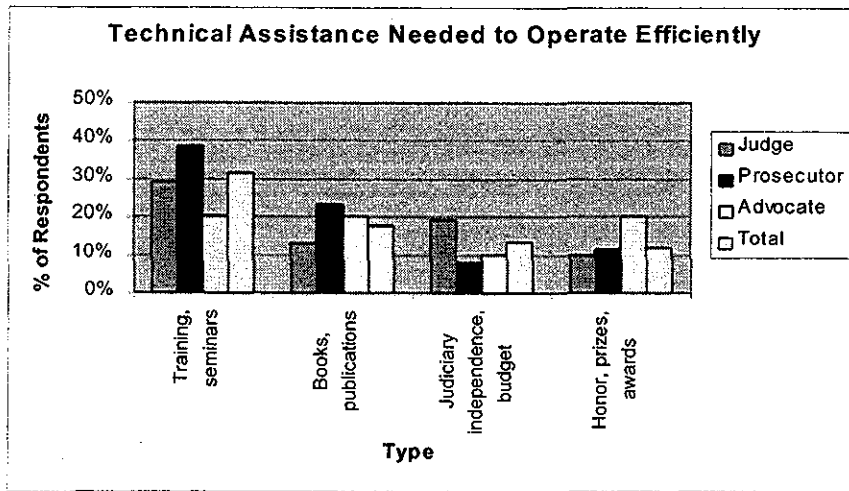


Technical Assistance Needs

When asked for their technical assistance needs to operate efficiently respondents mentioned primarily training and seminars, followed by books and publications, support to achieve judiciary independence and budget assistance, as well as incentives through honors, prizes, and awards. By profession, Prosecutors reported primarily a need for training and publications. Advocates mentioned training, publications and prizes/awards. Judges mentioned primarily seminars, followed by support for judicial independence and publications. (Figure 5.5A)

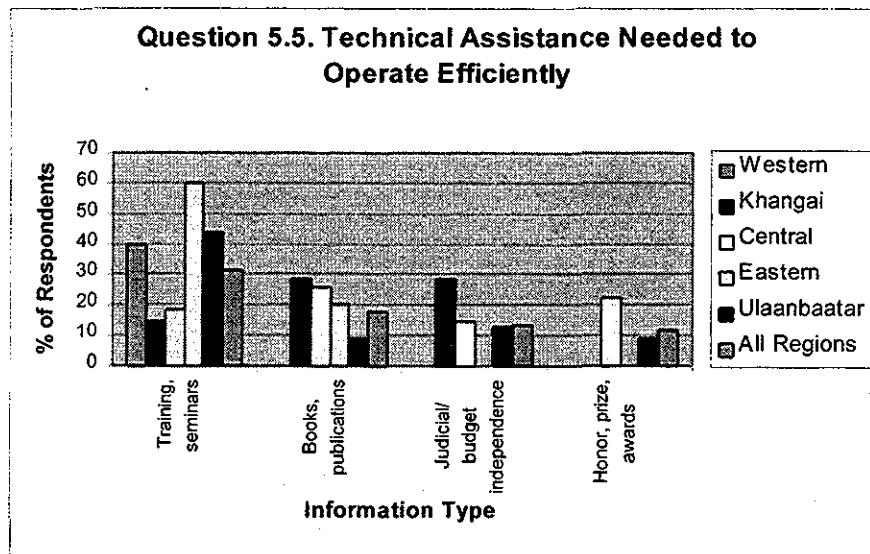
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Figure 5.5A. (N=67)



Requests for various types of technical assistance differed significantly between various regions. Training was most frequently mentioned by those from the East, Ulaanbaatar and the West. Training was the only type of technical assistance mentioned by respondents from the West. (See figure 5.5B).

Figure 5.5B. (N=67)



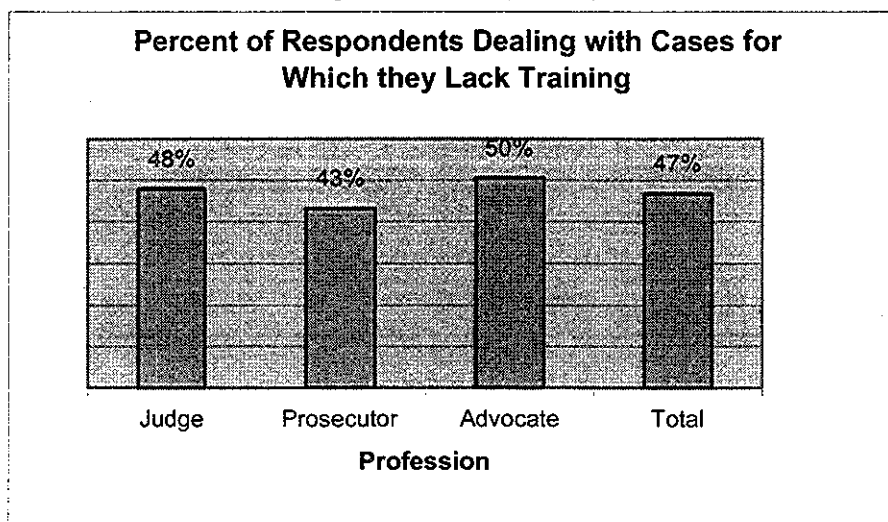
Training Needs

In order to identify the most urgent training needs, respondents were asked to identify if there had been any particular types of cases that they had dealt with over the past year that they felt they were not well trained.

On average, close to half of all respondents had been in situations during the past year where they felt that they were lacking training to handle a particular case or situation appropriately. Prosecutors generally were more confident in their own abilities than were judges or advocates. (See figure 3.1A)

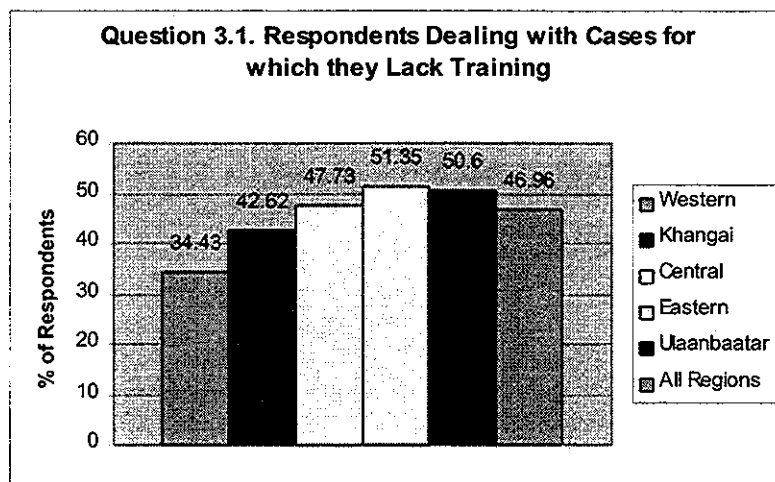
97

Figure 3.1A. (N=495)



Among respondents from different regions, those from the West were the least likely to report lack of training to handle the types of cases they had dealt with over the past year. The highest need for training was expressed by respondents from the East and from Ulaanbaatar. While the high need for training reported by those from Ulaanbaatar could be explained by the larger variety of cases and higher complexity legal professionals in Ulaanbaatar may be facing, it is difficult to explain the difference between those located in the West and other regions. (See figure 3.1.B). On the other hand, when later asked for which type of cases they needed training, those from the West were said they need training for all types of cases, indicating that they may be handling a more limited range of cases in their courts. (See figure 3.2B).

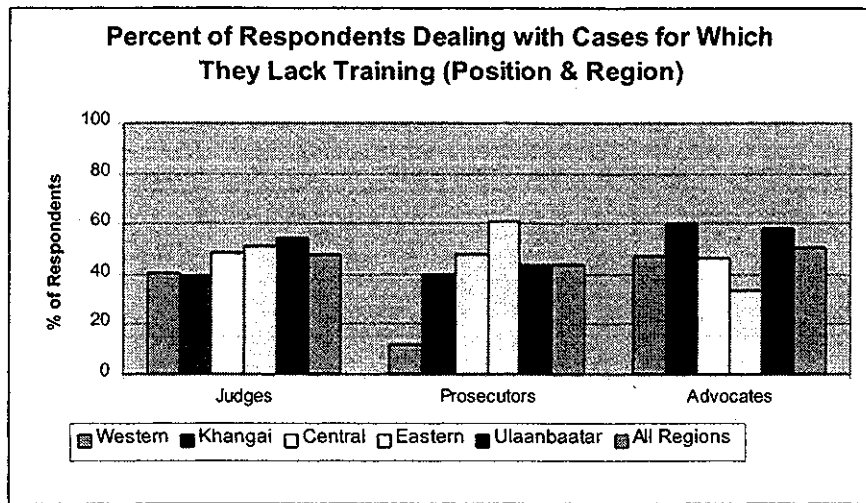
Figure 3.1B. (N=494)



When responses by profession from different regions are compared, prosecutors and judges generally follow the overall trend. Advocates, however, differ, those from the East report the least need for training. (Need to rephrase) (See figure 3.1C).

43

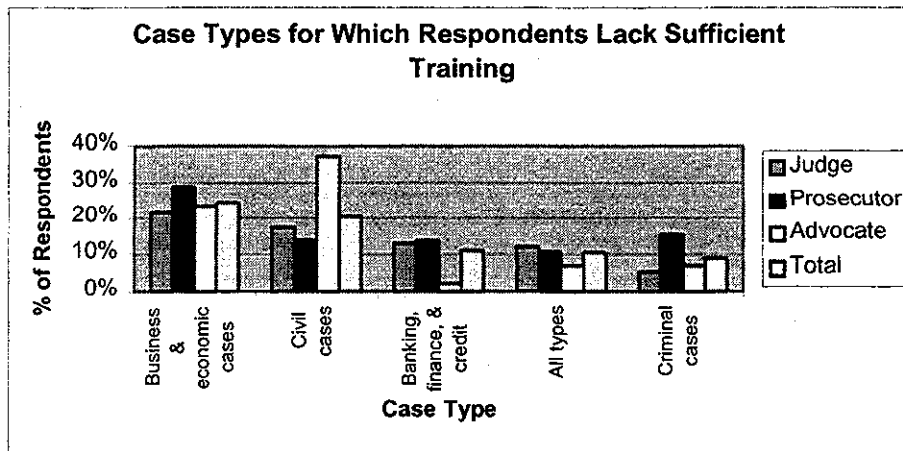
Figure 3.1C.



When asked for what type of cases they felt they were lacking training, respondents mentioned business and economic (24%), civil (20%), banking, finance and credit (11%),³ all types (10%), and criminal (9%) cases.

Some of the results could be expected. For example, advocates were far more concerned about lack of training for civil cases than either judges or prosecutors; prosecutors mentioned lack of training for criminal cases more often than the other professions. It is surprising though, that prosecutors were most concerned about training for business and economic cases, while advocates reported little concern for training for banking, finance and credit cases. (See figure 3.2A)

Figure 3.2A. (N=202)

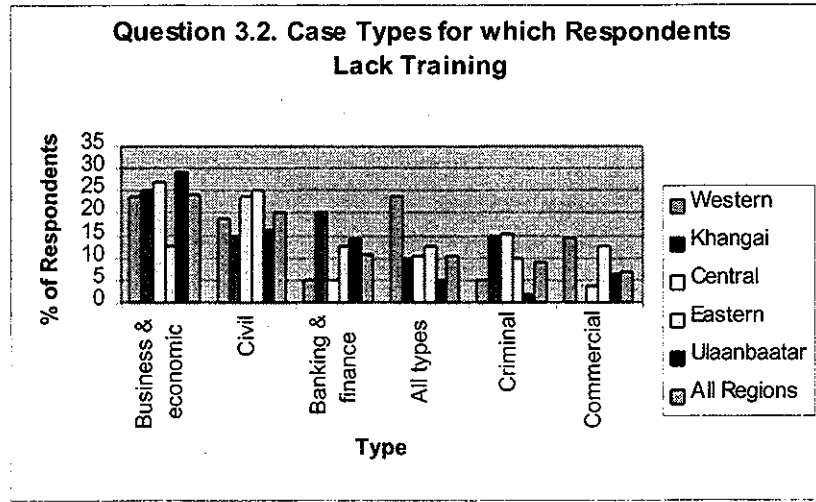


Few notable differences exist by region. Those in the Eastern region are less likely to state that they lack training for business and economic cases, possibly a result of not having to deal with these types of cases frequently. Interestingly, those in the Khangai are more likely to lack training for banking and finance cases. Surprisingly, those in West are more likely to state that they lack training for all types of cases they handled over the past year. While they are less likely to report lack of training than respondents from any other region (see figure 3.1.B), they lack training in

³ Banking, finance, and credit cases could be considered a subset of business and economic cases.

general. I am not sure what you are trying to say; perhaps the sentences need to be shorter and more direct. (See figure 3.2B)

Figure 3.2B. (N=202)

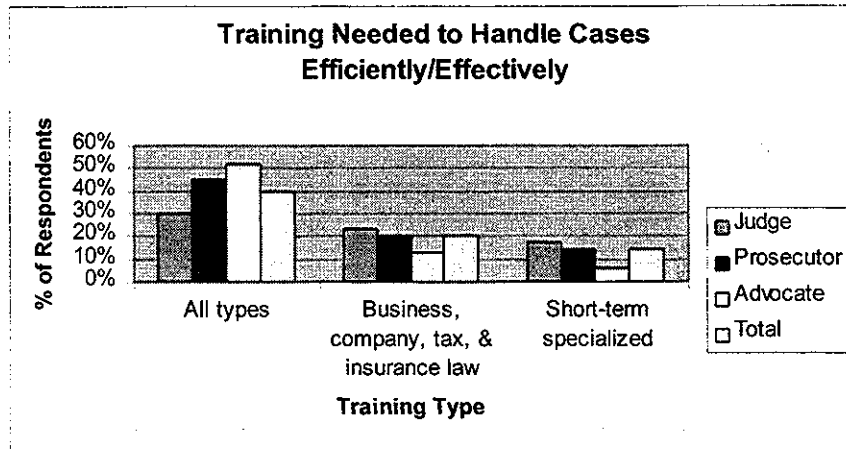


Type of Training Needed

Considering the case types that respondents had identified as lacking training; it is not surprising that a high need for training in business, tax, and insurance law was mentioned. Still, the most frequent response was the need for all types of training.

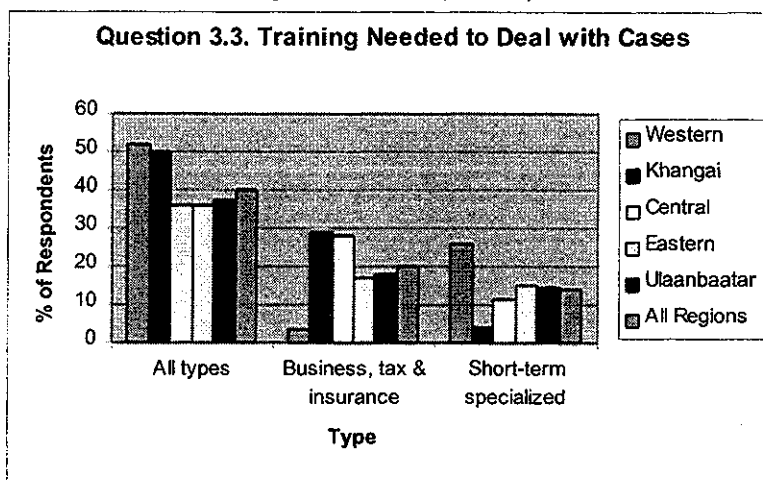
Among the different professions, Judges requested all types of training less frequently than Prosecutors or Advocates. Advocates indicated a need for all types of training most frequently. (See figure 3.3A)

Figure 3.3A. (N=236)



Respondents from the West and Khangai regions were more likely to express a need for all type of training. Those from the Khangai and Central region reported a particular high need for business, tax and insurance law. Respondents from the West were especially interested in short-term, specialized training. (See figure 3.2B)

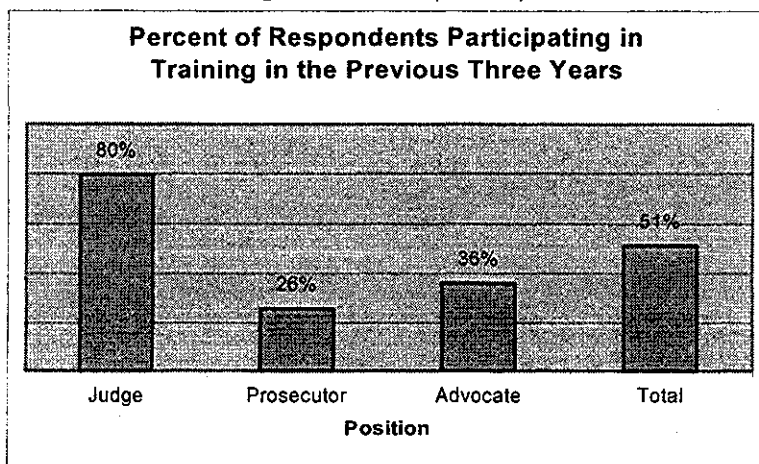
Figure 3.3B. (N=236)



Previous Training Exposure

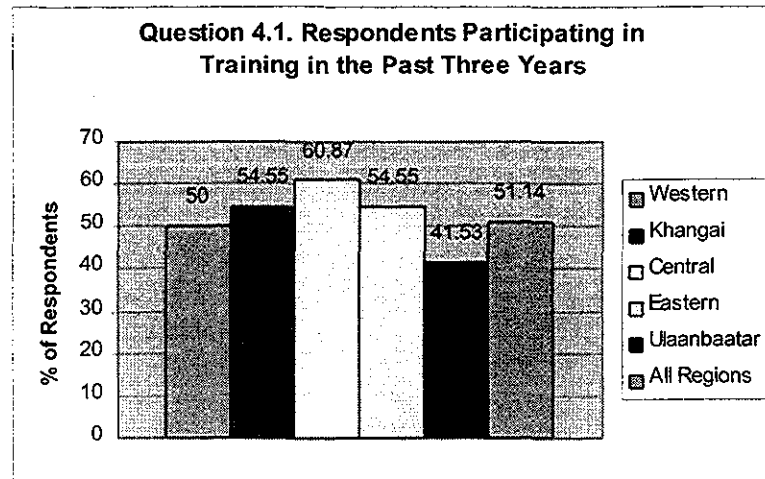
In order to identify exposure to training survey respondents were asked if they had participated in any training programs in the last three years. Half of all respondents had participated in some form of training in the past three years. Judges (80%) were more than three times as likely as Prosecutors (26%) and more than twice as likely as advocates (36%) to have received some form of training over the past three years. (See figure 4.1A)

Figure 4.1A. (N=529)



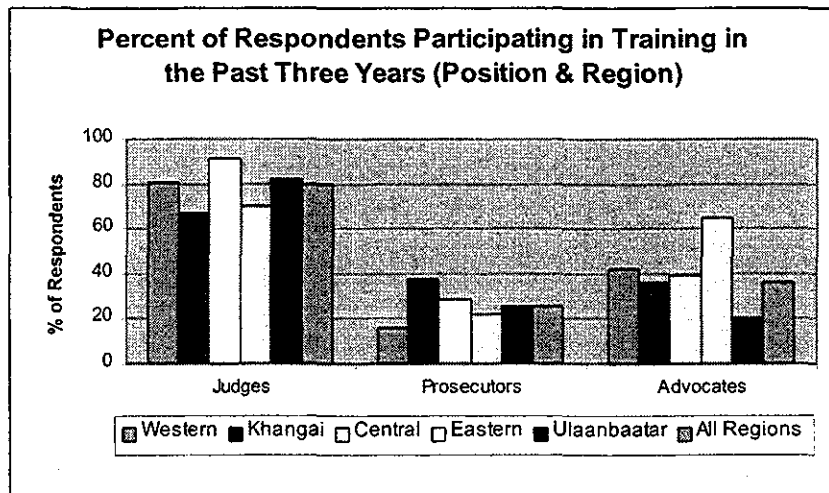
Overall, those in the Khangai region are somewhat less likely to have received training (50%), while those in the Central region seem to have received more training than others (61%). It is surprising that the least exposure to training was reported by respondents from Ulaanbaatar (42%). (See figure 4.1B).

Figure 4.1B. (N=528)



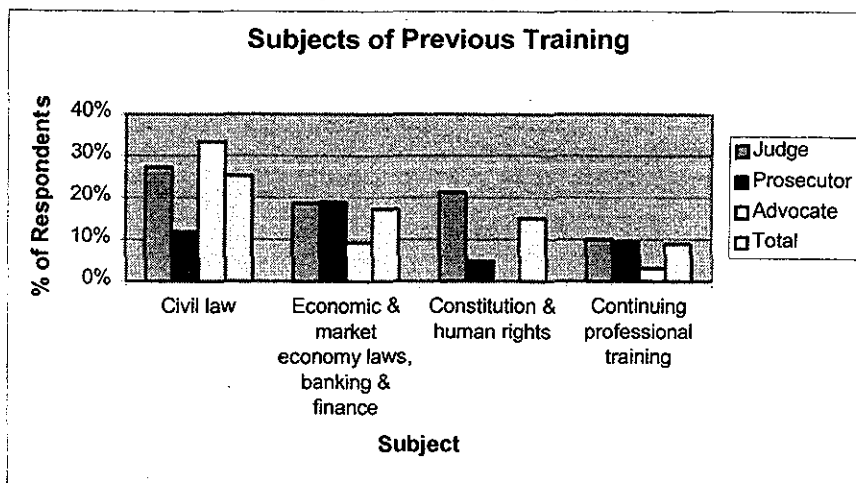
When broken down by both position and region, judges from Khangai and the East report the least amount of training received, even though in both regions close to 70% of the judges received some training. Among advocates, those from the Eastern region received the most training (63%), among prosecutors, those from Khangai received more training than other prosecutors (almost 42%). (See figure 4.1C).

Figure 4.1C.



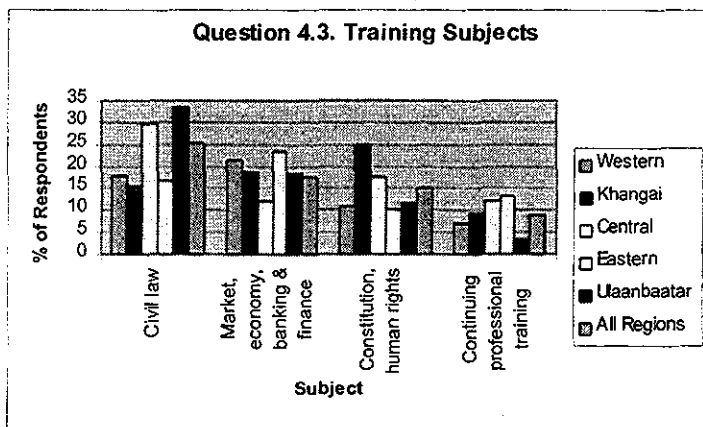
The most frequently reported training subjects included civil law, economic and market economy laws, banking and finance, Constitution and human rights issues, and just general continuing professional education topics. Breakdowns by profession reveal that Prosecutors were more likely to have received training in economic law, banking and finance than in general civil law or constitution and human rights issues, both of which are of higher importance for this profession. Problematic is also the fact that Advocates reported having received no training in constitutional/human rights issues. (See figure 4.3A)

Figure 4.3A. (N=225)



There are few important differences reported by respondents from various regions. General civil law training was reported most frequently by respondents from Ulaanbaatar and the Central region. Special civil law training related to market economy topics was reported most frequently in the East and West, and constitutional/human rights training most frequently in the Khangai region. (See figure 4.3B).

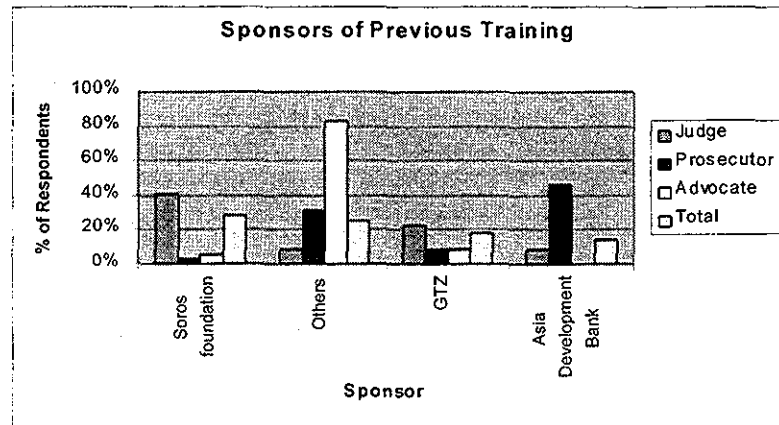
Figure 4.3B. (N=224)



Judges constitute the majority of those who attended Soros Foundation- and GTZ-sponsored training. Advocates attended training sponsored by organizations other than those listed (see References). Training by the Asia Development Bank (through the LRC) was reported primarily by Prosecutors, advocates reported receiving training primarily by other training providers. (See figure 4.4A)

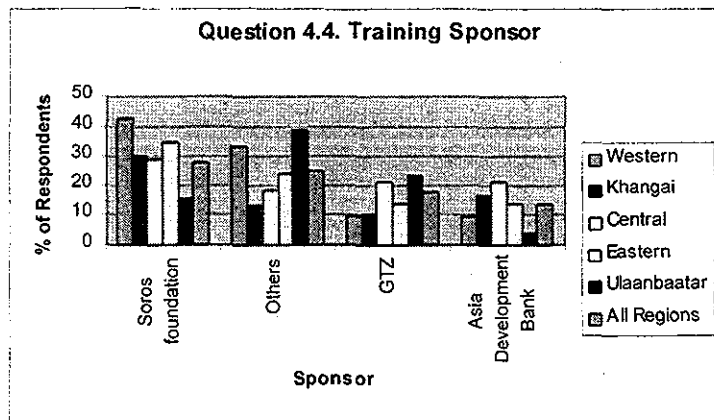
103

Figure 4.4A. (N=204)



Despite a high concentration of training held in Ulaanbaatar, the training conducted by foreign donors mentioned all achieve a good representation of participants from all regions. (Unclear?) (See figure 4.4B).

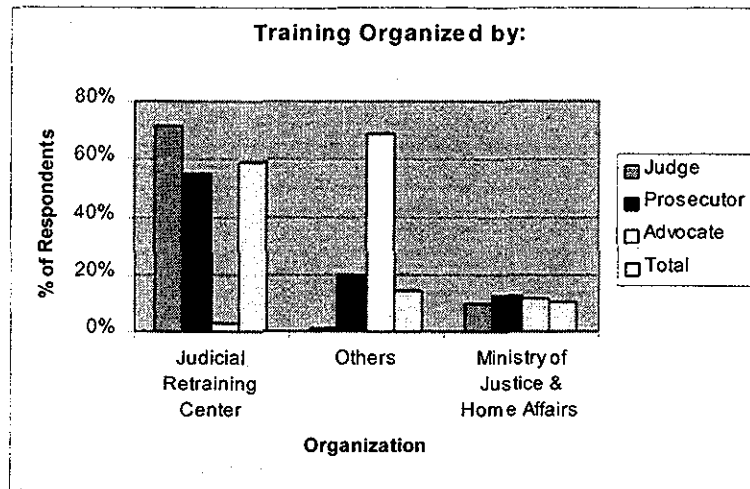
Figure 4.4B. (N=204)



When asked which organization organized the training, Judges and Prosecutors participated overwhelmingly in training organized by the Judicial Retraining Center, whereas Advocates attended training by other organizations. About 10 percent of the respondents participated in training organized by the Ministry of Justice and Home Affairs. Again, it is notable that Advocates are being served by organizations others than those who are providing training for the rest of the court community. (See figure 4.5A)

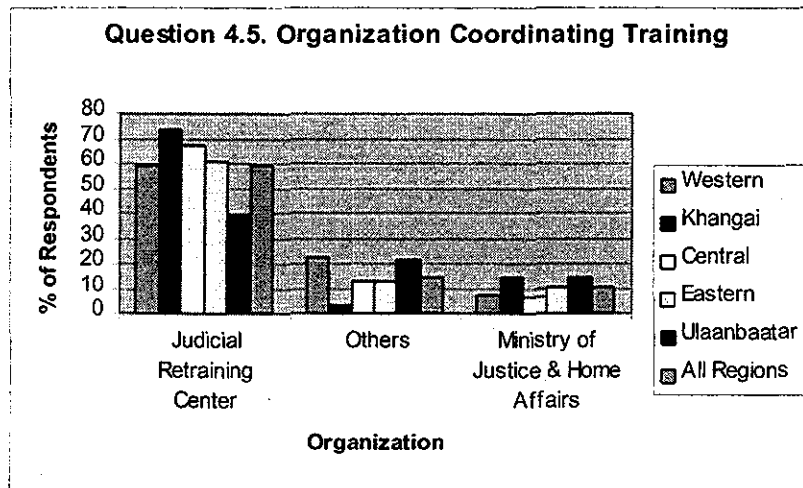
104

Figure 4.5A. (N=240)



Further, despite a concentration of training in Ulaanbaatar, all training organizers included a good spread of participants from all regions. (See figure 4.5B).

Figure 4.5B (N=239)

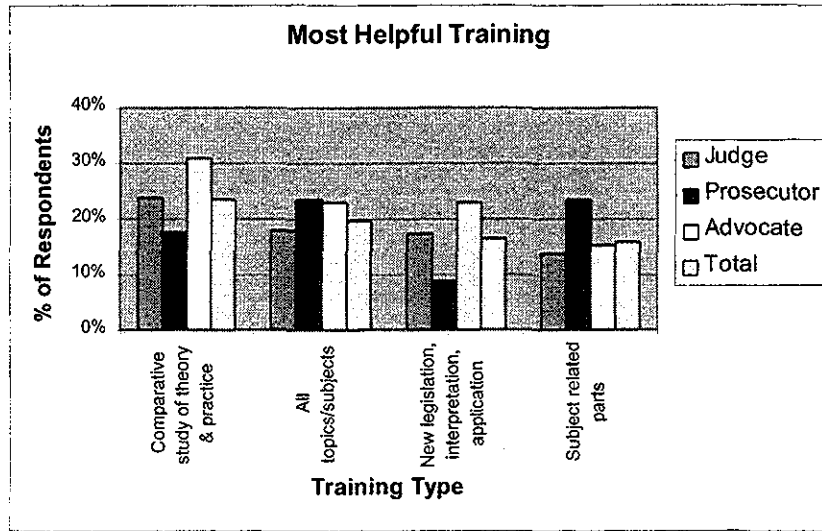


Most Helpful Training

Survey respondents were further asked about the most helpful aspects of the training they had received. Overall, comparative study of theory and practice, as well as new legislation and its interpretation and application was most frequently mentioned. It is important to note that Prosecutors mentioned "subject related parts", i.e. applied special topics training as the most helpful training component. (See figure 4.6A)

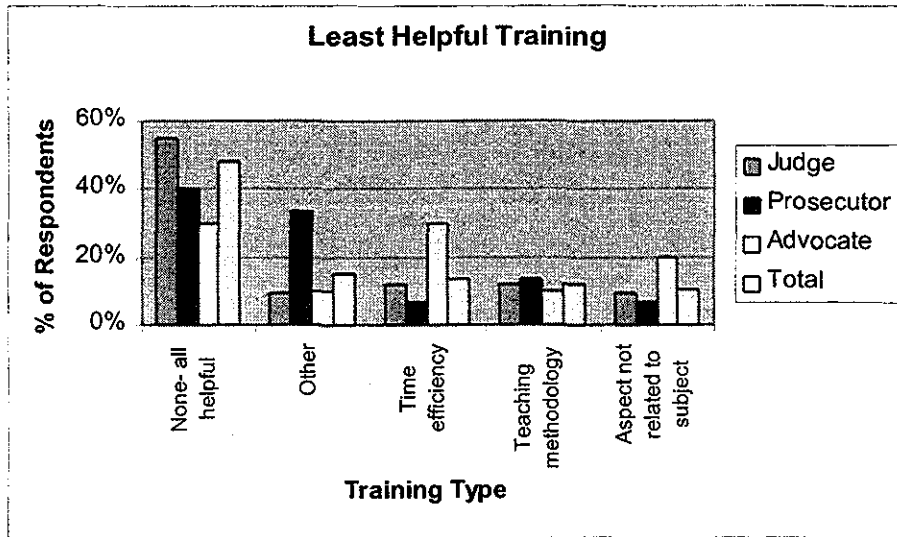
105

Figure 4.6A. (N=182)



Considering the high need for training overall, it is not surprising that the most frequent response to the question "What parts of the training were the least helpful?" was "all were helpful." Almost one-third of the Advocates reported that time management training was not helpful. Less reported but equally divided responses included teaching methodology and aspects not related to the training subject. (See figure 4.7A).

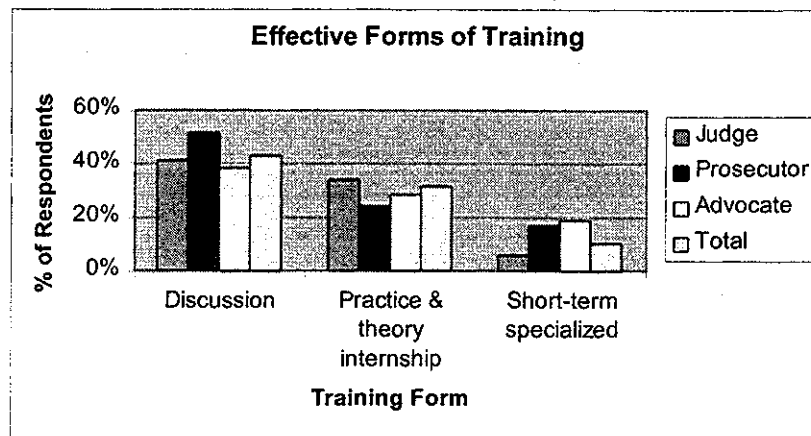
Figure 4.7A. (N=67)



Survey respondents indicated that the most effective forms of training included discussions, followed by practice and theory internships. Few differences exist by profession, although Judges were less likely to report short-term specialized training as effective. Prosecutors were most likely to report discussion as an effective training methodology. (See figure 4.8A)

106

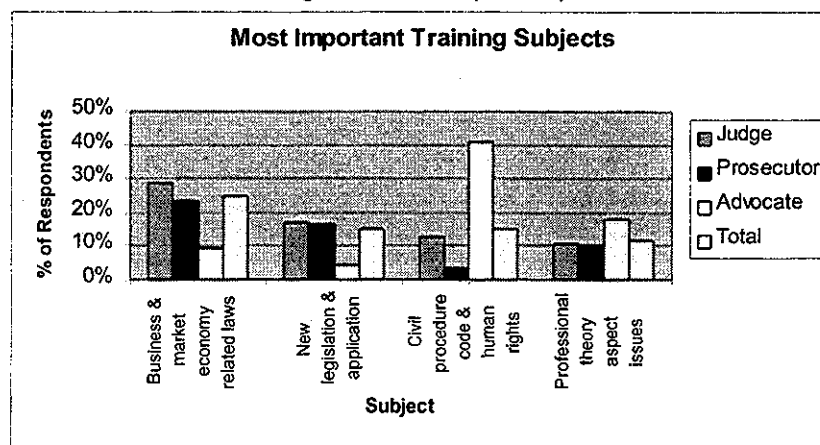
Figure 4.8A. (N=147)



Most important training

The subjects reported most frequently for training include business and market economy related laws, new legislation and its application, civil procedure code, human rights, and professional theory aspect issues. Advocates focused more on civil procedure code and human rights, whereas Judges and Prosecutors focused more on business and market economy related laws, followed by new legislation. Prosecutors were less likely to report that civil procedure training was important. (See figure 4.9A)

Figure 4.9A. (N=146)



A few differences exist among respondents in various regions. Those in the East considered training in business and market economy laws most important while they placed little importance on professional theory. In contrast, those from the Khangai deemed professional theory highly important. Little importance was placed by respondents from the West and Khangai region on training on new legislation. (See Table 3)

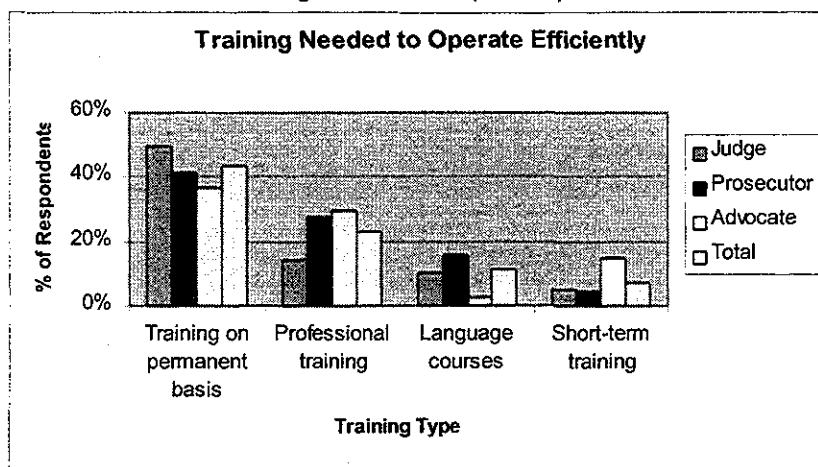
107

Table 3: Most needed training topics by region (n = 145)

Training Topic	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
Professional theory	15%	29%	12%	0	8%	12%
Applying new legislation	5%	0	18%	25%	19%	15%
New legal subjects	10%	0	6%	5%	11%	7%
Civil procedure code, human rights	25%	6%	18%	10%	14%	15%
Criminal law, related legislation	0	0	4%	0	8%	3%
Business & market economy law	25%	29%	22%	40%	19%	25%
International practice	5%	6%	8%	0	11%	7%
Rehabilitation of reputation	0	12%	0	5%	0	2%
Commercial law, finance, taxes	10%	18%	8%	10%	8%	10%
Money laundering	0	0	2%	5%	3%	2%
Administration, management	0	0	2%	0	0	1%
Judicial independence	5%	0	2%	0	0	1%
Total	100%	100%	100%	100%	100%	100%

Training was also mentioned as one area where technical assistance was needed. Respondents were most concerned about access to training on a permanent basis, followed by professional training, language courses, and short-term training. Advocates reported less need for language training courses. Overall, short-term training was the least needed type of training mentioned. Similar trends can be observed when the responses are broken down by region. (See figure 5.6A)

Figure 5.6A. (N=201)



When asked for suggestions to improve the quality of training, the most frequently reported suggestion (particularly by Advocates) was to systematically include education on new legislation. Other suggestions included the addition of computer courses, training management by a professional organization, and the addition of new subjects and short-term specialized training. (See Table 4).

108

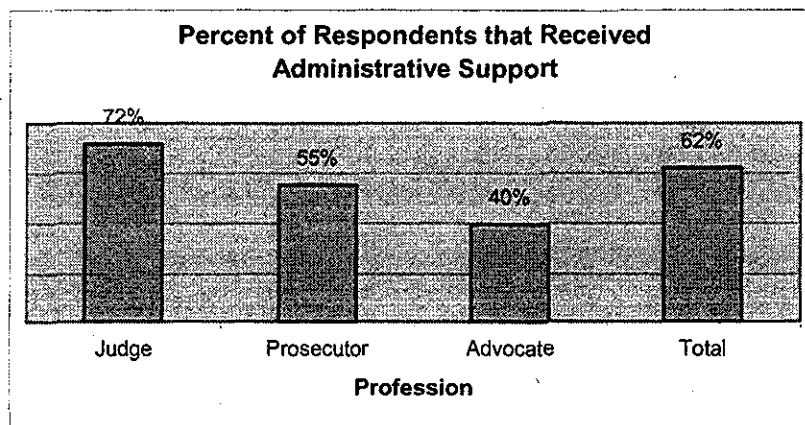
Table 4: Suggestions to improve the quality (N=161)

Suggestion	Judge	Prosecutor	Advocate	Total
Organized by professional organization	14%	8%	3%	11%
Improved training material needs, resources	7%	8%	3%	6%
Include new subjects	10%	8%	13%	10%
Systematic new legislation application instruction	27%	40%	55%	35%
Include study tours	3%	10%	6%	6%
Include related training materials, manuals	3%	10%	10%	6%
Include short-term specialized training	12%	8%	6%	10%
Include language courses	8%	0	0	4%
Include computer courses	16%	10%	0	11%
Other		0	3%	1%
Total	100%	100%	100%	100%

Administrative support

In response to the questions "Did you get the administrative support you needed to handle all types of cases that you dealt with last year efficiently?" Overall, 62% responded in the affirmative. Judges reported a higher level of administrative support. Only 55% of all prosecutors who participated in the survey thought they received the administrative support needed. Not surprisingly Advocates reportedly received the least support.

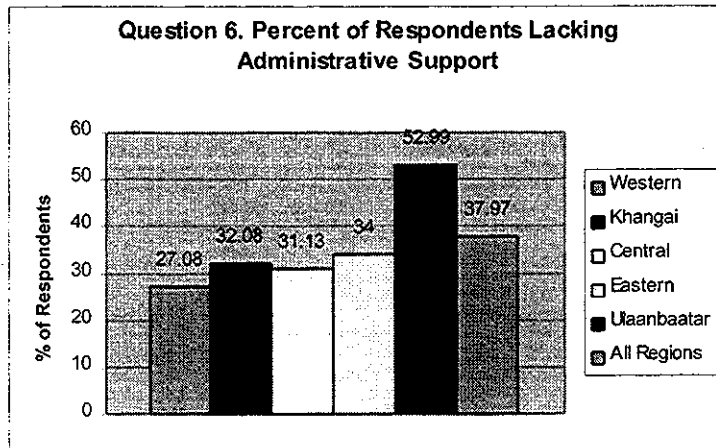
Figure 6.1A. (N=374)



Those in the Western regions reported lacking administrative support most frequently. Still, their responses did not differ much from those from other regions outside Ulaanbaatar. Overall all legal professionals from Ulaanbaatar report the highest need for administrative support (53%). With the exception of prosecutors in the West and Central regions, and advocates in the West and Khangai regions who reported surprisingly high administrative support, breakdowns by profession in the regions follow the overall trends. (See figure 6.1B)

109

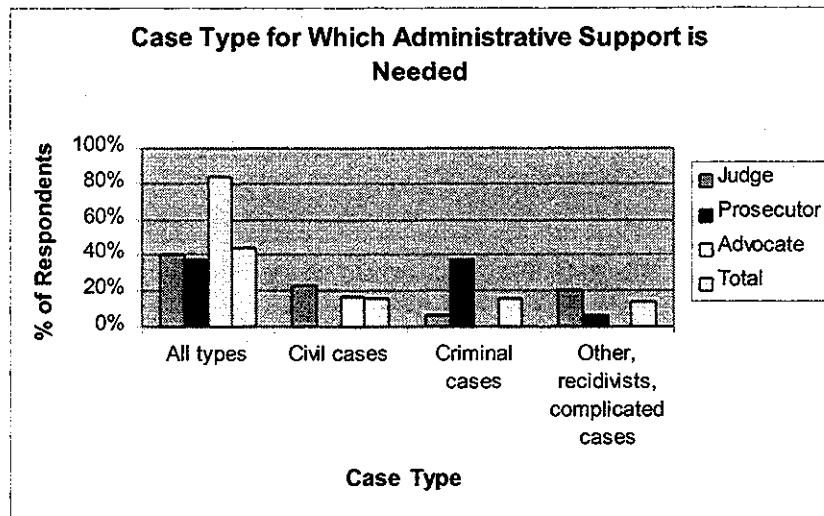
Figure 6.1B. (N=374)



Type of Cases for which administrative support is needed

When asked for what type of cases they were lacking administrative support, most answered "For all types of cases". Not surprisingly prosecutors mentioned criminal cases with similar frequency but did not mention civil cases. Over 80% of Advocates choose the option "for all types of cases", the rest choose civil cases. Judges mentioned lacking administrative support for criminal cases less often than for all types of cases, civil and other, recidivists, and complicated cases. (See figure 6.2A)

Figure 6.2A. (N=52)

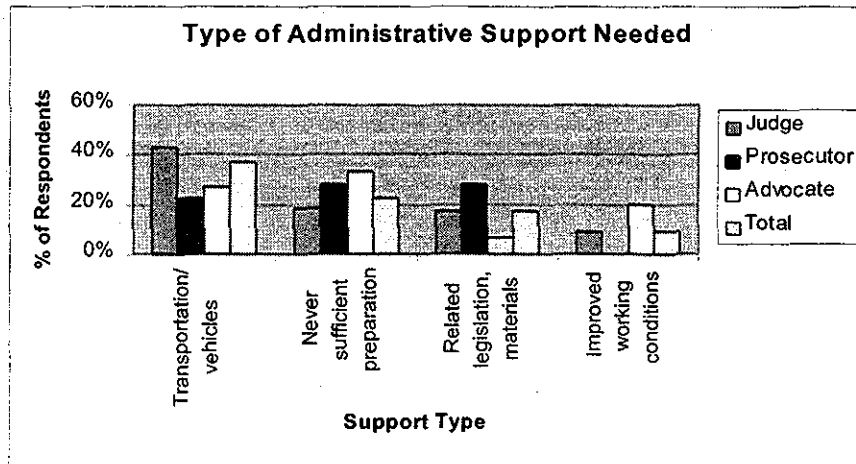


Type of Administrative Support Needed

The administrative support needed to handle cases includes transportation and vehicles, related legislative materials, and improved working conditions. Over 20% of all respondents reported that there is never sufficient administrative support for the proper preparation of cases. Naturally this is of particular concern for prosecutors and advocates more than for judges. Lack of transportation was another issue frequently mentioned, particularly by Judges. Prosecutors were further lacking relevant legislation and related material. (See figure 6.3A)

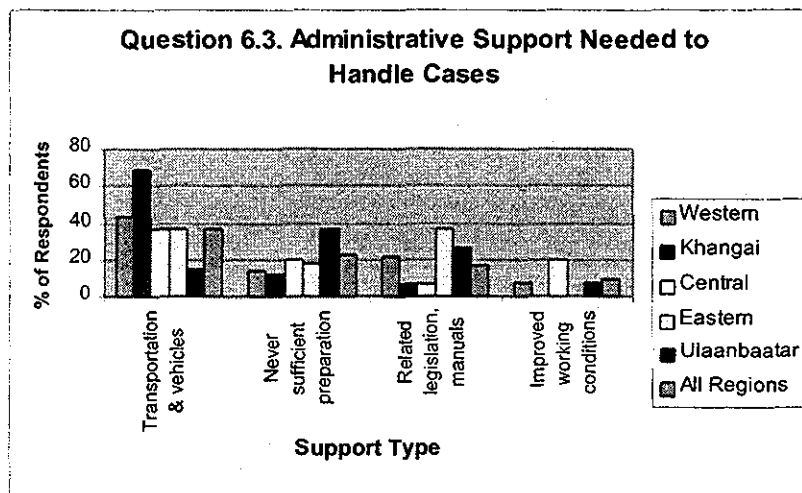
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Figure 6.3A. (N=98)



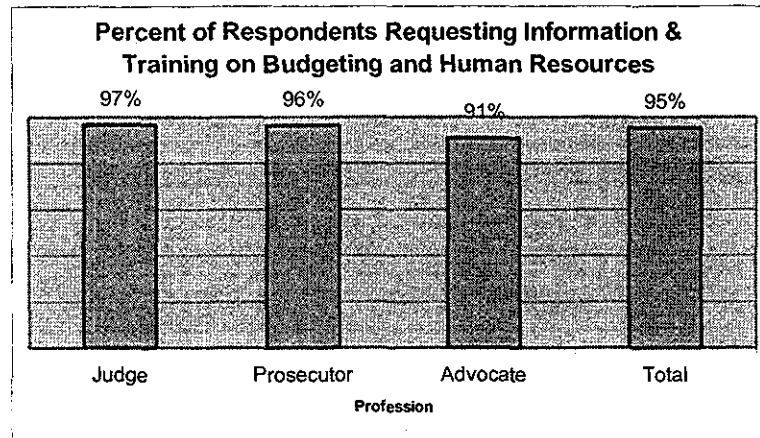
As can be expected, the need for transportation was less frequently reported by respondents from Ulaanbaatar than from any other region. Particularly respondents from the Khangai region (68%) stated a need for transportation vehicles. Respondents from Ulaanbaatar were most likely to report insufficient support to prepare for cases than those from other regions, while lack of access to relevant legislation and related materials was most frequently mentioned by those from the East. (See figure 6.3B)

Figure 6.3B. (N=98)



Respondents were asked specifically about technical assistance involving information and training on budgeting and human resources issues. Over 90% of all legal professionals indicated a dire need for this kind of support. (See figure 11.1A)

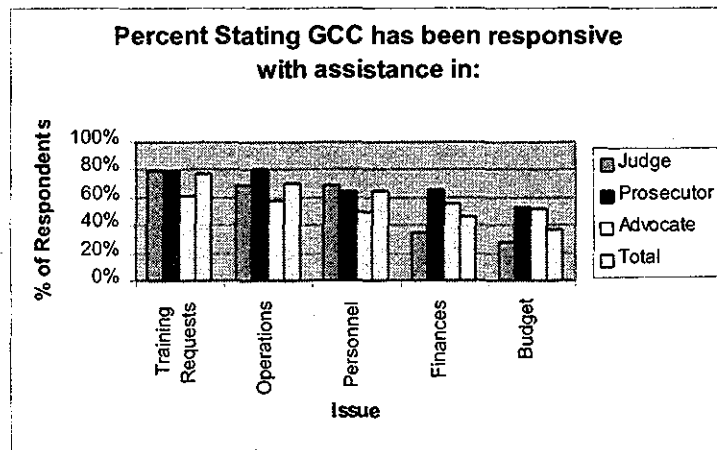
Figure 11.1A. (N=260)



Responsiveness of the GCC

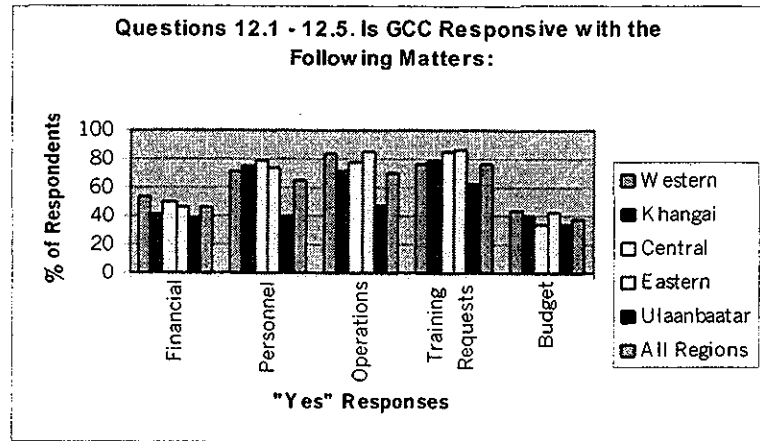
Survey participants were asked about their perception of the responsiveness of the GCC to the courts' needs for training. Overall, one can assume that advocates and prosecutors would have less information about the operations of the GCC and would therefore primarily report their own perception of the availability of the various services the GCC provides to the courts. It is surprising that the majority of Advocates and Prosecutors find the GCC responsive to all issues. All professions perceive a high responsiveness to training requests and operational issues, about 60% mention that the GCC is responsive to personnel issues. Around 50% find the GCC responsive when it comes to financial issues. Responsiveness to financial and budget issues is the lowest for all professions but particularly for judges. Only 30% and 25% respectively of the judges find the GCC responsive to financial and budget issues. (See figure 12.1A) Those from Ulaanbaatar were generally more critical of the GCC than those from other regions. (See figure 12.1.B)

Figure 12.1A. [(N=346, Training), (N=345, Operations), (N=322, Personnel), (N=319, Finances), N=301, Budget)]



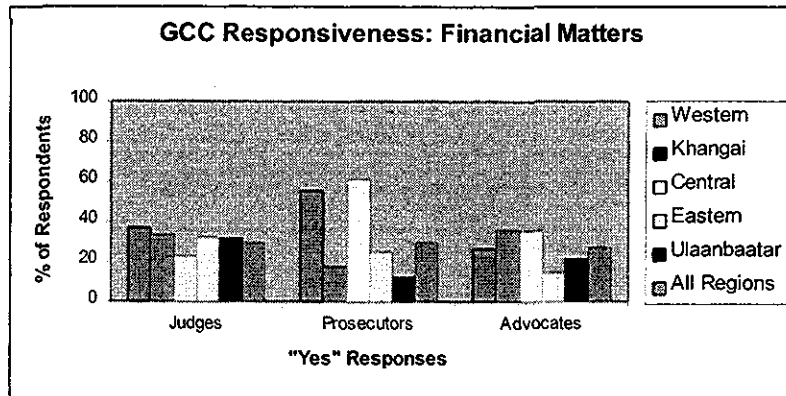
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Figure 12.1B. [(Training, N=346), (Operations, N=345), (Personnel, N=344), (Finances, N=319), (Budget, N=345)]



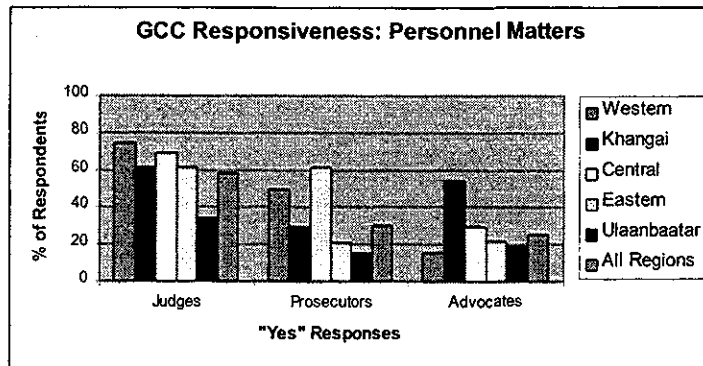
For Financial matters the GCC receives the highest ratings from Prosecutors in the Western and Central region. The GCC receives the lowest ratings from Judges in the Central region, Prosecutors in the Khangai and Ulaanbaatar regions, and Advocates in the Eastern and Ulaanbaatar regions. (See figure 12.1C)

Figure 12.1C.



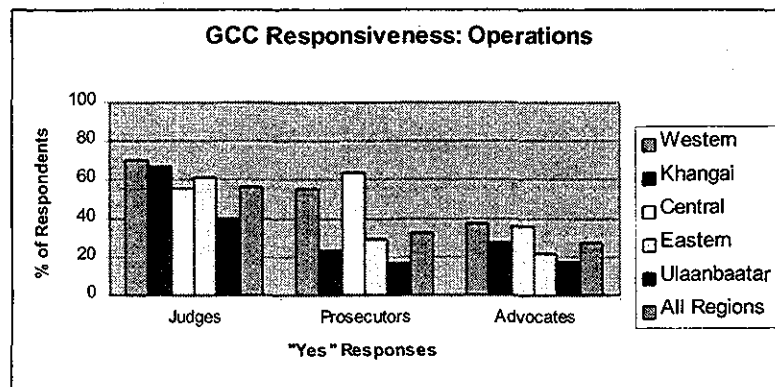
For Personnel matters, the GCC received the lowest ratings from Judges in Ulaanbaatar, Prosecutors in the Khangai, Eastern, Ulaanbaatar regions, and all Advocates, particularly in the Eastern region. (See figure 12.1D)

Figure 12.1D.



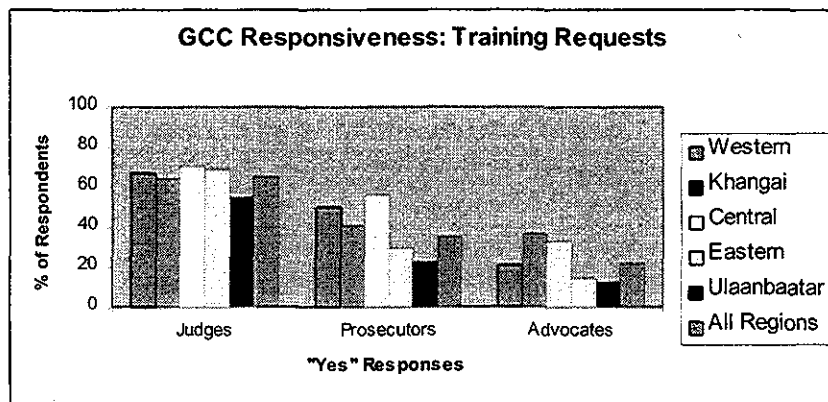
For Operational matters, GCC receives the lowest ratings from Judges in Ulaanbaatar, Prosecutors in the Khangai, Eastern, and Ulaanbaatar regions, and Advocates in all regions. (See figure 12.1E)

Figure 12.1E.



Related to Training Requests, GCC receives the highest ratings from Judges in all regions. The GCC receives the lowest ratings from Prosecutors in the Eastern and Ulaanbaatar regions, and Advocates in all regions. (See figure 12.1 F).

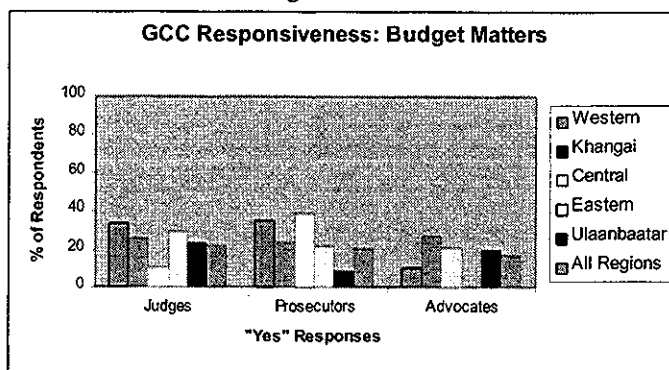
Figure 12.1F.



Regarding the GCC's responsiveness to Budget matters, ratings from all respondents and regions tend to be low. Ratings are somewhat higher from Judges and Prosecutors, with the exception of Judges in the Central region and Prosecutors in the Ulaanbaatar region. (See figure 12.1G)

114

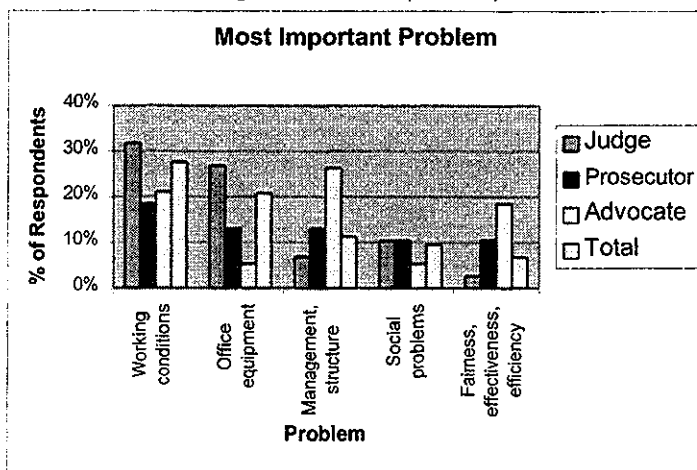
Figure 12.1G.



The most important problem to be solved in the courts

When asked "What is the most important problem to solve in your court?" the most frequent answer was working conditions, followed by lack of office equipment. Respondents' views differed on certain issues. For Judges, the most important problems were working conditions and office equipment. Prosecutors also mentioned working conditions and office equipment most frequently but also had concerns about the management structure, and social security issues. Advocates reported primarily issues related to the management structure of the courts, working conditions, and fairness as the most important problems. (See figure 13.1A)

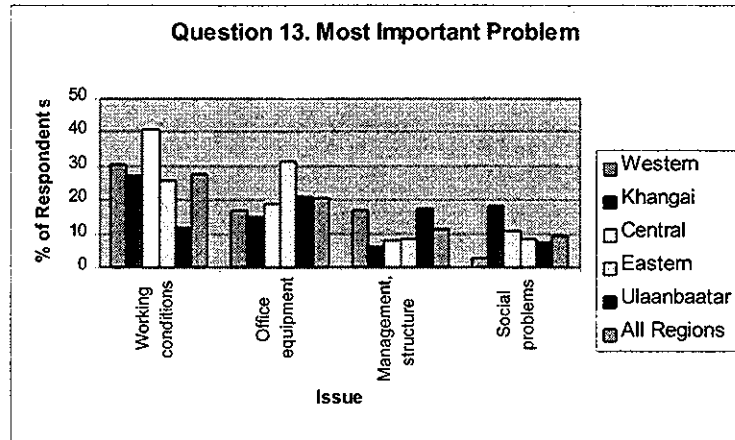
Figure 13.1A. (N=221)



Overall these trends are mirrored in the various regions with some particular variations: Central region respondents were more likely to mention working conditions as the main problem while those from Ulaanbaatar saw this as a less important issue. Eastern region respondents were more likely than others to report needing office equipment. Those from the West and Ulaanbaatar were more likely to report management and structure problems than others, while Khangai region respondents were particularly concerned about social security issues. (See figure 13.1B)

115

Figure 13.1B. (N=220)



Monitoring time limits for case processing

When asked if the Chief Judge of the court monitors the time limits set for case decisions all respondents generally agreed that the Chief Judge of their court did so. Advocates and Prosecutors were somewhat less likely to agree. (See figure 14.1A) No significant differences exist among the respondents from different regions. (See figure 14.1B) However, only 57% of the prosecutors in the Eastern region and only 35% of the advocates in Ulaanbaatar support this statement (See figure 14.1C)

Figure 14.1A. (N=299)

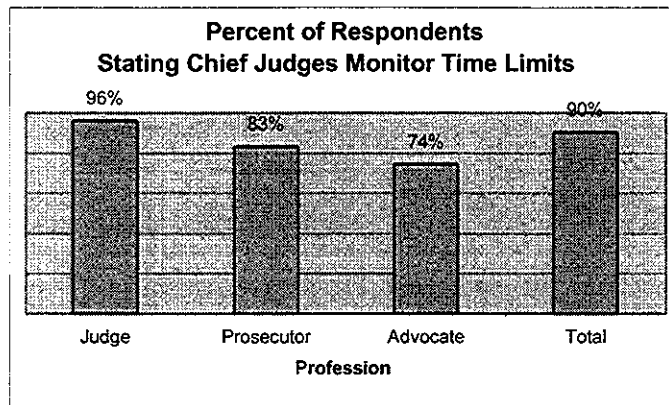


Figure 14.1B. (N=298)

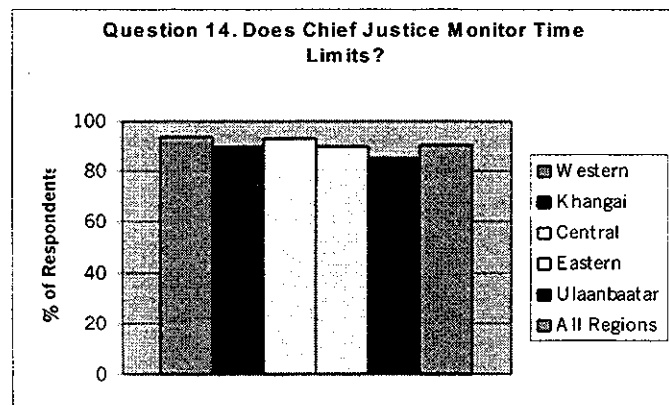
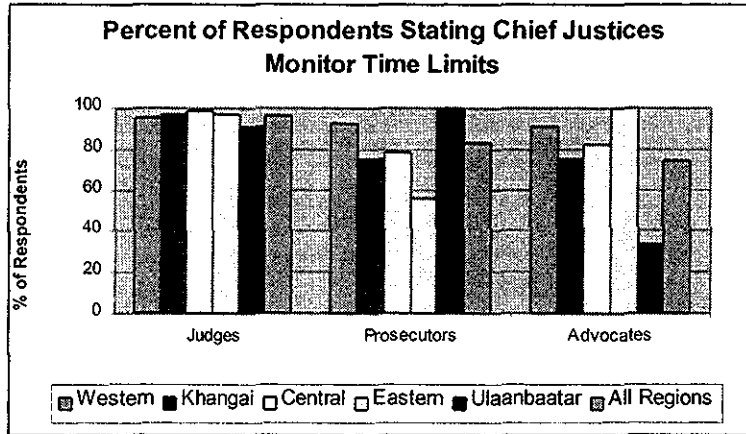


Figure 14.1C.



Part B: Perceptions of Skills of Legal Professionals in the Judicial Sector

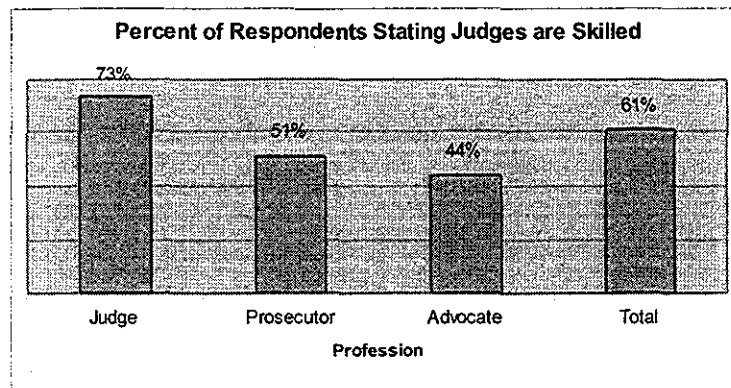
For the second part of the survey judges, prosecutors and advocates were asked to express their opinions about the skills of those operating in the judicial sector. The same questions were asked about judges, prosecutors, and advocates. The purpose of this section is to establish a baseline to assess changes of perception over the time of the project and to gain further insight into the needs of judicial sector professionals.

Skills of Judges

The first question posed to survey respondents was "Do you feel that the Judges operating at this court have the skills to handle all types of cases that have come before them in the past year?"

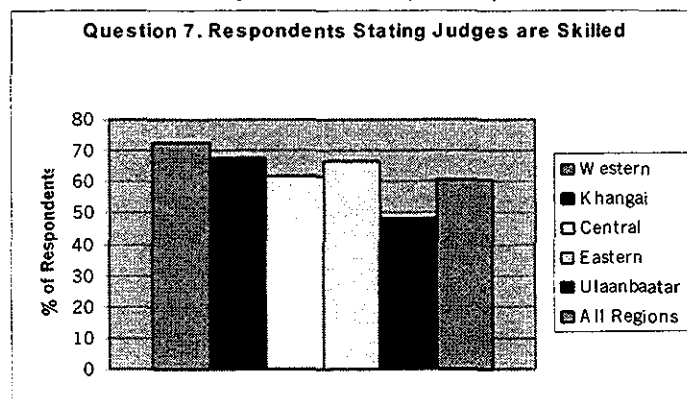
Overall, 61% of the respondents reported that Judges operating at their court had the skills to handle all types of cases that have come before them in the past year. Naturally, Judges responded more frequently (73%) that other judges in their court were skilled, while less than half of all Advocates (44%) and just 51% of the Prosecutors reported that Judges had the skills to handle all types that have come before them in the past year. (See figure 7.1A)

Figure 7.1A. (N=428)



Some differences exist by region. Those from the West were most likely to reply that Judges have the skills needed (73%) while less than half of the respondents in Ulaanbaatar shared that opinion. (See figure 7.1B)

Figure 7.1B. (N=427)



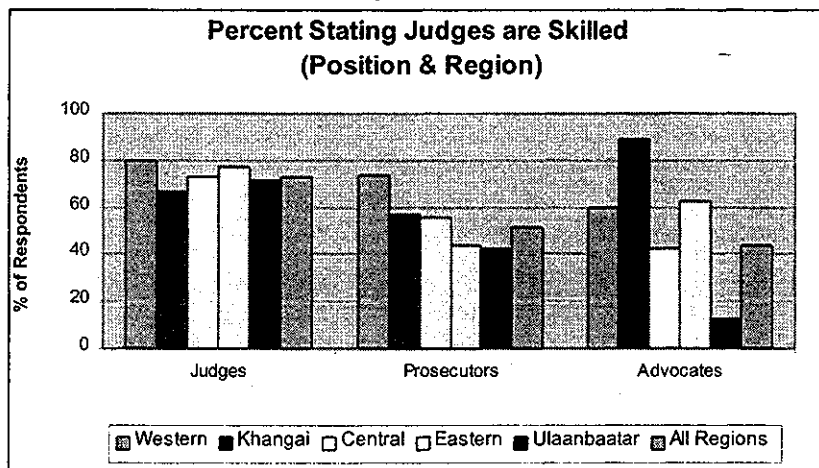
When the responses are disaggregated by both position and region these trends hold overall with some revealing variations. Advocates in the Khangai region expressed high regard for the skills of the judges there (almost 90% responded positive) while advocates operating in Ulaanbaatar

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gave judges a very low score (less than 15%). Similarly, prosecutors in Ulaanbaatar were quite critical of the skills of the judges in Ulaanbaatar (40%) while a majority of prosecutors in the Western regions were satisfied with the judges' skills (75%). (See figure 7.1C)

While the overall higher response rates from Judges in all regions, Prosecutors in the Western region, and Advocates from the Khangai region account for the overall positive ratings and some of the regional variations, the picture these results paint is one of significant concern over judges' skills expressed by prosecutors and advocates in most regions, particularly in Ulaanbaatar. Getting a negative response to this question from Advocates is not surprising. Advocates in most countries are critical of the skills of the judges they are appearing before. The limited confidence expressed by prosecutors is a serious concern. While some of this "attitude" may stem from Soviet times when prosecutors controlled the court proceedings and judges frequently were less skilled this perception may be an indicator for the need to increase judges skills significantly and is an expression of lack of confidence in the ability of judges even from the otherwise stoutest defender of the justice system.

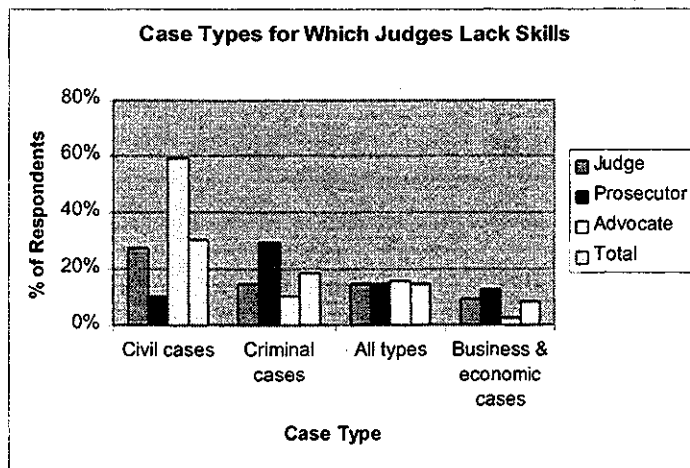
Figure 7.1C.



Type of cases for which judges lack skills

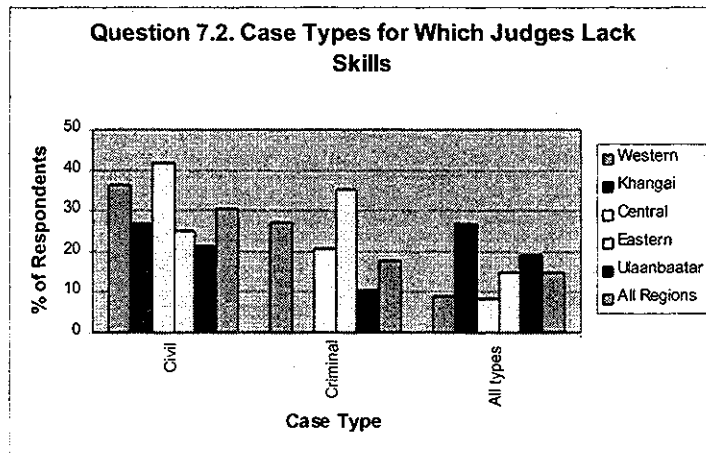
Those who responded that judges did not have the skills needed were asked to specify for what type of cases Judges lacked sufficient skills? Judges themselves mentioned civil cases most frequently, as did advocates. Not surprisingly, prosecutors mentioned a lack of skills for criminal cases most often. (See figure 7.2A)

Figure 7.2A. (N=142)



Variations among different regions mirror the overall results: Other than respondents from the Khangai region who indicated with equal frequency that judges were lacking skills for all types of cases, lack of skills to handle civil cases was most frequently mentioned in all regions. Concern about skills to handle criminal cases was particularly high in the Western and Eastern regions. (See figure 7.2B)

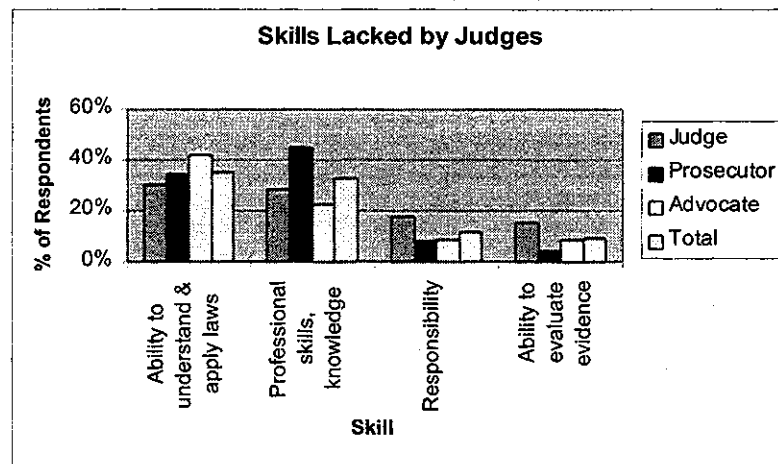
Figure 7.2B. (N=141)



Type of skills judges lack

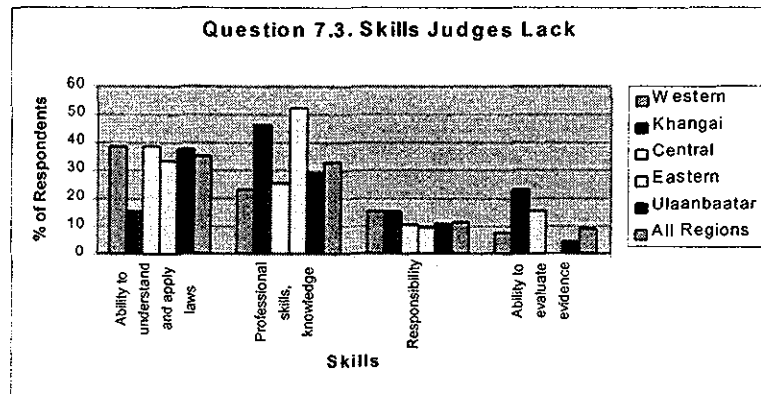
Respondents mentioned that the type of skills that Judges lacked to handle cases well were mainly the ability to understand and apply laws followed by professional skills and knowledge. Prosecutors were more concerned about Judges' professional skills and knowledge, while Advocates were more concerned about judges' comprehension skills. Judges were more concerned about their own responsibility and ability to evaluate evidence. (See figure 7.3A)

Figure 7.3A. (N=131)



The responses by region are similar. Some differences between regions exist but, given the number of question categories the number of responses per questions grows smaller, making it difficult to come to meaningful conclusions. Lack of professional skills were particularly mentioned by respondents from the East and Khangai region, while limited skills to evaluate evidence was a particular concern raised by respondents from Ulaanbaatar. (See figure 7.3B)

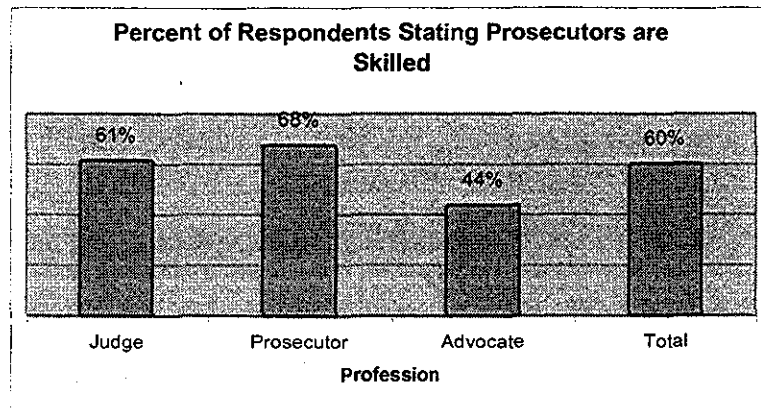
Figure 7.3B. (N=131)



Skills of Prosecutors

In response to the question “Do you feel that the Prosecutors operating at this court have the skills to handle all types of cases that have come before them in the past year?” the answers do not differ much from those given for judges. Not surprisingly, advocates were most critical of the skills of prosecutors, only 44% thought prosecutors had sufficient skills. Interestingly, prosecutors are more critical of their colleagues than judges are of other judges (32% of prosecutors state that their fellow colleagues lack the skills to handle all types of cases that have come before them in the past year), prosecutors also get higher marks from judges than vice versa. (See figure 8.1A)

Figure 8.1A. (N=413)



Among respondents from different regions, those from Ulaanbaatar are significantly more critical of the skills of prosecutors than those in the other regions. Less than 50% of the respondents from Ulaanbaatar indicated that prosecutors had the skills needed to handle all types of cases that had come before them in the past year; while over 70% from the Eastern region expressed confidence in prosecutors’ skills. (See figure 8.1B) This trend holds even when the results are broken down by both position and region. Judges, Prosecutors, and Advocates from Ulaanbaatar are least likely to state that Prosecutors are skilled. (See figure 8.1C)

Figure 8.1B. (N=412)

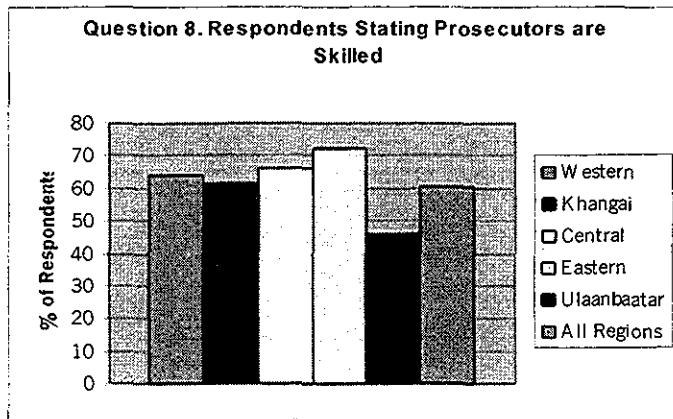
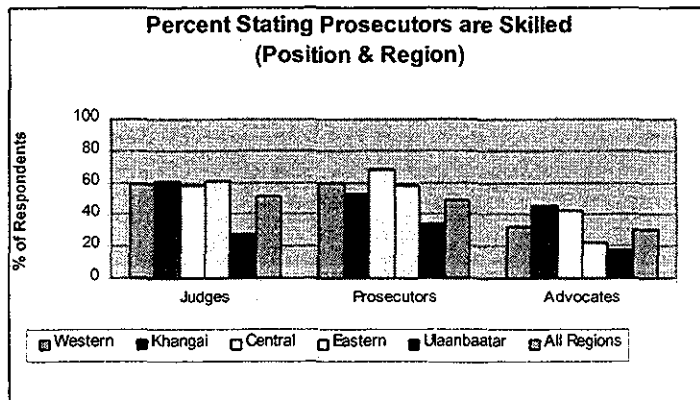


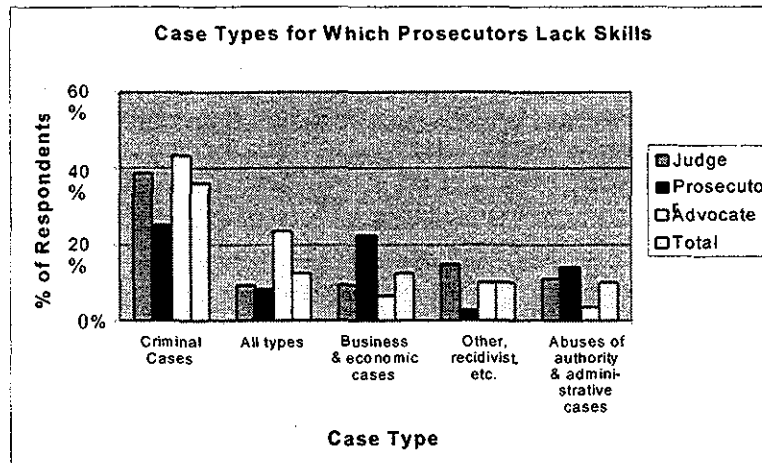
Figure 8.1C.



Type of cases for which prosecutors lack skills

When asked for what type of cases Prosecutors lacked sufficient skills, not surprisingly, all, independent of their professional background mentioned criminal cases first. Prosecutors were also concerned about their colleagues' skills to handle business and economic cases as well and cases that involved abuse of authority/administrative matters. Over 20% (who stated?) also stated that prosecutors lacked the skills for all types of cases they had dealt with over the past year. (See figure 8.2A)

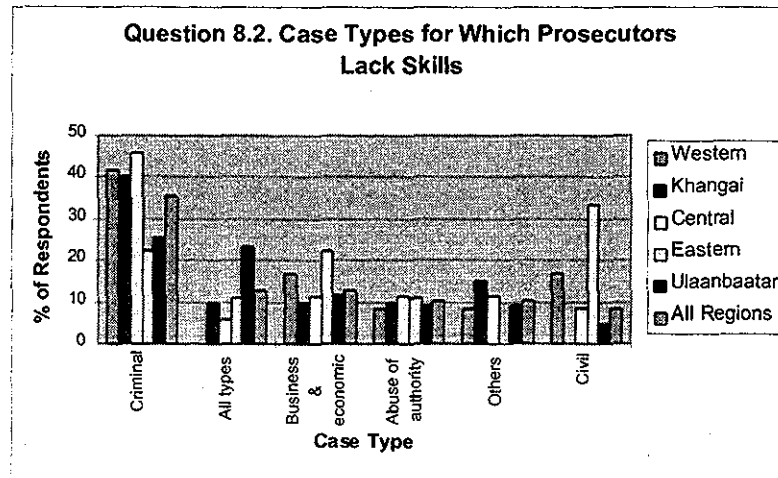
Figure 8.2A. (N=120)



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These trends continue when responses from different region are reviewed, they just appear more pronounced due to the small respondent number by region. One difference can be observed in responses from the Eastern region where respondents were more critical of prosecutors' skills to handle criminal cases versus civil cases. (See figure 8.2B)

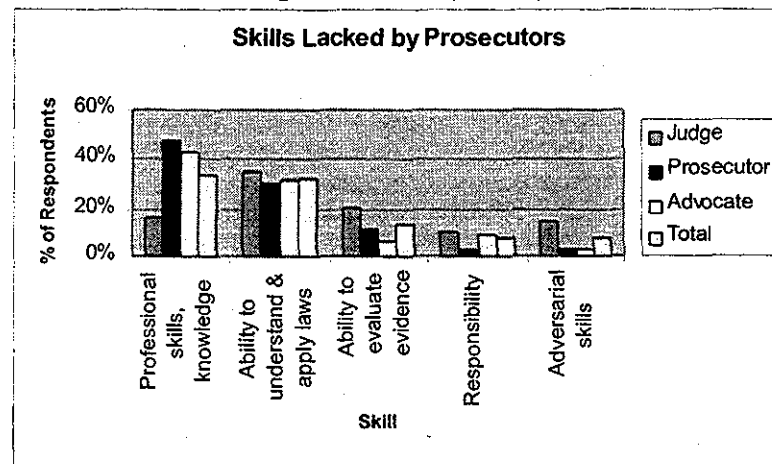
Figure 8.2B. (N=119)



Type of skills prosecutors lack

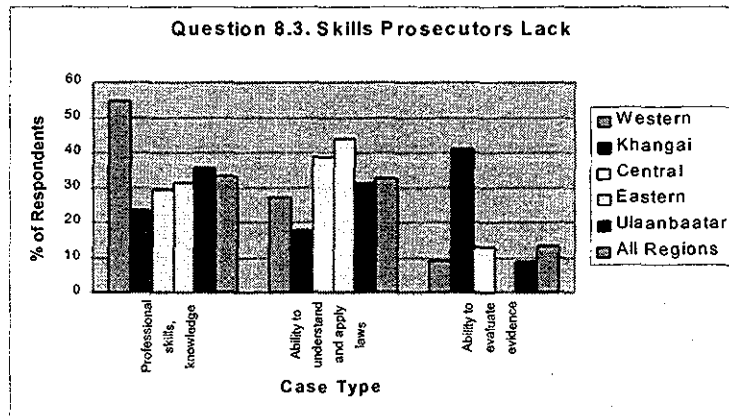
When asked about the type of skills prosecutors lack to handle these cases well, judges mentioned most frequently the ability to understand and apply laws, while prosecutors and advocates criticized the lack of professional skills. (See figure 8.3A)

Figure 8.3A. (N=120)



Smaller numbers of respondents make the results for the various regions less reliable but more pronounced. Lack of professional skills was most frequently mentioned by respondents from the West, respondents from the East and Central region cited lack of understanding and applying the law, and those from the Khangai region were particularly concerned about prosecutors' lack of ability to evaluate evidence. (See figure 8.3B)

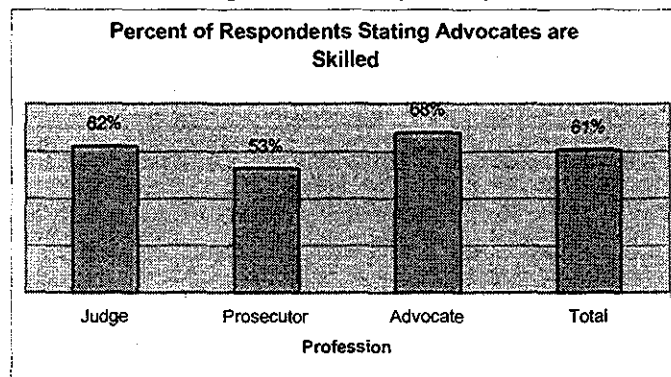
Figure 8.3B. (N=120)



Skills of Advocates

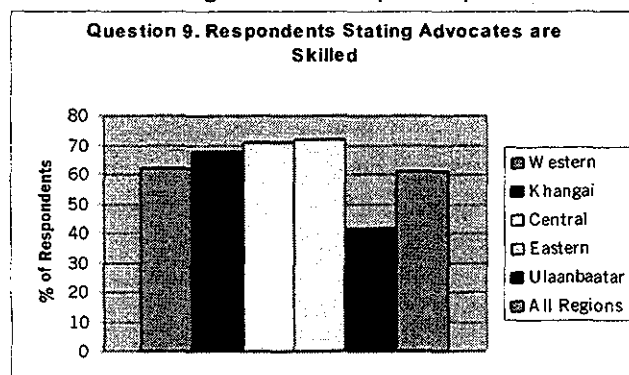
When the same question about skills to handle all types of cases that have come before them in the past year was posed regarding advocates, again over 60% responded in the affirmative, with 68% of the advocates, 62% of the judges, and 53% of the prosecutors giving a positive response. Overall, judges and prosecutors are less critical of advocates than the latter are of them. (See figure 9.1A)

Figure 9.1A. (N=422)



Also mirroring results for judges and prosecutors, respondents from Ulaanbaatar were less convinced that advocates had the needed skills (over 40%) while between 60% and 70% of those from other regions were more confident that advocates had the skills to handle all types of cases that had come before them in the past year. (See figure 9.1B)

Figure 9.1B. (N=421)

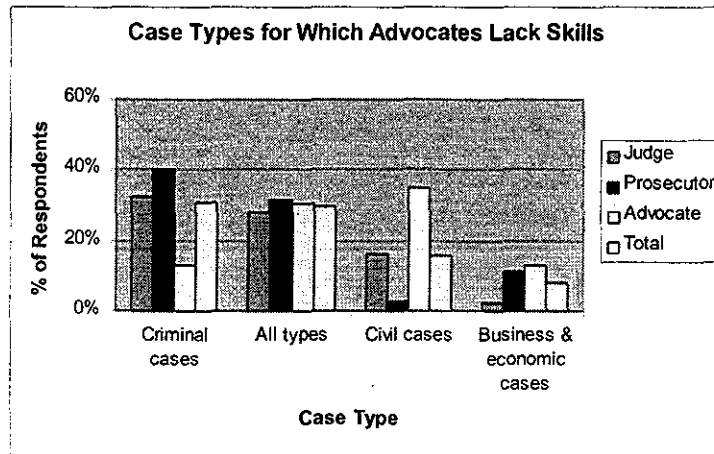


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Type of cases for which advocates lack skills

Thirty percent of all respondents reported that Advocates lacked sufficient skill for all types of cases. Judges and Prosecutors were more critical of Advocates' skills in handling criminal cases, while Advocates expressed predominately concern over skills to handle civil cases. (See figure 9.2A) Breakdowns by region mirror this trend.

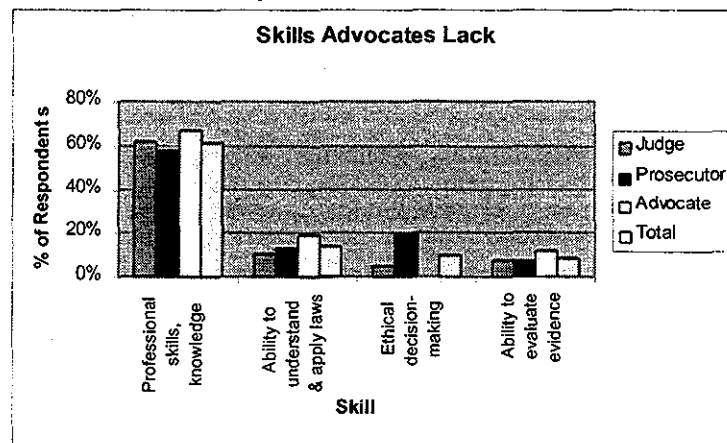
Figure 9.2A. (N=101)



Type of skills advocates lack

Lack of professional skills and knowledge was cited by approximately 60% of all respondents, independent of their legal professions. (See figure 9.3A)

Figure 9.3A. (N=116)

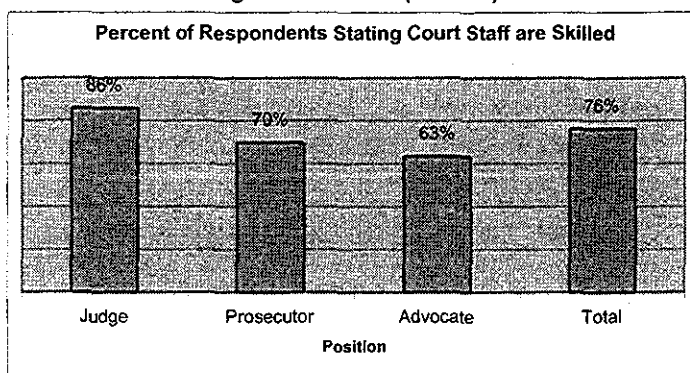


Skills of Court staff

Overall, confidence in the ability of court staff to have sufficient skills was relatively high among all legal professionals. 86% of all judges, 70% of all prosecutors and 63% of all advocates voiced a positive opinion. (See figure 10.1A)

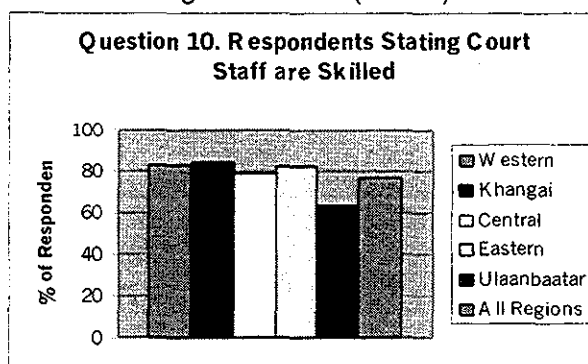
125

Figure 10.1A. (N=401)



Results from various regions by position reflect the same trends – judges express the highest confidence in all regions. Ulaanbaatar respondents are again the most critical of staff. (See figure 10.1 B)

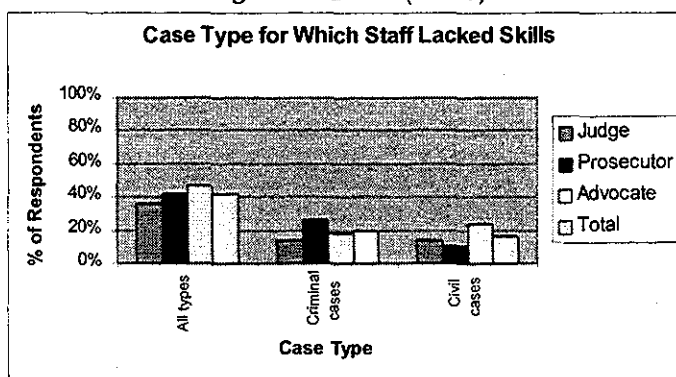
Figure 10.1B. (N=401)



Type of Cases for which court staff lack skills

Over 40% of all respondents reported that Court Staff lack sufficient skills for all types of cases. Breakdowns by profession did not vary significantly, nor did responses by region. Prosecutors, naturally, are slightly more concerned about the courts' staff ability to handle criminal cases. (See figure 10.2A) While respondents from Ulaanbaatar were more concerned about skills to handle civil cases those from other regions mentioned lack of skills to handle criminal cases more frequently. Respondents from the Khangai regions were the only ones to mention lack of skills to handle cases involving compensation of the oppressed.

Figure 10.2A. (N=50)

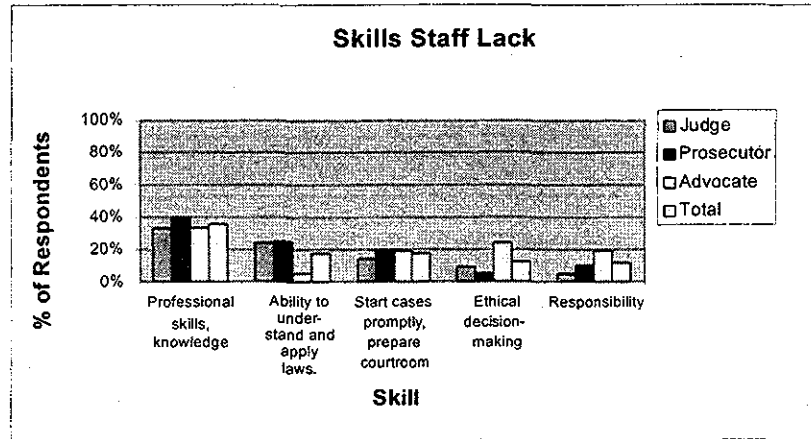


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Type of skills court staff lack

All respondents mentioned that Court Staff lacked professional skills and knowledge, judges and prosecutors were also concerned about skills to understand and apply laws and the ability to start cases promptly and prepare the courtroom, while advocates were more concerned with ethical decision-making skills and responsibility. (See figure 10.3A) Regional variations followed this trend overall, even though lack of professional skills and knowledge were particularly mentioned by respondents from the Khangai region, the ability to start cases promptly and prepare the courtroom was mentioned more frequently in the Western region than elsewhere and the lack of ethics training was a particular concern for respondents from the Central region.

Figure 10.3A. (N=62)



Part C. Perceptions of Courts' Performance Related to Democratic Principles

The last section of the survey focused on judges, prosecutors and advocates perception of court operations regarding fundamental values of democratic courts.

Respondents were given a list of 20 statements on the courts' performance, and asked to respond to each statement using points on a scale of one to five, with one indicating the courts' performance was poor, and five indicating the courts' performance was excellent. The questions are based on the US Trial Court Standards and followed questions generally posed to US court staff to assess their perception of:

- Access to Justice
- Expedition and Timeliness
- Equality, fairness and integrity
- Independence and Accountability
- Public Trust and Confidence

For analysis purposes, the number of total responses is provided for each question by profession. Additionally, the mean response is calculated for each statement (to be interpreted using the same five-point scale).

A final set of indicators is provided for comparison. A mean response rate was calculated for each respondent for each category of questions:

- Access to Justice (Access): calculated as the row mean of the C1-C5 variables for each respondent.
- Expedition and Timeliness (Expedition): calculated as the row mean of the E1-E2 variables for each respondent.
- Equality, fairness and integrity (Fairness): calculated as the row mean of the F1-F5 variables for each respondent.
- Independence and Accountability (Accountability): calculated as the row mean of the I1-I4 variables for each respondent.
- Public Trust and Confidence (Trust): calculated as the row mean of the T1-T4 variables for each respondent.

Readers of the report are asked to keep in mind several key points. Throughout this survey judges routinely rate court performance higher than either prosecutors or advocates, and, since they also represent the largest number of respondents, the overall results are somewhat more favorable than if the sample would have included a statistically representative mix of these three professions. A majority of judges gave good or better ratings on all questions, while advocates did so in 11 of 20 questions, and prosecutors in 10 of 20 questions. Still, with the exception of only two fairness indicators, all other indicators received an overall mean rating of less than good. This indicates that even those who operate within the judicial system are not too satisfied with the performance of the courts. These findings will be of particular importance when the results of the public opinion survey are compared to these responses. The comparison of both data sets will provide a quite realistic picture of the operations of the courts and should provide valid insight into possible solutions to address shortcomings or misperceptions.

Access to Justice

In order to identify the perception of those who operate in the judicial sector, i.e. judges, prosecutors, and advocates about the accessibility of the justice system, five questions were asked inquiring about indicators that are commonly used to measure access to justice. These indicators include:

- Court proceedings and other court business is conducted openly

- Court facilities are safe, accessible and convenient to use
- All who appear in court hearings have the opportunity to participate
- Judges and court staff are courteous and responsive to the public
- The costs of access to the courts are reasonable

For each indicator respondents were asked to rank their answer on a scale of one to five, with 1 meaning poor performance and 5 meaning excellent performance.

Access Indicator 1: Public proceedings

When asked if the courts conduct their proceedings and other public business openly; the mean response rate was 2.97, or close to "good" response, for all professions. Judges were ranking the courts' performance in this aspect more positive (3.31) than prosecutors (2.77) or advocates (2.63).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	0	9	6	15
2 - Fair	22	61	45	128
3 - Good	126	83	52	261
4 - Very Good	55	28	9	92
5 - Excellent	18	4	3	25
Total numbers and mean	221 - 3.31	185 - 2.77	115 - 2.63	521 - 2.97

Access Indicator 2: Facilities accessible

When asked if the courts' facilities are safe, accessible and convenient to use, the responses were more on the negative side with a 2.46 mean for all professions, with prosecutors ranking facility access slightly higher (2.58) than advocates (2.47) or judges (2.36).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	25	11	10	46
2 - Fair	114	76	51	241
3 - Good	69	74	42	185
4 - Very Good	11	16	4	31
5 - Excellent	5	3	4	12
Total numbers and mean	224 - 2.36	180 - 2.58	111 - 2.47	515 - 2.46

Access Indicator 3: Participation is efficient

Respondents were next asked if all who appear before the courts the courts' are given the opportunity to participate efficiently and without undue hardship or inconvenience. The overall response was almost "good", reaching a 2.84 mean for all professions. More judges expressed a positive view (3.26) than prosecutors (2.58) or advocates (2.41).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	1	14	15	30
2 - Fair	23	72	48	143
3 - Good	136	70	37	243
4 - Very Good	40	19	7	66
5 - Excellent	21	3	3	27
Total numbers and mean	221 - 3.26	178 - 2.58	110 - 2.41	509 - 2.84

Access Indicator 4: Courtesy and responsiveness

Being asked if judges and other court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact, the response was somewhat less favorable, but still close to "good" response, reaching a 2.74 mean for all professions. More judges expressed a positive view (3.13) than prosecutors (2.43) or advocates (2.46).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	1	14	13	28
2 - Fair	34	90	51	175
3 - Good	134	67	37	238
4 - Very Good	44	10	11	65
5 - Excellent	11	2	2	15
Total numbers and mean	224 - 3.13	183 - 2.43	114 - 2.46	521 - 2.74

Access Indicator 5: Court costs

The next questions inquired if the cost of access to the court's proceedings and records, if measured in terms of money, time or the procedures that must be followed are reasonable, fair and affordable. The overall was more negative, reaching a 2.59 mean for all professions. More judges expressed a positive view (3.06) than prosecutors (2.27) or advocates (2.17).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	9	36	24	69
2 - Fair	52	76	49	177
3 - Good	102	56	37	195
4 - Very Good	39	11	3	53
5 - Excellent	22	2	0	24
Total numbers and mean	224	181	113	518

Access Indicators by Regions

It is quite interesting to observe regional variations in the perception of those who operate in the justice system. The table below shows the mean response rates by Region for all access indicators. On all indicators, respondents from Ulaanbaatar are less positive. If all access indicators are viewed together it is important to recognize that, despite the generally higher ranking by judges, no access indicator is ranked at the mid point or "good" mark.

Access Indicator	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
Access Indicator 1	3.14	2.87	3.09	3.31	2.71	2.97
Access Indicator 2	2.44	2.36	2.49	2.59	2.42	2.46
Access Indicator 3	3.10	3.01	3.01	3.08	2.43	2.84
Access Indicator 4	3.03	3.00	2.82	3.00	2.36	2.74
Access Indicator 5	2.78	2.63	2.79	2.86	2.23	2.59

Expedition and Timeliness of the Courts

The next performance indicator survey participants were asked about was expeditious and timely handling of court matters. Using the same 5-point scale respondents were asked to provide rankings for 2 indicators in this category:

- Guidelines for timely processing recognized

- Changes in the law and procedures promptly implemented

Expedition and Timeliness Indicator 1:

Asked if the court establishes and recognizes guidelines for timely processing, the response between judges on the one hand (3.22) and prosecutors (2.28) and advocates (2.21) on the other differed significantly. The more negative impression of prosecutors and advocates resulted in an overall mean rate of 2.67.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	2	26	27	55
2 - Fair	25	91	45	161
3 - Good	137	54	33	224
4 - Very Good	41	10	6	57
5 - Excellent	19	1	2	22
Total numbers and mean	224 - 3.22	182 - 2.28	113 - 2.21	519 - 2.67

Expedition and Timeliness Indicator 2: Prompt implementation of new laws and procedures

Asked if the court promptly implements changes in law and procedure, the overall rating reached a 2.85 mean. Judges, again, are more positive (3) and prosecutors (2.76) and advocates (2.7) more critical.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	4	6	3	13
2 - Fair	55	65	42	162
3 - Good	119	84	57	260
4 - Very Good	32	19	10	61
5 - Excellent	15	7	2	24
Total numbers and mean	225 - 3	181 - 2.76	114 - 2.7	520 - 2.85

Expedition and Timeliness by Regions

Again, if all indicators are viewed together by region, no access indicator reaches at least the mid point or "good" mark. Also, as for the Access Indicators, respondents from Ulaanbaatar continue to rate all indicators less positive than respondents in any other region.

Expedition & Timeliness Indicator	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
E1	2.92	2.98	2.80	2.86	2.29	2.67
E2	3.09	2.90	2.92	3.03	2.60	2.85

Equality, fairness and integrity

The next set of indicators is related to equality, fairness and integrity in the courts. Five indicators are included:

- Adherence to laws, procedural rules, and policies
- Cases are handled without undue disparity, using legally relevant factors only
- Unambiguous decisions
- Responsible for the enforcement of court orders
- Court records are accurate and properly preserved

Equality, fairness and integrity Indicator 1: Adherence to the law

When asked of the court procedures faithfully adhere to relevant laws, procedural rules, and policies, judges responded quite positively (3.34), prosecutors are somewhat less critical (2.78) than advocates (2.58).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	0	3	10	13
2 - Fair	22	65	37	124
3 - Good	125	84	59	268
4 - Very Good	56	24	7	87
5 - Excellent	21	4	1	26
Total numbers and mean	224 - 3.34	180 - 2.78	114 - 2.58	518 - 2.98

Equality, fairness and integrity Indicator 2: No undue disparity

The next statement was "The court gives individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors." The mean response rating from judges was 3.09, prosecutors ranked this at 2.47 and advocates at 2.38, leading to an overall slightly less positive ranking of 2.72.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	1	14	11	26
2 - Fair	39	84	53	176
3 - Good	130	63	39	232
4 - Very Good	44	12	7	63
5 - Excellent	9	3	0	12
Total numbers and mean	223 - 3.09	176 - 2.47	110 - 2.38	509 - 2.72

Equality, fairness and integrity Indicator 3: Unambiguous decisions

When asked if the court renders decisions that unambiguously address the issue presented to it and indicates clearly how compliance can be achieved, judges supported this statement ranking court performance at a mean 3.28. Again, prosecutors (2.67) and advocates (2.40) were less convinced that courts were unambiguous and clear in their decisions.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	0	7	8	15
2 - Fair	20	67	50	137
3 - Good	128	84	46	258
4 - Very Good	60	16	7	83
5 - Excellent	10	3	1	14
Total numbers and mean	218 - 3.28	177 - 2.67	112 - 2.49	507 - 2.89

Equality, fairness and integrity Indicator 4: Responsibility for the enforcement of court orders

The question of responsibility for court orders is a difficult one since the Mongolian courts do not have the power per se to enforce court orders. They are, however, empowered to provide directions to the relevant enforcement agencies and can issue follow-up requests. When asked how courts are performing related to taking appropriate responsibility for the enforcement of court orders the overall mean rating was 3.02 or "good". This relatively positive result is mainly due to the judges giving themselves a mean 3.57 ranking, the highest ranking for any performance

indicator. In contrary, prosecutors were particularly critical ranking this indicator at 2.52, even lower than the advocates (2.72).

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	0	13	7	20
2 - Fair	11	75	36	122
3 - Good	108	73	53	234
4 - Very Good	70	14	13	97
5 - Excellent	34	1	3	38
Total numbers and mean	223 – 3.57	176 – 2.52	112 – 2.72	511 – 3.02

Equality, Fairness and Integrity Indicator 5: Accurate court records

Next, respondents had to rank the following performance indicator: "Records of all relevant court decisions and actions are accurate and properly preserved according to records management guidelines". Overall, this indicator was ranked at 3.19, "good" with the judges ranking this indicator higher (3.53) than the prosecutors and advocates, both groups ranking this close to "good" with a 2.91 mean.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	0	3	0	3
2 - Fair	17	46	29	92
3 - Good	111	87	64	262
4 - Very Good	57	25	11	93
5 - Excellent	39	6	4	49
Total numbers and mean	224 – 3.53	167 – 2.91	108 – 2.91	499 - 3.19

Equality, Fairness and Integrity by Regions

Two of the equality, fairness and integrity indicators reach a ranking of "good", those related to the accuracy of court records and to taking responsibility for enforcement of court orders. Again, respondents from Ulaanbaatar rate all indicators less positive than respondents in any other region.

Equality, Fairness and Integrity Indicator	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
F1	3.16	3.09	3.08	3.18	2.71	2.98
F2	2.89	2.79	2.82	3.03	2.43	2.72
F3	3.06	3.00	3.01	3.14	2.58	2.89
F4	3.22	3.26	3.13	3.22	2.68	3.02
F5	3.34	3.32	3.29	3.40	2.88	3.19

Independence and accountability

The survey next inquired about four independence and accountability indicators:

- Institutional integrity
- Responsible use of resources
- Fair employment practices
- Informed constituencies

Independence and Accountability Integrity Indicator 1: Institutional integrity

The performance indicator: "The court maintains its institutional integrity and observes the principals of professionalism and accountability in its government relations, e.g. inter-Aimag operations, national/local operations", received an overall 2.87 rating. Judges ranking this indicator higher than "good" at 3.16, prosecutors and advocates, both groups ranked at 2.64 mean.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	2	11	6	19
2 - Fair	37	63	44	144
3 - Good	121	74	44	239
4 - Very Good	42	20	13	75
5 - Excellent	17	2	2	21
Total numbers and mean	219 - 3.16	170 - 2.64	109 - 2.64	498 - 2.87

Independence and Accountability Indicator 2: Responsible use of resources

This performance indicator: "The court responsibly seeks, uses and accounts for its resources", received the lowest rating 2.62 among all independence indicators, the lowest rating from all professional groups. Judges ranked this indicator at 2.76, prosecutors at 2.51 and advocates at 2.47.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	8	12	7	27
2 - Fair	81	76	51	208
3 - Good	91	58	35	184
4 - Very Good	24	16	7	47
5 - Excellent	11	2	2	15
Total numbers and mean	215 - 3.08	164 - 2.65	102 - 2.56	481 - 2.83

Independence and Accountability Indicator 3: Fair employment practices

The third integrity and accountability performance indicator: "The courts uses fair employment practices, e.g. according to national and Aimag guidelines", received an overall rating of 2.83. Judges rated this indicator at 3.08, prosecutors at 2.65 and advocates at 2.56.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	5	13	12	30
2 - Fair	48	59	36	143
3 - Good	112	66	44	222
4 - Very Good	36	24	10	70
5 - Excellent	20	2	2	24
Total numbers and mean	221 - 3.08	164 - 2.65	104 - 2.56	489 - 2.83

Independence and Accountability Indicator 4: Informed constituencies

"The court informs its constituencies about its operations" is the last integrity and accountability performance indicator included in this survey. It received an overall rating of 2.83. Judges rated this indicator at 3.03, prosecutors at 2.46 and advocates at 2.31.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	6	21	16	43

2 - Fair	55	69	46	170
3 - Good	100	60	38	198
4 - Very Good	41	16	4	61
5 - Excellent	16	2	1	19
Total numbers and mean	218 - 3.03	168 - 2.46	105 - 2.31	491 - 2.68

Independence and Accountability Indicators by Regions

Overall, none of the Independence and Accountability Indicators reached a ranking of "good". Respondents from Ulaanbaatar continue to rate all indicators less positive than respondents in any other region.

Independence and Accountability Indicators	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
I1	3.10	2.87	2.99	3.18	2.54	2.87
I2	2.79	2.41	2.68	2.87	2.45	2.62
I3	3.02	2.97	2.90	3.19	2.46	2.83
I4	3.00	2.72	2.78	2.97	2.32	2.68

Public Trust and Confidence

The last set of court performance indicators address public trust and confidence in the courts. Four indicators are included:

- Courts anticipates emergent events
- Public perceives the courts as accessible
- Public trust in expeditious, fair and integer court operations
- Courts perceived as independent and accountable

Public Trust and Confidence Indicator 1: Court anticipates emergent events

The overall rating the courts received from all respondents was 2.76 for the indicator "The court anticipates new conditions and emergent events and adjusts its operations as necessary, e.g. to public issues like alcohol related disturbances and crime, domestic violence, corruption". Judges were considerably more positive (3.18) than prosecutors (2.50) or advocates (2.35)

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	1	20	18	39
2 - Fair	38	68	47	153
3 - Good	121	66	37	224
4 - Very Good	41	17	7	65
5 - Excellent	19	2	2	23
Total numbers and mean	220 - 3.18	173 - 2.50	111 - 2.35	504 - 2.76

Public Trust and Confidence Indicator 2: Public perceives the courts as accessible

The second indicator "The public perceives the court and the justice it delivers as accessible", received over all the highest ratings from all professions in this performance measure category. The total mean was 2.94; judges rated this indicator at 3.38, prosecutors at 2.64 and advocates at 2.54.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	1	13	9	23
2 - Fair	22	62	47	131
3 - Good	118	80	47	245
4 - Very Good	51	19	9	79
5 - Excellent	28	3	2	33
Total numbers and mean	220 - 3.38	177 - 2.64	114 - 2.54	511 - 2.94

Public Trust and Confidence Indicator 3: Public trust in expeditious, fair and integer court operations

The indicator "The public has trust and confidence that the basic court functions are conducted expeditiously, fairly and with integrity" was rated at 2.69, which is below "good". Judges rated it just over "good" at 3.07, prosecutors were less convinced that the courts are performing well in this regard at rated at 2.45, advocates at 2.32.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	5	14	17	36
2 - Fair	46	86	50	182
3 - Good	118	61	42	221
4 - Very Good	31	12	4	47
5 - Excellent	20	3	1	24
Total numbers and mean	220 - 3.07	176 - 2.45	114 - 2.32	510 - 2.69

Public Trust and Confidence Indicator 3: Courts perceived as independent and accountable

It is not too surprising that this indicator "The court is perceived to be independent and accountable and not unduly influenced by other components of government" received the lowest ratings in this category from all respondents. Overall, the rating reached just 2.66, less than "good". Even judges did not rate at a full "good" (2.92), prosecutors were even more critical (2.44) than advocates (2.51). This is the only indicator that was rated lower by prosecutors than by advocates.

Response rating	Judges	Prosecutors	Advocates	Total
1 - Poor	12	16	11	39
2 - Fair	65	84	49	198
3 - Good	97	62	39	198
4 - Very Good	22	13	10	45
5 - Excellent	25	2	3	30
Total numbers and mean	221 - 2.92	177 - 2.44	112 - 2.51	510 - 2.66

Public Trust and Confidence Indicators by Region

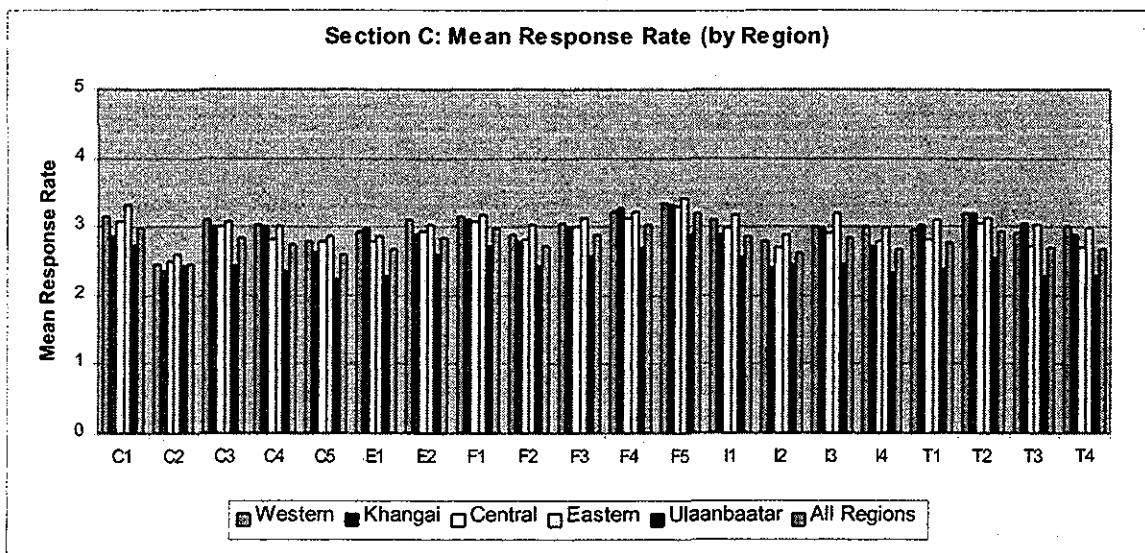
Overall, none of these indicators reached a rating of "good", only indicator 2, Public perceives the courts as accessible, came close with a 2.94 rating. Again, respondents from Ulaanbaatar are significantly more critical of the courts' performance than their counterparts in the different Aimags.

Public Trust and Confidence Indicator	Western	Khangai	Central	Eastern	Ulaanbaatar	All Regions
T1	2.97	3.03	2.82	3.11	2.38	2.76
T2	3.21	3.20	3.06	3.12	2.55	2.94
T3	2.92	3.06	2.71	3.03	2.29	2.69
T4	3.02	2.89	2.70	2.99	2.27	2.66

Rating of Court Performance by Region

The following graphic provides a summary overview of the performance ratings respondents from the different regions provided. As mentioned above, respondents from Ulaanbaatar were significantly more critical of the courts' performance on every indicator. Respondents from the East and West generally gave the highest ratings. Overall, ratings better than 3 "good" were rare, most ratings ranged between 2 and 3. The indicators that received the lowest overall ratings were Access indicator C2, "Court facilities are safe, accessible and convenient to use", Access indicator C5 "The costs of access to the courts are reasonable", and Independence and Accountability indicator I 2 "Responsible use of resources."

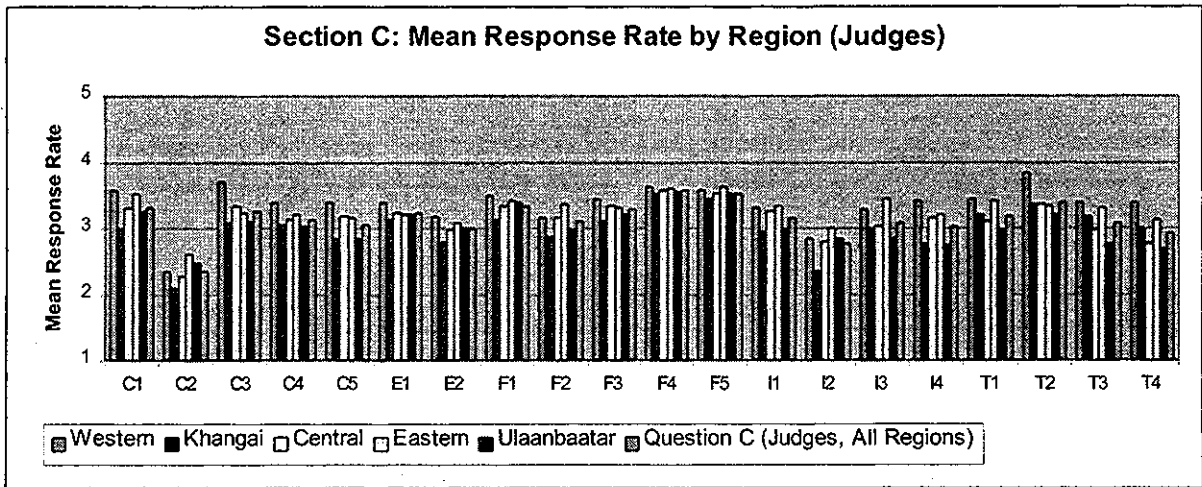
Figure Section C 1. Mean Response Ratings by Region



Ratings of Court Performance by Judges

The below graphic shows the ratings judges from the various regions provided for the court performance measures. Overall, their ratings are more favorable, which is not surprising. Special concern is shown for Access indicator C2, "Court facilities are safe, accessible and convenient to use", Independence and Accountability Indicator I2 "Responsible use of resources," and Trust and Confidence Indicator T4 "Courts perceived as independent and accountable". Interestingly, with few exceptions, the variation between judges from the different regions is not considerable, and while judges from Ulaanbaatar frequently rate lower than their colleagues operation in the Aimags, this is not the case for seven indicators, where judges from the Khangai regions are more critical.

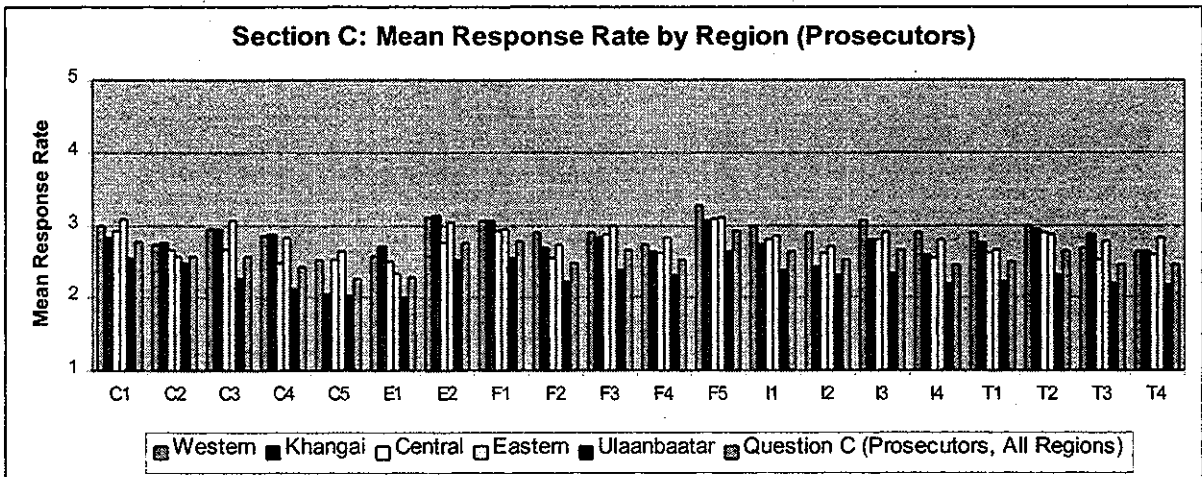
Figure Section C2: Mean Response Rating Judges by Region



Ratings of Court Performance by Prosecutors

In comparison to judges, prosecutors rate court performance generally more negative, particularly those from Ulaanbaatar rarely rate much higher than 2.5 "fair". Prosecutors from the West and East are generally less critical. Overall opinions among prosecutors from different regions vary significantly more than opinions among judges from different regions. Particularly low rate prosecutors Access Indicator C5, "The costs of access to the courts are reasonable", and Expedition and Timeliness Indicator 1, "Guidelines for timely processing recognized."

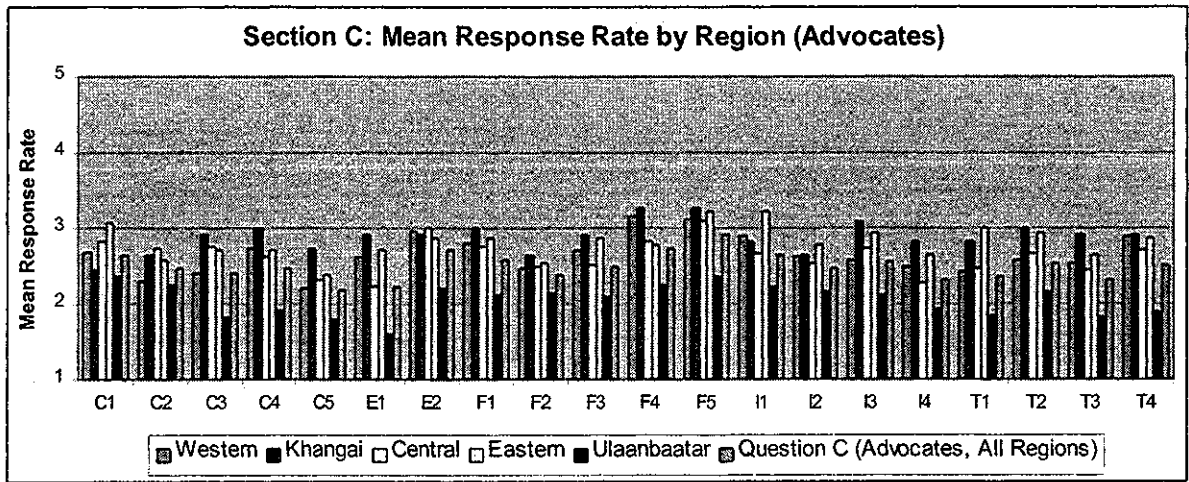
Figure 3. Section C: Mean Response Rating Prosecutors by Region



Ratings of Court Performance by Advocates

Not surprisingly, advocates are the most critical of court performance among all legal professionals included in this survey. Advocates from Ulaanbaatar rate particularly low. Only 12 of the 20 indicators reach a mean rating of 2 "fair". Their counterparts from the different Aimags are generally more positive and more likely to give a rating of close or 3 or even above 3. Just like prosecutors, advocates rate prosecutors Access Indicator C5, "The costs of access to the courts are reasonable", and Expedition and Timeliness Indicator 1, "Guidelines for timely processing recognized." The lowest.

Figure 3. Section C: Mean Response Rating Advocates by Region



**APPENDIX
JRP Questionnaire**

Dear Survey Participant:

The National Center for State Courts, funded by USAID to implement the Mongolia Judicial Reform Program, is looking for your help in developing mechanisms to provide the training, information, and technical assistance Judges and others operating in Mongolia's courts need to effectively handle the cases arising in a democratic, free market society.

The purpose of this survey is twofold:

1. To identify the needs of Mongolian Judges, Prosecutors, Court Staff, and Advocates for training, information and other technical assistance for operating efficiently and effectively in a democratic court system that supports a free market economy.
2. To assess how Mongolian Judges, Prosecutors, Court Staff, and Advocates perceive the operations of Mongolian courts in relation to fundamental democratic values.

The information gained through this data collection will 1) assist in developing training and technical assistance mechanisms that address the needs of Judges, Prosecutors, Court Staff, and other lawyers operating in the courts of Mongolia and 2) assist in restructuring operations to support more democratic operations.

This survey is designed to guarantee complete anonymity. You can be completely honest, as none of the information can be traced back to the respondent.

A. General Information:

Which jurisdiction are you currently operating in?

What is your current position/title?

B. Judges, Prosecutors, and other legal professional's needs:

1. Did you have appropriate access to all the *laws and other legal information* you needed for conducting your work efficiently and effectively during the past year?

Yes _____ No _____

If no, for what type of cases did you not have sufficient access to laws and other legal information?

What type of information do you need to handle these cases efficiently and effectively?

2. Did you have access to at least *basic resources* (office supplies, communication mechanisms, support staff) to conduct your work in an efficient and effective manner?

Yes _____ No _____

If no, for what type of cases did you not have the basic resources?

What types of basic resources do you need?

3. Are there any types of cases that you have dealt with over the past year that you felt not *well trained for*?

Yes _____ No _____

If yes, for what type of cases did you not feel well enough trained for?

What type of training do you have need to handle these cases well?

4. What type of training do you need?

Have you participated in any training programs in the last three years?

What were the dates of the program?

Subjects of the training

Sponsor of the training

Which organization organized the training?

What parts were the most helpful?

What parts were the least helpful?

Effective forms of training

Most important training subjects

Necessary skills for training (*Note responses to this question were deleted from the report since the answers were non-conclusive*)

Suggestions to improve the quality of training

5. What does your court/office *need to operate efficiently*?

Please specify...

Staff resources _____

Office resources _____

Other resources _____

Information _____

Technical assistance _____

Training _____

Other _____

6. Did you get the administrative support you needed to handle all types of cases that you dealt with last year efficiently?

Yes _____ No _____

If no, for what type of cases did you not have sufficient administrative support?

What kind of administrative support would you need to handle these cases well?

7. Do you feel that the Judges operating at this court have the skills to handle all types of cases that have come before them in the past year?

Yes _____ No _____

If no, for what type of cases did the Judges lack sufficient skills?

What kind of skills did they lack to handle these cases well?

8. Do you feel that the Prosecutors operating at this court have the skills to handle all types of cases that have come before them in the past year?

Yes _____ No _____

If no, for what type of cases did the Prosecutors lack sufficient skills?

What kind of skills do they lack to handle these cases well?

9. Do you feel that the Advocates operating at this court have the skills to handle all types of cases that have come before them in the past year?

Yes _____ No _____

If no, for what type of cases did the Advocates lack sufficient skills?

What kind of skills do they lack to handle these cases well?

10. Do you feel that the Court Staff operating at this court have the skills to handle all types of cases that have come before this court in the past year?

Yes _____ No _____

If no, for what type of cases did the Court Staff lack sufficient skills?

What kind of skills do they lack to handle these cases well?

11. Do you need more information and training on budgeting and human resources?

Yes _____ No _____

12. Has the GCC been responsive with assistance in:

Training requests	Yes	_____	No	_____
Operations	Yes	_____	No	_____
Personnel	Yes	_____	No	_____
Finances	Yes	_____	No	_____
Budget	Yes	_____	No	_____

13. What is the most important problem to solve in your court?

14. Does the Chief Justice of your court monitor time limits set for case decisions?

Yes _____ No _____

15. What technical equipment do you need to better keep track of court cases?

C. The following questions are designed to identify how Judges, Prosecutors, Court Staff, and other lawyers perceive the operations of Mongolia's courts.

Please respond to the following questions using points on a scale of one to five meaning				
Poor	Fair	Good	Very Good	Excellent
1	2	3	4	5

Expressed in percentages, numbers do not add up to 100 due to rounding.	Poor	Fair	Good	Very Good	Excellent
	1	2	3	4	5
Access to Justice					
The court conducts its proceedings and other public business openly					
Court facilities are safe, accessible, and convenient to use					
All who appear before the court are given the opportunity to participate efficiently and without undue hardship or inconvenience					
Judges and other court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact					
The cost of access to the court's proceedings and records, weather measured in terms of money, time or the procedures that must be followed are reasonable, fair and affordable					
Expedition and Timeliness					
The court establishes and recognizes guidelines for timely processing					
The court promptly implements changes in law and procedure					
Equality, fairness and integrity					
Court procedures faithfully adhere to relevant laws, procedural rules, and policies					
The court gives individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors					

The court renders decisions that unambiguously address the issue presented to it and indicates clearly how compliance can be achieved					
The court takes appropriate responsibility for the enforcement of its orders					
Records of all relevant court decisions and actions are accurate and properly preserved according to records management guidelines					
Independence and accountability					
The court maintains its institutional integrity and observes the principals of professionalism and accountability in its government relations, e.g. inter-Aimag operations, national/local operations					
The court responsibly seeks, uses and accounts for its resources					
The courts uses fair employment practices, e.g. according to national and Aimag guidelines					
The court informs its constituencies about its operations					
Public Trust and Confidence					
The court anticipates new conditions and emergent events and adjusts its operations as necessary, e.g. to public issues like alcohol related disturbances and crime, domestic violence, corruption					
The public perceives the court and the justice it delivers as accessible					
The public has trust and confidence that the basic court functions are conducted expeditiously, fairly and with integrity					
The court is perceived to be independent and accountable and not unduly influenced by other components of government					

Thank you very much for your participation. The results will be published later this summer. Please let us know if you would like to receive a copy of the results report. If you have any questions about this survey please call Robert La Mont, Chief of Party, Judicial Reform Program.

Appendix D

NATIONAL CENTER FOR STATE COURTS
International Programs Division
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
www.ncsconline.org

Mongolia Judicial Reform Program

Performance Monitoring Plan
2001 Baseline Data

Cooperative Agreement
#492-A-00-01-00001



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**Mongolia Judicial Reform Program (JRP)
Baseline Data and Targets for Performance Monitoring Plan**

Revised Performance Data Tables with December 2001 Baseline Data and Targets

NCSC collected baseline data and set performance targets for all indicators presented in this report to the extent possible at the current time. The performance targets reflect the fact that on-the-ground conditions may require some modification of individual indicators over time (e.g. the exact description of a particular milestone may need to be changed). After 9 months operations on the ground NCSC reviewed the 28 originally established indicators and identified several (9) that are not really relevant to the JRP program and the Mongolian situation. Twelve newly proposed indicators and adjustments to the original indicators are outlined in this report together with the baseline data and indicator targets. The revised JRP performance data tables follow. These data tables track the project achievement 1) on the overall program results level, 2) on the intermediate priority tasks and sub-tasks result level. The latter will require more refinement as new legislation is passed and the program progresses. At the end of this report the original indicators NCSC proposes to drop from the PMP are listed with justifications for their elimination.

A few baseline data are not available at this time. First, court data for the calendar year 2001 will be compiled by the Mongolian Supreme Court and General Council of Courts by the end of the first quarter of 2002 and this report will be updated at that point. Second, the public opinion survey has been conducted but not fully analyzed. These data, too, will be included by the end of the first quarter of 2002. In addition, NCSC choose to include two indicators (19 and 20) for which data are currently not collected by the courts or any other entity. NCSC is hopeful, that our work over the coming year may lead the courts and Prosecutor General's office to collect this information.

PART 1: OVERALL PROGRAM LEVEL INDICATORS

Performance Data Table: (New) Indicator 1 of 31: Steps taken to develop and implement mechanisms to ensure access to resources for the judicial sector

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to develop and implement mechanisms to ensure access to resources for the judicial sector			
Unit of Measure: Steps taken	Year	Planned	Actual
Source: NCSC	2001*	N.A.	Step I
Indicator Description: 1) Assessment of budget process and situation for the judicial sector, 2) Assessment of resource needs for the judicial sector,	2002	Step 2 - 3	
	2003	Step 2 - 4	
	2004	Step 2 - 5	

3) Budget development training for judicial sector officers, 4) Judicial budget development based on resource and needs assessments, 5) Internal reallocation of resources based on resource and needs assessments 5) Regular three-branch communications about judicial budget requirements, 6) Annual judicial budget allocations based on needs.	2005	Step 2 - 6	
* Baseline year.			

Caveat: While steps 1-3 can be controlled by the JRP, steps 4-6 require the initiative of our Mongolian counterparts.

Performance Data Table: (New) Indicator 2 of 31: Increased access to adequate resources for the judicial sector

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Access to staff, equipment, material and capital resources for the judicial sector			
Unit of Measure: Percent of survey respondents	Year	Planned**	Actual
Source: NCSC	2001*	N.A.	39% judges, 37% prosecutors
Indicator Description: Percent of prosecutors and judges indicating that the courts and prosecutors' offices have access to basic resources to conduct their work in an efficient and effective manner	2002	39% judges, 37% prosecutors	
	2003	4% increase	
	2004	4% increase	
	2005	4% increase	
* Baseline year. ** Targets are annual increases due to inter-office reallocation and increased budgets. The latter are not expected to materialize until 2003.			

JRP Performance Data Table: (Original indicator 2) Indicator 3 of 31: Percent of citizen stating they will be treated fairly by the courts

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they will be treated fairly by the courts, either as a criminal defendant or if they file a complaint with the court system.			
Unit of Measure: Percentage of those surveyed.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	**

Indicator Description: Percentage of those surveyed that responded to the question: "If you have or have had a dispute over a civil or family matter or where a victim of a crime, would you strongly agree, somewhat agree, somewhat disagree or strongly disagree with the statement: I would be treated fairly by the court?" answering "yes". (Question 5A of Public Opinion Survey).	2002	** increase	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets will be set by January 31, 2002, after the public opinion survey has been fully analyzed.			

JRP Performance Data Table: (Original indicator 2) Indicator 4 a of 31: Percent of citizens stating the courts function effectively

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they believe the courts are functioning effectively with regards to civil cases			
Unit of Measure: Percentage of those surveyed.	Year	Planned	Actual
Source: NCSC	2001	N.A.	**
Indicator Description: Percentage of those surveyed that responded to the question: "Please tell me if you think the courts in your community handle civil cases in an excellent, good, fair, poor or very poor manner," answering with excellent or good. Question 2.1 of Public Opinion Survey.	2002	** increase	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets will be set by January 31, 2002 after the public opinion survey has been fully analyzed.			

Indicator Performance Data Table: (New) Indicator 4 b of 31: Percent of citizens stating the courts function effectively

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they believe the courts are functioning effectively with regards to criminal cases.			
Unit of Measure: Percentage of those surveyed.	Year	Planned	Actual
Source: NCSC	2001*	N.A.	**

Indicator Description: Percentage of those surveyed that responded to the question: "Please tell me if you think the courts in your community handle criminal cases in an excellent, good, fair, poor or very poor manner," answering with excellent or good. Question 2.2 of public opinion survey.	2002	** increase	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets will be set by January 31, 2002 after the public opinion survey has been fully analyzed.			

JRP Performance Data Table: (Original indicator 2) Indicator 5 of 31: Percent of citizens having trust in the court system

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they have trust/confidence in the courts			
Unit of Measure: Percentage of adults surveyed.	Year	Planned	Actual
Source: NCSC	2001*	N.A.	**
Indicator Description: Percentage of those surveyed that responded to the question: "Would you say you have a great deal of trust/confidence, some trust/confidence, only a little or no trust at all, in the Courts in your community?" answering with a great deal or some trust. Question 1.11 of public opinion survey.	2002	** increase	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets will be set by January 31, 2002 after the public opinion survey has been fully analyzed			

Performance Data Table: (New) Indicator 6 of 31: Judicial Independence Strengthened

Indicator for JRP Program Objective level: Judicial decision making and governance more independent

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Judicial decision making and governance more independent			
Unit of Measure: Score card for Mongolia specific judicial independence indicators	Year	Planned	Actual
Source: NCSC	2001*	N.A.	7
Indicator Description: Total score on judicial independence scorecard*** established by NCSC with input from survey results and focus groups.	2002	8	
	2003	10	
	2004	12	

	2005	14	
* Baseline year.			

*** Judicial Independence Scale

Independence Indicator	Indicator Description	Possible Score	2001 Score	Total 2001 Score
Judicial selection	Judiciary has no influence	0	-	2
	Judiciary participates in development of selection criteria	1	1	
	Judiciary participates in selection	1	1	
	Judiciary controls development of selection and selection process	3	-	
Judicial discipline	Judiciary has no influence	0	-	2
	Judiciary participates in development of discipline criteria	1	1	
	Judiciary participates in disciplinary decisions	1	1	
	Judiciary controls development of discipline criteria and discipline process	3	-	
Judicial budget	Judiciary has no influence	0	-	1
	Judiciary participates in development budget development process	1	1	
	Judiciary participates in budget decision making process	1	-	
	Judiciary controls development of budget development and decision making process	3	-	
Judicial policy	Judiciary has no influence	0	-	1
	Only National Level Judiciary participates in judicial policy development process	1	1	
	Judiciary on all court levels participates in policy development process	2	-	
	Judiciary on all court levels controls development of policy development process	3	-	
Judicial training	Judiciary has no influence	0	-	1
	Judiciary participates as trainers	1	1	
	Judiciary participates in setting training goals and concepts	2	-	
	Judiciary controls development of training goals and concepts	3	-	
Judicial decision making	Judicial decisions are subject to non-appeal supervision and undue political influence	0	0	0

	Judicial decisions are subject to non-appeal supervision by Chief Judges and higher courts but relatively free from political influence	1	-	
	Judicial decisions are reviewed through appeal only but subject to undue political influence	1	-	
	Judiciary on all court levels makes case related decisions independently. Decisions are overturned on appeal only.	3	-	
Total max. score		18	7	7

JRP Performance Data Table (Original indicator 28 of 28): (New) Indicator 7 of 31: Judicial Independence Strengthened.

Indicator for JRP Program Objective level: Judicial decision making and governance more independent.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001	Country/Organization: USAID/Mongolia		
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they believe the Mongolian judiciary is independent.			
Unit of Measure: Percent of those surveyed.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	**
Indicator Description: Percentage of respondents that answer the question "Would you strongly agree, somewhat agree, somewhat disagree, strongly agree with the statement: judges decisions are influence by other government officials?" responding with "strongly disagree or somewhat disagree." Question 10 (i) [10.9] of Public Opinion Survey.	2002	** increase	
	2003		
	2004		
	2005		
	2006		
Comments: * Baseline year. **Actual and Targets will be set by January 31, 2002 after the public opinion survey has been fully analyzed.			

PART 2: INTERMEDIATE RESULTS LEVEL INDICATORS

JRP Performance Data Table (Original indicator 5b of 28): Indicator 8 of 31: Percent of civil cases accepted for adjudication

Indicator for PT 1: Court administration and case management strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.	
Strategic Objective ID: 438-002-01	
Approved: January 26, 2001	Country/Organization: USAID/Mongolia
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.	
Indicator: Percentage of civil cases (including administrative cases) submitted to the court system	

accepted for adjudication.			
Unit of Measure: Percentage.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	29%
Indicator Description: Proportion of cases submitted by litigants for resolution by the court system, accepted by the court system.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets to be set once 2001 data have been received in March 2002. The percentage of civil cases not accepted for adjudication is relatively high for a civil law system. A preliminary review of the cases rejected indicates that the most common reason for declining to hear a case is that the matter should not be handle by a court but some other body. This is less a reflection of inefficient court operations but rather a limited understanding of the citizens of the remedies to resolve conflicts available to them. After administrative courts have been created acceptance of administrative cases has to be treated as a separate indicator.			

JRP Performance Data Table (Original indicator 6 of 28): Indicator 9 of 31: Merit appointment of court staff

Indicator for PT 1: Court administration and case management strengthened

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Merit appointment of court administrative staff.			
Unit of Measure: A scorecard to measure the degree to which merit factors into hiring decisions. ***	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	4**
Indicator Description: Staff selection according to minimal skills requirements that are set out in a transparent appointment system.	2002	2-3	
	2003	4-5	
	2004	6	
	2005	7	
Comments: * Baseline year. **To some extent the entire scale has been adopted in law or regulation for a score of 7, but in actual practice, the observations of the JRP and reports from Court Administrators indicate that in practice Mongolia only implements up to score 4. This score will be further refined as the JRP further observes and analyses the courts.			

*** Scorecard is as follows:

Job descriptions with minimum requirements available but no apparent merit appointment system	1
Job descriptions with minimum requirements available and selection of new staff according to interview results based on minimum requirements	2
Job descriptions with minimum requirements available and selection of new staff according to standard test results based on minimum requirements	3
Job descriptions outlining full requirements available and selection of new staff according to standard test results based on full requirements	4
Job descriptions outlining full requirements available, selection of new staff according to standard test results based on full requirements, basic performance evaluation system for current staff	5

developed	
Job descriptions outlining full requirements available, selection of new staff according to standard test results based on full requirements, basic performance evaluation system for current staff implemented, promotions and salary increases according to performance evaluations	6
Job descriptions outlining full requirements available, selection of new staff according to standard test results based on full requirements, goal based performance evaluation system for current staff developed and implemented, promotions and salary increases according to performance evaluations	7

JRP Performance Data Table (Original indicator 7): Indicator 10 of 31: General Council of Courts the primary national court administration office

Indicator for PT 1: Capacity of the General Council of the Courts Strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001	Country/Organization: USAID/Mongolia		
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: General Council of the Courts established as the primary national court administrative office supported by clear statutory authority.			
Unit of Measure: A sliding scale*** to measure the degree to the GCC is established as the primary national court administrative office supported by clear statutory authority.	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	1
Indicator Description: GCC functions and authorities are clearly defined, inter-relationship with other courts and agencies are clearly defined.	2002	2-3	
	2003	4-5	
	2004		
	2005		
Comments: * Baseline year.			

Caveats: The Mongolian Law on the Courts gives broad powers to the GCC that compete with authorities of other entities, i.e. the Supreme Court and Aimag governments. Desired changes can only be accomplished if competing legislation is harmonized.

*** Sliding scale is as follows:

Legislation governing GCC responsibilities and functions is reviewed for conflicts with other laws	1
New legislation to eliminate regulatory and jurisdictional conflicts is introduced	2
New legislation to eliminate regulatory and jurisdictional conflicts is passed	3
New legislation to eliminate regulatory and jurisdictional conflicts is implemented	4
GCC operates according to adjusted legal framework	5

JRP Performance Data Table (Original indicator 8): Indicator 11 of 31: General Council of Court's Organizational Capacity Increased

Indicator for PT 1: Capacity of the General Council of the Courts strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: General Council of the Courts Organizational Capacity Assessment Index.			
Unit of Measure: Scorecard with scales ranging from 1-5.	Year	Planned	Actual
Source: Team of experts organized by NCSC.	2001*	N.A.	0
Indicator Description: The elements of the index includes: 1) democratic leadership principles institutionalized; 2) modern management practices applied; 3) human resources management based on needs; 4) financial resources management based on needs; 5) service delivery based court needs; and 6) external relations promote the goals of the GCC. Each of these elements will be scored on a six point scale: 1= needs urgent attention and improvement; 2 = needs attention; 3 = needs improvement; 4 = needs improvement in limited aspects but not major or urgent; 5 = no need for immediate improvement.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. ** The original intent was that NCSC in consultation with USAID would create a team of experts who would review the operations of the GCC and develop more exact details for this index, by July 1, 2001. The current operations of the GCC are so under-funded and traditional-hierarchical that none of the measures apply at the current time and a review by an expert team would not yield additional information. In 2001 NCSC made recommendations for change to address these issue. NCSC will review the feasibility of using an expert team to assess the operations of the GCC with USAID by January 31, 2002. Resources to be used for further index development will include USAID resources such as the following: http://www.usaid.gov/pubs/sourcebook/usgov/orgcap.pdf			

JRP Performance Data Table (Original indicator 9): Indicator 12 of 31: Administrative organization of the courts strengthened

Indicator for PT 1: Capacity of the General Council of the Courts strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to strengthen the administrative organization of the courts in Mongolia.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	Step 1	Step 1, 2
Indicator Description: Steps/milestones will include: 1) development of recommendations to strengthen administration of the courts; 2) facilitation of	2002	Step 2 and 3	
	2003	Step 3 and 4	
	2004	Step 4	

roundtables and other problem solving discussions to develop a consensus on steps to strengthen the administrative organization of the courts (these efforts will pay particular attention to matters of centralized direction and local responsibilities); 3) creation of policy guidance to implement the new administrative organization; 4) implementation of the policies; and 5) provision of technical assistance to help ensure the success of the new administrative arrangements.	2005	Step 4	
Comments: * Baseline year. The actual steps to be undertaken will be outlined in each year's workplan and may require adjustments due to changes in legislation and commitment to change by the GCC and other Mongolian stakeholders.			

JRP Performance Data Table: (New) Indicator 13 of 31: Increase in judges having access to laws

Indicator for IR 1.1: Capacity of the General Council of the Courts strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001	Country/Organization: USAID/Mongolia		
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of judges having access to laws and legal information			
Unit of Measure: Percentage of survey respondents	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	45%
Indicator Description: Percentage of judges indicating having appropriate access to all the laws and legal information needed to conduct their work efficiently and effectively.	2002	3% increase	
	2003	3% increase	
	2004	3% increase	
	2005	3% increase	
Comments: * Baseline year.			

JRP Performance Data Table: (New) Indicator 14 of 31: Increased responsiveness of the courts

Indicator for IR 1.1: Capacity of the General Council of the Courts strengthened.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001	Country/Organization: USAID/Mongolia		
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of judges responding that the GCC has been responsive to the courts' needs			
Unit of Measure: Percentage of survey respondents	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	a) 80% b) 70% c) 65% d) 35% e) 23%
Indicator Description: Percentage of judges indicating that the GCC has been responsive to a) training requests, b) operational issues, c) personnel issues, d)	2002	3% increase	
	2003	5% increase	
	2004	5% increase	

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financial matters and e) budget issues.	2005	5% increase	
Comments: * Baseline year.			

JRP Performance Data Table (Original indicator 12): Indicator 15 of 31: Sustainable case tracking system established

Indicator for PT 2: A sustainable case tracking and management system established that supports the rule of law.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken toward the establishment of an efficient sustainable case tracking and management (CTM) system that supports the rule of law.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Steps 1-4	Step 1-3
Indicator Description: Steps/milestones will include: 1) evaluation of past CTM work of other donors and the MOJ; 2) establishment of priorities for a new CTM system; 3) creation of a CTM user group; 4) development of CTM training plans; 5) successful testing of the CTM system in one or more pilot courts; 6) replication of the CTM system to cover additional courts.	2002	Steps 3-5	
	2003	Steps 5-6	
	2004	Steps 5-6	
	2005	Steps 5-6	
Comments: * Baseline year. To ensure sustainability, the definition of a CTM is a manual CTM, supported by partial or full technology support as feasible, that includes records management, case filing, use of common case identifiers, etc.			

JRP Performance Data Table (Original indicator 14): Indicator 16 of 31: Courts' IT capabilities enhanced

Indicator for PT 2: Court system information technology needs analyzed and enhanced.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to analyze the information technology needs of the court system.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	Step 1
Indicator Description: As used here the term "information technology" is meant to be broadly defined. It will include both computer and other	2002	Steps 2-4	
	2003	Step 4-5	
	2004	Step 4-5	

information technology needs, such as communication equipment and will embrace such areas as personnel, procurement and finance. Steps/ milestones will include: 1) identification of gaps in existing court information systems; 2) assessment of GOM plans to address these gaps; 3) assessment of other donor plans to address these gaps; 4) identification of unmet priority needs (if any) that might be effectively met by JRP; 5) implementation of sustainable enhancements to address information technology needs.	2005	Step 4-5	
Comments: * Baseline year. Identification of unmet priority needs and implementation of sustainable enhancements that the JRP can address is an ongoing task that will change over time with changing court needs, adjustments in other donor activities, and access to sustainable resources by the GOM.			

JRP Performance Data Table (New) Indicator 17 of 31: Judges access to technical equipment increased

Indicator for PT 2: Court system information technology needs enhanced.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of judges indicating need for technical equipment.			
Unit of Measure: Percent	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	80%
Indicator Description: Percent of respondents to survey of judges.	2002	75%	
	2003	70%	
	2004	65%	
	2005	60%	
Comments: * Baseline year.			

JRP Performance Data Table (Original indicator 15): Indicator 18 of 31: Courts' responsibilities clarified

Indicator for PT 3: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to clarify and rationalize responsibilities and jurisdictions of courts and justice system agencies.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001	N.A.	1
	2002	2-3	

Indicator Description: Steps/milestones will include: 1) development of draft regulations/legislation to rationalize responsibilities/jurisdictions; 2) sponsorship of one or more stakeholder workshops to discuss the responsibility/jurisdiction issue; 3) adoption of implementing regulations and/or passage of implementing legislation; 4) provision of technical assistance to help implement the regulations/legislation.	2002	2-3	
	2003	3-4	
	2005	3-4	
Baseline year. As new areas in need of review of responsibility/jurisdiction issues are detected, steps 1-4 may have to be repeated.			

Performance Data Table: (New) Indicator 19 of 31: Time in pre-trial detention reduced

Indicator for PT 3 level: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Average time in pre-trial detention between arrest and filing a case in court. Criminal Cases			
Unit of Measure: Number of days.	Year	Planned	Actual
Source: Prosecutor General's Office (??) The Supreme Court (??)**	2001*	N.A.	???
Indicator Description: The number of people and the average length of time spent in pre-trial detention between arrest and criminal cases filed in criminal court in the last 12 months.	2002	** decrease	
	2003		
	2004		
	2005		
* Baseline year. **These data are currently not readily available. The JRP's work with the prosecutor's office and the courts may enhance their data collection capabilities to provide this information.			

Performance Data Table: (New) Indicator 20 of 31: Length of time from arrest to filing the case in court reduced

Indicator for PT 3 level: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Average time from arrest to filing a case in court. Criminal Cases			
Unit of Measure: Number of days.	Year	Planned	Actual
Source: Prosecutor General's Office (??) The Supreme Court (??)	2001*	N.A.	???
	2002	** decrease	

Indicator Description: The average time between arrest and criminal cases filed in criminal court in the last 12 months.	2002	** decrease	
	2003		
	2005		
* Baseline year. **These data are currently not readily available. The JRP's work with the prosecutor's office and the courts may enhance their data collection capabilities to provide this information.			

Performance Data Table: (New) Indicator 21 a of 31: Percent of Civil Cases "Protested" by higher courts

Indicator for PT 3 level: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of lower court decisions "protested" by higher courts without an appeal. Civil Cases			
Unit of Measure: Percent of all cases decided by lower court: civil.	Year	Planned	Actual
Source: The Supreme Court	First half 2001*	N.A.	7.74%**
	2002	4%***	
	2003	0%	
	2004	0%	
	2005	0%	
* Baseline year. **These data are reported to and compiled by the Supreme Court. However, there is some inconsistency between the total number of cases reported in this report and the total number of cases in other reports. The JRP will examine this inconsistency and see if it indicates a problem with the reliability of these data.			

Caveat: The draft Civil Procedure Code will eliminate the practice of supervision, but the last amendment to the Civil Procedure Code attempted to do the same thing and the practice was continued by a Supreme Court resolution making review of all cases mandatory for higher courts. The target is based on the assumption that the new Civil Procedure Code will come into effect in 2002, but it will take some time for the JRP and other donors to work with the Courts to change the practice.

Performance Data Table: (New) Indicator 22 b of 31: Percent of Criminal Cases “Protested” by higher courts

Indicator for PT 3 level: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001	Country/Organization: USAID/Mongolia		
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of lower court decisions “protested” by higher courts without an appeal: Criminal Cases			
Unit of Measure: Percent of all cases decided by lower court: Criminal.	Year	Planned	Actual
Source: The Supreme Court	First half 2001*	N.A.	6.71%**
Indicator Description: A Supreme Court resolution requires all Aimag and the Capital City Court to review all lower court decisions. If a higher court judges suspects a mistake she can initiate an “appeal processes or trial de novo by “protesting” the decision. In addition, after the 10 days to file an appeal has elapsed, a party can go to a higher court judge and ask her to review a case. The judge can “protest” and begin an appeal process. Both of these practices are referred to as “supervision” and represent a source of delay, and an opportunity for corruption. The review of all cases is a tremendous misallocation of judicial resources. The practice also undermines the sense of independence and responsibility of lower court judges.	2002	4%***	
	2003	2%	
	2004	0%	
	2005	0%	
* Baseline year. ** These data are reported to and compiled by the Supreme Court. However, there is some inconsistency between the total number of cases reported in this report and the total number of cases in other reports. The JRP will examine this inconsistency and see if it indicates a problem with the reliability of these data.			

Caveat: The draft Criminal Procedure Code does not explicitly eliminate the practice of review and “protest.” Nonetheless, the JRP will work with the Supreme Court to provide justification for a resolution eliminating or reducing the practice based both on international best practice and consistency with the Civil Procedure Code.

JRP Performance Data Table (Original indicator 17): Indicator 22 of 31: Steps taken to establish continuing legal education system

Indicator for PT 4 level: A continuing legal training education system for all legal professionals designed, developed and made operational.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.	
Strategic Objective ID: 438-002-01	
Approved: January 26, 2001	Country/Organization: USAID/Mongolia
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political	

parties and the judiciary.			
Indicator: Steps taken to establish a continuing education legal system and a national legal training center (NLTC) to serve the entire community of legal professionals in Mongolia.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Steps 1, 2	Steps 1
Indicator Description: Steps/milestones will include: 1) assessment of past legal training activities of other donors and the MOJ; 2) development of priorities for continuing legal education; 3) facilitation of stakeholder meetings or consultations to agree on CLE concept; 4) statutes passed to support CLE; 5) CLE curricula developed; 6) CLE material and trainers available; 7) basic CLE implemented. 1) recommendation for the NLTC developed, 2) stakeholder consensus on NLTC concept 3) definition of the mission, staffing arrangements and operating procedures of the NLTC; 4) development of NLTC curricula, reference materials and training assessment materials; 5) completion of NLTC faculty training; 6) acquisition of the NLTC facility (undertaken simultaneously with steps 1-5 by the MOJ); 7) initiation of NLTC operations; and 8) provision of TA to strengthen the NLTC.	2002	Step 2, 3	
	2003	Step 4, 5	
	2004	Steps 6-7	
	2005	Step 8	
Comments: * Baseline year.			

Caveat: The development of a National Legal Training Center will be dependent on funding provided by other foreign donors. Depending on the availability of funding for the Center project tasks for this indicator may have to be adjusted.

Performance Data Table: (New) Indicator 23 of 31: Steps taken to develop quality continuing legal education material

Indicator for Sub-PT 4.1 level: Sustainable mechanisms to develop quality CLE training material for legal professionals developed and implemented.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to maintain quality CLE training material development efforts for all legal professionals in Mongolia.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	Step 1
Indicator Description: Steps/milestones will include: 1) Assessment of available CLE material; 2) recommendations for sustainable development of	2002	Step 2-4	
	2003	Step 3-4	
	2004	Steps 4	

quality CLE training material provided; 3) initial assistance to develop quality CLE training material provided; 4) CLE training material development courses held for trainers; 4) development of quality CLE training material supported.	2005	Step 4	
Comments: * Baseline year.			

Performance Data Table: (New) Indicator 24 of 31: Steps taken to retain quality trainers for continuing legal education

Indicator for Sub-PT 4.2 level: Sustainable mechanisms to develop and retain quality trainers for CLE training developed and implemented.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to develop and restrain quality trainers for CLE training in Mongolia.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	Step 1
Indicator Description: Steps/milestones will include: 1) Assessment of available CLE trainers and retaining system; 2) Recommendations for developing and retaining CLE trainers provided; 3) CLE training-the-trainers courses held**; 4) CLE training-the-trainers courses supported.	2002	Step 1-3	
	2003	Step 3-4	
	2004	Steps 4	
	2005	Step 4	
Comments: * Baseline year. ** Given the number of trainers that will be needed and the number of courses that they will have to offer, this will not be a one time "check off" but will probably occur throughout the process of creating a sustainable CLE system.			

JRP Performance Data Table (Original indicator 24 of 28): Indicator 25 of 31: Steps taken to promote oral procedures and equality of all parties in court

Indicator for PT 4 level: Procedures, informational materials and training materials developed to promote adoption of a more oral, adversarial process in Mongolian courts.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to promote the adoption of a more oral, adversarial process in Mongolian courts.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Step 1	Step 1
Indicator Description: Steps/milestones will include: 1) facilitation of workshops for legal professionals on the implications of the adversarial principle; 2)	2002	Step 2-3	
	2003	Step 4-5	
	2004	Step 5-6	

development of CLE training courses that enhance advocacy skills; 3) development of plans for pilot projects in two courts to demonstrate application of oral procedures or design of alternative means of enhancing advocacy skills within the Mongolian legal framework; 4) implementation of the pilot project; 5) assessment of results; and 6) replication of pilot activities at additional courts.	2005	Step 6	
Comments: * Baseline year.			

Caveats: Even though Article 20 of the Mongolian Criminal Procedure Code clearly states that adversarial principles should be used in court hearings, none of these principles are currently employed in the Mongolian legal process. The Mongolian law provides for the use of more oral procedures and more equality of the defense with the prosecution. The JRP project can promote the increased use of oral procedures and equality of the parties in court within the current legal framework. True implementation of key adversarial principles requires policy and legislative changes.

JRP Performance Data Table (Original indicator 18 of 28): Indicator 26 of 31: Steps taken to develop legal qualifying system

Indicator for PT 5 level: An effective standardized qualifying system developed and made operational.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to develop and operationalize a standardized qualifying system for all lawyers.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Steps 1-2	Step 1
Indicator Description: Steps/milestones will include: 1) Recommendations for qualifying system provided, 2) Legislation introduced to Parliament and passed; 3) broad based consultative process for developing the test format; 4) training to prepare legal professionals; 5) initial exam administration; 6) staggered implementation of the system, 7) universal application of the system.	2002	Steps 2, 3	
	2003	Steps 4, 5	
	2004	Step 6	
	2005	Step 7	
Comments: * Baseline year.			

Caveat: The implementation of a standardized qualifying system is dependent upon passage of authorizing legislation that is planned to pass in 2002.

JRP Performance Data Table (Original indicator 19 of 28): Indicator 27 of 31: Percentage of new lawyers meeting qualifying standards

Indicator for PT 5 level: An effective standardized qualifying system developed and made operational.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			

Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of new lawyers meeting the standards set by the new national qualifying system.			
Unit of Measure: Percentage	Year	Planned	Actual
Source: NCSC.	2001*	NA	NA
Indicator Description: The national qualifying system is likely to be similar to a bar exam and meeting the standard will mean passing the exam.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets to be set after legislation is passed.			

Caveats: The implementation of a national qualifying system is dependent upon passage of authorizing legislation that is planned to pass 2002. The precise indicator description and targets cannot be established until the legislation passed determines who will be required to take the test.

JRP Performance Data Table (Original indicator 20 of 28): Indicator 28 of 31: Steps taken to establish legal ethics system

Indicator for PT 6 level: Revised ethical standards for legal professionals developed, adopted and enforced.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to define, implement, and enforce ethical standards for legal professionals.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Step 1	Step 1
Indicator Description: Steps/milestones will include: 1) development of revised ethics standards for all legal professionals; 2) Stakeholder workshops to build consensus for ethics legislation; 3) development of ethics training materials; 4) provision of mandatory ethics training to all legal professionals; 5) inclusion of ethics training as a mandatory part of law school training; 6) delegation of the power to enforce ethical standards to one or more legal professional organizations; and 7) initiation of ethics enforcement activities by the professional organizations.	2002	Step 2	
	2003	Step 3-4	
	2004	Step 4-6	
	2005	Step 4-7	
Comments: * Baseline year.			

Caveats: The implementation of several steps under this indicator is dependent upon passage of authorizing legislation that is planned to be introduced in 2002 or later.

JRP Performance Data Table (Original indicator 21 of 28): Indicator 29 of 31: Increase access to the courts

Indicator Program Objective Level: Access to the Mongolian judicial system broadened and improved.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of citizens who say they have access to court systems			
Unit of Measure: Percent of those surveyed.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	**
Indicator Description: Percentage of respondents that state they have access described as: a) know how the process works; b) know where to turn for help; c) court provides assistance; d) understanding of procedures; e) time to process the case; f) geographic access. Question 5 of public opinion survey	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. ** Actual and targets will be set by January 31, 2002 when the survey results have been analyzed.			

JRP Performance Data Table: Indicator 30 of 31: Increased access to non-court settlement alternatives

Indicator for IR 5.1: Alternative dispute resolution mechanisms, including small claims courts and criminal process alternatives, designed and implemented.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of survey responding indicating that they had been involved in disputes resolved outside the court system			
Unit of Measure: Percent of respondents.	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	**
Indicator Description: Alternative dispute resolution mechanisms currently include decisions by governors and mediating by non-government entities. In the future this may include arbitration, small claims courts, and other legally recognized alternatives to the traditional court system. Question 4b public opinion survey	2002	**	
	2003		
	2004		
	2005		
	2006		
Comments: * Baseline year. ** Actual and targets will be set by January 31, 2002 when the survey results have been analyzed.			

JRP Performance Data Table: Indicator 31 of 31: Increased use of non-court settlement alternatives

Indicator for IR 5.1: Alternative dispute resolution mechanisms, including small claims courts and criminal process alternatives, designed and implemented.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.
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Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percent of cases resolved using alternative systems.			
Unit of Measure: Percent of cases resolved.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	**
Indicator Description: Case is defined as a conflict between two or more parties. An alternative dispute system is one that is legally recognized.	2002	**	
	2003		
	2004		
	2005		
	2006		
Comments: * Baseline year. ** There are currently no data readily available on the number of out of court settlements through alternative means; the JRP will strive to gain access to such information in the coming year. In addition, year one and two JRP activities do not include the development of ADR mechanism, so no targets can be set at the current time.			

JUSTIFICATION FOR ELIMINATING ORIGINALLY PROPOSED INDICATORS

A number of original indicators have proven to be insufficient measures for program performance for the JRP. Outlined below are the justifications for eliminating these measures.

Performance Data Table: Original indicator 1a and b of 28 – Average time from filing to disposition of new cases - To be deleted.

Indicator for JRP Program Objective level: Mongolian judicial sector institutions made more efficient, more effective and more capable of adhering to the rule of law.

Justification for elimination: By statute all Civil Cases must be completed within 60 days of filing, and Criminal Cases within 30 days. The available data indicate that case disposition is well within this range. The data have proven to be reliable and no improvement in this area is needed for the coming years. Actually, the timelines set by Mongolian statutes may be too rigorous for successfully processing major civil cases and pursuing complex criminal cases. Instead NCSC identified other shortcomings in case processing, i.e. length of time between arrest and filing a case in court, length of time accused are spending in pre-trial detention without a case being filed in court, time between court decision and enforcement in civil cases, number of lower court decisions overturned through appeal, number of lower court decisions overturned through "supervisory" decisions. These are included in new measures.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Average time from filing to disposition of new cases. Civil Cases			
Unit of Measure: Number of days.	Year	Planned	Actual
Source: The Supreme Court	2000*	N.A.	41.5 days
Indicator Description: The average time of all cases disposed of in the last 12 months between the time when the case was filed and when it was disposed: disaggregated by type of case: criminal or civil.	2001	**	
	2002		
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets will be set by December 1, 2001 after the current data have been further validated.			

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Average time from filing to disposition of new cases. Criminal Cases			
Unit of Measure: Number of days.	Year	Planned	Actual
Source: The Supreme Court	2000*	N.A.	23.5 days
Indicator Description: The average time of all cases disposed of in the last 12 months between the time when the case was filed and when it was disposed: disaggregated by type of case: criminal or civil.	2001	**	
	2002		
	2003		
	2004		
	2005		
* Baseline year. **Targets will be set by December 1, 2001 after the current data have been further validated.			

JRP Performance Data Table: Original Indicator 4a and b of 28 – to be deleted

Indicator for PT 1: Court administration and case management strengthened.

Justification for elimination: This indicator alone does not provide much information about stronger court administration or case management and could be misleading because the number of criminal cases filed is affected by many non-court related factors (i.e., rise in crime rates, increased police and/or prosecutor activities, increase in court fees, etc.). Therefore, this indicator would have to be explained by additional quantitative and qualitative indicators to control for such non-court related influences on case filings.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Number of Criminal Case Filings			
Unit of Measure: Number of filings.	Year	Planned	Actual
Source: The Supreme Court	2000*	N.A.	10,277
Indicator Description: Criminal and civil courts exist at the national, aimag, inter-soum, and soum levels. Specialty courts do not exist but are expected to be created at the aimag, inter-soum and soum levels.	2001	**	
	2002		
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets to be set by December 1, 2001.			

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Number of Civil Case Filings			
Unit of Measure: Number of filings.	Year	Planned	Actual
Source: The Supreme Court	2000*	N.A.	21,717
Indicator Description: Criminal and civil courts exist at the national, aimag, inter-soum, and soum levels. Specialty courts do not exist yet but are expected to be created at the aimag, inter-soum and soum levels.	2001	**	
	2002		
	2003		
	2004		
	2005		
Comments: * Baseline year. **Targets to be set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 5a of 28 – to be deleted

Indicator for PT 1: Court administration and case management strengthened.

Justification for elimination: The percentage of criminal cases not accepted for adjudication is reasonably low in comparison to other countries; further reduction of the number of cases not accepted is not needed.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of criminal cases submitted to the court system accepted for adjudication.			
Unit of Measure: Percentage.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	6.2%
Indicator Description: Proportion of cases filed in the court system, accepted by the court system.	2002		
	2003		
	2004		
	2005		
Comments: * Baseline year.			

JRP Performance Data Table: Original Indicator 5c of 28 – to be deleted

Indicator for PT 1: Court administration and case management strengthened.

Justification for elimination: No administrative courts or other specialty courts have been created and administrative type cases are currently handled in civil courts. After the first administrative courts become operational, these types of cases will be disaggregated from the civil cases currently monitored under indicator 8 of 30.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of cases submitted to specialty courts accepted for adjudication.			
Unit of Measure: Percentage.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	**
Indicator Description: Proportion of cases submitted by litigants for resolution by the court system, accepted by the court system.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Baseline data and targets to be set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 10 of 28 - To be deleted.

Indicator for IR 1.1: Capacity of the General Council of the Courts strengthened.

Justification for elimination: The ability of the GCC to deliver the needed information material to all courts is severely limited due to under-funding of the GCC and other entities (i.e. Supreme Court) that publish essential information. Instead indicators 13 (access to laws/legal information) and 14 (responsiveness of the GCC) have been chosen to measure the ability of the GCC to provide needed services to the courts.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			

Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of courts receiving regular distributions of essential information from GCC.			
Unit of Measure: Percentage of courts receive # of materials.	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	100/2
Indicator Description: Regular distributions means at least once a month. Essential information includes higher court decisions, MOJ rulings, and relevant pending and newly passed legislation.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Baseline data to be verified and targets set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 11 of 28 - To be deleted.

Indicator for IR 1.1: Capacity of the General Council of the Courts strengthened.

Reason for elimination: This indicator is less than useful because of the inability to have a meaningful definition of "acted upon" with respect to the wide variety of request received by the GCC. While they are all responded to, budget limitations and the reasonableness of the requests dictate how satisfactory those responses are for the requestors. A better measure is the budget of the GCC allocated to the courts (that is net of central administrative costs). This is captured in the new indicator 1. In addition, a range of other indicators measure GCC capacities (10, 11, 12).

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Number of requests for assistance from courts received and acted upon by General Council of the Courts.			
Unit of Measure: Number of requests.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	752 ¹
Indicator Description: Requests for assistance include requests for legal information (not case specific), assistance with organization, operational or personnel issues, requests for training. Acting upon a request means disseminating information, providing training and on-site delivery of technical assistance.	2002	**	
	2003		
	2004		
	2005		
	2006		
Comments: * Baseline year. **Baseline data to be completed by and targets set by September 1, 2001.			

JRP Performance Data Table: Original Indicator 13 of 28 - To be deleted.

Indicator for IR 1.2: A sustainable case tracking and management system established.

¹ The GCC received: Personnel matters, 677 requests; Technical Equipment and Facilities, 34 requests; Finance and Budget, 41 requests. Neither we, nor the GCC has a count of the final resolution, but all have been responded to.

Reason for elimination: Sustainable, efficient manual case tracking systems exist in Mongolian Courts. The work of the JRP will focus on improving those systems to further transparency and accountability, as well as efficiency in filing and records management. This indicator is replaced by indicator 15.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Percentage of total court caseload being handled by CTM systems.			
Unit of Measure: Percentage.	Year	Planned	Actual
Source: The GCC.	2001*	N.A.	(2)**
Indicator Description: Percentage of court filings during the previous 12 months being tracked and managed by CTM systems (disaggregated by manual and automated systems).	2002	**	
	2003	**	
	2004	**	
	2005	**	
	2006	**	
Comments: * Baseline year. ** Baseline information and targets for 2002 will be completed by December 2001.			

JRP Performance Data Table: Original Indicator 16 of 28 – to be deleted

Indicator for IR 1.4: Responsibilities and jurisdictions of courts/agencies clarified and rationalized.

Justification for elimination: Cooperative agreements are useful where institutions have clearly defined roles and procedures of long standing can be expedited with such agreements. In Mongolia, such jurisdictional clarity is lacking and laws and policies are changing rapidly. With this unsettled state of the law and practice, it is unrealistic to expect cooperative arrangements between courts and other justice sector organizations are a reliable solution. In addition, this indicator is difficult to measure since the definition of cooperative agreement can include very vague agreements (as the sometimes exist in Mongolia) that do little to actually improve coordination, as well informal agreements on the local level that are difficult to capture.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Increase in number of cooperative arrangements among courts and other justice sector organizations.			
Unit of Measure: Number of cooperative arrangements.	Year	Planned	Actual
Source: NCSC and the GCC.	2001*	N.A.	**
Indicator Description: Cooperative arrangements will include formal MOUs and the establishment of informal procedures to foster coordination and collaboration among courts and other justice sector organizations.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Baseline data to be gathered and targets set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 25 of 28 – to be deleted

Indicator for IR 5.3: Capacity of legal clinics expanded.

Justification for elimination: This aspect of enhancing access to the justice system and increasing law school capabilities will be covered by other donors and is no longer a focus of the JRP's work. Soros Foundation (Open Society Mongolia Foundation) is already working in this area and the World Bank may add to their efforts.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to upgrade one pilot state of the art legal clinic in Ulaanbaatar and establish one new similar state of the art legal clinic outside Ulaanbaatar.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	**
Indicator Description: Steps/milestones to upgrade the clinic in Ulaanbaatar will include: 1) identification of state of the art services to be provided; 2) development of a draft plan to upgrade the clinic; and 3) implementation of the plan. Similar steps will be followed in the creation of the clinic outside of Ulaanbaatar.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Baseline data to be gathered and targets set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 26 of 28 - To be deleted.

Indicator for IR 6: Law school standards raised.

Justification for elimination: This aspect of enhancing law school capabilities will be covered by other donors and is no longer a direct focus of the JRP's work. The recommendations for developing a standard qualification system for new lawyers may lead to higher law school standards. Indicator 27 will track the percentage of new lawyers that pass the new qualification exam if it is implemented in the future.

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	N.A.	**
Indicator Description: Steps/milestones will include: 1) assessment of past efforts by other donors and the MOJ to raise law school standards; 2) facilitation of information gathering workshops on law school curricula, teaching methods and accreditation standards; 3) creation of a plan to raise law school standards (including accreditation and legal education standards, recommendations for a uniform curricula, uniform exams, etc.); and 4) provision of assistance to help implement the plan.	2002	**	
	2003		
	2004		
	2005		
Comments: * Baseline year. **Baseline data to be gathered and targets set by December 1, 2001.			

JRP Performance Data Table: Original Indicator 27 of 28 - To be deleted.

Indicator for IR 7: Independence of the judiciary strengthened.

Justification for elimination: This indicator is now covered by indicator 6 "Judicial Independence Strengthened: Judicial decision making and governance more independent."

Strategic Objective Name: Consolidate Mongolia's democratic tradition.			
Strategic Objective ID: 438-002-01			
Approved: January 26, 2001		Country/Organization: USAID/Mongolia	
Country Strategic Plan - Intermediate Result 2.2: Improve the effectiveness of parliament, political parties and the judiciary.			
Indicator: Steps taken to strengthen the independence of the judiciary.			
Unit of Measure: Steps taken/milestones achieved.	Year	Planned	Actual
Source: NCSC.	2001*	Steps 1, 2	1, 2
Indicator Description: Judicial independence will be defined as the ability of judges to make decisions on cases in their domain without any outside interference. Steps/milestones will include: 1) development of g recommendations to enhance judicial independence; and 2) initiation of actions to help implement the recommendations such as consensus building activities and providing technical assistance to revise laws policies and regulations.	2002	**	
	2003		
	2004		
	2005		
	2006		
Comments: * Baseline year. **New steps and targets for following years to be set by December 1, 2001.			

Appendix E

NATIONAL CENTER FOR STATE COURTS
International Programs Division
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
www.ncsconline.org

Mongolia Judicial Reform Program

**The Structure and Functionality
of the General Council of Courts:
Report and Recommendations**

November 2001

**Cooperative Agreement
#492-A-00-01-00001**

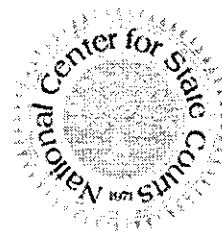


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1. Background and Review of Judicial Councils in the United States¹

Early in the 20th Century concerns were voiced over the administration of justice in the United States. There was a general dissatisfaction with how the courts operated and the lack of efficiency in the administration of justice. Many U.S. court systems still employed antiquated legal and administrative procedures that dated back to the 19th century. In 1913 Wisconsin was the first state to address these problems by creating a judicial council. It required more than 35 years for the total number of judicial councils to grow to 37 across the United States. Their overall purpose was to set direction and provide leadership for improving the administration of justice. Although the intentions and missions of these early councils were lofty and worthwhile, there were inherent and systemic problems associated with the accomplishment of their goals to improve the administration of justice.

It was not until the late 1950s that judicial reform began to have any tangible effects. The courts throughout the United States in the 1950s were faced with a judiciary that was inadequately compensated, under-trained with little or no continuing legal education programs, and little accountability to the public for disciplinary actions. Many of the early judicial councils recognized the problems the courts were facing and solutions to remedy these problems were sought. Unfortunately, many of these councils saw their primary roles as only advisory in nature and concentrated on reviewing pending legislation and making general recommendations for the improvement of the courts. The judges themselves were frequently opposed to the intrusions of these councils because they viewed their work as interfering with judicial independence and self-government.

In addition, other factors contributed to the lack of success in changing the court system through these judicial councils. Most of the early judicial councils had little legal authority to affect change in how the courts operated. Some of the judicial councils only met once or twice a year for a half-day meeting. It is difficult, if not impossible, for a part-time group of individuals with varying backgrounds and expertise to address the needs and requirements of the courts. The issues facing the courts are too complex and involved to effectively develop policies for changing the judiciary as a whole. In many states the judicial councils proposed and recommended important and innovative changes for their respective court systems. Although these changes were needed and well thought out, there was little or no staff available to implement these changes in the courts. It was not until the late 1950s and early 1960s that judicial reform began to take place in the United States. The emergence of the modern court administrator and his/her staff has enhanced the roles of judicial councils and the modernization of court systems in the United States. The majority of the states now have adequate central staff to support and implement the policies promulgated by their respective judicial councils.²

¹ The authors of this report are Charles Ferrell, Heike Gramckow, Ph.D., and Kim Mahling Clark. This report was developed by the National Center for State Courts with USAID funds under Cooperative Agreement #492-A-00-01-00001; Mongolian Judicial Reform Project. The opinions presented in this report are those of the authors and do not represent an official USAID position.

² See generally, Robin W. Tobin, *Creating the Judicial Branch: The Unfinished Reform*. National Center for State Courts: Williamsburg, Virginia, 1999.

The purposes and composition of judicial councils in the United States vary greatly, as demonstrated in "Judicial Councils and Conferences: Composition and Function"³ (Appendix 1). The majority of the judicial councils in the United States is constituted by statute and meet annually or semi-annually. Although all U.S. states have some type of judicial council or conference, the overall responsibilities of these entities has not changed much from the original councils created in the mid-20th century. The purposes of these councils for the most part are unchanged from earlier times (1940-50s) in that they serve in an advisory role to recommend improvements for the court system. There are only few states that have a judicial council with a direct involvement in the administration of the courts in their respective states. Two of these states are California and Utah. Other than California and Utah the purposes of the other councils are to study, advise, review, and recommend. Only in Utah and California are there specific and well-defined Constitutional and statutory provisions that give the authority and power to develop, adopt, and implement policies and procedures to improve the operation and administration of the courts.

The following sections provide a short overview of the composition and responsibilities of the Judicial Councils in California and Utah. More emphasis is placed on the California system since it more closely approximates the role of the Mongolian General Council of Courts structure and mission. The experience of the Utah system is also of interest since that state mirrors more closely the needs of a less-populated, more rural country like Mongolia.

California Judicial Council

The California Judicial Council was created by Constitutional Amendment to serve as the chief administrative body of the court system. To assist the council in the fulfillment of its duties, the Administrative Director of the Courts is responsible for setting the direction and providing staff support and leadership for carrying out council policies. The Administrative Director is tasked with improving the quality of justice and promoting the independence and accessibility of the courts. The council is headed by the Chief Justice of the California Supreme Court. The other council members include 15 judges, 4 lawyers, 2 legislators, 4 court administrators, 1 court commissioner and 1 appellate court clerk. The council meets at least seven times per year.

The California Judicial Council is responsible for the following:

- Developing rules for the administration of the courts, their practices and procedures;
- Reviewing and approving the budgets for the California judicial branch;
- Reviewing and commenting on Legislation that affects the judicial branch of government and approving any reports provided to the Legislature;
- Providing guidance and direction for the improvement of the court system;

³ U.S. Department of Justice, Bureau of Justice Statistics, *State Court Organization 1998*. Washington, DC

- Responding to information requests and implementing appropriate mandates from the Legislature.

In order for the California Judicial Council to perform its duties and responsibilities, the Administrative Office of the Courts provides staff support to the council in fulfilling its mandate to improve the administration of the courts. The Council has standing committees and has the capability to appoint ad hoc committees as required. The Executive Committee oversees the strategic planning process and budgetary issues. The Policy Committee reviews and takes position on legislation affecting the court system and also proposes a legislative agenda for the improvement of the court system. The Rules and Projects Committee establishes and maintains the rule-making process and assists in developing and reviewing all rules of court administration. Finally, Advisory Committees (ad hoc) are created for special projects to build on the collective wisdom and experience of its members to review and recommend policy changes for the administration of the courts. To assist the council in fulfilling its responsibilities and duties, the Administrative Director of the Courts and his staff are charged with providing staff support to the Council to fulfill its goals and objectives. The staff is charged with the duty of ensuring that the goals established by the Council are addressed.

Utah Judicial Council

The Utah Judicial Council was created by Constitutional Amendment and has the authority to adopt policies and rules for the administration of the court system in Utah. The Utah Judicial Council is composed of 14 members and is chaired by the Chief Justice of the Utah Supreme Court. There is one member who is the state bar representative and the other 12 members are judges from each court level in Utah. The Council has established a Board of Judges for each court level that adopts administrative rules for its court level and implement the Council's policies. These Boards also serve as liaison between the different court levels and the Council. The Utah Council holds monthly meetings across the state that are open to the public.

The Utah system was selected for a review in addition to California because its overall charter is to develop and adopt rules and procedures for the administration of the courts. The Utah Council has the support of a strong and well-developed Administrative Office, much like the California system. Both are chaired by the Chief Justice of the Supreme Court. The primary differences between the California and Utah systems are their population and size and the composition of the respective councils, with the Utah council consisting primarily of judges (13 of 14 members).

The responsibilities of the Utah Judicial Council are:

- Adopt uniform rules for administration of the courts;
- Develop standards for judicial performance;
- Develop standards for court facilities;
- Establish judicial and non-judicial staffing levels.

2. Responsibilities of the Administrative Offices in California and Utah

Both Utah and California have well-developed and staffed Administrative Offices of the Courts (AOC) to support the infrastructure of the court system as well as to serve as secretariat to their respective judicial councils. It is the responsibility of these offices to implement the policies and procedures established by the judicial councils, provide the courts with day-to-day management support, and ensure that the courts are adequately funded and staffed. The policies and procedures adopted by the judicial councils could not be implemented without the staff support from the AOCs.

The AOCs in both states are responsible for providing staff assistance to judicial committees, budgeting, revenue accounting, personnel management and financial auditing. These offices also draft legislation and provide testimony and research on legislation affecting the judicial system. The AOCs are expected to produce statistical information on the activities of the courts to support judicial resource increases and identify backlogs in particular courts where resources can be moved to reduce caseloads. The importance of an adequately staffed AOC to serve the courts statewide is extremely important for the functioning of the court system.

3. Review of Select European Judicial Councils

The tables provided at the end of this paper (Appendix 2) reflect the distribution of responsibilities for judicial governance and court administration in select Western and Eastern European countries. These countries have similar judicial responsibilities and governance structures as Mongolia. The selected countries used in this report are not exhaustive but are a representative sample for discussion purposes.

To enable a comparison of the structures and functions established in each country the tables show by subject area (task) which entity is responsibility for each task: the Judicial Branch, another Agency, or the Executive Branch. The countries selected for review are Poland, Hungary, Lithuania, Estonia, Netherlands, Germany, and Bulgaria.

The selected European countries, like Mongolia, all have a judicial governance structure that is largely under the auspices of the Ministry of Justice, which is a cabinet level department under the executive branch of government. By contrast, there are no judicial councils in the United States governed by an executive branch agency or department. The judicial governance structures established in the selected countries, like the Mongolian GCC, all have some policy-making powers. Unlike Mongolia, however, they are guided by strong judicial leadership for policy setting. At the same time it is important to recognize, that other European countries, particularly Spain and Portugal, while following a civil law system, established judicial governance structures that are independent from the executive branch.

A review of the tables for each of the selected European countries reflects an involvement by a judicial council and/or the Ministry of Justice in the processes of judicial selection and discipline. These two issues will not be discussed within the context of this report because they deserve a more detailed analysis that will be prepared as separate reports.

A review of the judicial responsibilities and governance structures in these European countries indicate that organizationally, they are not much different from Mongolia's judicial governance structure. The most apparent issue that confronts several of the European countries and Mongolia is the lack of a national-level support staff to provide administrative support to the courts and carry out the policies set by an independent judiciary. The structures established in these European countries also appear to present the problem that the court system, at least organizationally, is treated by the Legislative branch, as well the Executive branch, as an agency within the Ministry of Justice. It is important to point out that the current structures of judicial governance in Germany (and other European countries) are subject of significant debates and that changes to the current structures that give the judiciary more responsibilities for policy setting, judicial governance (including court administration), have been proposed and are likely to come into effect in the coming years. It is also important to recognize that the significant control over court policies that the German state-level Ministries of Justice were introduced in the mid-1930s by the Nazi government in an effort to control the third branch.⁴

To enhance judicial control over judicial policies and court operations, the Netherlands recently enacted legislation that moved much of the administrative and budgetary responsibilities of the courts from the Ministry of Justice and to the Council for the Administration of the Courts. As of 1 January 2002, the Dutch Council for the Administration of Justice will be responsible for the supervision of the courts and for supporting their general business operations. The Council is to be responsible for preparing the courts' budgets and supervising their implementation. At the same time, individual court boards will be given management responsibilities. This will mean a change in the relationship between the Minister of Justice and the judiciary. The Minister will be further removed from the way in which the administration of justice is actually carried out.⁵

Recognizing the importance of a fully independent judiciary, the Hungarian Parliament undertook similar reforms in 1997 when it amended the Constitution and established the Hungarian Judicial Council. The Council proposes the judiciary's budget, deals with disciplinary offenses of judges, makes appointments to the appellate and county courts, and appoints the chief justice of the Supreme Court. The 15-member Council is composed of nine judges elected from different courts by the judges of these courts. The other six members are the Minister of Justice, the Chief Public Prosecutor, the President of the National Chamber of Advocates, the Presidents of the Parliamentary Constitutional and Budgetary Committees. The Chief Justice of the Supreme Court presides over the Council.⁶

4. The General Council of Courts in Mongolia

Article 49 of the Constitution of Mongolia creates the General Council of Courts (GCC) of Mongolia to ensure the independence of the courts and guarantee conditions for the independence of the judiciary. Laws and internal GCC resolutions further define the duties and responsibilities of the GCC.

⁴ Weist 1968

⁵ Netherlands Ministry of Justice 2001

⁶ "Hungary" Constitution Watch. *East European Constitutional Review*. Volume 6, Number 2&3, 1997.

The GCC is composed of twelve (12) members. According to the Mongolian Law on the Courts Article 33, the members are: The Chief Justice of the Supreme Court; the State General Prosecutor; the Minister of Justice and Home Affairs who also shall serve as the chairperson; two members nominated by the State Great Hural (Parliament); two members nominated by the President; 2 members from the courts of each instance (six total) whose candidacies are submitted in accordance to Supreme Court Rules; and the General Secretary of the Council.

The GCC has broad powers established by the Law on Courts of Mongolia for the administration of the courts of Mongolia. The GCC has adopted internal resolutions for their operation that provides more defined procedures for the administration of the courts. These resolutions include procedures and policies for budgetary matters, human resources, judicial discipline, court administration at the local trial level and, internal GCC operations. To assist the GCC in implementing its policies and procedures the Office of General Secretary, who is nominated by the Minister of Justice and Home Affairs, was established. The General Secretary has a small staff to carry out these duties.

On first reading it appears that the GCC has the legal power to set policy and direction for the court system of Mongolia. However, several laws and Internal Rules of the GCC have been enacted that move much of this power to the Minister of Justice. Some examples of this transfer include: (1) the Chair of the GCC also heads the law enforcement agency of State government (i.e. the Minister of Justice and Home Affairs); (2) the staff of the General Secretary are employees of the Ministry of Justice and Home Affairs (MOJHA), the General Secretary is nominated by the Minister of Justice and Home Affairs; (3) the GCC must cooperate with the MOJHA and its subsidiary agencies and institutions within the framework of the legal reform program; (4) in order to submit proposals or comments to the Cabinet, the GCC must submit them through the Minister of Justice and Home Affairs; (5) the Chair of the GCC (i.e. the Minister of Justice and Home Affairs) must coordinate the development and implementation of judicial sector programs and projects supported by foreign organizations, and the opinions of the relevant organizations must be taken into account. These are a few examples where the power of the GCC to act independently to advance judicial reform and improvement has effectively been transferred to the MOJHA.

The GCC in Mongolia is facing what so many of the Judicial Councils faced in the United States, in that the Council is only empowered to advise, recommend and propose policies on court administration and budgetary matters and has no real authority to implement such policies without the approval of the Minister of Justice.

In order fulfill its responsibilities in accordance with the constitution and the Law on the Courts, the GCC's primary purpose should be to set the direction and provide leadership for the improvement of the court system. The GCC should develop policies for the advancement of a consistent, independent, accessible and transparent system of justice. The GCC should establish the direction for the improvement of the court system; develop rules for the administration of the courts; approve all budgets for the judicial branch of government and submit such budgets directly to the Parliament; review, develop and comment on all legislation that has a positive or negative impact on the court system; and respond to appropriate requests from the Parliament to discuss the operations of the courts.

The General Secretary of the Council should be charged with the responsibilities to accomplish the GCC's stated goals and objectives. Consistent with these responsibilities the General Secretary should be responsible for assigning staff, allocating financial and other resources to achieve the goals identified by the GCC. The GCC staff should be responsible for the development of reports and other work products as requested by the GCC. In order for the General Secretary's office to be responsive to the requests of the GCC sufficient staff that is well trained and has access to adequate resources is needed. The current staffing level of the GCC is insufficient to accomplish the dual tasks of serving as a true secretariat for the GCC and implementing the directions given by the GCC. At least five new professional staff positions should be created to enable the GCC to fulfill its responsibilities. The additional staff would be assigned as follows: 2 in finance, 1 in human resources, 1 in technology support, and 1 in statistical analysis. The current staff is too small to adequately support the GCC and the local courts in a meaningful manner.

5. Functional Comparison

To facilitate the discussion of the GCC's governance and administration responsibilities, each area will be discussed in comparison to the United States. Comparisons to European countries are made where relevant. This will provide a frame of reference for each area of responsibility.

Council Composition

Seven of the 12 members of the GCC are judges, a ratio that is comparable to judicial councils in the United States and Europe. The European Union (EU) has set out a charter stipulating judicial sector standards that countries must meet in order to join the EU. Among their recommendations, a judicial council involved in selection and discipline should be comprised of at least half judges, with the ultimate goal being 100 percent judicial membership.⁷

In several European countries, such as Hungary and Spain, the Chief Justice of the Supreme Court is designated to chair the judicial council. The same is true in other national judicial councils. In some cases, such as Poland, the members of the council elect the chair of the judicial council. In Bulgaria, the Minister of Justice presides over the meetings but has no voting rights.

Judicial Selection

The GCC is responsible for the creation of the Judicial Professional Committee (JPC) and the approval of the committee's rules of operation. The committee is composed of nine judges and lawyers that are appointed by the GCC but cannot be members of the GCC. The committee is responsible for the screening and qualification of all judicial applicants. The GCC's Office of the General Secretary provides staff and administrative support to the JPC. The JPC submits a

⁷ European Charter on the Statute for Judges and Explanatory Memorandum. Strasbourg, 8-10 July 1998.

list of qualified applicants to the GCC, which selects and nominates applicants for the President of Mongolia to appoint to fill a given judicial vacancy.⁸

The judicial selection and qualification process in most U.S. states is not much different. The selection is the responsibility of a statutorily created commission that consists of representatives of the judiciary and other legal professions and is independent from any branch or agency of government. In many U.S. states the Administrative Office of the Courts provides staff and logistical support for the selection and qualifications commissions, as does the GCC. The difference is that the selection of the JPC is dependent upon the GCC and the JPC's decision must be approved by the GCC. As a result, different from judicial selection and qualification commissions in the United States, the entire process is under the control of the GCC, instead of an independent commission. As mentioned above, a separate paper is dealing with judicial selection issues that will also address the composition, structure, and governance of such a commission.

Judicial Discipline

In Mongolia, Judicial Disciplinary Committees (JDCs) are created by law at each court level to review and decide whether disciplinary action is warranted for complaints filed against a judge. Each committee is composed of 3 to 5 judges from each court level within each judicial district. The JDCs review two general types of complaints: ethical violations and complaints that a judge made a professional mistake in applying the law. Depending on the severity of the ethical violation, the JDC issues sanctions locally, or if warranted, submits the complaint directly to the GCC for action. The JDC findings concerning professional errors are submitted to the JPC for review and possible sanction. If the JPC decides that a complaint has merit, it is presented to the GCC with a disciplinary recommendation.

Judicial discipline in most U.S. states is handled by a special judicial discipline commission, and in some states a special court is set up for these purposes. These commissions are created by statute to determine whether a judge has committed an ethical, moral or criminal violation. The complaints are investigated by a special investigator who determines whether there are sufficient grounds to proceed in filing charges against the judge. While in Mongolia a disciplinary committee is created at each court level, only one commission decides judicial disciplinary actions against judges on all court levels in a particular U.S. state. It is important to point out that judicial disciplinary commissions in the United States, whether at the federal or state level, do not decide upon erroneous court decisions, since the appellate process in the United States corrects those types of errors and omissions. Though it is rare, judges may be disciplined for committing frequent errors in applying the law but this process does not impact the decisions in the cases involved. Overall, formal disciplinary procedures for ethical or moral violations against American judges that result in removal from the bench are rare. Various intermediate reactions, such as reprimands, mediation, and fines, will have the desired effect as judges with frequent disciplinary citations are either not reelected and more likely to resign from the bench than to wait for another disciplinary action. Of course, allegations of criminal violations are a

⁸ Separately the National Center for State Courts has prepared an analysis of and recommendations for judicial selection and discipline in Mongolia.

different matter. If the initial investigation leads to sufficient evidence, the disciplinary commission will turn the evidence over to the appropriate enforcement agency for prosecution.

Judicial Training

The GCC has responsibility for the training of judges and currently has a limited curriculum established. There is, however, little coordination of training efforts from a centralized viewpoint that ensures the systematic training of judges nor is there a Continuing Legal Education (CLE) requirement for any of the legal professionals in Mongolia. Training for administrative support staff is provided through the General Secretary's office.

Judicial training for judges in the United States is provided by the State Bar Associations and the Administrative Offices of the Courts. Most states have a mandatory Continuing Legal Education (CLE) requirement for attorneys, including judges. In addition to special courses offered for newly elected/appointed judges, these CLE courses can cover the entire range of applied legal courses to courses on judicial decisions making, legal writing, ethics, judicial leadership and management, and other topics of value to judges. Frequently individual courts offer in-house workshops and seminars conducted by one of their members to share special expertise and experience. While standard training requirements do not exist for most court staff, training for the various professions that support the courts, court administrators, clerks, secretaries, court reporters, and interpreters are offered by the AOC, by the various professional associations, and again, by the courts themselves in form of in-house training.

Judicial Budget

In Mongolia the Ministry of Finance drafts the State Budget, which includes the courts' budget. The Ministry of Finance solicits no input for the courts' budget from the GCC or the staff when compiling the State Budget. The Ministry informs the GCC, through a letter, of the amounts and percentages of increases or decreases that were included in the courts' budget segment of the Mongolian State Budget. These mandates are provided by the Ministry well in advance of the time the budget is due to be submitted to the Parliament. Although the GCC staff is informed and aware of the actions of the Ministry of Finance, the staff continues to develop the draft courts' budget using expense and budget data collected from all the courts in Mongolia to provide the GCC with actual budget information to justify expenditures later.⁹

The GCC staff uses its version of the budget to lobby the Parliament for increases to the judicial budget filed by the Ministry of Finance. The actual budget figures compiled by the GCC staff also provide the government with information on how much debt the courts have incurred in their operations so that if there are funds available the government can resolve all or part of this debt. The draft of the State Budget, prepared by the Ministry of Finance, does not include the GCC-approved budget amounts, and instead uses the figures established by the Ministry of Finance.

⁹ For more information, see "The Budget Process of the Mongolian Judicial System." National Center for State Courts, September 2001.

The U.S. Constitution and all State Constitutions clearly delineate the doctrine of separation of powers by creating three separate but equal branches of government. In the majority of states the judicial budget process is a cooperative effort among the judicial, executive and legislative branches of government. In some states the executive branch may provide a format for the courts to submit their budget requests, and in other states the judicial branch submits its budget directly to the legislature. But independent of who submits the budget, the determination of the budget amount and justification presented lies with the judiciary.

Similarly, in 1997, the Hungarian Parliament authorized formation of the National Council of the Judiciary whose functions include preparation and submission of the judiciary's annual budget to the Parliament, and supervision, execution, and enforcement of the budget approved by Parliament. Moreover, if the Parliament fails to approve the Council's recommended budget, it has to include a justification. The Bureau of the Judicial Council, a state agency that is a part of the judiciary, has on staff a number of economists, accountants, and other experienced professionals who assist the Council in monitoring and executing the judiciary's budget.¹⁰

Judicial Policies/Legislation

The GCC has broad powers to establish policies and procedures for the administration of the courts. These procedures can be implemented either by the GCC or the Minister of Justice. The GCC usually adopts the more formal rules and procedures such as the rules for the Judicial Professional Committee whereas the Minister of Justice issues Resolutions with regard to the administration of the courts or other court processes. Seldom is the GCC or the General Secretary's Office asked to provide an impact statement or analysis of pending legislation affecting the courts. The Legal Standing Committee of Parliament does ask for testimony by the GCC staff on certain budgetary matters pending review by the Committee.

In most U.S. states it is the responsibility of the Administrative Offices of the Courts to prepare fiscal impact statements on pending legislation. In some states the AOC does not get involved in commenting on or proposing substantive changes to the law, but leaves it to Bar Association special committees to work with legislative committees. The AOC's level of involvement in legislative matters varies from state to state. The AOC may either work directly on a legislative matter that may impact the work of the courts, inform appropriate Bar Association committees of its opinion, or abstain from influencing the legislature completely. The issue of judicial independence makes judges generally wary of influencing the legislative process.

Court Statistics

The Supreme Court in Mongolia is currently responsible for the collection and compilation of court statistics. The Supreme Court's Research Center collects data from the Aimag and Capital City Courts semi-annually. At the end of the calendar year the Research Center compiles a report on the aggregate caseloads for civil and criminal cases. The Research Center does not publish an Annual Report of the Judiciary on the workload and activities of the courts in Mongolia, as is done in many other countries.

¹⁰ Commercial Law Center Foundation. "Structural and Administrative Reform in the Polish Judiciary: Report And Recommendations." <http://www.prawo.org.pl/clcf/commentary/reforms.html>.

In the majority of U.S. states, AOCs are usually responsible for collecting court caseload statistics. The level of detail collected and reported varies according to the level of automation in the local courts and the specific reporting requirements mandated by the AOCs. States like Utah and California use caseload statistics in support of budget justifications and human resource allocation, as well as for supporting the development of new policies or new programs to address the needs of court users. Strategic planning, based in part on these court statistics, helps keep the judiciary forward looking and focused on finding ways of better serving the community in which it operates.

Human Resources Management

In Mongolia, all court personnel records are maintained by the General Secretary's office. The GCC has the power and authority to assign administrative staff and judges to any court in Mongolia. The GCC also approves all court administrator positions, assistant judges and permanent transfers of judges to other court locations within the country. If the GCC has approved a full time equivalent position for a particular court but without an authorization for funding from the GCC, then the local court administrator may seek funding from the local government.

There are only a few US states that have a statewide responsibility for all court administrative staff, judicial staff and judges. In many states local court staff are paid from local funds and the judges and their staffs from state funds. The management of human resources in the court systems across the United States varies according to the overall judicial structure in each state. Increasingly, US state courts are conducting comprehensive workload assessments to determine the appropriate number of judges and court staff to assure the functionality of the courts and use these numbers to justify requests for increases in positions.¹¹

6. Assessment of the Functionality of the GCC

Overall, the structure of the GCC is similar to that of the California Judicial Council in its composition. Members of both entities include judges, prosecutors and legislators. The GCC's authority by Constitution is broad-based and the responsibilities are delineated in more detail by statute. Whereas the California Judicial Council has the specific responsibility for the administration of the courts, approval of budgetary matters, and review of legislation affecting the judiciary, the GCC does not have the same direct responsibility for these matters. Most of these responsibilities have been delegated by law to the Minister of Justice except in the area of finance where the Minister of Finance has broad discretion in the creation and approval of the courts' budget.

The GCC, as constituted at this time, has little direct control over the administration of the courts. Either by law or resolution, many of the duties and responsibilities inherent in the administration of the courts have been delegated to the Ministry of Justice. The GCC is more involved in the areas of judicial selection, discipline and personnel matters. The majority of the

¹¹ H. Gramckow, Estimating Staffing Needs for the Justice Sector, National Center for State Courts, Arlington, VA, 22201.

GCC meeting agendas are dedicated to the discipline and transfer of judges and approval of routine personnel matters. Still, these meetings are, to a large extent, controlled by the Chair of the GCC, the Minister of Justice.

As mentioned above, the support staff provided by the Office of the General Secretary of the GCC is too small to effectively carry out an expanded policy agenda and implementation plan as in California. Many of the administrative details that appear on the GCC's agenda should be handled by the support staff and not require formal GCC action. Some examples of these administrative tasks are: hiring approval of local court administrators, approval of major purchases for an individual court (automobile, repairs to facilities), and the assignment of an assistant judge to a specific court. Instead, the GCC would approve the overall plan for such undertakings, but not be involved in their individual implementation.

The development of a "Model Court Governance System" for Mongolia must take into consideration the current and future legal, economic, and political constraints associated with the administration of the courts. These constraints should not be viewed as negatives but as reality for the next several years, as challenges that need to be addressed and overcome. Before major changes to the location of the GCC are considered it is more important to begin the process of establishing a policy directed General Council of Courts with adequate support staff to enhance and expand the administration of the courts and foster the independence of the judiciary.

7. A Model for the General Council of Courts

The effectiveness of any judicial council is always contingent upon the legal authority under which it operates, the political environment, and the degree of recognition of the courts' independence by the executive and legislative branches of government. It is also of paramount importance that the membership of a judicial council, such as the GCC, assumes a systemic approach to setting policy for the administration of the courts. Judicial council members cannot be concerned with individual agendas or projects but must concentrate on the systemic needs and requirements of the court system.

The structure of the GCC and its composition encompass a wide range of disciplines within the judicial branch of government as well as representation from the legislative branch. The chairperson, the Minister of Justice, represents the executive branch. The GCC does not have any representation from the private sector in its current membership.

The following recommendations are overall considerations for the improvement of the functionality of the GCC and the improvement of the administration of the courts.

Recommendation 1: Expand the membership of the GCC

The GCC's membership should be expanded to include representation from the other key parts of the executive branch of government and the Advocates' Association. Examples for possible inclusion of the membership would be a member from the Ministry of Finance, a law professor from Mongolian University, or a private sector lawyer. Given the Ministry of Finance's dominant role in the developing and monitoring budgets for the government, having someone

from that Ministry on the council would increase information sharing and understanding of the judiciary's specific needs.

Recommendation 2: The GCC support staff should be enlarged

The GCC support staff should be expanded by five positions: two in finance, one in human resources, one in technology support and, one in statistical analysis. The current support staff of five professionals is insufficient to support over 925 court personnel and manage the finances of the nation's courts. In addition, the advance of technology in the courts and the development of a court strategic plan require the expertise of a technology specialist and statistical analyst.

Recommendation 3: The GCC should concentrate on system-wide court administration policy and issues

The GCC should concentrate on those issues that affect the judicial branch of government as a system, such as changes and amendments to the civil and criminal procedure codes, law on the courts and, any other legislation or policies that affect the judicial sector. The Parliament should require the GCC to provide an impact statement on all legislation affecting the judicial branch of government. The Parliament's Legal Standing Committee should not consider any legislation that could impact the judicial sector and is filed without such impact statements from the GCC.

Recommendation 4: The GCC should develop a strategic plan for the courts

Building on the statistical data that the Supreme Court collects on court workload and caseflow through the judicial system, the GCC should use this information to develop a detailed strategic plan for the courts that is directly tied to the budget and contains measurable milestones for monitoring progress of the implementation of this strategic plan. This plan should be disseminated beyond the judicial sector to the public, Parliament and the press to demonstrate the needs and requirements of the court system.

Recommendation 5: The GCC should develop the basic elements needed to improve the infrastructure of the court system

The GCC should focus on establishing the basic requirements and needs to improve the infrastructure of the judiciary and on gaining the needed resources. At a minimum, these would include judicial salaries, operating expenses, legal research materials, technology, and court facilities. GCC staff should develop well-justified budgets, based on solid statistics, workload and resources assessments that the GCC's members, not its staff, can then present and defend. There are numerous studies available from developing countries where the judicial infrastructure was neglected and as a result the progress towards a free market economy was directly affected. An investment in the judicial sector is an investment in the economic and social stability of a country.

Recommendation 6: Review chairmanship of the GCC

The GCC is a key component of the judicial sector and as such a reflection of the level of independence of the judicial branch. As a result, the trend around the world is to provide the judiciary with significant control over the functions of Judicial Councils such as the GCC. While the location of the GCC within the Ministry of Justice and Home Affairs itself is not a detriment to judicial independence, the permanent chairmanship of the Minister can be an obstacle if the chair has full voting rights and the decision-making process within the GCC is hierarchical. In order to diminish the potential of too much control from the executive branch other democratic options, such as electing the chairman for limited time periods or rotating the chairmanship among the different members of the GCC should be explored.

8. Summary

In Mongolia, policy decisions concerning the judicial sector reside with the General Council of Courts. In this capacity the GCC is responsible for defining the administrative structure of the courts and how the courts are governed. The basic legal structure and authority for the administration of the courts in Mongolia is in place, but what is lacking is

- a) An adequate budget to support basic needs and adequate support staff at the national level to administer and support the court system; and
- b) A data-based, democratic policy-making structure that provides the GCC with solid information to develop policies that reflect the needs all courts throughout Mongolia.

The GCC should strive to work more constructively with the Parliament and other executive branch agencies, especially with the Ministry of Finance. The GCC should not hesitate to speak out and defend the judicial system and its needs. Although the GCC should be assertive, it must also be willing to be more accountable to the government and the people. The GCC and the courts should develop information and communication networks, and work cooperatively with the other branches of government, the media, and the public to better inform them about the role of the courts and the needs of the judiciary.

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Appendix 1

Judicial Governance and Court Administration in Mongolia and Select European Countries				
	Task	Judicial Branch	Other Agency	Executive Branch
Mongolia	Judicial selection	Supreme Court selects its own chief justice	GCC establishes a Judicial Professional Committee of 9 members. It reports on the skills and qualifications of judicial applicants. The GCC proposes candidates for all courts, and all chief judges, except the Supreme Court Chief Justice. The GCC fixes rules and criteria for selecting judges.	The President appoints those proposed by the GCC. If he refuses, other persons shall be nominated (contradicts Article 42). He also appoints the chairmen of the civil and criminal chambers in the Supreme Court.
	Judicial discipline	Judicial Disciplinary Committees are established in the Aimag, CCC, and SC (3-5 members). Decisions taken by majority vote. A judge can appeal a decision to the SC.	The JPC then reviews and can accept or change the JDC decision.	The President shall remove judges on the recommendation of the GCC, if the judge has repeated disciplinary action in 1 year, or if the judge is convicted of a felony.
	Judicial training	The Supreme Court operates a donor-funded Judicial Retraining Center.	The GCC is in charge of training of judges.	
	Judicial budget	Supreme Court creates and administers its own budget, submitted along with outer court budgets.	GCC collects information from the different courts from which they create budget submissions: for the courts and themselves. SC court budget is part of the package.	Though not prescribed by law, the MOF can reduce the requested and approved budgets.
	Judicial policies/ Legislation			
	Court statistics	The Supreme Court collects statistics from all courts.		
	Human resources management		Staff appointed with GCC consensus.	
	Management of other resources	The chief judges monitor case disposition rates and provide management and leadership in their courts.	The GCC Secretary manages and coordinates all court administration offices. The heads of the administrative offices report to the GCC.	Support the judiciary by providing working premises, vehicles and equipment, housing, and staff. Day-to-day management rests with MOJ.
	Court staff training			MOJ is responsible for court staff training. Very little if any takes place.

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Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Poland	Judicial selection	First President of the Supreme Court is appointed by the Sejm from among sitting SC judges (Art. 29, SC Law).	National Council of the Judiciary forwards judicial nominations to the President. NCJ reviews files to decide whether to give them life appointments. NCJ is constitutionally guaranteed.	President officially appoints judges upon a motion from the NCJ. Has the power to block, but has rarely used it and cannot appoint someone not nominated by the NCJ. Justice Minister heads commission that administers judges' exam. Based on results, the Minister may appoint trainees to lower courts for up to 2 years.
	Judicial discipline	Disciplinary Court must consent to criminal proceedings against a judge and handles disciplinary matters. It hears cases in panels of three, and may order a rebuke, reprimand, disqualification, or removal if an infraction is found. Decisions may be appealed to the High Disciplinary Court.	NCJ determines if a judge may be transferred, decides the number of disciplinary judges, and comments on ethical issues. NCJ decides if a judge's retirement age can be extended.	MOJ is responsible for executing decisions of the Disciplinary Court.
	Judicial training	Iustitia, the national assoc. of judges, regularly organizes workshops and seminars throughout the country. Appellate courts provide some training. Trainees are paid by the courts if they are on permanent status, attend 1 lecture/week, and work for 4 days/week supervised by a judge mentor or court administrator.	NCJ comments on training, but there is no central training facility or program.	Judgeships are 1 of 5 specialties in Polish legal education, ending with a state judicial examination. MOJ provides some training for judges and judicial candidates.
	Judicial budget	Only SC, Constitutional Court, and Supreme Administrative Court have independent budgetary authority, and submit budget request directly to the legislature. Individual courts generate requirements, submitted to regional court presidents, which are consolidated and submitted to the MOJ. Presidents of courts of appeals submit respective budgets to the MOJ.	NCJ is not involved in budgetary preparation.	MOJ presents and justifies judicial branch budget to the legislature, as well as budget for the Ministry, the Prosecutor's Office, and the Prisons, presenting a possible conflict of interest because it is forced to choose between competing demands within the judicial sector.

Judicial Governance and Court Administration in Mongolia and Select European Countries

Task	Judicial Branch	Other Agency	Executive Branch
Judicial policies/ Legislation		NCJ comments on legislation affecting the courts.	
Court statistics			May 2000 legislation established a national Penal Register, a database concerning personal identity, criminal offences, trials, and related court decisions. Managed by MOJ unit with a special budgetary allocation (EU 2000).
Human resources management		Relevant provisions for state civil servants apply to employees of the office of the Constitutional Tribunal.	
Management of other resources	SC, as the highest court, supervises adjudication in all other courts. Individual court presidents manage their own courts. Presidents of the courts of appeal exercise administrative supervision over district and provincial courts in their region.	NCJ lacks sufficient administrative support to help it adequately fulfill its responsibilities (Commercial Law Center Foundation, CLCF). CLCF recommends creating an administrative bureau under the supervision and direction of the NCJ Chairman, responsibilities currently handled by the MOJ.	MOJ supervises court administration. Minister responsible for establishing courts and providing them with adequate resources. MOJ has not provided modern computer equipment, and many courts lack typewriters. Automation, case management or financial, is limited and in development in a few courts outside of Warsaw.
Court staff training			

Relevant laws: 1997 Law on the General Courts, 1997 Constitutional Tribunal Act, Supreme Court Law.

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Hungary	Judicial selection	SC President heads NJC.	National Judicial Council nominates the President of the SC, and appoints the presidents of the appellate and county courts	President appoints judges after being proposed by the MOJ with the consent of the NJC.
	Judicial discipline		Disciplinary council investigates and decides judicial misconduct	Judges are not subject to criminal proceedings unless authorized by the President.
	Judicial training		NJC organizes judicial training. National Training Institute for Judges is to be established in 2001.	
	Judicial budget*	Judiciary is financially independent from the executive. The president of the County Court of Budapest has the sole authority to apportion the budget for the county and 6 local courts.	NJC prepares and submits judicial budget to Parliament. Supervises, executes, and enforces approved budget. Parliament must justify any budgetary reduction. Sets standards for budgetary apportionment.	
	Judicial policies/ Legislation	Promotions and salaries determined by law.	NJC authorized by law to give its opinion on draft laws relating to courts and judges.	
	Court statistics	On his own initiative, a judge developed a four-PC network that runs a defendant name-based criminal case indexing program that includes case disposition information.		MOJ technical staff adapted indexing program to make it available in other courts, but the courts generally have PCs too old to run modern case management programs.
	Human resources management	The new law on legal assistants (Sep 2000) aims to reduce judges' workload.	NJC guides personnel policy.	MOJ determines how many judges are needed in each court, based on raw number of cases filed without differentiating between simple and complex cases. Ratio used to determine number of support staff.
	Management of other resources		NJC responsible for administrative activity of the court presidents. Bureau of the Judicial Council handles administrative tasks, recruited many staff from unit in MOJ that had previously handled those tasks.	
	Court staff training			

Law XXXVIII of 1990 on the Promotion and Remuneration of Judges, 1997 Law on the Organization and Administration of Courts.
 Judicial salary scale determined by law. Judges are paid according to their level and time of service.

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Lithuania	Judicial selection		Council of Judges advises on lower court judicial nominations. Appellate judges advise higher court nominations.	MOJ proposes judges, from Council advice. President appoints. For appellate judges, President proposes, and Seimas appoints.
	Judicial discipline	Only the Seimas can only remove SC and Court of Appeals judges. Only the SC president initiates case against SC judge.		MOJ, with SC president, initiates cases against judges. Law provides four foundations (seen as too wide): negligence, transgression causing harm to court reputation, behavior bringing disgrace, and administrative law violations.
	Judicial training		The Judicial Training Centre has been established and intensive training began in January 2000, covering various aspects of the EC law. The center has acquired an important role in training (EU 2000).	A department within the MOJ addresses training issues.
	Judicial budget	SC president determines extra-judicial salary for SC judges		Judicial salary determined by law. Government determines extra-judicial salaries for SC president. MOJ determines extra-judicial salary for non-SC judges
	Judicial policies/ Legislation			Following 1999 legislation calling for greater transparency, the MOJ now publishes on the internet all county and appeal court decisions and judgments of public interest (EU 2000).
	Court statistics			
	Human resources management			
	Management of other resources	In December 1999, the Constitutional Court ruled that certain MOJ powers in the administering of justice contradicted the principle of judicial independence (EU 2000).		
	Court staff training			

Relevant laws: 1994 law on the Courts of the Republic of Lithuania, 1995 Statute of the Supreme Court of Lithuania.

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Estonia	Judicial selection (all 3 branches involved)	See below.	Judges Examination Committee administers judges exam (Council of Europe).	See below.
	Judicial discipline	SC chief judges initiates disciplinary proceedings against judges. SC <i>en banc</i> initiates disciplinary proceedings against the SC chief judge. Disciplinary offenses tried by Judges Disciplinary Tribunal (9 members, 3 from each instance court) SC <i>en banc</i> can remove a judge for a disciplinary transgression (CE).		By law, the President or legislature must consent on criminal charges against judges. The Legal Chancellor must consent for legal charges against SC judges, with majority approval from the legislature. MOJ may commence proceedings against 1 st instance and circuit court judges.
	Judicial training	The SC has an institute providing professional training for judicial candidates. Training continues for up to 2 years in the courts or the MOJ, and concludes with a judges' exam (CE).	Since 1995, the nonprofit Estonian Law Center has conducted judicial training.	The government approved a bill in 1998 that provided for obligatory refresher training for judges. The five-year program was initiated in 1999.
	Judicial budget	Judges at the highest levels are paid independent of the Ministry.		Lower levels of courts are linked financially to the MOJ. Judicial salaries are linked to public sector salaries, and the SC chief judges earns the same as the Prime Minister.
	Judicial policies/ Legislation	By law, the SC approves all MOJ proposals concerning the number of other courts, their jurisdiction and location, and the number of judges in these courts.		By law, MOJ determines court rules for all but the Supreme Court. MOJ proposes, with SC approval, the number of city, county, administrative, and circuit courts, and the National Assembly determines. MOJ determines, with SC approval, jurisdiction, location, and number of judges in these courts.
	Court statistics			By law, courts must submit reports on case progression twice per year to the MOJ, which establishes polices on how statistics are calculated.

Human resources management	By law, the CJ is responsible for hiring and firing of employees in his court. The law provides for security guards and clerks, reporting to the CJ.		
Management of other resources			
Court staff training			

Estonia Courts Act indicates the following selection procedures:

- Supreme Court proposes city, county, administrative and circuit judges. President appoints.
- MOJ appoints and releases assistant judges for city and county courts, considering the opinion of the corresponding chief judge.
- MOJ appoints chief judges for city, county, and administrative courts, with Supreme Court approval.
- MOJ proposes chief judges for circuit courts, with Supreme Court approval. National Assembly appoints.
- President proposes chief judge for Supreme Court. National Assembly appoints.
- Supreme Court chief judge proposes Supreme Court judges. National Assembly appoints.
- Supreme Court *en banc* elects members to its 4 chambers. Chief judge chairs Constitutional Review Chamber, while Supreme Court *en banc* elects chairs of 3 other chambers (Civil, Criminal, and Administrative).

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Netherlands	Judicial selection	Appeals courts recruit their own judges, placing advertisements in the paper to announce contests. Normally an accomplished lawyer is chosen. The National Assembly nominates candidates for the Supreme Court, based on a list of 6 candidates submitted by the SC. The National Assembly narrows it to three.	Judges are recruited at junior and senior levels. New college-graduated candidates go through a competition. The top 100 are interviewed by a Selection Commission, assisted by the information Council for the Administration of Justice (CAJ). Candidates with at least 6 years experience who are practicing lawyers or professors or otherwise employed in the legal profession are evaluated and ranked by a Selection Commission.	The MOJ determines the number of vacancies and slots to be filled. The MOJ names the top-ranked junior candidates as assistant judges in training. The MOJ selects SC judges from the National Assembly's final list of 3.
	Judicial discipline	SC handles disciplinary matters		
	Judicial training		Young recruits go through 6 years of training. The first three years include theoretical courses in the Center for Judicial Studies and Training and practical internships in the courts. At the end of the 3 years, they chose to become either a procurator (prosecutor ?) or a judge. Practical training continues. Senior recruits also have 1-2 years of training. An independent body created in 1960, the Center for Judicial Studies and Training handles permanent training.	The MOJ partially finances the Center for Judicial Studies and Training.
	Judicial budget	Individual court management boards will prepare and administer their courts budget. SC will not under CAJ authority.	CAJ to have budgetary authority for the courts, and will allocate budgets to individual courts.	MOJ still involved in budget preparation, in consultation with the CAJ. Previously, individual court presidents did not have the authority to move money between line items.
	Judicial policies/ Legislation			
	Court statistics			
Human resources management	Individual court management boards will have authority over personnel in their courts.	CAJ to establish personnel policy.	MOJ has a Department of the Courts, and all its personnel are being transferred to the new CAJ (already functioning, pending final passage of legislation this fall). Government personnel policies will apply to court personnel.	

Judicial Governance and Court Administration in Mongolia and Select European Countries

Task	Judicial Branch	Other Agency	Executive Branch
Management of other resources	New legislation establishes a management board of judges and one non-judge (court manager) for each court. Assumes responsibility for the court management and administration. District courts to manage subdistrict courts. Proposed to modernize and make the courts more efficient, to be implemented as of Jan 2002.	CAJ to have operational authority over courts, and will recommend members of management boards. CAJ will be given a staff of about 100 employees, mostly from the MOJ. CAJ to be responsible for judicial cooperation, standards policy, research policy, external affairs, public services and advising the Minister of Justice, as well as developing policy guidelines for housing, security, computerization, administrative organization and public information.	MOJ currently has administrative authority over court staff. Under the new legislation, courts will no longer answer to the MOJ, just the CAJ, though the MOJ will remain politically responsible for the satisfactory function of the judicial organization as a whole. The MOJ will have the authority to demand information from the CAJ and give the CAJ general operational instructions.
Court staff training			

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
Bulgaria	Judicial selection		Judicial Service Commission recruits and proposes judges to Supreme Court of Cassation (SCC) and Supreme Administrative Court (SAC) presidents, and the Prosecutor General. MOJ-appointed commission (with SC, Prosecution, Barrister Council and MOJ representatives) administers theoretical and practical exam.	President can reject a candidate only once, and is bound by the Council proposal if repeated. Judicial candidates must have graduated from law school and passed a state exam. There is a one-year probationary period.
	Judicial discipline	Proceedings are instituted against judges 3+ years on the bench by court presidents one level above them (except for SAC judges, which are initiated by SAC president). Disciplinary cases heard by three-member Disciplinary Panel of the SCC. Panel empowered to acquit, impose sanctions (reprimand, denial of promotion), or recommend dismissal or demotion to JSC, whose decision can be appealed to a five-member Disciplinary Panel.	JSC promoted demotes, moves, and dismisses judges, prosecutors, and investigators. Judges with 0-3 years of service can be dismissed for disciplinary offenses and or professional inadequacies. JSC empowered to pass judgment, which can be appealed to SAC. Judges are irremovable after 3 years. JSC decides on investing of the immunity of judges, prosecutors, and investigators in cases provided by the law. JSC, on request of the Prosecutor General, may divest judges of their immunity.	MOJ may propose disciplinary proceedings, but only against regional and district court judges.
	Judicial training	Young lawyers may sit in panels with senior judges in the district court prior to being sent to regional courts on their own.	Non-governmental Legal Institute for Training and Development. Established to provide CLE for judges and other members of the Judiciary.	MOJ has primary responsibility. It holds seminars on an irregular basis that are not especially relevant to new judges. Prior to appointment, nominees must complete a MOJ-endorsed training program.
	Judicial budget		JSC submits draft budget to Council of Ministers and controls its execution. Determines salary levels within budgetary and legal framework.	
	Judicial policies/ Legislation		JSC determines number and location of court regions (except SCC and SAC), number of judges, prosecutors, and investigators.	MOJ proposes number and location of court regions (except SCC and SAC), number of judges, prosecutors, and investigators.
	Court statistics			
	Human resources management			

Judicial Governance and Court Administration in Mongolia and Select European Countries

	Task	Judicial Branch	Other Agency	Executive Branch
	Management of other resources			
	Court staff training			

Relevant laws: 1994 Judicial Systems Act

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Appendix 2

United States Judicial Councils and Conferences: Composition and Function

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Alabama	Judicial System Study Commission	Statute	Studies judicial systems; make recommendations for improvement of administration of justice to legislature.	6 from Alabama House; 6 from Alabama Senate; Judicial Conference Legal Advisor to Governor; Lt. Governor; Speaker of House; 1 member attorney general's staff.	Reports as Commission deems necessary	Term of office. Attorney General may replace his staff member at any time
	Juvenile Coordinating Council	Statute	Improves interagency coordination of services to children; make recommendations to the Governor and Legislature for improvements to the juvenile justice system.	Chief Justice; legal advisor to the Governor; Lieutenant Governor; Speaker of the House; Attorney General; Representatives of juvenile agencies; three appointees from business and industry by the Governor; and 5 persons to be appointed by the Council	At least annually	Council and Governor's appointees serve for 2 years; other members serve for term of office
Alaska	Judicial Council	Constitution	Studies judicial system for improvements in administration; nominate candidates for judgeships.	3 attorneys appointed by the governing body of the organized state bar; 3 non-attorneys appointed by governor subject to confirmation by a majority of the members of the legislature in joint session; chief justice	At least one biennial meeting	6 year terms
Arizona	Arizona Judicial Council	Administrative order of the Supreme Court	The Arizona Judicial Council assists the Supreme Court in developing and implementing policies and procedures designed to accomplish the full and complete integration of the court system pursuant to the Court's constitutional mandate. The Council identifies the needs of the judiciary, studies the internal operation of the courts, analyzes and plans for future developments, and recommends uniform administrative policies and procedures to improve judicial administration at all levels.	The Council is composed of the following members: the Chief Justice of the Supreme Court; the chief judges of the Court of Appeals; the presiding judges of Maricopa and Pima counties; the President of the State Bar of Arizona or designee; the administrative director of the courts; two presiding judges of the Superior Court from non-metropolitan counties, a justice of the peace; a city magistrate, and a public member, all appointed by the Chief Justice; and such other members as may be appointed at the discretion of the Chief Justice.	Quarterly	Some by virtue of position; others have varying terms
Arkansas	Judicial Council	Statute	Directs and develops criteria for new judgeships and types of judges. Adopts legislative agenda.	Consists of all judges of circuit and chancery courts, court of appeals, justices of the supreme court	October and April of each year	Term in office
California	Judicial Council	Constitution	Chief administrative body of court system. The administrative director of the court is responsible for setting the direction and providing the leadership for improving the quality and advancing the consistent independence and accessible administration of justice.	Chief Justice and 1 associate justice; 3 judges of Court of Appeals; 5 Superior Court judges; 5 Municipal Court judges; 4 state bar members; 1 senate member; 1 assembly member; 4 trial court administrators; 1 court commissioner; president of the California Judges Association; and 1 appellate court clerk	Seven times a year	3 years, so long as the person retains their status

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Colorado	Judicial Advisory Council	Supreme Court Rule	Studies the needs of the judicial system; develops an intermediate and long-range plan for the judicial system; identifies particular problems and recommends solutions; recommends ways of improving the judicial system and suggests appropriate measures to achieve the recommended improvements; provides policy guidance to the Chief Justice; coordinates planning efforts among groups, associations, and governmental bodies concerned with improving the judicial system.	1 Supreme Court Justice; 1 Court of Appeals judge; 3 District Court judges; 1 Juvenile Court judge; 2 County judges; 1 member of SCAO; 1 probation officer; 1 district administrator; 1 clerk of County/District court; 1 member from County public defenders' office; 1 District Attorney; 6-10 members appointed from public at large; Chief Justice appoints	Quarterly	3 years
Connecticut	Meetings of Supreme Court Justices	Statute	Establish personnel policy/positions/compensation; conduct annual statewide rules hearing; establish appellate rules; approve appointments of appellate personnel; approve case transfers.	Chief Justices and Associate Justices of the Supreme Court	As needed	-
Delaware	Judicial Conference	Supreme Court Rule	Studies courts to improve the administration of justice.	Members of the: Supreme Court; Court of Chancery; Superior Court; Family Court, Court of Common Pleas; Municipal Court; City of Wilmington, and the Chief Magistrate of the Justice of the Peace System	Biennial	Term of office
	Meetings of Superior Court Judges	Statute	Discusses operations of the court.	The 11 Superior Court judges	Monthly	Term in office
District of Columbia	Joint Committee on Judicial Administration	Statute	Establishes administrative policy of court system.	Chief Judge of District of Columbia Court of Appeals, Court of Appeals associate judge; Chief Judge of superior court; 2 Superior Court judges. Appointments: Chief judges of respective courts appoint associate judges, with approval from the Board of Judges	Monthly	Term of office
	Judicial Conference	Statute	Annual meeting to make recommendations for improvements in court system.	Active judges of District of Columbia, Court of Appeals and Superior Court, Bar Members and Invitees	Annual	Term of office
	Board of Judges	Statute	Determines internal operating policy of court	Judges of Superior Court of District of Columbia	Monthly	Term of office
Florida	Rules of Judicial Administration Commission ¹	Rule	Recommend changes in the procedural rules of the court.	Attorneys and judges appointed by the Florida Bar ²	Propose changes by June 30 of every 4th year	3 year terms (staggered)
	Judicial Management Council	Rule	Recommends changes related to the efficient and effective administration of justice.	Judicial and legislative representatives	At least quarterly	Differing terms

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Georgia	Judicial Council	Statute and Supreme Court Rule	Studies court organization and rules of practice and procedures.	24 representatives of the appellate and trial courts make up the Judicial Council. The Chief Justice and Presiding Justice act as the Chairperson and Vice-Chairperson respectively.	At least semi-annually	By virtue of position on appellate court or on trial court council
Hawaii	Judicial Council	Statute	Studies administration of justice and reports to the Supreme Court (advisory only).	Chief Justice and not more than 15 other members to include laymen, judges, and lawyers, as provided by the Supreme Court / Appointed by Supreme Court.	Biennial report	3 years
Idaho	Judicial Council	Statute	Conducts studies to improve court system; reports to the Supreme Court and legislature submit nominations for judgeships; recommends removal or discipline of judicial officer.	Permanent: 3 attorneys (1 is a district judge) appointed by state bar; 3 non-attorneys appointed by governor; Chief Justice as chair. Chair who appoints adjunct, a magistrate judge, when the removal or discipline of a magistrate judge is before the council.	Reports at least every 2 years	6 years
Illinois	Judicial Conference	Constitution and Statute	Studies business of court system.	Judges of Supreme Court and selected judges of the Appellate and Circuit Courts as approved by Supreme Court.	Annual	Term of office
Indiana	Judicial Conference	Statute	Discusses operations of courts and promotes continuing education of judges.	State judges	Annual	Term of office
Iowa	Judicial Conference	Rule pursuant statute	Considers administrative rules, directives, and regulations; recommends to Supreme Court for adoption.	Chief judges of judicial districts, Court of Appeal chief judge, Supreme Court chief justice/ Statutory	Chief judge's discretion	2 years
Kansas	Judicial Council	Statute	Recommends probate, civil, criminal, and juvenile code; conduct research for court system. Annual meeting of judiciary to discuss judicial business, to make justice more efficient.	Supreme Court justice, Court of Appeals judge, 2 District Court judges, 4 resident lawyers, chairs of House and Senate judiciary committees	Monthly	Appointed by Chief Justice for 4 years, except Senate and House members, who serve their term of office.
Kentucky	Judicial Council	Statute	Studies ways to improve administration of justice; recommend changes in rules and procedure (advisory only).	State judges	Twice per year	Appointed to serve for no longer than 4 years
	Judicial Conference	Repealed	Studies court system; receives reports and recommendations from Judicial Council.	~	~	~
Louisiana	Judicial Council	Supreme Court Rule	Studies court organization, rules, and procedures; recommends improvements.	Seventeen voting member maximum /Varies	Semiannual	3 year terms, no more than 2 successive terms
Maine	Judicial Conference	Statute	Advises and consults with the Supreme Court in matters of judicial administration.	Judges and Justices	Annually	Term of office

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Maryland	Executive Committee of Judicial Council	Rule 16-802d	Between plenary sessions: "to consider the status of judicial business..., to devise means of relieving congestion of dockets..., to consider improvements of practice and procedures..., to consider and recommend legislation, and to exchange ideas with respect to the improvement of the administration of justice...and the judicial system in Maryland", [s]ubmit recommendations for the improvement of the administration of justice..., [e]stablish committees...and approve and coordinate the[ir] work..., [p]lan sessions of the conference in conjunction with the Conference Chairman".	17 elected members and 1 ex-officio (Chief Judge)	Monthly	2 years
	Conference of Circuit Judges	Rule 16-108	"...for the purpose of exchanging ideas and views with respect to the circuit courts and the improvement of the administration of justice and making recommendations with respect thereto; to initiate complaints to disabilities concerning alleged judicial misconduct or disability".	Circuit administrative judges – Ex-officio, 1 elected judge from each circuit – 2 year term	At least 4 times a year but, in practice, bi-monthly	
Massachusetts	Judicial Council	Statute	Study organization, rules, and methods of practice and procedures.	Chief Justice of the Supreme Judicial Court, Chief Judge of Appeals Court, Chief Judge of each department of the Trial Court, and 4 bar members	Reports annually to the Governor	Bar members appointed no longer than 4 years; justices serve term of office
	Judicial Conference	Statute and Court Rule	Considers matters relating to judicial administration and improvement.	Supreme court determines which judges and others shall comprise conference	Court's discretion	Term of office
Michigan	Judicial Conference	Statute and Court Rule	Studies organization, rules, methods of procedure, and practice of the judicial system in general; studies the problems of administration confronting the courts and judicial system in general; and recommends modifying or ameliorating existing conditions, harmonizing and improving laws and amending the rules and statutes relating to practice and procedures.	All judges	Annually – called by State Court Administrator	~
Minnesota	Annual Conference of Judges	Statute	Considers improvements in administration of justice.	All judges	Annually-called by chief justice	Term of office

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Mississippi	Commission on Judicial Performance	Statute	Recommends to Supreme Court practice and procedures regarding complaints and inquires about judicial performance.	Circuit Court judge, Chancellor, County Court judge, Justice Court judge, attorney, 2 lay people	As needed	6 year terms, cannot succeed a full term
	Judicial Advisory Study Committee	Statute	Makes recommendations to the AOC, makes studies and recommendations for the improvement of the judicial system.	Appointments by Supreme Court Chief Justice, Court of Appeals, Chief Judge, Chancery Judges Conference, Circuit Judges Conference, County Judges Conference, Justice Court Judges Conference, Chancery Clerks Association, Circuit Clerks Association, Governor, Lt. Governor, Speaker of House, MS Bar President, Magnolia Bar President. House and Senate Judiciary Chairmen serve as legislative liaisons.	Quarterly	3 years
Missouri	Judicial Conference	Statute	Studies organization, rules and methods of practice procedure.	Supreme Court and Court of Appeals Judges and commissioners, Circuit Court judges and associate judges, all retired judges / Appointment is automatic.	Once a year	Term of office or retirement
Nevada	Regional Judicial Council	Statute	Assists in improvement of the court system within their region.	District Court judge, Justice of the Peace and municipal judge of region, elected by a majority of respective colleagues.	3 times a year	3 year terms, except: Chief Judges of 2nd and 8th Judicial Districts
	Judicial Council of State of Nevada	Statute	Improves courts by implementing policies and procedures.	Members of each regional judicial council, the Chief Justice and an associate justice, plus ex officio members—Presidents of Nevada Judges Association, Nevada District Judges Association, Nevada District Association of Court Clerks and Administrators	3 times a year	3 year terms, except: term of office for Chief Judge and terms as Chief Judge for judges of 2nd and 8th Judicial Districts
New Hampshire	Judicial Council	Statute	Studies administration of justice; devises ways to improve procedure; collects; analyzes, and publishes statistics.	Judicial Branch administrative council (5), attorney general, state court clerk, legislative representatives (2), appointees of governor and council (8), appointees of Supreme Court (5)	Biennial Reports	3 years, except attorney general, administrative council, chairpersons of senate and house of judiciary, president of bar serve terms of office
New Jersey	Judicial Council	Supreme Court	Assists Supreme Court and Chief Justice in development and implementation of policy on all matters affecting the trial courts.	Chief Justice, Assignment Judges (15), Chairs of Presiding Judge Conferences (3), Administrative Director, Deputy Administrative Director/Appointed by Chief Justice	Monthly	At pleasure
	Conferences of Presiding Judges	Chief Justice	One conference each for Civil, Criminal, and Family. Serves as forum for exchange of ideas, identification of problems, and recommendation of best practices.	Each vicinage has a Presiding Judge for Civil, Criminal, and Family, designated by Chief Justice	Monthly	At pleasure
New Mexico	Chief Judges Council	Chief Justice with advice from council	Budget, decision making, statewide judiciary matters/issues	Presiding Judges, President Judge, Magistrate Judges Association	Monthly	As long as President Judge

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
New York	Judicial Conference	Statute	Advise the Chief Judge; recommendations to the Governor and legislature for changes in statutes rules and practices.	State judges/administrative board appoints the members of the bar and the justice from a town or village court ⁶	Annually (or as needed)	2 years except judges term of office
	Administrative Board of the Courts	Constitution	Assists the Chief Judge in establishment of administrative standards and policies for the State Court system.	Chief Judge of Court of Appeals, Presiding Justice of the Appellate Division of the Supreme Court of each judicial department	Meet as needed	Term of Office
North Carolina	North Carolina Courts Commission	Statute	Studies structure organization, jurisdiction, procedures, and personnel of court system; makes recommendations for change to the legislature.	24 voting members, including: representatives from the Judicial Branch, the Legislative Branch and practicing attorneys, 3 non-voting, ex officio members	At discretion of the chair	4 years
	North Carolina Judicial Advisory Commission	Supreme Court	Determines better processes/procedures for the efficient administration of court operations.	Includes representatives from the Supreme Court of N.C. (Chair), Superior Court judges, District Court judges, district attorneys, clerks of Superior Court, magistrates; and public defenders, established by Supreme Court Chief, Chief Justice and Director of the Administrative Office of the Courts.	Meet as needed	~
North Dakota	Judicial Conference	Statute	Studies operation of courts in state to see that procedures are simplified and business expedited.	All judges Supreme and District Courts, attorney general, dean North Dakota School of Law, five members of bar, all Surrogate judges, two Municipal judges, clerk of Supreme Court	Twice per year	Throughout term of office, and bar members five years
Ohio	Judicial Conference	Statute	Considers problems in administration of justice and make recommendations for improvement to legislature and courts.	Judges of Supreme Court, Court of Appeals, Common Pleas Court, Probate Courts, Municipal and County Courts	Biennial reports to legislature. Report as needed to courts and legislature	Term of office
Oregon	Judicial Conference	Statute	Studies organization, jurisdiction, procedures, and practices of courts in the state; holds an annual education session and business meeting.	Judges of Supreme Court, Court of Appeals, Tax Court, Circuit Courts and senior judges of these courts.	At least once annually	Term of office
Pennsylvania	Judicial Council of Pennsylvania	Supreme Court	Studies administration of justice; make recommendations to Supreme Court on matters referred by court or raised by Council sua sponte.	27 members	As called by Chief Justice	3 years for office holder
Puerto Rico	Judicial Conference	Supreme Court	Review the state of the administration of justice; promote the study of rules and procedures and make recommendations for improvement of the judicial system.	Ex officio: Justices and former Justices of the Supreme Court, Trial court judges, Secretary of Justice, and the Attorney General. Also Board of Directors of the State Bar, deans of law schools, appointed attorneys, and citizen non-attorneys.	Annual meeting	Ex officio: term of office, others at pleasure of the Supreme Court.

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Rhode Island	Judicial Council	Statute	Studies organization of judicial system; makes recommendations to courts.	6 members of Rhode Island Bar / Statute (Gov.)	Report Annually	3 years
	Judicial Conference	Statute	Considers matters relating to judicial business and administration.	All justices Supreme, Superior, District Courts and Family Courts / Statute (Gov.) with consent of Senate	Annually	Term of office
South Carolina	Judicial Council	Statute	Studies organization of judicial system; collects and publishes statistics.	Judicial and Legislative representatives	Report as needed	Attorney General, dean, circuit judges, probate and family court judges and magistrates, and appointees 4 years, all others term of their office
South Dakota	Judicial Conference	Statute	Studies organization, rules, methods, and practices of all courts; recommendations to the Supreme Court.	Justices and judges of Supreme Court and Circuit Court as members, Magistrate judges	Annual	Term of office
Tennessee	Judicial Council	Statute	Studies operation of judicial department; consider recommendations for improvement.	Legislative and judicial representatives-6 at large members may be selected	Biennial	All judges and appointees 4 year terms
	Judicial Conferences	Statute	Considers rules and laws to improve administration of justice; draft suitable legislation for General Assembly.	All judges of courts or records whose salary is paid in whole or part by state, including retired judges and probate courts. Courts where county population is less than 300,000.	Annually	Term of office or retirement
Texas	Judicial Council	Statute	Studies and improves administration of justice.	Chief Justice of Supreme Court; presiding judge of Court of Criminal Appeals; chair of Senate Jurisprudence Committee; one member of senate, appointed by lieutenant governor; chair of the House Judicial Affairs Committee; one member of the House of Representatives, appointed by the speaker of the house; two justices of courts of appeals designated by chief justice of the supreme court; two district judges designated by the chief justice of the supreme court; Two judges of county courts, statutory county, or statutory probate courts designated by the chief justice of the supreme court; two justices of the peace designated by the chief justice of the supreme court; and two municipal court judges designated by the chief justice of the supreme court. Also six citizen members appointed by the governor.	Annual meeting	Citizens serve staggered 6 year terms appoint 3 biennially
Utah	Judicial Council	Statute	Develops uniform administrative policies for the courts of Utah.	Chief Justice and one associate justice	Annual	3 year terms
		State Constitution	Adopts rules for the administration of all courts.	Supreme Court, one judge Court of Appeals; 5 District and 2 Juvenile Court judges, three Justice Court judges, member of Utah State Bar Commission. All judges elected, except Chief Justice.		

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Vermont	Judicial Council ¹⁰	Statute	~	~	~	~
Virginia	Judicial Conference	Statute	Discusses matters to improve administration of justice. Continuing legal education.	Justices of Supreme Court, judges of Court of Appeals; Circuit Courts, and all retired justices and judges	Semi Annual	Term of office
	Judicial Conference for District Courts	Statute	Discusses matters to improve administration of justice. Continue legal education.	Judges of every general District Court, and Juvenile and Domestic Relations Courts	Semi Annual	Term of office
	Judicial Council	Statute	Studies organization, rules, procedure, and practices of the judicial system.	One Judge from Court of Appeals, 6 Circuit Court judges, one General Circuit judge, one Juvenile and Domestic Relations judge, 2 attorneys, and chairman of Committees for Courts of Justice of Senate and House	Quarterly	4 year terms, maximum of 2 consecutive terms
	Committee on District Courts	Statute	Studies organization, rules, procedure, and practices of the District Courts' and clerks' offices; determines number of District Court judges, substitute judges, clerks' offices and court personnel; establishes practices and procedures for District Courts.	Speaker of House, chairman of House and Senate Judiciary Committees, 2 members of each Committee for Justice, one judge of Circuit Court, one Juvenile Domestic Relations District Court judge	Monthly	Term of office Judges - one year term
Washington	Judicial Conference	Statute	Considers matters relating to administration of justice.	All judges of courts of record and courts of limited jurisdiction	Annual meeting	Term of office
	Board of Judicial Administration	Supreme Court Rule		Chief justice and acting chief justice of Supreme Court, 3 judges of Court of Appeals, Superior Court and limited jurisdiction courts, 2 members of bar, appointed by each association.	Monthly	Appointed 3 years
West Virginia	Judicial Council	Statute	Studies organization, rules, and methods of practice and procedure; collects statistics.	~	~	~

Table 15. Judicial Councils and Conferences: Composition and Function

	Name	Authority	Purpose	Composition/ Who Appoints	Frequency	Tenure
Wisconsin	Planning and Policy Advisory Committee	Supreme Court Rule	Advises the Supreme Court and the Director of State Courts in the director's capacity as planner and policy advisor for the judicial system.	Chief Justice of Supreme Court/Supreme Court appoints; one judge of the Court of Appeals/appointed by court of appeals; thirteen circuit judges/one judge elected by the judges of each of judicial administrative districts; one municipal judge/elected by Wisconsin Municipal Judges Association; two persons selected by the board of governors of the state bar, three non-lawyers/one elected county official, appointed by Chief Justice; a public defender; a court administrator, a prosecutor, a clerk of court/all appointed by Chief Justice	At least quarterly; currently meeting monthly at Chairperson's call	Judges elected by Administrative District for 3 year terms, other members appointed for 3 year terms.
	Judicial Conference	Supreme Court Rule	Studies problems in administration of justice; makes recommendations for improvement, conducts instructive programs and seminars.	Justices of Supreme Court, Court of Appeals, Circuit Court and reserve judges.	Annual meeting	Term of office
	Judicial Council	Statute	Studies pleading, practice, and procedure; makes recommendations to Supreme Court and legislature.	Justices of Supreme Court, Court of Appeals, Circuit Court and reserve judges. ¹¹	At least quarterly on Chairperson's call, or call signed by 5 members.	Term of office, or until successor is selected.
Wyoming	Judicial Council	Supreme Court order	Studies matters relating to administration of justice.			
Federal Courts	Judicial Conference of the United States	28 USC 331	Surveys condition of business in the courts and prepares plans for the assignment of judges. Promotes uniformity of management procedures and expeditious conduct of the courts.	Supreme Court Justices, District Court judges, County Court judges, Justices of the Peace and Municipal Court judges	Once per year	Term of office

Note: The following states do not have Judicial Councils and Conferences: Montana, Nebraska, New Mexico and Oklahoma.

FOOTNOTES:

Florida:

¹Judicial Administration Commission coordinates the Florida Bar Rules Committees.

²Chief justice of supreme court, 3 district court of appeals judges, 3 circuit court judges, 3 county court judges, one state attorney, one public defender, one clerk of the court, 4 members of Florida Bar, including the president of the Florida Bar, president of the senate and speaker of the house, general council of the governor, attorney general, 6 members of the public, and 1 member of the Florida Conference of District Court of Appeals Judges.

Indiana:

³All justices of the supreme court; all judges of the court of appeals, the judge of the tax court; all circuit, superior, probate, and county court judges; all municipal court judges who are serving on a full time basis; any retired judge who serves as a special judge and notifies the conference of the service; full-time magistrate is non-voting member.

Kentucky:

⁴Chief justice of the supreme court; chief judge of the court of appeals; 4 circuit judges, and four district judges; president of the Kentucky Association of Circuit Court Clerks; 3 members of the State Bar of Kentucky, and the chairman of the House and Senate Judiciary Committees.

Louisiana:

⁵Chief justice of the supreme court, one associate justice, 2 court of appeals judges, 2 district court judges, 1 member of the Louisiana City Judges Association, 1 member of the Juvenile and Family Court Judges Association, 2 members of Louisiana State Bar Association, a member of the Young Lawyers Section, 1 member of the Louisiana State Law Institute, 1 member of the House, one member of the Senate, a member of the Louisiana District Attorneys Association, 1 member of the Louisiana Clerk of Court Association, 1 non-attorney, and a non-voting secretary.

Table 15. Judicial Councils and Conferences: Composition and Function

New York:

⁶Chief judge of court of appeals, presiding justice of appellate division of each judicial department, one trial justice of the supreme court for each court for each judicial department, one judge each: court of claims, county court, surrogate's court, family court, civil court of New York City, the criminal court of New York City, one judge of a city court outside NYC, one judge of a district court, one justice of a town or village court, and from each judicial department, one member of the bar of the state. The chair and ranking minority members of each of the committees on judiciary and on codes of the senate and assembly are ex officio members.

Pennsylvania:

⁷Chief justice of Pennsylvania, 2 justices of supreme court, court administrator, president judge of superior court, president judge of commonwealth court, president judge of the court of common pleas of Philadelphia and Allegheny counties, president of the Pennsylvania Conference of State Trial Judges, 3 judges of court of common pleas, 1 judge not from appellate or court of common pleas, 3 non-judge members of the bar of the supreme court, 1 non-judge member of the bar of the supreme court, 3 non-lawyers electors, 1 member of each the Senate and the House, 3 members appointed by the Governor one member of Senate of Pennsylvania appointed by minority leader of Senate, one member of House of Representatives appointed by minority leader of House of Representatives.

South Carolina:

⁸Chief justice of the supreme court, two circuit court judges; 2 family court judges; 2 probate judges; attorney general, dean or faculty member of Law School of University of South Carolina; president of the South Carolina Bar; lieutenant governor; speaker of the House of Representatives; chairman of the Senate Finance Committee; chair of House Ways and Means Committee; chairmen of House and Senate Judiciary Committees, director of the legislative council; 6 others, at least 4 of whom are members of the bar; two judges of magistrate courts and two masters-in-equity.

Tennessee:

⁹One judge each from the: supreme court, court of appeals, court of criminal appeals, circuit court judge, criminal court judge, general sessions court judge; one chancellor, the speaker of the Senate, chairman of House Judiciary Committee, attorney general, administrative director to supreme court, 2 layman, 2 members of bar of Tennessee who practiced law at least 3 years.

Vermont:

¹⁰Although authorized by statute the Council has not been called together for 20 years and has no function.

Wisconsin:

¹¹One supreme court justice designated by the supreme court; a court of appeals judge designated by the court of appeals; director of state courts or his or her designee; 4 circuit judges designated by the Judicial Conference; chairpersons of the Senate and the Assembly Committees dealing with judicial affairs or member of each committee designated by the respective chairperson; attorney general or his or her designee; revisor of statutes or an assistant designated by the revisor; deans of the law schools of the University of Wisconsin and Marquette University or a member of the respective law school faculties designated by the deans; the state public defender or his or her designee; president-elect of the state bar or a member of the board of governors of the state bar designated by the president-elect and 3 additional members thereof selected by the state bar to serve 3-year terms; one district attorney appointed by the governor; and 2 citizens at-large appointed by the governor to serve 3-year terms.

Appendix F

**Mongolia Judicial Reform Program (JRP)
National Center for State Courts (NCSC)**

Judicial Selection

September 2001

**Cooperative Agreement
#492-A-00-01-00001**

Ulaanbaatar, Mongolia



Judicial selection is an area of the utmost importance. The quality of judges will be directly responsible for the quality of justice in Mongolia. While the President has the Constitutional power and responsibility to select judges, it has been recognized that candidates need to be evaluated before they are submitted to the President. The GCC has taken this role.

The United States has had many experiments in judicial selection and the results of these experiments are summarized in publications that are attached to this report. Many of these experiences are directly applicable to Mongolia and have been translated into Mongolian. These experiences apply to two areas of judicial selection that Mongolia is exploring as part of the revisions to its law on the courts. The first area is the creation of a judicial selection commission, the second area is the procedures for such a commission, including application procedures, investigation procedures, and evaluation criteria.

A. Creation of a Judicial Selection Commission

Independence from political influence and representation of the diverse interests of society has proven to be keys to successful judicial selection in the American experience. Transparency in operation reinforces independence and gives the public greater confidence in this critical element of the justice system.

Independence could be achieved by making the Judicial Nominating Commission an independent creation of the Law on the Courts, which receives logistical support from the GCC. Independence can be further insured by a diverse membership. Members should be recruited from judges, advocates, prosecutors, academics and lay people. Representatives from Aimags outside of Ulaanbaatar should be reserved a number of seats. Members could be nominated by the Supreme Court, the General Prosecutor, The Minister of Justice and NGOs. Members would be sworn to work independently only to select the most qualified judges and not to work as representatives of their nominating body. There must be strict rules on recusal requiring members of the commission to disqualify themselves from participation with respect to any candidate who is a friend, co-worker or family member.

B. Procedures

It is contemplated that lower court judges will be selected from graduates with law degrees and trained as judges in a magistrates school similar to the French institution. Higher Court judges will be selected among sitting judges who apply.

1. Candidates

a. Who should be able to apply for appointment to Trial Courts

Anyone who has graduated and has passed the "Bar Examination" that will be required for all legal professionals should be allowed to apply to be appointed as a judges. This should include both recent graduates and attorneys who have practiced law in as advocates and prosecutors. (It might be worth considering giving prosecutors extra consideration in the evaluation process.)

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All applicants should apply themselves. The law should be changed so that other organizations cannot nominate candidates. This is an opportunity for improper use of influence. Other persons or bodies can express their opinions in letters of recommendation, but allowing certain candidates to be nominated by officials or official bodies creates the impression that those candidates will be favored and that the process is not fair or transparent in allowing the most qualified candidates to succeed.

Notices of tests to fill vacancies should be printed in newspapers, posted in all courts where attorneys are likely to see them, and posted in other places likely to attract notice.

b. Who should be able to apply for appointment to Higher Courts:

Only people who are currently or have been judges in the last five years should be considered for appellate court positions.

All sitting judges should be able to apply. Announcements of vacancies should be published in a manner that they are read by all judges in Mongolia.

If a judge is newly appointed, it might be worth considering making him/her wait a period of time before applying, but on balance, not applying a specific restriction might be better. If the judge does not have enough experience, the selection process will eliminate them, but in some circumstances, the most qualified judge interested in the vacant position might be one who was recently appointed. It would be a loss to the justice system to mechanically exclude someone who might be the most qualified.

2. Consideration of Candidates

a. Trial Courts

The tests of core competencies should count for the majority (80%) of a candidate's score.

Candidates who fall below a predetermined level of correct answers on the tests should be rated "not qualified" and not ranked. The remaining candidates should be ranked according to their scores.

Writing samples should be graded by three graders and if the scores are more than one apart, they should be graded by two additional graders, and the average taken. Writing samples should constitute 12% of the score. (A separate paper on "Evaluation Criteria" discusses the criteria for legal reasoning that should be used for writing samples.)

Recommendations should be given a small proportion of the score, no more than 8% unless they reveal that the candidate is not qualified or there is serious doubt. In these cases, unless the doubt is resolved in the candidate's favor, they should be found "not qualified."

Poor health, criminal background, and tax irregularities ought not to be counted as part of the score, but simply eliminate candidates as "not qualified."

b. Higher Courts

The tests of core competencies should count for about 30% of a candidate's score. An evaluation of the candidate's prior opinions should count for about 50% of a candidate's score. (A separate paper on Evaluation Criteria discussed the criteria for legal reasoning that should be used in evaluating prior opinions.)

Candidates who fall below a predetermined level of correct answers on the tests should be rated "not qualified" and not ranked. Candidates who have more than one out of 10 serious errors in their prior opinions should be considered "not qualified." The remaining candidates should be ranked according to their scores.

Recommendations should be given a small proportion of the score, unless they reveal that the candidate is not qualified or there is serious doubt. In these cases, unless the doubt is resolved in the candidates' favor, they should be found "not qualified."

Poor health, criminal background, and tax irregularities ought not to be counted as part of the score, but simply eliminate candidates as "not qualified." All such irregularities should be reported to the disciplinary committee if the candidate is currently a judge.

c. For All Candidates

The tax records for the applicant should be requested from the tax authorities. Tax records will verify employment. Although sources of income not listed are not likely to show up as taxable income, any private employment listed for which tax was not paid might indicate that the employment did not take place or that the enterprise was not honestly complying with tax regulations. If the private employer was not complying with tax laws, it should be held against the candidate only if s/he was in a position to know that the company was not complying with tax laws and do something about it.

Criminal Records should be requested from police authorities to verify statements made in the application.

Interviews should be conducted with the judges before whom the applicant has appeared and the opposing attorneys in the cases in which the applicant appeared. While the opposing attorney may have disagreed with the applicant, allegations of poor knowledge or improper conduct should be taken seriously and prompt interviews with a broader range of professional associates.

Questions about the applicant's father that are currently asked of applicants are not suitable to a free country where everyone should be judged on his/her own merit.

3. Presentation to the President for Appointment

Giving the President a choice of nominees serves to promote democracy and responsibility in that the President as the highest elected official can take credit for good appointments and must

bear public responsibility for bad appointments. The current system of nominating only one judge for a Presidential appointment [check] dilutes Presidential responsibility, especially if the nominating procedures are opaque. Therefore it is suggested that the Judicial Nominating Commission nominate more than one candidate if possible for each vacancy. The President should be required to choose from among the candidates within 30 days. The President must choose from those proposed and cannot choose someone not on the list.

a. Trial Courts

The Commission should solicit applications and conduct tests twice per year for candidates for trial court judge. When a vacancy appears, the commission should offer the position to the highest scoring candidate on the list who has not yet been appointed. If the highest scoring candidate does not want that position, it should be offered to the next highest ranking, and so on until three candidates have accepted. If less than three candidates out of the list of all qualified candidates accept, then only the names of the accepting candidates should be submitted to the President, even if there are only two or one names.

b. Higher Courts

For Supreme Court vacancies, the President should be presented with the three highest ranking candidates. For Chief Judge of an Aimag the President should be presented with the three highest ranking candidates. If there are fewer than three qualified candidates, the Commission, by majority vote may present only two to the President, or solicit more applications from judges to enlarge the pool. If there is only one qualified candidate, the Commission must solicit additional candidates and evaluate them before making any presentations to the President. For other Aimag judges the President should be presented with the three highest ranking candidates, unless there are only one or two candidates who have applied for the position and been found qualified.

4. Transparency

The Judicial Nominating Commission should make public the names and employment histories of all candidates who apply for a vacancy. The Judicial Nominating Commission should also make public all outside comments on the candidates. Interviews conducted by the Commission do not need to be made public, nor do the committees' deliberations as they are likely to involve private matters about the candidate. The names of the candidates submitted to the President should be made public. Members must present all communication they receive about any candidate to the commission and if it is unsolicited, it must be made available to the public. This will increase public confidence that improper influence is not being exerted on the commission.

Attachments:

- A. AJS Handbook: Establishing a Judicial Selection Commission
- B. AJS Handbook: Evaluation Criteria (with notes JRP suggestions for Mongolia attached.)
- C. Proposed Questionnaire for Trial Judges
- D. Proposed Questionnaire for Appellate Judges

Model Judicial Selection Provisions

INTRODUCTION

Since its founding in 1913, the American Judicature Society has been dedicated to improving the quality of the judiciary. Improving the judiciary meant improving judicial selection methods that often were confusing or controlled by political party organizations. These methods of selection often required electioneering by judicial candidates and led to appointments based on political obligations rather than objective qualifications.

The Society developed what has been termed a judicial "merit" selection plan. The plan establishes a nonpartisan commission composed of both lawyers and nonlawyers who recruit and screen applicants and ultimately submit names of the most qualified candidates to an appointing authority. The appointing authority then makes the final selection after conducting further investigative proceedings. These elements are present in each of 34 states currently having some form of "merit" or "commission" plan for judicial selection.

Apart from these fundamental characteristics, the legal bases and forms of commission plans vary. Some states have established their plans by constitutional provisions with accompanying implementing court rules or legislation. Other states based their plans on legislation or executive orders. Executive orders are also used where the mayor of a city has appointing powers for that city's judicial offices. Some states have one commission for

all vacancies in the state while others have one commission for each judicial district in the state. Commission plans can be statewide, or exist in only certain districts or municipalities. Some commission plans encompass all vacancies, while others fill vacancies on certain courts and still others exist to fill only interim vacancies.

The model provisions that follow are a product of the experience with judicial selection over the past few decades. These provisions incorporate existing constitutional and statutory provisions, executive orders, earlier efforts to develop selection plans, and recent experiences of judicial nominating commissioners across the country. The model provisions are divided into three parts:

- Part One Establishing a Commission Plan Through Constitutional Provisions
- Part Two Implementing A Commission Plan: Model Court Rules (or Legislation)
- Part Three Establishing a Commission Plan by Executive Order (or Legislation)

Because one goal of the commission method for selecting judges is to shelter the commission as much as possible from outside political pressures, this selection method ideally should be established by the state constitution. In any event, constitutional provisions will be required whenever commission plan legislation would conflict with existing constitutional provisions. An opportune time for adopting the provisions is during a state constitutional convention. If the constitution is not under revision, amendment is often possible by referendum or act of the state legislature. Because these latter alternatives are often difficult to achieve, commission plan legislation can be used whenever the constitution allows the legislature to determine how judges are selected. Executive orders may be used whenever the chief executive has the power to make judicial appointments.

The model judicial selection provisions outline the essential components of a nominating commission including commission membership and basic procedures. Each article, section, or rule that has been subject to debate is followed by suggested alternate provisions. Provisions that do not appear to be self-explanatory have been supplemented with brief commentary.

The merit plan as proposed by the American Judicature Society and the American Bar Association and in existence in many states includes some form of retention review. Jurisdictions differ, however, as to the form that a retention review should take.

For further information on merit selection and various merit plans the reader may wish to consult the following American Judicature Society publications:

Judicial Merit Selection: Current Status, July 1985, by Donna Vandenberg. 1985. 10 pages. \$1.25. Order #294.

Includes seven pages of charts indicating characteristics of merit selection plans for each merit plan state.

The Handbook for Judicial Nominating Commissioners, by Marla N. Greenstein. 1984. 138 pages. \$7.95. Order #8577.

Provides guidance for commissioners by outlining suggested procedures for each step of the nominating process. (ISBN 0-938870-32-7)

Judicial Selection in the United States: A Compendium of Provisions, by Larry C. Berkson, Scott Beller and Michele Grimaldi. 1981. 182 pages. \$7.50. Order #8565.

Lists on a state-by-state basis how judges are selected for each level and type of court; includes a brief history of judicial selection in the U.S., constitutional and statutory citations, and tables showing selection methods. (ISBN 0-938870-02-5)

The United States District Judge Nominating Commissions: Their Members, Procedures and Candidates, by Alan Neff. 1981. 204 pages. \$7.50. Order #8568.

Reviews history of selection of U.S. district judges and analyzes structure and performance of commissions used by senators in 29 states to recruit, evaluate and recommend applicants for nomination to U.S. district court judgeships. (ISBN 0-938870-03-3)

Judicial Retention Elections in the United States, by Susan M. Carbon and Larry C. Berkson. 1980. 90 pages. \$4.00. Order #8566.

Presents a history of retention elections and a discussion of the debate about their utility. Specifies each state's provisions for such elections and outlines seven principal reasons why 33 judges have been defeated on retention ballots between 1942 and 1979. (ISBN 0-938870-01-7)

The United States Circuit Judge Nominating Commission: Its Members, Procedures and Candidates, by Larry C. Berkson and Susan B. Carbon. 1980. 260 pages. \$7.50. Order #8561.

Analyzes the history, structure and performance of the commission used by President Carter to recruit, evaluate and recommend applicants for nomination to U.S. circuit judgeships. (ISBN 0-938870-09-2)

Literature on Judicial Selection, by Nancy Chinn and Larry C. Berkson. 1980. 108 pages. \$4. Order #8564.

A comprehensive, annotated listing of the literature on state and federal judicial selection. (ISBN 0-938870-05-X)

The Key to Judicial Merit Selection: The Nominating Process, by Allan Ashman and James J. Alfani. 1974. 337 pages. \$5.75. Order #8128.

Provides empirical analysis of the work of judicial nominating commissions. Examines five jurisdictions where the merit plan is used to select judges. (ISBN 0-938870-11-4)

PART 1

Establishing a Commission Plan Through Constitutional Provisions

Art. —§1

Section 1. Nomination and Appointment.

The governor shall fill any vacancy in an office of ___ court justice or ___ court judge by appointing one person nominated by the judicial nominating commission [for the district where the vacancy occurs]. The judicial nominating commission shall nominate no more than five nor less than two qualified persons for each vacancy. If the governor fails to fill a vacancy within 30 days from the day the names are submitted, the [chief justice] [presiding judge for that district] shall appoint one of the nominated persons.

Alternative A—providing only for interim appointments

Art. —§1

Section 1. Nomination and Appointment.

The governor shall fill any vacancy occurring between elections in an office of ___ court justice or ___ court judge by appointing one person nominated by the judicial nominating commission [for the district where the vacancy occurs]. The judicial nominating commission shall nominate no more than five nor less than two qualified persons for each vacancy. If the governor fails to fill a vacancy within 30 days from the day the names are submitted, the [chief justice] [presiding judge for that district] shall appoint one of the nominated persons.

Commentary:

Although the number of names submitted to the governor need not be fixed at five, the number should be sufficiently low so that the commission nominates only the most qualified candidates. Five names appears to be the optimum because it gives the governor a real choice while limiting the governor's appointing power. Commissions in less populated areas may have difficulty finding five qualified nominees and should therefore be allowed the flexibility to submit fewer names. In some states, the names submitted to the governor are listed in alphabetical order to avoid any indication of a commission's preference. Thirty days is allowed as a reasonable amount of time for the governor to conduct an investigation of the nominees. In the event that the governor fails to act within that reasonable time period, a judicial officer may appoint from the commission's list. This provision ensures that the final appointment will be made within a reasonable time and from the list of nominees. The separation of functions allows for independent and nonpartisan evaluations and nominations by a responsible commission and final appointment by a governor who is politically accountable.

Art. —§2

Section 2. Judicial Nominating Commission.

[The] [Each] judicial nominating commission shall consist of seven members. Three attorney members shall be selected for [six-year] [four-year] terms by the bar of the [state] [judicial district] except as provided by Art. —§3. Four nonattorney members shall be appointed [from among the residents of the same area] for [six-year] [four-year] terms, except as provided in Art. —§3, by the governor [subject to confirmation by a majority of the members of the senate]. Appointments and elections to the commission[s] shall be made with due consideration to geographic representation and without regard to political affiliation. Vacancies shall be filled for an unexpired term in like manner. No member of [the] [a] nominating commission may hold any other office under the United States, the State or other governmental entity for which monetary compensa-

tion is received. No member shall be eligible for appointment to a state judicial office so long as he or she is a commission member and for [four][three] years thereafter nor serve for more than two full terms as a member of the nominating commission.

Alternative A—providing for a majority of lawyer members

Art. —§2

Section 2. Judicial Nominating Commission.

[The] [Each] judicial nominating commission shall consist of seven members. Four attorney members shall be selected for [six-year] [four-year] terms by the bar of the [state] [judicial district] except as provided by Art. —§3. Three nonattorney members shall be appointed [from among the residents of the same area] for [six-year] [four-year] terms, except as provided in Art. —§3, by the governor [subject to confirmation by a majority of the members of the senate]. Appointments and elections to the commission[s] shall be made with due consideration to geographic representation and without regard to political affiliation. Vacancies shall be filled for an unexpired term in like manner. No member of [the] [a] nominating commission may hold any other office under the United States, the State or other governmental entity for which monetary compensation is received. No member shall be eligible for appointment to a state judicial office so long as he or she is a commission member and for [four][three] years thereafter nor serve for more than two full terms as a member of the nominating commission.

Alternative B—providing for judge as ex-officio chairman

Art. —§2

Section 2. Judicial Nominating Commission.

[The] [Each] judicial nominating commission shall consist of seven members. Three attorney members shall be selected for [six-year] [four-year] terms by the bar of the [state] [judicial district] except as provided by Art. —§3. Three nonattorney members shall be appointed [from among the residents of the same area] for [six-year] [four-year] terms, except as provided in Art. —§3, by the governor [subject to confirmation by a majority of the members of the senate]. The [chief justice] [presiding judge] shall act as ex-officio chairman over the commission but shall only vote when to do so would change

the result. Appointments and elections to the commission[s] shall be made with due consideration to geographic representation and without regard to political affiliation. Vacancies shall be filled for an unexpired term in like manner. No member of [the] [a] nominating commission may hold any other office under the United States, the State or other governmental entity for which monetary compensation is received. No member shall be eligible for appointment to a state judicial office so long as he or she is a commission member and for [four] [three] years thereafter, nor serve for more than two full terms as a member of the nominating commission.

Commentary:

In a democratic society it is important that public bodies such as judicial nominating commissions be broadly representative of the communities they serve. Care should be taken to ensure that the composition of the commission be reflective of the demographic makeup of the state or district. Considerations should include, for example, race, ethnicity and gender. If a judge is a member of the commission, the judge should have limited power to avoid exercising undue influence over other commission members. A method for selecting the attorney members has not been specified since bar organizations vary significantly from state to state. Many states hold elections to select the attorney members, while in other states bar leaders handle the appointments. Members should serve for a period long enough to enable them to develop selection skills. No member of a commission should seek judicial office until a sufficient amount of time has passed to ensure a commission's objectivity and preserve public confidence. Commission members should be limited to two terms to ensure that the commission continues to be representative and vital.

Art. —§3

Section 3. Terms of Initial Commission Members. (six-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three attorney members for two, four, and six years respectively, and the four nonattorney members for two, three, five and six years respectively.

Section 3. Terms of Initial Commission Members. (four-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three nonattorney members for one, two, and three years respectively, and the four attorney members for one, two, three and four years respectively.

Alternative A—providing for a majority of lawyer members

Art. —§3

Section 3. Terms of Initial Commission Members. (six-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three nonattorney members for two, four, and six years respectively, and the four attorney members for two, three, five and six years respectively.

Section 3. Terms of Initial Commission Members. (four-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three nonattorney members for one, two, and three years respectively, and the four attorney members for one, two, three and four years respectively.

Alternative B—providing for judge as ex-officio chairman

Art. —§3

Section 3. Terms of Initial Commission Members. (six-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three attorney members for two, four, and six years respectively, and the three nonattorney members for two, three, five and six years respectively, and the judge, as chairman, for six years or until the [judge] [justice] leaves his/her judicial position, whichever occurs first.

Section 3. Terms of Initial Commission Members. (four-year term)

The initial members of [the] [each] judicial nominating commission shall serve for terms as follows: the three attorney members for one, two, and four years respectively, and the three nonattorney members for two, three and four years respectively, and the judge, as chairman, for four years or until the [judge] [justice] leaves his/her judicial position, whichever occurs first.

Commentary:

The terms of the commission members should be staggered to encourage an independent commission and to provide some continuity.

Art. —§4

Section 4. Reimbursement and Administrative Assistance.

(a) Members of [the][each] judicial nominating commission shall be reimbursed for all expenses incurred in the carrying out of their official duties. Additional compensation may be prescribed by law.

(b) The State Administrative Office of the Courts shall make staff, equipment and materials available to assist [the][each] commission in carrying out its official duties.

Commentary:

To foster an effective commission, certain minimal services should be made available. These services should include typists, copying facilities, stationery and postage and be provided to the commission promptly upon request.

Art. —§5

Section 5. Powers of the Judicial Nominating Commission.

[The][Each] judicial nominating commission shall have the power to adopt any rules and procedures which aid in its selection of the most qualified nominees for judicial office.

Optional alternative retention provisions:

Art. —§6

Section 6. Retention Elections.

Any judge who seeks additional terms for the same judicial office shall be retained in office by vote of the electorate. The retention election shall be nonpartisan and shall

require the affirmative vote of [a majority] [60%] of those voting on the question to retain the judge.

or

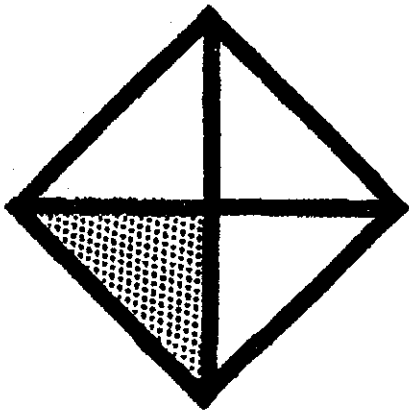
Art. —§6

Section 6. Retention by Commission.

Any judge who seeks additional terms for the same judicial office shall be retained in office by a finding of the judicial nominating commission that the judge has served competently and with integrity.

Commentary:

The competence of all judges should be periodically reviewed although appropriate forms of retention may vary. In some jurisdictions it may be preferable to hold retention elections, in others to delegate the responsibility to a judicial nominating commission familiar with the task of evaluating judicial ability. Combinations of these procedures are also possible. For example, the commission could rate the judges up for retention, publicize the rating, and allow the public to then vote in a retention election. One criterion to consider in choosing a procedure is the number of judges to be evaluated. Regardless of the form it takes, judicial retention should be designed to ensure that only qualified judges remain on the bench.



Evaluative Criteria¹

Establishing Criteria

As part of the organizational meeting, commissioners will find it helpful to identify the evaluative criteria to be used in the selection process. The criteria needed for a particular judicial position depend on the role the judge will play. By examining the core criteria which relate to the work of every judge, and adding criteria for different judicial roles, a commissioner will be able to determine the qualities to be sought in a judicial nominee.

The following examination of evaluative criteria is based on: state constitutional and statutory requirements for judicial office, literature on judicial selection and the judicial process, and literature on judicial performance evaluation. Before beginning the selection process, commissioners should become familiar with the minimum legal qualifications for the judicial vacancy in question. Qualifications relating to age, citizenship, residency or a license to practice law often appear in state constitutions or statutes. Other sources for judicial evaluation include reports by the media, court observers and bar associations.

The appendix to this chapter contains suggested measures, in question form, for each criterion. Each question has been designed to highlight particular aspects of an applicant's background. By considering each of the questions, a commissioner should gain insight into whether any given applicant will make a good judge.

A judicial nominating commissioner will find it helpful to use flexible, subjective criteria when screening and evaluating candidates for judicial office. Below is a list of

14 suggested criteria for judicial selection.

Roles and Their Criteria

Qualities for all judges:

- suitable age
- good health
- impartiality
- industry
- integrity
- professional skills
- community contacts
- social awareness

Additional qualities for appellate judges:

- collegiality
- writing ability

Additional qualities for trial judges:

- decisiveness
- judicial temperament
- speaking ability

Additional qualities for supervisory judges:

- administrative ability
- interpersonal skills

Qualities for All Judges

Suitable Age. A candidate for judicial office should be old enough to have legal experience but not too old to possess the level of energy demanded by a judicial position. Any age limitations will depend on individual circumstances such as: health, energy, vitality and mandatory retirement requirements. Since a line must be drawn somewhere, however, there is ample justification for a maximum age of 60 if the candidate would be a first time judge and an age of 64 for promotion to a higher court. The public is entitled to the appointment of persons who are able to render long and vigorous service as part of the judiciary. A maximum age is also consistent with the policy behind mandatory retirement plans, now existing in 39 states and requiring judges to retire from the bench at ages ranging from 70 to 75. The age of appointment should be sufficiently low to avoid a judge's mandatory retirement just as the judge has reached peak effectiveness.

Good Health. The demands of judicial office require a high level of performance and, consequently, applicants should be physically and mentally healthy. Good physical

health requires judges to be free of debilitating ailments, injuries and diseases. Good mental health requires an individual to have a sound, alert mind and a high degree of emotional stability. An applicant's health should not interfere with judicial duties or adversely affect the ability to function as a fair and impartial judge.

Impartiality. A good judge should possess the ability to treat cases objectively regardless of the identity of the parties or the subject matter of the controversy. The judge will be required to consider the facts before the court neutrally and with an open mind. A judge will be asked to ignore personal predilections and "disengage himself so far as possible, of every influence that is personal or that comes from the particular situation which is presented to him, and base his judicial decision on elements of an objective nature."²

An applicant who is an attorney, must be able to make the transition from a trained advocate to an independent fact-finder and evaluator. He or she must be capable of putting aside a tendency to pick sides and be able to analyze the facts of any given controversy objectively.

Finally, a judge should carry an impression of fairness to the parties to a controversy, to the attorneys and to other judges. Actors in that judge's court should feel confident that their side will be afforded fair and independent consideration.

Industry. The demands of rising caseloads and backlogged calendars have accentuated the importance of selecting industrious judges. If, in the past, it was ever valid to consider a judgeship a form of sinecure for lawyers who were ready to work less, that assumption is no longer valid today.³ The impact of caseload pressures on the core requirement of judicial industriousness applies with equal strength to both trial and appellate courts.

The quality of industry incorporates several types of work habits. Dedication is one aspect of industry and includes a willingness to devote sufficient, or even extra, time to complete tasks. Industry also demands diligence, involving steady and constant application to the task at hand.⁴ Punctuality is also required. A judge should be prompt and prepared. To retain public confidence in the administration of justice, a judge must be in the habit of opening court on time. Another aspect of industry is decisiveness, which is of particular importance to trial judges. To keep cases moving, a judge must be willing and able to reach decisions with confidence and without hesitation. Finally, an industrious judge is a good administrator, knowing how to manage time and ensure that any judicial staff work at peak efficiency.

Integrity. The responsibility of judges for making decisions that affect lives and fortunes requires the selection of men and women of unquestioned integrity. At a minimum integrity means intellectual honesty, moral vigor and professional uprightness. It also requires a sense of honor, trustworthiness and absolute sincerity and reliability. A judge with integrity is unswervingly ethical. Ethical conduct by judges requires, at a minimum, commitment and adherence to the law, the Code of Judicial Conduct and the Code of Professional Responsibility.

Professional Skills. All judges are expected to be well-versed in fundamental legal areas. Even judges who are assigned to courts where they will have only one type of case must be prepared to hear a variety of issues covering procedure, evidence and constitutional law as well as the substantive areas of their court's jurisdiction.

Neither graduation from law school nor the fulfillment of a minimum requirement of years admitted to practice is sufficient to acquire the professional skills needed for judicial office. Both the length and type of legal experience should be taken into account. As a general rule, about 10 years of litigation experience would indicate a familiarity with court procedures and legal subjects.

Legal analytic ability is equally valuable. Ideally, a judicial candidate should possess intelligence, a capacity for abstract thought and intellectual curiosity.

The quality of clarity of thought and expression...means lucidity in reasoning, a sense of order or arrangement. The model judge must know instinctively the difference between that which is important and that which is merely interesting. He must know well the material fallacies of reasoning and avoid them.⁶

Judges are often asked to become experts in different areas of the law with each assignment. Effective judges can adapt to a variety of assignments. Thus, a qualified judicial candidate must be able to achieve a level of expertise in one area and yet freely move into another when a new assignment creates such a demand.

Community Contacts. Judges are in a position to enhance the public's view of the court. It is desirable for judges to act as a court liaison to the community. When judges publish articles, teach, and participate in community activities, they benefit both the court and the public. In particular, participation in community activities can enable judges to be more sensitive to the problems and concerns of attorneys practicing before them as well as those of the parties to a dispute. In addition, the community is likely to become more sensitive to the pressures of the court and in turn more supportive of the needs of the court. Judges, in short, should maintain an awareness of their public role.

A judge should strive to make the court as visible to the public as is consistent with the privacy needed for meditative, studious, and deliberate decision making. The only business of a court is public business. Therefore, he should initiate and accept procedures which will make the court system and its judges accountable to the people for the public funds utilized and for the public power conferred upon the courts and judges.⁶

Social Awareness. "The great tides and currents which engulf the rest of men do not turn aside in their course and pass the judges by," said Justice Cardozo in his lectures on *The Nature of the Judicial Process*.⁷ Judicial decisions, even when they only attempt to resolve the rights of the immediate parties, must sometimes delve into the realm of social or public policy. Thus, it is useful for judges to have some familiarity with and sensitivity to the range of social issues which often confront the courts.

At the same time, however, judges must be aware of and sensitive to the uses and limitations of the law as a tool for correcting social problems. Assuredly, not every case

requires changes in legal doctrine or a refashioning of principles to meet some perceived need of public policy. The law must have a degree of stability and predictability from past through future generations. Yet, a judge should have an interest in improving the law and its service to people. Improving the law will induce a willingness, when circumstances require, to permit changes in legal doctrine; bringing the law into conformity with changed social conditions and evolving concepts of social justice.

Additional Qualities for Appellate Judges

Unlike trial court judges, appellate judges are all professional writers. An appellate judge must write his or her opinions and do so in isolation from the lawyers, jurors, witnesses and litigants normally encountered by trial judges. However, no matter how isolated the appellate judge may be when actually writing an opinion, appellate judges must have the ability to work with their colleagues in the process of collective decision-making.

Collegiality. The collective decision-making aspect of an appellate judge's role requires loyalty to the appellate court. Appellate judges are engaged in an attempt to express the law. This common purpose demands loyalty to the court as both an institution and a collection of diverse individuals

Collegiality requires judges to understand and respect their colleagues' differing views. Personality disputes should be minimized and the art of compromise developed. As a part of the art of compromise, a judge must be capable of both giving and receiving criticism.

A good appellate judge recognizes that he is part of a greater whole, which is itself part of a process. Thus, he cares about the quality of all decisions rendered by his court, not simply his own opinions. To that end, he is skilled in the art of compromise—he makes, and takes, suggestions, but he never compromises his principles. He reviews his colleagues' opinions as carefully as he can and when, ultimately, he disagrees, he expresses that disagreement. He circulates all of his opinions, including his dissents, as promptly as possible, because he knows that there is no excuse for unnecessary judicial delay.⁸

Writing Ability. Since appellate judges spend a major part of their time writing opinions, it is crucial that they be able to produce lucid and understandable opinions. The organization of an opinion will persuade its readers through its logic and internal coherence. As one prominent professor noted:

The quality of a judge's opinion has a good deal to do with whether he is a good judge. If his opinions are disorganized, or illiterate, or marred by fallacies of logic, or lengthened by wordy irrelevance, he is not good at performing one of an appellate judge's major jobs. Mere avoidance of these vices, though, does not alone make one a good judge. Quality in opinions and, by the same token, quality in that aspect of judicial performance, depends ultimately upon the soundness of reasoning and decision contained in the opinion.⁹

Additional Qualities for Trial Judges

Trial judges must be capable of dealing with a wide range of actors in their courtroom. Not only must a trial judge respond to attorneys and their clients but they must also

react to witnesses and be able to instruct jurors on the law.

Decisiveness. A trial judge must be capable of making quick decisions under pressure. Often a trial judge will be required to rule on objections as soon as they are raised. Motions, too, will require prompt decisions if cases are to progress. A trial judge must be able to keep cases moving and be willing and able to reach decisions. He or she must be able to quickly assimilate law and facts and to respond to issues raised by counsel with confidence and without hesitation. The judge must be willing to make hard decisions and be able to rule with firmness.

Judicial Temperament. The judge's job includes contact with lawyers, members of the public and court employees and requires an inordinate amount of an elusive quality called judicial temperament. Judicial temperament encompasses a variety of noble qualities. One of these qualities is dignity. To be dignified a judge must possess "quiet, tactful ways, and calm yet firm assurance."¹⁰ Dignity allows a judge to carry authority and inspire respect for the court. Judicial temperament also requires sensitivity and understanding. An understanding judge is sensitive to the feelings of those before the court, recognizing that each and every case is important to all the participants. Finally, a candidate is not temperamentally suited for the bench unless he or she possesses great patience. Patience is simply the ability to be even-tempered and to exercise restraint.

Speaking Ability. A trial judge should speak effectively in order to be understood by those appearing before the bench as well as by visitors in the courtroom. More importantly, any defendant appearing before a judge without counsel must understand the judge's questions relating to issues such as whether the defendant is eligible for court appointed counsel. Finally, communication skills are essential for a close working relationship with a jury. The judge must give the jury an understanding of its role and instruct the jurors on the law using plain English.

Additional Qualities for Supervisory Judges

Many judges have responsibilities apart from adjudication. Some fill special positions such as presiding or chief judges that require advanced supervisory skills. As an administrator, a judge should be able to delegate responsibility and use the time and talents of his or her staff wisely. In addition, a judge acting in a supervisory capacity will need certain interpersonal skills.

Administrative Ability. Where a judge has administrative responsibilities, he or she will need to be a good organizer. Organization skills include an ability to delegate certain administrative responsibilities and to use a staff wisely. Administrative ability includes keeping files and papers well-organized and keeping abreast of office activities.

Interpersonal Skills. As a supervisor, a judge should also possess certain interpersonal skills. When supervising an administrative staff or other judges, a judge should have the ability to motivate others. A good supervisor should review the work of a staff and keep the staff informed of its level of performance. When overseeing other judges, a supervisory judge should be skilled at mediation. For example, when judges have

differing views on court administration, the supervising judge may need to encourage compromise.

Conclusion

By adopting concisely defined criteria for judicial selection, a nominating commission will be equipped to effectively screen and evaluate candidates for judicial office. When these criteria and suggested measures for evaluation have been adopted in advance, many of the frustrations and apprehensions of commissioners will be eliminated. Commissioners equipped with a solid idea of what they should look for in any given applicant will be secure in their final recommendations to the appointing authority. A commission that has defined its standards for evaluating judicial candidates will gain confidence that it has chosen those best qualified to hold judicial office.

1. This chapter is, in large part, an abstract of a report of the special AJS Committee on Qualifications Guidelines for Judicial Candidates.

2. B. Cardozo, *THE NATURE OF THE JUDICIAL PROCESS* 121 (1921) (The Storrs Lectures at Yale University).

3. E. Devitt, *Ten Commandments for the New Judge*, 47 *A.B.A.J.* 1175, 1176 (1961) reprinted in 65 *A.B.A.J.* 574, 575 (1979).

4. American Bar Association, *GUIDELINES FOR JUDICIAL SELECTION* (1981) (unpublished draft).

5. R. Aldisert, *What Makes a Good Judge?* (pt. 1), 14 *IJA Rep.* 1, 2 (Winter, 1982).

6. N. Heffernan, *What Makes a Good Judge?* (pt. 2) 14 *IJA Rep.* 4,5 (Spring, 1982).

7. Cardozo, *supra* note 2, at 168.

8. S. Roberts, *What Makes a Good Judge?* (pt. 2), 14 *IJA Rep.* 4,8 (Spring, 1982).

9. R. Leflar, *What Makes a Good Judge?* (pt. 2), 14 *IJA Rep.* 4,9 (Spring, 1982).

10. B. Shientag, *THE PERSONALITY OF THE JUDGE* 42 (1874) (Benjamin N. Cardozo Lectures, Association of the Bar of the City of New York).

Additional Criteria for All Judicial Candidates:

Substitute section on "Suitable Age"

A candidate for judicial office should be old enough to have legal experience, but not too old to possess the level of energy demanded by a judicial position. In Mongolia, the Constitution specifies that members of the Supreme Court must be at least 35 years old and have 10 years experience in law. Members of other courts must be at least 25 years of age and have 3 years experience in law. In most countries, more experience would be desirable, but in Mongolia, a lawyer who was educated in the socialist period and has not kept up with changes in the legal and economic system may have experience that is no longer applicable to the position of judge. Thus, the committee should look at relevant education and experience more than age as a guide to qualification. Candidates who are close to the mandatory retirement age of 65 under the Public Service Law should not be considered, as they will be lost, just as they are acquiring experience and skill in their position.

New section on "Legal Reasoning"

The GTZ survey of 160 decisions identified weakness in legal reasoning as a major problem in these decisions. The American Judicature Society presumes that candidates will have this reasoning skill, because judicial candidates will be lawyers with 10 years of practice in the United States. Law school and practice require the development of legal reasoning to an extent that it can be presumed to have been developed in all judicial candidates. Because it is not developed in existing judges, there can be no presumption that it exists in candidates in Mongolia.

"The candidate should demonstrate the ability to write an opinion in which he identifies the facts from the evidence. S/he should be able to summarize the uncontested facts that are necessary for the decision and summarize the evidence for the contested facts and explain why s/he finds a particular set of facts to be justified by the evidence and not the other. This ability to weigh evidence and explain why s/he accepts certain facts is critical to public acceptance of judicial decision making.

The candidate should be able to identify the law, which applies to the case. The law may come from different codes in a single case and the sections of law that apply will depend on the facts in the case. It is not enough to simply cite a code section, the candidate must be able to explain why a particular section is the correct law that applies to the particular case.

Application of the law to the facts. The candidate should be able to explain how the law applies to the facts and determine the result. The reasoning process should be logical and include every important issue. The candidate should be able to explain the result in clear language.

Proposed Application for Position as Judge (Name: Trial Courts)

Application for appointment to a Trial Court

1. Name
2. Mailing address:
3. Phone number and e-mail if any:
4. Birthplace:
5. Birth date:
6. Marital status:
7. If married, spouse's full name, address and phone number if different from above:
8. If married spouse's occupation, and employer:
9. List any prior marriages (ending in divorce or death):
10. Children's' names, ages and addresses if different from #2:
11. If any children are over 18 years old, give their occupation and employer or school:
12. All places of residence since beginning to practice law:
13. Schools attended (high school, all universities or institutes): dates and degrees:
14. Name and dates of all professional trainings, workshops or classes you have taken since your degree:
15. Date and grade of all professional tests taken:
16. Have you ever taught at a law school or a continuing legal education course? If so specify the courses and the sponsoring institution.
17. If you previously applied for a position as judge, specify when and the positions sought.
18. List any law related lectures, speeches or presentation you have given as well as any articles or books you have written or contributed to:
19. Present professional partners, associates or employers:
20. Prior professional partners, associates or employers and dates:
21. Public offices held and dates:
22. Activities in Professional organizations, including responsibilities held:
23. Activities in NGOs:
24. Are you a member of a political party? yes, no; If yes, are you willing to resign from the political party prior to being appointed as a judge?
25. Do you have any physical limitations, especially hearing, speech or eyesight impairments? If yes, please describe and identify the doctor(s) who have treated you.
26. Have you undergone any psychiatric treatment or treatment for a mental condition or illness or treatment for addiction to alcohol or drugs? yes; no If yes, please describe and identify those who have treated you:
27. Describe the nature of your present practice of law, including any field you know particularly well:
28. List five cases that you have acted as an advocate or prosecutor in the last four years along with the court, the name of the judge and the opposing attorney.
29. Have you ever been charged with or investigated for any professional misconduct as a lawyer or judge? yes, no. If yes, please describe and state before whom the charges were brought, or who conducted the investigation and the outcome.
30. Have you ever been charged with any crime or administrative violation, except a minor traffic infraction? yes; no. If yes, describe it and how it was resolved.
31. Is there any circumstance in your professional or personal life that creates a substantial question as to your qualifications to serve in the judicial position for which you are applying or might interfere with your ability to serve?
32. List the names and address of those persons who are in a position to comment on your qualifications for judicial position and of whom an inquiry may be made by the Commission. (Include at least one judge before whom you have tried a case and at least one lawyer who was opposite you in a case.)
33. List all sources of income for you and your spouse over the last five years. Give the amount of the income, the date and the service or thing for which the income was given. Give the name and

address of the employer, client or business partner who paid. If you have any adult children, give the same information for their sources of income over the last four years.

34. List all property you own over the value of 50,000 tgs. (including apartment, house, vehicle, major furniture and expensive watch and jewelry). If the property was acquired by means other than the income listed above, describe the source of the money or other means by which the property was acquired.
35. List all debts that you (and your spouse) currently owe, the amount, terms of repayment and to whom you owe them.
36. Have you within the last ten years gambled? If so, specify.
37. Have you (or your spouse) ever owed a debt which you have been unable to repay?
38. Do you (or your spouse) own any stock in any private company, or do you own any other interest in a private business? If yes, what is the business and what was your interest?
39. Have you (or your spouse) ever been a corporate officer of a private business?
40. Has any private business in which you (or your spouse) had an interest filed for bankruptcy or had a petition for bankruptcy filed against it?
41. Have you ever been a party to a lawsuit, either as plaintiff or defendant? If so, please describe.
42. Why do you want to be a trial court judge? What do you think best qualifies you to be selected for such a position? What would you seek to accomplish if appointed?
43. Submission of this application expresses my willingness to accept an appointment to the _____ Court.
44. Submission of this application gives my permission to the Commission to investigate the truthfulness of my answers and authorizes all persons to give truthful information about me to the Commission.
45. My signature below certifies that all the statements in this application are complete and true, and that I am subject to criminal penalty [under section ___ of the criminal code] if any of these statements are incomplete or untrue.
46. Attach you're a) identify document as a civil servant, if any; b) notarized copies of you diplomas, and record of professional courses, and professional qualification certificates; c) three 3x4 photos; d)copies of your labor and social insurance books; d) a sample of your writing on a legal topic (you can use court papers filed in an actual case).

Signed: _____ Dated: _____

Proposed Application for Position as Judge (Appellate and Supervisory Courts)

Application for appointment to an Appellate /Supervisory Court (including the Supreme Court).

1. Name:
2. Mailing address:
3. Phone number and e-mail if any:
4. Birthplace:
5. Birth date:
6. Marital status:
7. If married, spouse's full name, address and phone number if different from above:
8. If married spouse's occupation, and employer:
9. List any prior marriages (ending in divorce or death):
10. Children's' names, ages and addresses if different from #2:
11. If any children are over 18 years old, give their occupation and employer or school:
12. All places of residence since beginning to practice law:
13. Schools attended (high school, all universities or institutes): dates and degrees:
14. Name and dates of all Continuing Legal Education Classes you have taken since your degree:
15. Date and grade of all professional tests taken:
16. If you have ever previously applied for a position as a Appellate or Supervisory judge, specify when and the position sought.
17. Describe your current and former judicial responsibilities and the types of cases you regularly handle.
18. List 10 significant cases in which you presided as judge and provide the name of the case, the case number, a brief description of the case, the name, address and phone number of the lawyers involved in the case. Attach copies of all orders or decisions in those cases that involved included substantial discussions of legal issues.
19. List any decisions you made as a judge that have been reversed or modified by a appellate or supervisory court, including the name of the court and the number of the case.
20. List any law related lectures, speeches or presentation you have given as well as any books you have written or contributed to:
21. Have you ever taught in a law school or taught a Continuing Legal Education Course? If so, give specifics of the institution sponsoring the teaching and the courses taught.
22. Present professional partners, associates or employers:
23. Prior professional partners, associates or employers and dates:
24. Public offices held and dates:
25. Activities in Professional organizations, including responsibilities held:
26. Activities in NGOs:
27. Have you ever been a party to litigation? If so give details.
28. Any honors, prizes award or scholarships that you have received.
29. Are you a member of a political party? yes, no; If yes, are you willing to resign from the political party prior to being appointed as a judge?
30. Do you have any physical limitations, especially hearing, speech or eyesight impairments? If yes, please describe and identify the doctor(s) who have treated you.
31. Have you undergone any psychiatric treatment or treatment for a mental condition or illness or treatment for addiction to alcohol or drugs? yes; no If yes, please describe and identify those who have treated you:
32. Describe the nature of your present judicial practice, including any field you know particularly well:
33. Have you ever been charged with or investigated for any professional misconduct as a lawyer or judge? yes, no. If yes, please describe and state before whom the charges were brought, or who conducted the investigation and the outcome.
34. Have you ever been charged with any crime or administrative violation, except a minor traffic infraction? yes; no. If yes, describe it and how it was resolved.

35. Is there any circumstance in your professional or personal life that creates a substantial question as to your qualifications to serve in the judicial position for which you are applying or might interfere with your ability to serve?
36. List the names and address of those persons who are in a position to comment on your qualifications for judicial position and of whom an inquiry may be made by the Commission. (Include at least one judge before whom you have tried a case and at least one lawyer who was opposite you in a case.)
37. List all sources of income for you and your spouse over the last four years. Give the amount of the income, the date and the service or thing for which the income was given. Give the name and address of the employer, client or business partner who paid. If you have any adult children, give the same information for their sources of income over the last four years.
38. List all property you own over the value of 50,000 tgs. (including apartment, house, vehicle, major furniture and expensive watch and jewelry). If the property was acquired by means other than the income listed above, describe the source of the money or other means by which the property was acquired.
39. List all debts that you (and your spouse) currently owe, the amount, terms of repayment and to whom you owe them.
40. Have you (or your spouse) ever owed a debt which you have been unable to repay?
41. Do you (or your spouse) own any stock in any private company, or do you own any other interest in a private business? If yes, what is the business and what was your interest?
42. Have you within the last ten years gambled? If so, specify.
43. Have you (or your spouse) ever been a corporate officer of a private business?
44. Has any private business in which you (or your spouse) had an interest filed for bankruptcy or had a petition for bankruptcy filed against it?
45. Have you ever been a party to a lawsuit, either as plaintiff or defendant? If so, please describe.
46. Submission of this application expresses my willingness to accept an appointment to the _____ Court.
47. Why do you want to be an appellate judge? What do you think best qualifies you for elevation to such a position? What you seek to accomplish if appointed?
48. Submission of this application gives my permission to the Commission to investigate the truthfulness of my answers and authorizes all persons to give truthful information about me to the Commission.
49. My signature below certifies that all the statements in this application are complete and true, and that I am subject to criminal penalty [under section ____ of the criminal code] if any of these statements are incomplete or untrue.
50. Attach you're a) identify document as a civil servant, if any; b) notarized copies of you diplomas, and record of professional courses, and professional qualification certificates; c) three 3x4 photos; d)copies of your labor and social insurance books; d) a sample of your writing on a legal topic (you can use court papers filed in an actual case).

Signed: _____ Dated: _____

Appendix G

**Mongolia Judicial Reform Program (JRP)
National Center for State Courts (NCSC)**

**The Budget Process of the
Mongolian Judicial System**

September 2001

**Cooperative Agreement
#492-A-00-01-00001**

Ulaanbaatar, Mongolia



Background¹

The budgeting process of the Mongolian court system is similar to that of the U.S. Federal court system. Both systems collect data from the local courts for input into a National Courts Budget. The Mongolian and U.S. court systems used a structured format for the collection of financial data from the various courts. When all the data are collected and incorporated into the National budget, it is presented to a policy-making authority for approval. The U.S. court system budget is approved by the Federal Judicial Conference and the Mongolian court system budget by the General Council of Courts (GCC).

The budgeting process for the U.S. Federal courts collects detailed information on each expense category as well as other data to incorporate this information into a strategic plan for the Federal Courts. The data currently collected in Mongolia are not sufficient to support a true strategic planning effort comparable to the sophisticated budgeting process that the U.S. Court system utilizes. Still, the Mongolian GCC staff collects over 20 separate line item categories of expenses from the courts throughout Mongolia. These categories are inclusive of all personnel costs, operating expenses and capital improvements but lack any detailed definition.

In the U.S. Federal system, the President and the Office of Management and Budget are precluded by law to reduce the Federal Courts budget. In reviewing the fifty states and territories of the U.S. and their respective procedures for submitting their budgets, the following procedures exist (See Attachment #1):

Where Is The Budget Submitted – 23 directly to Legislature, 19 to the Executive, 9 to both Legislative and Executive

Can Executive Amend Budget – 18 yes, 33 no

Is Judicial Appropriation Filed as Separate Bill – 14 yes, 37 no

The Average Judicial Percentage of State Appropriation - 1.68% in the U.S. vs. .029% for Mongolia

In Mongolia the Ministry of Finance drafts the State Budget that includes the courts budget. The Ministry solicits no input on the courts budget from the GCC or the staff when compiling the State Budget. The Ministry informs the GCC through a letter the amounts and percentages of increases or decreases that were included in courts budget segment of the Mongolian State Budget (See Attachment #2). These guidelines or mandates are provided by the Ministry well in advance of the time the budget is due to be submitted to the Parliament. Although, the GCC staff is informed and aware of the actions of the Ministry of Finance, the staff continues to develop the draft courts budget using the expense and budget data collected from all the courts in Mongolia. The GCC staff submits their draft courts budget to the GCC for approval and subsequently submits an approved GCC copy to the Minister of Finance. The draft of the State Budget, prepared by the Ministry of Finance does not include the GCC approved budget but the

¹ Developed by the National Center for State Courts with USAID fund under Cooperative Agreement #492-A-00-01-00001; Mongolian Judicial Reform Project

one prepared by the Ministry. Unlike the U.S. system the Mongolian court system does not enjoy the autonomy of preparing and implementing its own budget.

The Judiciary's Control over its Own Budget

The court system of Mongolia, by Constitution is a separate and independent governmental entity of the State Government of Mongolia. The Constitution of Mongolia creates the court system in Mongolia and establishes the GCC for the purposes of guaranteeing the independence of the judiciary. Article 48 states that the courts shall be financed from the State budget. The courts budget is financed from the State budget and is a separate line item in the State budget but the Law on Finance and Economics places the monitoring and control of the State budget under the supervision of the Ministry of Finance. Thus, the Ministry of Finance mandates the percentage of increases or decreases in every agencies budget including the court systems budget. Although one could argue all kinds of legal doctrine and separation of powers, the reality is that the Ministry of Finance has control over the courts budget.

The GCC staff collect budget and expense data from 22 Aimag Courts and the Capital City Court to create the budget for the trial courts throughout Mongolia. The Aimag Courts have supervisory control over the lower level courts (Soum, Intersoum) and administer these court budgets through the Aimag Court budget. The trial court budget constitutes one budget package of three that are submitted to the GCC for approval. The other two budget components that make up the National Courts Budget are the Supreme Court and GCC budgets. The GCC staff prepares a draft budget and submits this budget to the GCC for approval. The GCC approved budget is then submitted to Parliament where the staff is provided an opportunity to testify before the Legal Standing Committee to incorporate the GCC approved budget in lieu of the Ministry of Finance's version of the courts budget. Although the Legal Standing Committee has in the past supported the GCC approved budget; the Budget Standing Committee must also approve these amendments. Historically, there has not been sufficient support from the Budget Standing Committee to accept any changes to the courts budget.

When the Parliament enacts the State Budget for Mongolia, a separate appropriation is made directly to the Supreme Court and one to the GCC for its own budget and one for the trial courts. The Ministry of Finance informs the GCC staff of the amounts of the budget allocation for the Aimags and Capital City Courts, the Supreme Court and the GCC. The GCC staff then informs each of the 22 Aimags and Capital City Courts court administrators the amount of the budget allotted to them. This decentralization of the budget provides some flexibility for the local courts to manage their own budgets and react to local needs and requirements. The local courts must maintain their budgets in accordance to a prescribed format and report quarterly to the GCC staff on expenditures. Other than including the Supreme Court in the National Courts Budget the GCC has no administrative authority over the Supreme Courts' budget appropriation or its expenditure.

Although the GCC staff performs an admirable job of putting the budget together and representing the GCC approved budget before Parliament their hands are pretty much tied by the Ministry of Finance. To say that the courts have control over their own budget would be an incorrect statement for Mongolia.

Recommendations

Financial independence of the courts in Mongolia must be tempered by accountability to the public and to the Parliament of Mongolia. At the same time, the judiciary should not be viewed as subservient to the other branches of government. The judiciary must be given more authority and responsibility to create and manage their own budget. The Government of Mongolia should enact new laws and/or administrative procedures that enforce the authority and accountability of the judiciary to manage their own resources and budgets effectively.

Recommendation 1. The budget for the Courts of Mongolia should be submitted directly to the Parliament for funding. The Minister of Finance should have no authority to reduce the courts budget. Parameters and limits should be set by Parliament and a prescribed format established by the Ministry of Finance so that the courts budgets could be easily included in the State budget prepared by the Ministry of Finance

Recommendation 2. The GCC should have the authority to allocate funds across budget items and programs without prior approval of the Ministry of Finance. Currently the Ministry of Finance precludes any movement of funds within a budget without their expressed approval.

Recommendation 3. The GCC should have the authority to carry over unspent funds with the proper accounting and justification to the Parliament.

Recommendation 4. The GCC should develop and adopt certain performance standards that the Parliament can use to evaluate the success of judiciary programs that the courts have implemented and the Parliament has financed. For example, the courts need a judge in a certain Inter-soum court to reduce caseload backlogs. The GCC staff would use caseload statistics to compare the caseload per judges in various Inter-soum courts and also show that the gasoline allotment would only permit two trips per year whereas 8 to 10 were necessary in order to maintain a level of caseload per judge. The improvement of the number cases per judge in the rural areas would be improved by assigning additional judges to the rural areas more often. This improvement in caseload per judge could be justified statistically.

Recommendation 5. The Parliament should involve the GCC in determining costs of proposed legislation affecting the court system. For example, if Parliament were to change the amount of filing fees for civil cases, the GCC staff should prepare a budget impact statement to illustrate the plus or minus in revenue collections.

Recommendation 6. The court system of Mongolia must examine how they are conducting their business. The courts must become more diligent in the application of the law, amend their current practices and become more accountable. The courts (and/or the GCC) should inform the public and the Parliament about the key issues facing the judiciary.

Recommendation 7. A more detailed strategic plan should be developed in conjunction with the submission of the courts budget. The GCC staff has in place a good basic accounting and budgeting system that can be improved to provide the necessary information and data to be

included in a detailed Strategic Plan for the Courts of Mongolia. This Strategic Plan should be made available to the public and Parliament.

Recommendation 8. Funding increases and court initiatives should be tied directly to a strategic plan for the courts. Justifications and monitoring mechanisms must be included to measure the progress and success of these initiatives.

Recommendation 9. The GCC staff should provide a detailed explanation for each expense category of the budget. There should also be performance measures included for each expense category. The definitions for each of the 20 plus budget categories should include at a minimum their purpose, application and justification. The GCC staff should also identify performance measures if funding increases are sought that can reflect the progress and the results of the increased funding.

Table 17. Preparation and Submission of the Judicial Branch Budget

	Who Prepares the Budget?	Branch Review of Budget?	Where Submitted?
Alabama	AOC	Yes, by AOC	To the executive branch
Alaska	AOC ²	Yes, by COLR	To the legislature
Arizona	AOC	Yes, other ³	To legislature and executive branch
Arkansas	AOC	Yes, by AOC	To the legislature
California	AOC	Both the AOC and COLR ⁶	To legislature and executive branch
Colorado	AOC	Yes, by COLR	To the legislature
Connecticut	AOC	Yes, by AOC	To the executive branch
Delaware	Other ⁸	Yes, other ⁹	To legislature and executive branch
District of Columbia	AOC	Yes, other ¹³	To legislature and executive branch ₋₁₃
Florida	AOC	Yes, other ¹⁴	To the legislature
Georgia	Other ¹⁵	Yes, by COLR	To the executive branch
Hawaii	Individual courts	Yes, by AOC ¹⁷	To the legislature
Idaho	COLR	Yes, by COLR	To the legislature
Illinois	AOC	Yes, by COLR	To the legislature
Indiana	COLR ¹⁹	Yes, by COLR	To the executive branch
Iowa	AOC	Yes, by COLR	To the legislature
Kansas	AOC	Yes, by COLR	To legislature and executive branch ²⁰
Kentucky	AOC	Yes, by COLR	To the legislature
Louisiana	Other ²²	Both the AOC and COLR ²³	To the legislature
Maine	AOC ²⁴	Yes, by AOC	To the executive branch
Maryland	AOC ²⁶	Yes, by AOC	To the executive branch ²⁷
Massachusetts	Other ²⁹	Yes, other ²⁹	To the executive branch ²⁹
Michigan	AOC	Yes, by COLR	To the legislature ³¹
Minnesota	AOC	Both the AOC and COLR ³³	To the executive branch ³⁴
Mississippi	COLR	Yes, by COLR	To the legislature
Missouri	AOC	Yes, by COLR	To the executive branch
Montana	AOC	Yes, by AOC	To the executive branch
Nebraska	AOC	Yes, by COLR	To the legislature
Nevada	AOC	Yes, by COLR	To the legislature
New Hampshire	AOC	Yes, by COLR	To the executive branch
New Jersey	AOC ³⁹	Yes, by AOC	To the executive branch ⁴⁰
New Mexico	Individual courts	Yes, other ⁴¹	To legislature and executive branch ⁴²
New York	AOC ⁴⁴	Yes, by AOC	To legislature and executive branch
North Carolina	AOC	Yes, by AOC	To legislature and executive branch ⁴⁷
North Dakota	AOC ⁵²	Yes, by COLR	To the executive branch
Ohio	AOC	Yes, by AOC	To the executive branch
Oklahoma	AOC	Yes, by COLR	To the legislature
Oregon	Other ⁵⁴	Yes, by AOC	To the legislature
Pennsylvania	AOC ⁵⁵	Yes, by AOC	To legislature and executive branch ⁵⁶
Puerto Rico	AOC	Yes, by AOC	To the legislature
Rhode Island	Individual courts	Yes, by AOC	To the legislature
South Carolina	COLR	Yes, by COLR	To the executive branch
South Dakota	AOC	Yes, by COLR ⁵⁷	To the executive branch
Tennessee	Other ⁵⁸	Yes, by COLR	To the executive branch
Texas	Individual courts	Yes, by AOC ⁵⁹	To the legislature
Utah	Other ⁶⁰	Yes, other ⁶¹	To the legislature ⁶²
Vermont	AOC	Yes, by COLR	To the legislature
Virginia	AOC	Yes, by AOC	To the executive branch
Washington	AOC ⁶⁵	Yes, by COLR	To the legislature
West Virginia	AOC	Yes, by COLR ⁶⁶	To the executive branch
Wisconsin ⁶⁹	AOC	Yes, by COLR	To legislature and executive branch ⁷⁰
Wyoming	Individual courts ⁷²	No ⁷³	To the legislature

Legend: ~ = Not applicable

AOC = Administrative Office of the Courts

Table 17. Preparation and Submission of the Judicial Branch Budget

Can Executive Branch Amend Budget?	Does Legislature Take Official Cognizance of Budget?	Is Judicial Appropriation Filed as Separate Bill?	Budget Period	Judicial Percentage of State Budget Appropriation	
Yes, routinely	No ¹	No	Biennial, Oct-Sep	1.9	Alabama
No	No	No	Annual, Jul-Jun	1.3	Alaska
No	Yes	No	Biennial, ⁴ Jul-Jun	2.4	Arizona
No	Yes	Yes ⁵	Biennial, Jul-Jun	.5	Arkansas
Yes, routinely	Yes	No	Annual, Jul-Jun	2.0	California
No	Yes	No	Annual, Jul-Jun	3.0 ⁷	Colorado
Yes, routinely	Yes	No	Biennial, Jul-Jun	2.0	Connecticut
Yes, routinely ¹⁰	Yes ¹¹	No	Annual, ¹² Jul-Jun	2.9	Delaware
No	~	~	Annual, Oct-Sep	~	District of Columbia
No	Yes	No	Annual, Jul-Jun	.6	Florida
No	Yes ¹⁶	No	Annual, Jul-Jun	1.0	Georgia
No	Yes	Yes	Biennial, ¹⁸ Jul-Jun	2.8	Hawaii
No	Yes	No	Annual, Jul-Jun	1.0	Idaho
No	Yes	Yes	Annual, Jul-Jun	.7	Illinois
Yes, routinely	Yes	No	Biennial, Jul-Jun	.4	Indiana
No	Yes	Yes	Annual, Jul-Jun	2.3	Iowa
Yes, routinely	Yes	No	Annual, Jul-Jun	1.0	Kansas
No	Yes	Yes	Annual, ²¹ Jul-Jun	2.4	Kentucky
No	Yes	Yes	Annual, Jul-Jun	.5	Louisiana
~ ²⁵	~	No	Biennial, Jul-Jun	1.9	Maine
No	Yes ²⁶	No	Annual, Jul-Jun	1.5	Maryland
Yes	Yes	No ³⁰	Annual, Jul-Jun	2.0	Massachusetts
No ³²	Yes	Yes	Annual, Oct-Sep	1.0	Michigan
No	Yes	No	Biennial, Jul-Jun	1.0	Minnesota
No	Yes	Yes	Annual, Jul-Jun	1.5	Mississippi
~ ³⁵	~ ³⁶	No	Annual, Jul-Jun	1.4	Missouri
Yes, routinely ³⁷	Yes	No	Annual, Jul-Jun	1.0	Montana
Yes, routinely ³⁸	Yes	No	Biennial, Jul-Jun	2.0	Nebraska
No	Yes	Yes	Biennial, Jul-Jun	1.0	Nevada
No	Yes	No	Biennial, Jul-Jun	1.7	New Hampshire
Yes, routinely	Yes	No	Annual, Jul-Jun	2.1	New Jersey
No	Yes	Yes ⁴³	Annual, Jul-Jun	2.5	New Mexico
No ⁴⁵	Yes	Yes ⁴⁶	Annual, Apr-Mar	1.2	New York
Yes, occasionally ⁴⁸	Yes	No ⁴⁹	Biennial, ⁵⁰ Jul-Jun	3.0 ⁵¹	North Carolina
No	~	Yes	Biennial, Jun-Jun ⁵³	.9	North Dakota
No	Yes	No	Biennial, Jul-Jun	.4	Ohio
Yes, occasionally	Yes	Yes	Annual, Jul-Jun	1.0	Oklahoma
No	Yes	Yes	Biennial, Jul-Jun	3.6	Oregon
Yes, routinely	Yes	No	Annual, Jul-Jun	.5	Pennsylvania
No	Yes	No	Annual, Jul-Jun	3.0	Puerto Rico
~	~	No	Annual, Jul-Jun	2.0	Rhode Island
Yes, routinely	Yes	No	Annual, Jul-Jun	.8	South Carolina
No	Yes	No	Annual, Jul-Jun	1.2	South Dakota
Yes, routinely	Yes	No	Annual, Jul-Jun	.5	Tennessee
No	Yes	No	Biennial, Sep-Aug	.4	Texas
Yes, routinely ⁶³	Yes	No	Annual, Jul-Jun	2.5	Utah
No ⁶⁴	Yes	No	Annual, Jul-Jun	2.0	Vermont
Yes, routinely	No	No	Biennial, Jul-Jun	1.2	Virginia
No	Yes	No	Biennial, Jun-Jun	.1	Washington
No ⁶⁷	Yes ⁶⁸	No	Annual, Jul-Jun	1.5	West Virginia
Yes, routinely	No	No	Biennial, ⁷¹ Jul-Jun	.9	Wisconsin
No	Yes	No	Biennial, Jul-Jun	2.0	Wyoming

Legend: ~ = Not applicable;
AOC = Administrative Office of the Courts

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Table 17. Preparation and Submission of the Judicial Branch Budget

FOOTNOTES:

Alabama:

¹The AOC may be asked to appear before the legislature for direct presentation of the budget in budget hearings.

Alaska:

²Four area Court Administrators create initial input to the Administrative Fiscal Office. The Administrative Office creates the initial budget submission document.

Arizona:

³Chief Justice and Vice Chief Justice.
⁴FY99 is annual; FY00-01 is first biennial.

Arkansas:

⁵Only judicial salaries are in the General Appropriations Act.

California:

⁶Judicial Council also involved.

Colorado:

⁷This percentage represents the judicial operating budget from the General Fund. It does not include the Public Defender's Office or the Alternate Defense Counsel.

Delaware:

⁸Each court and judicial agency submits a draft budget request to the Chief Justice through the AOC. The Chief Justice for the entire court system prioritizes major adjustments, enhancements, and new initiatives after considering AOC recommendations. The court office making the request strikes requests not shown on the Chief Justice's prioritized listing. The adjusted budget requests are then filed electronically by each area.
⁹Chief Justice through AOC.

¹⁰The Governor recommends all appropriations to the General Assembly.
¹¹The courts' budget requests are available to the General Assembly because they receive copies of it. But it is the Governor's recommended budget that the General Assembly reviews together with the Judiciary's budget requests presented by the Chief Justice.
¹²By law, the period is biennial; by practice it is annual.

District of Columbia:

¹³With the enactment of the National Capital Revitalization and Self-Government Improvement Act of 1997, DC Courts began to receive direct funding from the federal government. The AOC continues to have responsibility for the initial preparation of the budget. After review by the Joint Committee on Judicial Administration, the budget is submitted directly to the Office of Management and Budget, through the President and sent to Congress.

Florida:

¹⁴Chief Justice.

Georgia:

¹⁵Court of Last Resort and Councils of Trial Courts (AOC).
¹⁶Judicial Branch budget is included in Governor's Budget request to legislature. Legislative Budget Office reviews continuation budget, and can make adjustments. The legislature also reviews requests for new funding.

Hawaii:

¹⁷The central budget office directs the preparation and consolidation of the budget.
¹⁸State operates on a biennial budget cycle; however, a supplemental budget request is prepared for the off years.

Indiana:

¹⁹The Division of State Court Administration, an agency of the Court of Last Resort, prepares most of the state-funded portion of the state judicial branch's budget. The Intermediate Appellate Court prepares a separate budget for its operations.

Kansas:

²⁰Budget is submitted simultaneously to both the legislature and the Governor.

Kentucky:

²¹Annual budgets enacted biennially.

Louisiana:

²²Judicial Budgetary Control Board.
²³Prior to each session of the legislature, the Judicial Budgetary Control Board submits a proposed budget for the judicial branch to the Supreme Court for its approval.

Maine:

²⁴In consultation with the Chief Justice.
²⁵If the Governor does not include in state's budget anything in the Judicial Branch budget, the reason must be stated.

Maryland:

²⁶The lower trial court (District Court) prepares its own budget section which is consolidated by the AOC with all other judiciary components.
²⁷The executive branch combines the Judicial budget into a single budget for legislative approval. The Executive Branch can comment upon but cannot reduce Judiciary budget.
²⁸Legislature can reduce or add to Judiciary budget. Executive Branch can only comment.

Massachusetts:

²⁹The Chief Justice of the Supreme Judicial Court submits the budget requests of the judicial branch to the budget director for inclusion in the budget submitted by the Governor. (G.L.c. 211, §2A.) In doing so, the Chief Justice may use estimates prepared by the Chief Justice of the Appeals Court and the Trial Court's Chief Justice for Administration and Management. The Governor may amend the Chief Justice's requests.
³⁰Copies of judicial branch budget estimates are routinely sent to the House and Senate Committees on Ways and Means when submitted to the Governor. The annual appropriation bill notes the judicial estimates as well as the Governor's requests for the courts.

Michigan:

³¹The budget is submitted directly to both the executive and legislative branches.
³²The Governor makes recommendations regarding the judicial budget.

Minnesota:

³³Conference of Chief Judges is a representative trial court body. Each district elects a Chief Judge and Assistant Chief Judge.
³⁴The executive branch incorporates judicial branch budget requests without recommendation.

Missouri:

³⁵They may recommend a different amount or recommend nothing.
³⁶They get a judicial budget request with the governor's recommendation and do what they choose.

Montana:

³⁷Statute states that the executive branch must submit budget without charge but does not require executive branch to fund the total request.

Nebraska:

³⁸Executive branch makes a request which includes the Judicial budget—based upon their analysis of AOC's request to the legislature and copied to the executive branch. The practice also is that the legislature introduces its own legislation, which becomes the budget bill.

New Jersey:

³⁹Each vicinage (judicial district) prepares a request which is reviewed by the AOC and a Budget Committee made up of Assignment Judges (Chief Judges) and senior management. Those requests are consolidated into one judicial branch budget submission.
⁴⁰AOC also sends information to the legislature.

Table 17. Preparation and Submission of the Judicial Branch Budget

New Mexico:

⁴¹The Chief Judges Council, primarily through its Budget Committee, reviews all budget submissions and sets priorities among them.

⁴²To the legislature and executive branch simultaneously.

⁴³As of last year's appropriation process. Some parts of the courts' budget continue to be included in the over-all appropriations legislation, such as across-the-board salary increases.

New York:

⁴⁴Courts prepare initial estimates, regional offices (District Administrative Judges Offices) modify and prioritize court estimates and the AOC prepares final state budget request amounts and submission for certification and approval of the Court of Appeals.

⁴⁵The Governor may comment on submission in the executive budget, but may not change the requested amounts.

⁴⁶The judiciary budget and legislative budget are combined in a single appropriation bill.

North Carolina:

⁴⁷It is first formally submitted to the executive branch for inclusion in the Governor's budget. In practice, however, it is presented directly to the legislature by the judicial branch.

⁴⁸Yes, but in practice the executive branch does not, and the judicial branch presents its budget directly to the legislature.

⁴⁹Generally, this is no. Judicial branch appropriations are set forth in separate sections of the statewide current operations and/or expansion bill. Separate "omnibus courts" bills have also been used.

⁵⁰Biennial budgets are prepared for each "long session" of the General Assembly (odd-numbered years), subject to revision in the "short session" (even years); a separate budget is prepared for each year.

⁵¹This includes appropriations for non-core functions placed in the court budget, including prosecution, indigent defense, juvenile probation, and other programs.

North Dakota:

⁵²Input is provided from each district.

⁵³For a two year period, from July 1 of an odd number year to June 30 of an odd number year.

Oregon:

⁵⁴Trial courts, appellate courts submit their request to AOC. AOC does its own and all the statewide charges and accounts.

Pennsylvania:

⁵⁵The appellate courts each prepare their own initial budget requests (and are reviewed and compiled into a comprehensive budget request by AOC). The AOC prepares the initial requests for the lower courts.

⁵⁶The judiciary submits its budget to the governor in October, and to the legislature in February.

South Dakota:

⁵⁷Unified Judicial System is completely state funded. All budgetary matters are administered by the SCAO under the authority of the Supreme Court.

Tennessee:

⁵⁸AOC after input from Supreme Court and trial judges.

Texas:

⁵⁹The Judiciary section of the Comptroller of Public Accounts Department submits the state-funded portion of the budget for courts, other than the appellate courts, to the legislature.

Utah:

⁶⁰Budget recommendations are prepared by each court level and program. They are submitted to the Judicial Council which prepares the final budget through the AOC. In Utah, the Judicial Council is created by Constitution and is the Administrative Authority for the Judiciary.

⁶¹By Judicial Council

⁶²The budget is submitted to both the Governor and the legislature. The Governor, by law, must submit a balanced budget to the legislature. The courts also submit their original request to the legislature.

⁶³The Governor submits a budget for the state as a whole—including the state courts. The executive branch is bound by the Governor's request. The courts submit their original request also to the legislature. They are not bound by the Governor's request.

Vermont:

⁶⁴The executive branch includes the judiciary's budget (as amended by the executive branch) in its budget submission.

Washington:

⁶⁵For appellate courts only. Budgets of trial courts are prepared locally.

West Virginia:

⁶⁶Administrative Director of the Courts prepares budget submission for review and approval by the Supreme Court. The Supreme Court may seek supplemental appropriations. The legislature may or may not grant.

⁶⁷The Governor may increase the judicial budget submission, but may not reduce it. WV Const., Art. 6, Section 51 (10).

⁶⁸Legislature may increase, but may not decrease judicial budget submission. WV Const., Art. 6, Section 51 (5).

Wisconsin:

⁶⁹The judicial budget, in general, is treated the same as those of executive branch agencies. The primary difference is that 60% of the courts funds is contained in "sum sufficient" rather than "sum certain" appropriations.

⁷⁰By statute, all executive branch agency budgets are submitted simultaneously to the executive branch and the legislature. This procedure is also followed by the judicial branch.

⁷¹The executive budget bill contains appropriations for the biennium, but is comprised of separate annual appropriations for each year of the biennium.

Wyoming:

⁷²Each District Court submits their own budget requests. The AOC prepares the budget request that includes the Supreme Court, county courts and law library.

⁷³The AOC reviews and makes recommendations to the Supreme Court and county court, law library budget's—Justices are the final review. The District Court judges have a District Court Judges' Budget Review Committee which reviews the District Court requests.

ATTACHMENT #2

Ministry of Finance and Economics of Mongolia

July 9, 2001

No. o/a/2206

Ulaanbaatar

I. TO THE GENERAL COUNCIL OF COURTS

About submitting the Budget Limitation Statement

This Budget Limitation Statement to serve as a guideline for elaboration of the 2002 State Budget proposal is submitted together with the Recommendations developed by the Political Committee established, with the purpose of monitoring the Budget Limits, on March 16, 2001 according to Resolution 33 of the Prime Minister of Mongolia.

This Budget Limitation Statement identifies the minimum level of the budget revenues and the maximum level of the budget expenditures. The Statement was developed in accordance with the "Poverty Reduction and Growth Facility" (PRGF) program designed on the basis of a mutual agreement with International Monetary Fund for implementation of the Platform of the Government of Mongolia. The Budget Limitation Statement reflects the principles emphasized in the PRGF program such as the provision of the economic and social development within the framework of the realistic financial possibilities, unemployment reduction, minimization of the budget deficit and achievement of the financial balance.

The Political Committee has discussed and approved the 2002 Budget Limitation Proposal; advised to improve the quality of the budget making process and emphasized the importance of an effective implementation of the main measures reflected in the Government Platform.

Would you take into account that the budget proposals, where the planning of the minimum level of revenues and the maximum level of expenditures did not meet the requirements of the Budget Limitation, will not be received for the development of the integrated State Budget by the Ministry of Finance and Economics.

Let me inform you that your budget proposal for the year of 2002 shall be developed within the levels of the minimum revenue and maximum expenditures identified in this Budget Limitation Statement, and submitted to the Ministry of Finance and Economics, according to the Law on the Budget, by the August 20th of this year.

Attached are 7 pages.

Minister Ch. Ulaan

RECOMMENDATIONS TO THE MINISTRIES FROM THE POLITICAL COMMITTEE
DEVELOPED ON THE BASIS OF CONSIDERATION OF THE BUDGET LIMITATION
STATEMENT

We recommend to the relevant ministries and the Aimags' and the Capital City authorities to analyze in the development of 2002 and mid-term (2002- 2004) budgets the following issues, which aim to improve the budget balance, increase the budget revenues and raise effectiveness of expenditures, and to reflect the feasible measures in the next year budget proposal.

1. To finalize and get approved the draft of a Law on the Management and Financing of the Organizations Supported by the State Budget. On the basis of this document, to take fundamental measures for improvement of effectiveness of budget expenditures.
2. To reflect on the Land Reform issue in conjunction with improvement of the budget management and increase of the budget revenue sources, and to develop a policy for consideration of the Land Reform as one of the factors important for increase of revenues.
3. To develop tourism, and to export work forces as a way to increase the convertible currency revenues.
4. To consider the Retirement Policy Reform as an integrated process (touching many issues such as retirement age, pension rate etc.), to conduct a research on betterment of the connections between the budget effectiveness and the social welfare policy, and to get some of these issues solved in a gradual way.
5. To intensify the process of establishment of the Open Trade Zones in conjunction with the budget policy.
6. To intensify the process of privatization, especially the privatization in the social sector. To consider the possibilities of selling some economic and industrial enterprises to both foreign and national investors with the relevant credentials. To promote the growth of the budget revenues through the privatization policy.
7. To change the hidden economy into the open type, and to take measures to expand the tax income sources.
8. To conduct intensive structural changes in some sectors. For example, through the structural reforms in the defense sector, to address the social issues pertinent to this sector and to raise effectiveness of the budget expenditures.
9. To propose investment only for the measures, which will have the most effective results, and to plan and develop projects, such as construction of enterprises, which will increase the budget revenues and promote the economic growth. In this way, to improve the foreign trade balance.

10. To expand the sources of tax revenues for the budget, and to consider in the budget the issue of establishing the network of wholesale trade, which will require the relevant investment.
11. It is important to think about the ways to achieve the balance of economic and social development and set up criteria to its measurement. For instance, to study and compare the situations in developing countries, the neighboring states and in Mongolia related to the per capita ratio of medical doctors, students, educated people and pensioners; and based on the results of this research to propose in the budget the expected ratios in employment, social welfare, education and the positions of different sectors in the domestic products.
12. The ministries, Aimags and the Capital City should develop independently the economic and social development guidelines and budget proposals for their sectors and regions, reach agreements with the Ministry of Finance and Economics, where national level guidelines and budgets shall be developed and submitted for approval to the State Great Hural.

Therefore, in line with the purpose of increasing the services and productions and conducting structural changes, the ministries shall advance the economic and social development guidelines and the budget making processes by addressing concrete issues of the above-mentioned fields. Moreover, the ministries shall implement in 2002 some of the issues stipulated in the Government Platform and important to the wide range of population, and pay serious attention to the measures, which will lay the ground for fulfillment of the 2003-2004 objectives, and accurately reflect their results in the budgets.

13. To raise the quality of work considering the issue of improving the discipline and accountability at all levels as one of the main factors to create savings in the economics and increase production of resources.
14. To further improve the taxation system (on land, pasture etc.) by realizing the principle of considering the taxes as an important instrument and a financial source for the benefits to be rendered from the government to taxpayers.

THE POLITICAL COMMITTEE

The Budget Limitation for the Year of 2002
/in thousand tugrigns/

	Revised 2001 budget	Limits for 2002	Differen ce /+,-/
The Supreme Court	133,165.0	131,306.1	-1,858.9
IV. TOTAL OF VARIABLE EXPENDITURES	133,165.0	131,306.1	-1,858.9
Wages and additional remuneration	63,027.3	64,057.8	1,030.5
Salaries	63,027.3	64,057.8	1,030.5
Social insurance premiums to be paid by the employer	16,639.2	16,911.2	272.0
Retirement and pension insurance premiums	13,613.9	13,836.4	222.0
Retirement insurance	11,281.9	11,466.3	184.4
Pension insurance	1,134.5	1,153.0	18.5
Production injury and professional illness insurance	630.3	640.6	10.3
Unemployment insurance	567.2	576.5	9.3
Health insurance portion to be paid by the organization	3,025.3	3,074.8	49.5
Other goods and service expenditures	49,412.9	46,251.5	-3,161.4
Stationery	5,325.0	5,325.0	0.0
Electricity	2,501.8	2,501.8	0.0
Heating and fuel	13,272.7	13,272.7	0.0
Transportation (fuel)	5,969.2	5,969.2	0.0
Postage and communication	7,212.4	7,212.4	0.0
Water and sewage	905.2	905.2	0.0
Local business trips	1,200.0	1,200.0	0.0
Foreign business trips (foreign relations events)	2,222.0	2,222.0	0.0
Purchase of books and periodicals	720.0	720.0	0.0
Uniforms and supplies	150.0	150.0	0.0
Current repairs	500.0	500.0	0.0
Expenses for hosting foreign visitors	6,000.0	6,000.0	0.0
Premise rent	303.2	303.2	0.0
Scholarships for children of government employees	3,161.4	0.0	-3,161.4
Subsidies and variable allowances	4,085.6	4,085.6	0.0
Allowances for families	4,085.6	4,085.6	0.0
One time allowances and incentives	4,085.6	4,085.6	0.0
FUNDING SOURCE FOR THE EXPENDITURES:	133,165.0	131,306.1	-1,858.9
To be funded from the state budget	133,165.0	131,306.1	-1,858.9
NUMBER OF ORGANIZATIONS	1	1	0.0
TOTAL NUMBER OF EMPLOYEES	65	65	0.0
Managerial staff	3	3	0.0
Executive staff	35	35	0.0
Service staff	27	27	0.0

Attachment to letter No. o/a/2206 of July 9, 2001 from the
Ministry of Finance and Economics

Organization: The Supreme Court

The Summary of the Central Investment Budget Limitation Statement
/in million tugrigs/

	2001	2002 budget	2003 assumption	2004 assumption
Capital repair	24	10	15	20
Equipment	28	10	15	15
Total	52	20	30	35

The Budget Limitation for the Year of 2002

/in thousand tugrigs/

	Revised 2001 budget	Limits for 2002	Differen ce /+,-/
The General Council of Courts	26,647.4	27,073.5	426.1
IV. TOTAL OF VARIABLE EXPENDITURES	26,647.4	27,073.5	426.1
Wages and additional remuneration	8,428.8	8,765.9	337.1
Salaries	8,428.8	8,765.9	337.1
Social insurance premiums to be paid by the employer	2,225.3	2,314.3	89.0
Retirement and pension insurance premiums	1,820.7	1,893.5	72.8
Retirement insurance	1,508.8	1,569.1	60.3
Pension insurance	151.7	157.8	6.1
Production injury and professional illness insurance	84.3	87.7	3.4
Unemployment insurance	75.9	78.9	3.0
Health insurance portion to be paid by the organization	404.6	420.8	16.2
Other goods and service expenditures	15,993.3	15,993.3	0.0
Stationery	1,300.0	1,300.0	0.0
Transportation (fuel)	1,359.6	1,359.6	0.0
Postage and communication	1,653.0	1,653.0	0.0
Local business trips	2,480.7	2,480.7	0.0
Foreign business trips (foreign relations events)	1,500.0	1,500.0	0.0
Purchase of books and periodicals	300.0	300.0	0.0
Cost of training and production practices	3,000.0	3,000.0	0.0
Current repairs	400.0	400.0	0.0
Fees and other expenses	3,000.0	3,000.0	0.0
Expenses for hosting foreign visitors	1,000.0	1,000.0	0.0
FUNDING SOURCE FOR THE EXPENDITURES:	26,647.4	27,073.5	426.1
To be funded from the state budget	26,647.4	27,073.5	426.1
NUMBER OF ORGANIZATIONS	1	1	0.0
TOTAL NUMBER OF EMPLOYEES	8	8	0.0
Managerial staff	1	1	0.0
Executive staff	7	7	0.0

Attachment to letter No. o/a/2206 of July 9, 2001 from the
Ministry of Finance and Economics

Organization: The General Council of Courts
The summary of the Central Investment Budget Limitation Statement
/in million tugrigs/

	2001	2002 budget	2003 assumption	2004 assumption
Capital repair	27	25	30	30
Equipment	25	0	30	40
Total	52	25	60	70

The Budget Limitation for the Year of 2002
/in thousand tugrigs/

	Revised 2001 budget	Limits for 2002	Difference /+,-/
Local courts	1,469,587.7	1,479,338.1	9,750.4
IV. TOTAL OF VARIABLE EXPENDITURES	1,469,587.7	1,479,338.1	9,750.4
Wages and additional remuneration	730,106.4	758,687.4	28,581.0
Salaries	730,106.4	758,687.4	28,581.0
Social insurance premiums to be paid by the employer	192,748.1	200,293.5	7,545.4
Retirement and pension insurance premiums	157,703.0	163,876.5	6,173.5
Retirement insurance	130,689.0	135,805.0	5,116.0
Pension insurance	13,141.9	13,656.4	514.5
Production injury and professional illness insurance	7,301.1	7,586.9	285.8
Unemployment insurance	6,571.0	6,828.2	257.2
Health insurance portion to be paid by the organization	35,045.1	36,417.0	1,371.9
Other goods and service expenditures	537,048.5	510,672.5	-26,376.0
Stationery	42,953.2	42,953.2	0.0
Electricity	31,391.4	31,391.4	0.0
Heating and fuel	241,737.1	241,737.1	0.0
Transportation (fuel)	54,801.1	54,801.1	0.0
Postage and communication	50,728.7	50,728.7	0.0
Water and sewage	12,746.6	12,746.6	0.0
Local business trips	30,606.0	30,606.0	0.0
Purchase of books and periodicals	3,311.0	3,311.0	0.0
Uniforms and supplies	2,280.0	2,280.0	0.0
Current repairs	11,764.6	11,764.6	0.0
Fees and other expenses	18,879.7	18,879.7	0.0
Premise rent	9,473.1	9,473.1	0.0
Scholarships for children of government employees	26,376.0	0.0	-26,376.0
Subsidies and variable allowances	9,684.7	9,684.7	0.0
Allowances for families	9,684.7	9,684.7	0.0
One time allowances and incentives	9,684.7	9,684.7	0.0
FUNDING SOURCE FOR THE EXPENDITURES:	1,469,587.7	1,479,338.1	9,750.4
To be funded from the state budget	1,469,587.7	1,479,338.1	9,750.4
NUMBER OF ORGANIZATIONS	28	28	0.0
TOTAL NUMBER OF EMPLOYEES	937	937	0.0
Managerial staff	81	81	0.0
Executive staff	508	508	0.0
Service staff	348	348	0.0

The Scholarships were reduced by 17,584.0 thousand Tugrigs, and 60% of it remains.

Appendix H

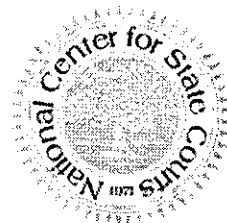
NATIONAL CENTER FOR STATE COURTS
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
www.ncsconline.org

Mongolia Judicial Reform Program

Estimating Staffing Needs for the Justice Sector
Heike P. Gramckow, Ph.D.

September 2001

Cooperative Agreement
#492-A-00-01-00001



1. Introduction

Justice systems in most nations around the globe are struggling to develop a solid approach to estimating staffing needs for the courts and other justice sector agencies. Most systems are under constant pressure to reduce costs, frequently in spite of rising workloads and increasing demands for quality services.

Traditionally most governments allocated a certain percentage of the overall budget to each sector without much consideration for the actual staffing and resource needs or work demand fluctuations over time. More recently, often as a result of lacking resources, courts, prosecutors' offices and other justice system agencies have taken a closer look at their staffing and other resources needs to identify, if a more efficient use of staff time and change in staff allocation could offset budget limitations and to provide a solid justification for requests for budget increases to hire additional judges and staff.

In the US, more comprehensive methods to estimate the number of judges, prosecutors, public defenders, staff for corrections facilities, as well as support staff for the courts and other agencies have been successfully applied since the mid 1970s. Similar efforts have been developed in other countries. Currently, increasing demands by the public for quality services and ever limited resources again led to a resurgence to enhance the justice system's ability to estimate staff and resources needs. In the US and other countries, including Germany, the Netherlands and the United Kingdom, methods for staffing estimates are being revised and combined with forecasting mechanisms and measures for quality of service.

For example, in Germany the so-called "Pensenschlüssel" (*position calculator*), in use since the 1930s, already underwent a significant review in the mid 1970s. This calculator combines a set of indicators to estimate staffing needs, that consider, among others, variations in judicial disposition rates, time needed for administrative work, training, sick days, vacation, and provides for add-on rates to account for variations in state legislation, case mix, court settings and population distribution (Schaffer 1984). The development of this calculator involved representatives of the judiciary, prosecution, Ministry of Justice, academicians and the private bar and was enormously time and resource intensive. The calculator was adjusted throughout the years to reflect changes in legislation, work hours and other elements. What was not included was a detailed assessment of the time needed to complete various processing steps for different types of cases (Hirth 1997). Current assessment efforts include such measures as well as quality indicators (Deutscher Richterbund, 1999). In 1996, when the Ministry of Justice in Hesse failed to reach an agreement with the Judicial Council of Hesse about adjusting the position calculated to reflect changes in the legislation, the debate about the adequacy of the current national position calculate for all states gained pace. Almost 90% of the judiciary in Germany supported a workload assessment study that closely mirrors the more comprehensive methodologies applied in the US: Using the experience of a

similar study conducted in Austria, the judiciary was intensely involve in the methodology development and data collection process as well the analysis of the results to assure that judges and others understand the value of data collection for a study that required 3-6 months of about 20- 30 minutes of time recording each day by each judge selected for the study (Deutscher Richterbund 1999).

Similarly, recent efforts in the Netherlands involve calculation of average time needed for processing different types of cases based on time log assessments to provide for more "fairness" and flexibility in the distribution of resources among different courts (Tragert-Schubert 2000).

The experiences made in the US and abroad have resulted in relatively good measures to estimate current staffing needs but they all point to some shortcomings:

- Easy and quick methods to assess staffing needs provide little reliable information
- The best methods are relatively complex and require time and resources to implement
- Even the best methods need adjustment over time
- Even good methods for estimating staffing needs provide only information about positions needed under the current conditions; methods to forecast staffing needs add another layer of complexity to the assessment and have limited reliability.
- Ultimately estimates for staffing needs have to be combined with measures of the quality of the decisions, operations and services delivered by the justices system. A very well functioning, cost-effective system alone does not automatically equate with a democratic and fair system.

It is essential for courts, prosecutor's offices and other justice system agencies to identify and project their staffing needs to develop realistic budget requests, plan ahead and manage their operations efficiently. But it is equally important to recognize the limitations inherent in all methods applied and to always recognize that the ultimate goal is to staff the courts and other agencies adequately to deliver justice.

The following sections outline the methodologies used in the US and several other countries, their benefits and limitations, as well as mechanism to apply these methods in courts, prosecutors' offices and other justice system agencies.

2. Methodologies for Staffing Estimates

Addressing staff resource issues requires information not only about caseloads (i.e. the number of cases processed by individual judges, prosecutors and other justice system staff) but of workloads (i.e. case work, administrative work, time spent for community outreach etc.).

Many practitioners in the justice system still tend to think of their work only in terms of the cases they are handling or clients they are assigned to represent. Yet, this captures only a portion of their full workload. A certain amount of administrative work, tasks that are not related to individual cases (i.e. general interdepartmental communications about processing approaches), that involve initial preparatory work that may or may not lead to a court case (i.e. prosecutorial advise to the police department) or time spent away from the office on non-case related business (i.e., in training sessions) have always been a part of the work of those operating in the justice sector. Caseload statistics alone could never account for this time. With increasing public demands for responsive services, and the recognition that alternative approaches, such as conflict resolution, community justice, diversion, and a strong prevention focus can have a more profound long term impact on reducing societal conflicts and crime, the proportion of work not related to individual cases increases. For example, in US jurisdictions that stress community oriented work the proportion of time police, prosecutors, judges, and corrections officers spend in community meetings and organizing volunteer groups adds considerably to the time attorneys need to fulfill their core responsibilities.

Likewise, given the different amounts of time required for handling different kinds of cases, measuring caseload in terms of the number of cases or offenders is not an accurate means of comparing the amount of work done by judges and attorneys handling different types of cases.

What is the best means of determining a reasonable workload for the judiciary, prosecutors and other justice sector staff? There is no solid consensus on this question. The three dominant approaches, used in the US and other countries, are the weighted caseload method, the Delphi method, and the normative method.

The Texas Office of Court Administration, in its effort to develop good staffing estimating methods, undertook a survey of the most frequently methods used in the US for determining the need for new judges in the US (See Table 1).

Table 1

Data sources	Number of States
State Case Activity Data	34
Formal Research Utilizing Weighted Caseload or Other Statistical Technique	27
Population Statistics	5
Surveys of Other States	3
Political Considerations	3

Source: Texas Administrative Office of the Courts, 1999

This survey also inquired about the factors currently used in various states to assess the need for new trial judges. Additionally, respondents were asked to rank the factors in priority order. While it is apparent from the survey data that states tend to use a wide variety of factors to determine the need for additional trial judges, there are a handful of factors which are consistently used by the vast majority of states and which are most often ranked among the five most important factors. Table 2 displays the factors that were most frequently cited by survey respondents.

Table 2

Factors	Number of States
Number of Cases Filed	41
Number of Cases Filed Per Judge	41
Caseload Growth	39
Population Size	31
Number of Active Pending (i.e., Backlogged) Cases Per Judge	30
Number of Active Pending (i.e., Backlogged) Cases	29
Number of Cases Disposed	29
Number of Cases Disposed Per Judge	27
Case Types	27
Population Growth	26
Judges' Travel Time	24
Weighted Caseload Indicators	23
Number of Jury Trials Per Judge	20

Source: Texas Administrative Office of the Courts, 1999

Interestingly, the most frequently used factors were not necessarily the most commonly mentioned factors when respondents were asked to prioritize them in order of importance. The factors that were most frequently ranked among the five most important include:

- 1) Caseload Growth: 23 states (48 percent);
- 2) Number of Cases Filed: 22 states (42 percent);
- 3) Weighted Caseload Indicators: 19 states (40 percent);
- 4) Number of Cases Filed Per Judge: 16 states (33 percent); and
- 5) Population Growth: 13 states (27 percent).

Similar indicators have been used elsewhere and have drawn significant criticism. For example, a report issued in the UK in 1998 criticized that using prior caseloads does not address the current need and does little to reward

efficiency or effectiveness. Courts that require fewer resources because they operate efficiently are actually penalized by using prior year caseloads and spending data. Caseload data that do not count all work required were criticized as well as methods that only consider time spent and not the costs associated with the work. Another complaint was that population figures represent insufficient criteria for staff resource estimates. While increasing population numbers may affect the work of the justice system, population demographics and related crime rates are more relevant. It was also recognized that time assessments had to be adjusted regularly to account for variation in processing time due to changes in case complexity or staffing expertise (Lord Chancellor's Office, 2000).

Analytical Methods - Normative Analysis, Regression Analysis, Computer Modeling

Courts have explored the relationships between the various data elements mentioned above (within single courts, in multiple courts in the same system, and across jurisdictional lines) through techniques like normative analysis, which compares a court to a "model" court. At best this approach assumes that the model court is appropriately managed and equipped; an assumption that may or may not be correct. Problematic is also the fact that the situation of two courts may not be comparable. Another analytical approach uses regression analysis, which plots a line through data points using well established statistical methodologies assuming that the line then constitutes a standard to which courts should be compared. Some jurisdictions tested computer modeling, using sets of algorithmic formulas to predict probable outcomes under given circumstances (which may or may not be repeated in real life), based on various assumptions (which may or may not be valid), applied to such data as are available (and whose validity and accuracy are always subject to question). Even in combination, these methods have led to weak measures for a court competing with other agencies' demands for limited resources, especially in the face of legislative, executive and popular indifference, or even disbelief, regarding the court's needs, requests, and justifications for staff increases (Caylor, 2000).

Delphi Method

The Delphi Research Method is a technique for arriving at "true estimates" by sampling expert opinion. The technique has been used frequently as a source of external validation in weighted caseload studies, less often as a stand-alone process to determine the workload of the judiciary and other justice sector agencies. The technique is probably used far more frequently than can be documented, because most such studies are not published.

The benefit of the Delphi method is its cost-effectiveness and the relatively short time required to develop staffing estimates. The shortcomings are that it is based on assumptions of a limited number of "experts" who can rarely represent the universe of jurisdictions and work situations that need to be reflected. While

experienced prosecutors may be able to estimate quite accurately how long it may take them and possibly their staff to process certain types of cases, few can make suggestions for processing times required for all types of cases in various types of court levels throughout the entire country.

While this method has significant shortcomings some situations require its application. For example, in 1988, following an Arkansas Supreme Court decision invalidating the State's existing court of juvenile jurisdiction as unconstitutional, Arkansas had to establish an entirely new statewide juvenile court. The National Center for Juvenile Justice was retained to assist in estimating workload and determining staffing patterns for the new court. Since the existing juvenile court had been invalidated, its existing case records could not be used to determine the events necessary to initiate and dispose of juvenile cases. Consequently, the entire estimation process could only depend on "informed guesses" using the Delphi technique. Judges and their support staff were asked to identify the events required for case initiation, adjudication, disposition, and review and estimate the time required to accomplish each event. Case weights based on these estimates were then applied to the caseload to determine the number of judges that would be needed to staff the statewide juvenile court. Using this procedure it was estimated that it would require 180 minutes of judicial time to handle a typical juvenile case from initiation through closure. Using a 6-hour case hearing day and a 220-day work year, Arkansas concluded that a judge could hear an average of 440 cases per year. The State used the results of the study to staff its new courts of juvenile jurisdiction and, from all accounts, participants have been quite satisfied with the results (Hurt 2000).

The creation of administrative courts in Mongolia presents a similar situation. Since the operations in these courts will be new, no measures yet exist that would allow for appropriately estimating staffing needs for these courts. The Delphi method, as inadequate as it is, is the only way to arrive at somewhat reasonable estimates at the current time. The difficulty is, however, that almost no case data exist to predict the level of cases that will be filed in these courts and how the filing trend will develop.

Weighted Caseload Method

The strongest technique for estimating the need for judges and other staff is a weighted caseload study, which can be applied using two approaches, the least favored again involves the Delphi Method, building case weights based on the random sampling of expert opinion (judges, attorneys, clerks, litigants or other court system stakeholders) as to the length, frequency, variability and probability of particular processing events in particular case types. Although usable information can be obtained by this method, it is not self-validating, and it may be unconvincing to funding authorities, since the resulting analysis is based on the opinions of interested parties.

The more defensible approach is to actually measure those same event attributes (length, frequency, etc.) by conducting an empirically derived, weighted caseload study. The strength of this approach (when done correctly) is that the results obtained lead to a reasonably accurate and comprehensive picture of how long it took a group of judges, prosecutors or other justice systems staff to process a given body of cases and tasks. Even with its flaws, no other judicial workload assessment tool is as closely tied to the real world.

Weighted caseload is a technique for determining how much time is required to process a given court's or prosecutor's offices caseload from intake to disposition. This technique analyzes the number of cases being filed by type, as opposed to the total number of cases filed, in an effort to control for the difference in processing time for various classes of cases (e.g., murder, traffic, disputes over pasture rights, divorce). Because raw case counts are not directly tied to the amount of time it should reasonably take to dispose of those cases, they are not a very good tool for determining the need for forecasting or quality assessments. The weighted caseload approach, however, at least shifts the emphasis away from caseloads to the more appropriate measure of workloads.

A weighted caseload study addresses two key issues that are essential when assessing staffing needs:

- 1) How much judge, prosecutor, etc. time, on average, is required to handle each type of case to disposition? And
- 2) How much time does a typical judge, prosecutor, etc. have for handling cases?

Simply stated, the number of judges needed is determined by dividing the amount of required judge time to dispose of all cases by the total amount of time judges have to hear cases.

Since 1996, there has been a marked increase in the number of US states adopting weighted caseload as a tool for assessing staffing needs for the courts. In 1996, just 13 states employed the weighted caseload approach compared to 23 states in 1999.

Weighted caseload studies may be particularly appropriate for geographic areas that vary significantly in size and populations since it provides an objective means to measure relative needs for judges and court support staff in judicial districts of different sizes. When the judicial districts throughout a region vary significantly in both population and geographic size, accounting for these differences is critical when assessing the need for additional judges and other justice positions. The amount of time available to handle cases may be substantially different in urban and rural jurisdictions because higher caseloads in

urban areas frequently lead to increased expertise and efficient processing while the amount of time each day a rural jurisdiction judge spends traveling from location to location add to their workload.

Despite the apparent value of the weighted caseload approach, some limitations do need to be considered. First, data collection for weighted caseload is burdensome and expensive. Enough information must be gathered from the courts, prosecutor's office and other justice system agencies regarding the steps and time it takes to process primary events that make up particular cases. Time logs kept by judges and prosecutors must be monitored on a regular basis to ensure that enough data have been collected. Other criticism of weighted caseload measures reflects more the type of data included than the methodology used. For example, one criticism that lead to changing the assessment system in the UK recently was related to the fact that the number of cases completed was used as the measure, and therefore incomplete since it does not count all work done. The weightings are further said to be irrelevant as they represent the in and out of court time rather than the cost of the work (Lord Chancellor's Department, 2000).

In the UK critics also pointed out that the same weighting has been used despite significant changes in legislation, policy, procedure or the nature of workload for 97.8% of cases for 8 years (Lord Chancellor's Department, 2000). Keeping the weights current is another critical component of the weighted caseload technique. Updating the weights is both time-consuming and expensive. However, not updating the weights periodically can potentially undo all the hard work and resources dedicated to creating the weighted caseload system in the first place. In the end, weighted caseload studies are the most appropriate method for determining if new judges or prosecutors are necessary to ensure the efficient administration of justice (Texas Administrative Office of the Courts, 1999).

The benefit of weighted workload studies

Different from caseweighting studies, workload assessments describe the variety and complexity of the work done by judges, prosecutors, and other justice system staff. Advising the police in investigative matters, reviewing evidence and deciding to decline prosecution, handling citizens' complaints, reaching out to the public, working with victims, are only some of the activities that prosecutors and judges attend to in addition to processing various types of case, administrative tasks, managing their staff and operations and being involved in training efforts. Add to this, difference in the levels of effort required for different types of cases, and it becomes obvious that measuring workloads is not an easy task.

While the work of judges, prosecutors, and their staff, and the work of other justice system employees requires variations in the measurement approach, the common thread in all assessments is work, broken down by distinguishable work

steps to dispose of various types of cases, and how work is distributed among judges and other staff throughout the court or agency. The challenge is not only to estimate staffing needs based on current operations and workloads but to simultaneously identify efficient and effective mechanism to handle the work (Jacoby 1987).

When the work of courts or prosecutor offices is described by traditional measures of work volume (i.e. number of cases) and time required to process the work, the full range of work conducted by prosecutors, judges and their staff is not considered and it is not recognize that different types of cases and different processing steps require different staff time. As a result the measures do not provide reliable information for estimating staff resources or other important measures such as agency performance, productivity or even just agency needs.

The following example, using data from a US prosecutor's office,¹ highlight this point:

Table 3: Cases disposed by offense and prosecutor time

Offense type	Cases	Average hours per case	Percent Distribution		
			Workload in hours	Percent Distribution	
				Caseload	Workload
Felonies	4,870	2.7	13,317.4	25.4	82.3
Violent	784	4.3	3,285.2	4	20.3
Property	2,852	2.0	5,704	14.9	35.3
Drugs	494	2.3	1,136.2	2.6	7
Other	760	4.2	3,192	4	19.7
Misdemeanors	14,274	0.2	2,854.8	74.6	17.7
All cases	19,144	0.9	16,172.2	100	100

Source: J. Jacoby, Caseweighting Systems for Prosecutors: Guidelines and Procedures, 1987. National Institute of Justice, Washington, DC.

These data suggest that 80% of the staff should be assigned to felony prosecutions and 20% to handle misdemeanor cases. If caseload were the criterion for establishing staff resources requirements 75% of the staff would be assigned to prosecuting misdemeanor cases (Jacoby 1987).

The difference between both factors is significant and a result of differences in assumptions. Using caseload as the primary measure for estimating staffing needs assumes that all cases require the same effort. Using workload as the primary criterion recognizes the difference in effort required for different types of cases and the fact that many tasks performed by prosecutors, judges, and other justice system personnel are not directly related to a case.

How misleading the factor caseload is becomes obvious when we review the results presented in table 3. If we assume that the number of cases is the only

¹ This office was staffed with 20 prosecutors and the chief prosecutor.

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indicator of work and that all cases require the same staff time one would assume that each case would take 0.9 hours per attorney to dispose of.

Another important indicator for estimating staff resources required is the time it takes to dispose of cases in a jurisdiction. For the purpose of estimating staff resources it is essential to distinguish between the time it actually takes a prosecutor or a judge to conduct all the work required to dispose of a case (i.e. filing to final court decision) and the overall time between case intake and disposition which is frequently limited by law.

This distinction between staff time spent and overall case disposition time is essential because prosecutors, judges, and other justice system staff only spend a fraction of the total processing time on each case and second, statutory regulations may require disposition within time limits that provide for less than adequate information gathering.

In Mongolia, as in many other countries, statutes establish time limits for disposing of cases. The time limits established by law in Mongolia assure the speedy disposition of cases and keep delay to an almost indistinguishable level. Both of these measures are key to a justice system that adheres to the rule of law. The very short timelines established may, however, also have an adverse affect on the ability of police, prosecutors, defense attorneys, private litigants and the court to adequately consider all the determining facts of a case.

The importance of reviewing actual processing time by individual decision making steps is illustrated in the next table. (Again, actual data from a US prosecutors' office are used). While many of the steps in the US process do not equate to any process step in the Mongolian system they highlight how the time spent by prosecutors differs by work step.

Table 4: Estimating Time by Process Type

Work Step	Total time between steps	Calendar time*	Prosecutor Work Time
Filing to preliminary hearing**	6 days	5 day 5 hours	3 hours
Preliminary hearing to Grand Jury	26 days	15 days 7.5 hours	0.5 hours
Grand Jury to Arraignment	8 days	7 days 7 hours	1 hour
Arraignment to motions	31 days	30 days 2 hours	6 hours
Motions to Jury Trial	51 days	45 days 3 hours	45 hours
Disposition to Sentence***	31 days	30 days 6 hours	2 hours
Totals	153 days	145 days 0.5 hours	62 hours

* Calendar time is the time passing between processing steps minus the time the prosecutor is active.

**For criminal cases this is comparable to magistrate court hearings to determine ... and needs for pre-trial detention.

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*** The US system bifurcates court hearings to first establish guilt and in a second hearing determine the appropriate sentence.

Source: J. Jacoby, *Caseweighting Systems for Prosecutors: Guidelines and Procedures*, 1987. National Institute of Justice, Washington, DC.

As Table 4 shows, only 62 hours of prosecutor time were needed in the example jurisdiction, the rest of the time between case filing and disposition has nothing to do with the amount of time staff would expand.

Identifying the time spent in each process step provides vital information for managing staff resources and planning.

What is measured?

The importance of measuring caseload vs. workload has been addressed before. This leads to the question of how the complex work of judges and prosecutors can be translated into measurable items. Standard approaches for such studies have been described in the US and abroad (Jacoby 1987, Flango 1996, Deutscher Richterbund 1999).

Step 1: Identify the scope of the study

Since weighted workload assessments are time and resource consuming limiting the assessment to certain case types may be the only feasible way to collect this type of information. For example, if the majority of cases handled in a court are civil cases, developing well based estimates for staffing resources for the civil courts may provide more solid information than relying completely on less valid methods, such as the Delphi method. A review of case type data allows the identification of the major types of cases processed to make that decision.

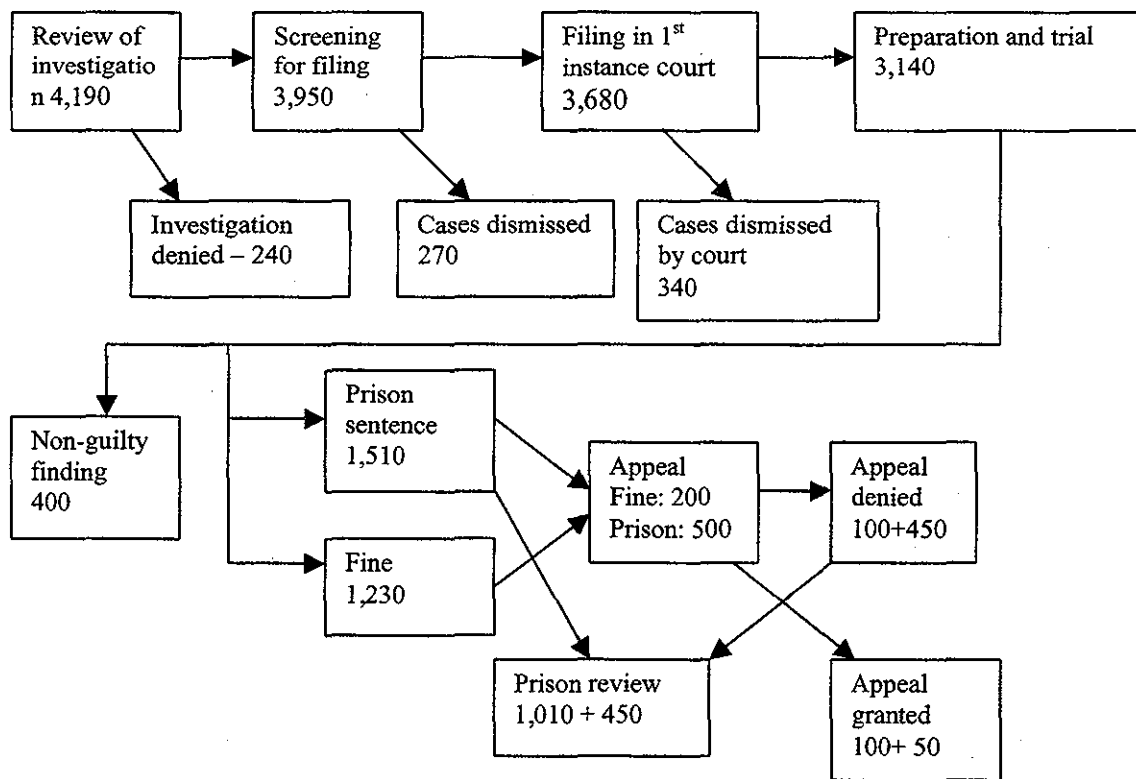
Step 2: Defining the case count

It may appear easy to define what constitutes a case for the purpose of a workload study and how to count these cases. But how does one count cases with multiple offenders or multiple charges? The National Center for State Courts and the Conference of State Court Administrators, in *State Court Model Statistical Dictionary*, 1989, instructed court administrators to count each defendant and all charges involved in a single incident as a single case." (National Center for State Courts and the Conference of State Court Administrators 1989). In developing its standards for staffing needs of defenders offices, the National Advisory Commission on Criminal Justice Standards and Goals, in 1973 defined a case as "a single charge or set of charges concerning a defendant (or other client) in one court in one proceeding." For any study that involves more than just one court or other justice system agency it is critical to count cases using a uniform definition. This affords the greatest opportunity to develop and approve budget requests for the adjudication component of the criminal justice system on a systematic and balanced basis (Puritz 1995).

Independent of how court statistics are generally collected it is essential to count cases by offender or litigant. It is the defendant who is tried, convicted or otherwise disposed. Cases with co-defendants should be counted separately because both require work and because dispositions occur for each. Problems arise when an offender has multiple charges or counts. Multiple charges resulting from one offense should be counted as one case identified by the most serious charge. Multiple counts should be handled according to the prosecution strategy. For example, if someone is charged with 10 counts of public drunkenness over a 2 month period these multiple cases may be handled as one process and therefore counted as one offense. If they are handle separately and multiple court hearings are required they should be counted as separate cases.

Table 5 outlines a hypothetical case flow for prosecuting a criminal case in the Mongolian system.

Table 5: Sample Criminal Case Processing Flow Chart for Prosecution



Step 3: Identifying processing steps for cases

To identify work steps (related to cases and non-case work) a flow chart that identifies each of the process steps where work occurs should be developed.

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This flowchart also has to identify the volume of cases that progresses from one step to the next. The information needed for each processing step is:

- The first event that can be related to a specific case entering the process
- The number of cases moving into the process;
- The number of cases moving from one step to the next
- The number and type of dispositions at each process step.

Step 4: Defining case types

Once the major functions are identified, the types of cases that are processed have to be determined.

This is particularly difficult since it requires access to good agency and court statistics by case types. Taking into consideration the infrequency of certain crimes (i.e., murder), the cases should be grouped into common crime categories beyond misdemeanor and felonies, i.e. reporting categories commonly used such as violent crimes, property crimes, drugs, other felonies, misdemeanors.

A flow chart for each of the selected crime categories has to be developed to distinguish variations in steps and time needed.

Step 5: Calculating time for attorney effort

Since the work of judges, prosecutors and others is the key measure, counts need to be taken of activities in all areas, including those not normally associated with case statistics.

In order to calculate attorney time one has to consider:

- The time spent on case-specific work
- Time spent on general court or prosecution matters not related to individual cases
- Time spent on administrative matters
- Time spent on other business activities

Not all attorney time can be attributed to individual cases, some of the work is general but essential to court or prosecution functions, other tasks essential to court or prosecution functions are still not case related.

Step 6: Developing case weights

Most of the statistics needed for case weighting systems can be derived from closed cases. This is particularly true for Mongolia where statutes require case disposition in very short periods of time. Annual counts are recommended since

they not only represent a relatively reliable picture of the cases handled but can be related to the fiscal year expenditure data (Jacoby 1987).

The difficulty lies in having access to sufficiently reliable case disposition data for each processing step identified in the flow chart for each major case type. In the US the Administrative Office of the Courts tends to be the central depository of state court case activity data and is therefore generally the entity that determines the need for more judges and other court staff. Even in the US, however, the necessary case statistics are not always readily available. In a recent survey nineteen states (40 percent) indicated that the data have to be obtained from local court staff, and eight states (17 percent) noted that data/research products are provided by legislative research staff (Texas Administrative Office of the Courts 1999). The data currently available at the General Council of Courts, the Supreme Court and the Prosecutor General's Office are good but not sufficient to support a solid assessment by processing steps for the major case types.

Table 6 provides an example for developing workload weights for prosecutors.

Table 6
Annual Workload by Case Type and Process Step

Case Type	Process Step	No. Cases Processed	Avg. Time in Hours	Workload in Hours
Violent Felony	Review of investigation	4,190	0.2	838.0
	Screening for filing	3,950	0.5	1,975
	Filing in 1 st instance court	3,680	0.2	736
	Preparation and trial	3,140	2	6,280
	Appeal	700	2	1,400
	Prison review	1,500	0.2	300
Misdemeanor	Review of investigation	34,856	0.1	3,485
	Screening for filing	34,110	0.2	6,822
	Filing in 1 st instance court	32,900	0.1	3,290
	Preparation and trial	32,850	0.5	16,425
	Appeal	15,350	0.5	7,675
				Total weighted hours

Step 7: Calculating Staff numbers

The number of attorneys and other staff needed to process cases is calculated by dividing the weighted total hours by work hours available for an attorney, that is the average working hours per year, considering holidays, vacation time and

sick days. In the US, this usually comes to about 220 days per year at 8 hours per day per full time judge, prosecutors or other staff. This is a total of 1760 hours per full time judges/attorney (FTE). In order to calculate the number of full time judges/attorneys needed, the total number of weighted hours has to be divided by work hours available per FTE. Using the example above this means 49,226 divided by 1760 = 28, meaning 28 full time prosecutors are needed to handle this workload.

Step 8: Study preparations

In order to conduct the workload assessment, a time log has to be developed (see sample lo in the attachment) and tested.

Then, the study period has to be agreed upon. The time study has to cover at least a representative time frame for fully processing the major case types. This generally requires at least 6 weeks of data collection. The study recently conducted in Germany involved data collection for at least 3 month in lower level courts (Amtsgericht), 5-6 months at higher level courts (Landgericht) to assure that all types of case processed are captured without giving undue weight to rare events.

Consideration has to be given to special time periods that influence case filing and staffing levels, such primary vacation times (i.e., August in Mongolia) or seasonal variations in crime rates (such as variances due to harsh winter weather in January and February or high population concentration in Ulaanbaatar during Nadam).

If the data collection cannot involve every prosecutor or judge, the participating courts and prosecutor offices need to be carefully selected to assure representation of urban and rural jurisdictions and other geographic variations that influence workloads.

While it is important that the data collection is anonymous (otherwise honest time keeping is often compromised) it has to be assured that verification and completion of entries can be conducted. This means that the log sheet has to include initial identification that will be deleted after entry verification.

It may further be necessary to develop and collect information about certain case elements that may add to time requirements, such as the involvement of children as witnesses, multiple offenders cases, or cases that involve individuals that require an interpreter. This information can be translated into time enhancers that explain time variation among different courts despite seemingly similar caseloads.

Workload variations by profession

The workload assessment process described above has been used in the US and abroad to assess staffing levels for courts, prosecutors' offices, defense agencies and probation departments. For developing appropriate data collection mechanism for each profession it is important to recognize that, even when these professions participate in the same processing step, such as the trial, the work required by the judge, prosecutor or defense attorney varies not only by role and substance but the time needed differs.

While the work of judges focuses predominantly on activities that occur in the courtroom, the majority of the work conducted by prosecutors and defense attorneys occurs outside the courtroom.

For example, in addition to preparing for the court hearing and participating in the trial defense attorneys

- Meet with clients to explain the proceedings before the clients appear at their detention hearings.
- Investigate the circumstances of the alleged offenses.
- Learn about the accused's ties to their families and communities.
- Develop dispositional plans that may be preferable to institutional confinement.
- Follow up with clients during dispositional reviews.
- Monitor placement problems that may arise regarding needed services or conditions of confinement.

Prosecutors

- Respond to police requests related to the inquiry and investigation
- Review cases presented by police for legal sufficiency for filing in court
- Meet with police, witnesses and the defendant to hear their statements
- Review evidence presented by police and possibly request additional investigative activities
- Review detention and incarceration decisions
- Conduct prison reviews

Of all actors in the adjudication process, the work of prosecutors is the most difficult to assess since they are involved in more work steps than the other professionals participating in the adjudication process. The workload of a prosecutor's office is significantly higher than that of the corresponding court since prosecutors handle many police matters that never result in a court case and have other responsibilities, such as the review of prison operations in Mongolia.

Forecasting

The ability to forecast staffing needs is an important factor. All forecasts rely on a baseline of knowledge about past workloads, to which assumptions about increases and decreases are applied. The reliability of forecasting reduces, however, as knowledge about future changes declines, and becomes more volatile where small units are involved (Lord Chancellor's Department, 2000).

Change in the number and type of cases investigated by police and cases filed by litigants, change in the type and complexity of cases filed, changes in agency operations, resources, including technology, changes in legislation and other influences require that even established case weights are adjusted over time.

Using population growth or changes in demographics (i.e., increasing numbers of young people) as well as straight-line projection of past caseloads (if multi year information is available) can be used to approximate coming changes but they are not very reliable in the long run.

Since cases result from criminal or civil matters forecasts cannot be made for overall caseloads but have to consider changes by case type. If new legislation is pending that changes if and how certain types of cases enter the justice system, projections need to be made. These projections frequently have to be based on expert assumption only since no other data are available. If staffing levels in one justice sector agency change, projection may be possible to estimate any impact on caseloads (i.e., increased numbers of police generally result in increased numbers of investigations and arrests leading to higher workloads for prosecutors, judges and corrections staff). Changes in staffing levels and expertise within one agency, too, can influence workloads. More difficult to project is the impact of societal changes on caseload even though these may have the largest impact. As societies become more complex and less integrated, disagreements are more likely to arise and are less likely to be resolved informally (Krislov, 1995). At the same time, public trust in the justice sector, as well as accessibility and efficiency influence the extent to which the public will turn to the justice system to resolve conflicts. Krislov explains in detail why predicting caseloads is a complex issue that so far has eluded efforts to develop reliable forecasting mechanisms.

For practical purposes jurisdictions in the US and elsewhere have to rely on the information available to make some assumptions for predicting changes in workloads despite their shortcomings. At minimum that requires the availability of current workload information, and a combination of case and workload data with expert opinions using Delphi methods to assess impact of legislation and population changes on workloads.

The Issue of Quality of Justice and Its Impact on Staffing Estimates

The goal of weighting various categories of caseload is to identify proportionately how much effort is applied to different case types. It does not provide information about how long cases should take now and in the future (Lord Chancellor's Department, 2000).

At a time when much is being published and discussed about fostering public trust and confidence, and making courts more user friendly, courts are often being forced to cut services or to reduce the amount of information offered to the public due to personnel shortages. The extent to which courts are able to perform their duties is positively correlated to public trust and confidence, access to justice, and equality and fairness. Conversely, the extent to which courts are unable to perform their duties is negatively correlated with these measures of quality that are expressed as trial court performance standards in the US (Rivera 2000).

Modern management theory, applicable both to the public and the private sector, calls for organizations to manage their activities by measuring empirically the quality of their products and services, in terms of their value to their customers. However, courts have traditionally measured themselves by internal characteristics, not the external results of their processes.

Ten years ago, the National Center for State Courts, recognizing the inadequacy of this approach, developed the Trial Court Performance Standards. In the late 1990s, it published a companion piece, the Appellate Court Performance Standards. These standards define the desired results of court activities. A series of pilot applications of the Trial Court Performance Standards has produced a number of suggested measures and measurement instruments for courts to use in determining how well they accomplish their intended results.

At least seven US states² have embraced a Total Quality Management philosophy. The state's activities are divided into defined "programs." For each program, a series of "performance measures" are defined. The state appropriations process then, in theory, focuses on the success of each "program" in meeting its defined "performance measures" in deciding how to allocate scarce public resources to obtain the best return on them. The New Mexico legislature applied this concept in early 1999, with the passage of the Accountability in Government Act.

Still, the courts have been slow to embrace this trend toward objective measurement of institutional performance. Most judges strongly oppose the concept of empirical measurement of court activities. The resistance arises from

²Florida, Louisiana, New Mexico, North Carolina, Oregon, Texas and Virginia.

the view that the most important product of the courts cannot adequately be defined or measured. That product is "justice."

Judges are right to resist performance measures, until and unless ways to measure the most important output of the court system can be measured – the justice or fairness of the decisions of judges and juries. Unless one can measure an organization's most important outcome, that objective will be minimized by focusing on accomplishment in those aspects of the organization's performance that be measured. For example, courts have for decades known how to speed up court processes – to make decisions more quickly. Despite the truism that "Justice delayed is justice denied," judges also know that at some point "Justice rushed is also justice denied." Neither the Trial Court Performance Standards nor the Appellate Court Performance Standards adequately address this issue but they are a step in the right direction. Further, measures of efficiency are not only indicators of good operations but are essential to supporting quality justice decisions. A recent project conducted by National Center for State Courts staff studied the relationship between speed of process and quality of outcome. The study indicates that "the subjective working conditions of attorneys in the expeditious courts are more conducive to effective advocacy, due process, and quality than the conditions in the less expeditious courts" (Ostrom and Hanson, 2000).

The "quality of justice" is multi-dimensional and complex. It includes quality of the services provide by the system, individual judges, and in individual cases. It also involve factors such as

- Cost effectiveness
- Legally correct decisions
- Fairness
- Effectiveness in prevention, punishment, conflict resolution
- Accessibility
- Transparency
- Service oriented
- User friendly
- Independence
- Integrity

Not only are these indicators of quality of justice difficult to measure, there also no clear definitions for many of them and some are in conflict with each other. For example, speedy disposition can conflict with the need for solid evidence collection and assessment and identification of a defendant's needs for rehabilitation. Cost effectiveness may conflict with the need to provide access to the justice system in remote areas.

Performance standards for individual professions are another important tool for assessing quality of justice. Performance standards describe minimum

requirements for competent conduct by judges, prosecutors, public defenders and others. Such standards have been implemented in several states and are designed to ensure that these lawyers fulfill the tasks required for their positions. For example, the standards for defense lawyers established in the US, among other things, that attorneys maintain contact with the client, conduct a factual investigation, examine the complaint for legal sufficiency, file appropriate motions, and conduct discovery (National Legal Aid and Defenders Association, 1995).

To determine if the court has adequate staffing to meet quality standards a combination of data collection has to occur. In addition to staffing level assessments, a customer satisfaction survey, and a survey of employee perception of court performance should be conducted (Rivera 2000).

In an attempt to measure the fairness and justice of court processes some US jurisdiction used customer satisfaction surveys and surveys of justice system members perception of the system's operations that address the principles for court performance defined in the Court Performance Standards (Riviera 2000):

- Access to Justice
- Equality, Fairness and Integrity
- Public Trust and Confidence
- Expedition and Timeliness

Another aspect to explore is the relationship of inadequate staffing levels and quality of justice measure by employees' perception of the court performance. For both surveys, sample questionnaires have been developed that can easily be adjusted to other countries (see National Center for State Courts' Trial Court Performance Standards and Measurement System Implementation Manual).

This data collection can be expanded to include assessments of adherence to performance standards to individual professions, if such have been established. Other data can be added to provide a more complete picture:

- Compliance with court decisions. Do the parties voluntarily comply with the trial verdict – paying the civil judgment or the fine and fees imposed? Are enforcement proceedings required? Do the parties seek to modify the judgment? Do they appeal the judgment?
- Absence of outcome patterns that are clearly unfair. Courts can gather data on verdicts, sentences, and money judgments and correlate them with the race, ethnicity, gender, and socio-economic status of the litigants involved. If outcomes differ systematically, that is a clear indicator of lack of justice.
- Review by objective observers. Trials can be recorded on videotape and presented to panels of persons with no stake in the outcome. Or independent observers might attend trials and make judgments on their apparent fairness.

It is essential to balance these quality measures with the traditional efficiency performance measures to assure that efficiency goals do not override the larger justice goals. This is further important to assure that the number of judges, prosecutors and other justice system staff is determined based on the capability to deliver justice.

For example, the litigants' perception of fairness and justice seems to be related to other court performance measure. Research conducted in the US and Germany concluded that a participant's perception of the fairness of a court proceeding is not limited to whether he or she wins or loses. Even in criminal trials, a convicted person's perception of fairness is determined not only by the length of sentence, but also by his or her perception of the judge's fairness in conducting the trial – the extent to which the defendant felt he had an opportunity to tell his side of the story and the extent to which the judge appeared to listen without prejudice (Tyler, 1984). A poll in New Mexico suggests that the judge's courtesy to trial participants is related to their perception of the fairness of the process (Greacen 1999).

In examining litigants' evaluation of trial outcomes a distinction has to be made between satisfactions with the outcome (i.e. was it a "fair" (or "just") decision) and litigant satisfaction with the process (i.e. was it a fair process? Were you treated with respect? Were you treated equally with your opponent? Did you have an opportunity to present your side of the matter? Did the judge (or jury) hear what you had to say?).

Conclusion

Many jurisdictions in the US and abroad have recognized that the development of mechanisms to estimate how many judges, prosecutors and other staff is needed to adequately handle the work is important enough for planning and budgeting purposes to justify the effort required to collect data to develop solid workload measures.

Weighted workload studies, sometimes in combination with Delphi studies to estimate changes in workload measures due to new legislation provide the most reliable information. In order to assure that these measures do not just provide staffing information based on current, possibly not well structured and managed operations and procedures, these measures need to be combined with measures of efficiency and quality of services provided.

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Additional Resources

"Projekt JuskoLei - Kosten- und Leistungsrechnung in der Justiz" = Justice Reform Project in the German state Niedersachsen
http://www.niedersachsen.de/file/MJ_juskolei.pdf

<http://www.oppaga.state.fl.us/reports/pdf/9846rpt.pdf> = Florida Caseload Study (Delphi)

<http://www.tba.org/news/casestudy.html> - Tennessee Weighted Caseload Studies – Public defenders and judges

<http://www.appa-net.org/about%20appa/caseload.htm> = Caseload study for probation.

Fletcher Magnum. Conference on Assessing the Effects of Legislation on the Workload of the Courts: Papers and Proceedings. 1995. Federal Judicial Center. <http://www.fjc.gov/LORANPLAN/efflegis/efflegis.pdf> = Background papers on staff forecasting and judicial impact statements

Appendix I

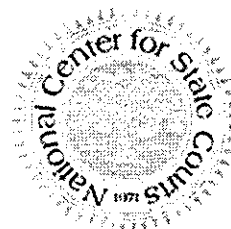
**Mongolia Judicial Reform Program (JRP)
National Center for State Courts (NCSC)**

Caseflow Management in Mongolia

September 2001

**Cooperative Agreement
#492-A-00-01-00001**

Ulaanbaatar, Mongolia



Caseflow Management in Mongolia¹

Background

Caseflow management is the study of how cases progress through the court system to identify processing bottleneck and inefficiencies, including delay in the court process and the lost time in providing justice. Whether the case is criminal or civil in nature the passage of time destroys the purposes of justice. In developing a caseflow management system there are five areas that the courts should measure and monitor performance, they are: (1) access to the courts; (2) expeditious processing of cases; (3) equality, fairness, and integrity in all procedures and decisions; (4) maintain independence and accountability as public institutions and, (5) build public trust and confidence in the courts.²

There have been numerous studies conducted on case management throughout the United States and European countries. Most of these studies address situations where there is delay in the adjudication of court caseloads. Whereas, in Mongolia the courts are extremely fast in the adjudication of cases and the pending backlog of cases is relatively small in comparison to most U.S. Courts. In Mongolia, more than 98% of all criminal and civil matters are completed within 30 to 45 days from the date of filing. Mongolian statutes require that all criminal matters be completed within 30 days of filing and civil matters within 60 days. It should be understood that Mongolia is a Continental System of Law whereas the U.S. is a Common Law country that has an impact on the courts' ability to control case flow.

In criminal matters the Prosecutor prepares the case and files it with the court. The case is assigned to a judge and the case record is given to the assigned judge to handle all interim matters before trial. The same basically occurs in a civil action, the plaintiff or attorney files the complaint and evidence, gives notice to the defendant, and awaits the assigned judges' letter for the setting of a trial date. The defendant must seek permission from the court (judge) to examine the record in civil and criminal matters, a copy of the complaint and list of witnesses is not provided by the opposing side.

The issues in Mongolian are not the typical ones of delay i.e., a high volume of cases, a lack of staff support and delay strategies employed by attorneys. The issues are more systemic of the legal culture here in Mongolia, they are:

- A lack of understanding and practice of the adversarial process even though Mongolian Laws provide for this process.
- Limited training of advocates in the process of examining and questioning evidence and witnesses.
- Lack of an expanded set of *Rules of Evidence* for all case types.

¹ Developed by the National Center for State Courts with USAID funds under Cooperative Agreement #492-A-00-01-00001; Mongolian Judicial Reform Program (JRP).

² Trial Court Performance Standards with Commentary, Washington D.C.: U.S. Department of Justice, 1997.

- Insufficient training of judges in court procedure and ethics to eliminate the ex-parte conversations between the judge and parties in a case.
- Lack of training of judges and staff to record interim events.
- An insufficient statistical reporting system to collect data.

Mongolia needs a caseload management system, not necessarily to reduce delay, but to track and monitor the changes that need to occur in the Mongolian legal system to make it more transparent and fair. The events that need to be tracked are much the same as any caseload system. Examples of the types of case management data needed are: reports on the age of pending cases, time intervals from date of trial to filing of decision and, number of cases assigned by judge. These are but a few of the reports needed to better assess the flow cases and the work efforts of judges.

Records Management

The record-keeping practices in Mongolian Courts are not akin to those in the United States where most jurisdictions have a central court clerk's office that receives all filings, pleadings, motions, etc.

When a case is filed the attorney or plaintiff brings a complaint to a centralized filing secretary who logs the complaint into a register or computer system. The secretary then informs the chief judge of the filing and an assignment of the case is made to one of the judges. If the court is automated then the system has the capability of making a random judge assignment. At this point a formal receipt for the case is generated for the receiving judge's signature. The assigned judge receives the original record and all documents and maintains such records until the case is decided. It is here, with the assigned judge, where there are no reporting data collected. The next time that the case is returned to the central filing secretary or to a records clerk is when the case has a written decision entered. There are slight variances in this practice depending on whether the court has any automation to assist in generating decisions. The lack of a central filing repository for the case records to access the pending records impedes the ability of the Mongolian courts to evaluate the status of an individual case record and to aggregate data for case management purposes.

In Mongolia, the chief judge does have the capability to conduct some limited tracking of assigned cases. This can be manual or automated and entails looking at a register of when a case was assigned and the date of assignment. He or she then compares the filing date to the current date and determines whether the case is behind schedule in accordance with the statutorily mandated timelines. There are however, few if any interim type statistical reports available to track continuances or other delays. Not until the decision is filed can the chief judge determine whether the assigned judge met the prescribed timelines for adjudication of the case.

The Supreme Court requires the chief judge to submit statistical reports on the number of filings and dispositions each quarter. These reports are aggregate statistics on the number of filings and dispositions that are supplemented with other demographic data by case type. For example, in criminal cases the age, sex, type of crime and sentence are captured by groups or ranges. In the civil area there are three major types of civil cases that are reported and how they were decided,

for the plaintiff, partial judgment or for the defendant. The collection of all these statistics is not transferable to caseflow management statistics because they omit the interim data and events that could occur in a case.

Recommendations for Mongolia

Development of a Manual Caseflow Management System

In order to implement a manual caseflow management system in Mongolia a set of statistical reporting forms need to be developed to collect the initial filing data, case number, style of case, type of case and filing date. Statistical reports need to be developed to record the interim events that occur after the case has been assigned to a judge. An alternative to this interim reporting by the judge would be to establish a central clerks operation to collect this information and enter the data when a motion or pleading is filed. The official disposition of a case occurs when the written decision is filed in the case, not on the trial date. In addition, statistical reports need to be developed that provide information on the age of pending cases and the age (time) from filing to final disposition.

There are two alternatives to collect this data: (1) retain the current procedures and develop reporting forms for the judges to complete and submit to the chief judge for data entry or, (2) change the procedures to include a central filing clerk who receives all pleadings and motions who logs the data and then forwards to the assigned judge. Either of the two aforementioned procedures will require a buy in by the judges in each court. A certain amount of technology to compile this data and to track filings, pleadings and dispositions will be needed in the larger courts. To keep track of this data a Statistical Reporting module in ACCESS to enter and compile this information has to be developed. From this database system, management reports can be produced for the chief judge to monitor the flow of cases in the system.

Development of an Automated Caseflow Management System

Working with GTZ and their software developers all the functionality discussed in the description of the manual system can be designed into their existing system. Even though these changes are automated there remains the requirement for certain procedural changes as far as the work of the judges and clerks are concerned to collect this data. Ideally, the integration of statistical reporting required by the Supreme Court and caseflow management statistics could be integrated and become seamless to the judges. This integration would also eliminate much of the work currently being conducted in compiling this data by the chief judges each quarter.

Caseload Statistics and Case Management

The Supreme Court collects very detailed aggregate data on case filings, demographics of each case and final case dispositions. The Research Center for the Supreme Court analyzes the trends of case data and produces a good analysis of what has been occurring in the courts. The information collected by the Supreme Court, other than how many cases the supervisory courts review and how many cases are past due or late, provides little information on judicial accountability or workloads of judges. In a caseflow management reporting system the collection

of data by judge provides a wealth of information on the accountability of each judge individually and as a whole. It is important that the judges be accountable to the public as well as to the judicial system itself.

Working with the chief judge and selected judges from the Capital City Court many of these issues about reporting and data entry will be resolved. The JRP will conduct an interactive workshop in *Caseflow Management* in September 2001. It is anticipated that many of the forms and procedures can be developed prior to the time the workshop is conducted. After a suitable testing of the system and refining any problems the system should be able to be implemented in other courts.



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

June 25, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic plan for the Justice System of Mongolia. The JRP officially opened its office in Ulaanbaatar in April 2001.

Training: The JRP Project is planning to organize three-month English language training for approximately 40 legal professionals in September 2001.

Conferences: "First year implementation of the Strategic Plan for the Justice system of Mongolia" will be held on June 28, 2001 in Ulaanbaatar to acquaint all Mongolian key stakeholders and donor organizations with the Judicial Reform Program activities in 2001 and discuss the coordination and cooperation among local and foreign organizations.

Other events: Roundtable meeting was held with representatives of donor organizations such as GTZ, Hanns-Seidel Foundation, UNDP, HURISTMON Project on cooperation, coordination of efforts and exchange of information especially for creation of a legal information resource library.

GENERAL PROSECUTOR'S OFFICE

Training: Training on the "Prosecutor's Manual" with the assistance of GTZ for 158 prosecutors in provinces.

- July 16-18 – Orhon, Bulgan, Zavhan, Gobi-Altai, Huvsugul, Dornod Aimags
- July 20-23 – Selenge, Uvs, Bayan-Ulgii, Arhangai, Hentii Aimags
- July 25-27 – Darhan-Uul, Hovd, Tuv Aimags
- July 26-29 – Uvurhangai, Bayanhongor Aimags
- August 1-3 – Dornogobi, Gobisumber, Dundgobi, Umnugobi Aimags

Conferences: "Legal Reform in Developing and Transitional Countries" will be held on July 2-3, 2001 in Ulaanbaatar and organized in conjunction with the State Ih Hural Secretariat, Legal Retraining Center, Liberty and Rule of Law Association, Washington University Asia Law Center, Melbourne University Asia Law Center.

GERMAN DEVELOPMENT COOPERATION (GTZ)

Training: Second round training on Civil law and Civil procedure law for Judges:

June: 4-9 Baganuur district and Khentii aimag, 18-23 Bulgan, 25-30 Orhon aimag
July: 2-7 Selenge aimag, 6-21 Zavhan aimag, 23-28 Gobi-Altai aimag, July 30 - August 04 Bayanhongor aimag
August: 6-11 Uvurhangai aimag, 20-25 Dornogobi aimag, August 27- September 1 Gobisumber aimag
September: 3-8 Dundgobi aimag, 10-15 Darhan-Uul aimag, 17-22 Tuv aimag and Nalaih district

HANNS-SEIDEL FOUNDATION (HSF)

Training: June 13-15 Training of the Trainers Program on Administrative Law, Administrative Procedure and Comparative Law

Conferences: "Judicial Power – New Century" will be held on June 27-28, 2001 in Ulaanbaatar in commemoration of the 75th Anniversary of establishing the Court System in Mongolia; Speakers- Secretary of Supreme Court of Bavaria and Representatives of HSS will make presentations.

Other events: Sponsoring of MoJHA Deputy Minister's visit to Germany (June), National University of Mongolia and Management Academy Professors to visit Germany (September).

JAPANESE INTERNATIONAL COOPERATION AGENCY (JICA)

Events: Japanese Ministry of Justice Assessment Visit (August 13- September 17)

2 MONGOLIA JUDICIAL REFORM PROJECT

JUDICIAL RETRAINING CENTER

Training:

- A 14-day (70 hours) training course for judges was conducted on June 11-23 for 20 judges of Aimag, Soum, Inter-Soum and District courts. The topic of the training was "Application of branch law theoretical aspects".
- Within the framework of the joint project of JRC and the Soros Foundation "Training of trainer-Judges" 6 Dutch judges provided in-country training for 12 Mongolian judges in April-May, 2001. The judges will be specialized in the following fields:
 - Economic and organized crime
 - International and Public Law
 - Human rights
 - Administrative court
 - Law on immovable property
 - Judges position in a democratic society
- In June the 12 Mongolian judges will be sent on a 10-day study tour to the Netherlands. After completion of the training program the judges will work as trainer-judges at the Center.
- A 7-day training course for local court judges will be organized on site in beginning of July. The program will include: judicial ethics, court administration and the concept of new draft laws such as the Civil Code, Civil Procedure Code, Criminal Code and the Criminal Procedure Code.
- The Center is planning to expand its library and purchase books for 300 US\$.

LEGAL RETRAINING CENTER

Training:

- Five 45-day training courses were organized in accordance with the Workplan 2001 of the Center. The training included subjects on the Comparative Law, International Trade Law, Banking, Finance and Taxation laws, Contract Law, Company Law, Cooperative Law, Investment Law, Bankruptcy Law, Labor Law, Intellectual Property Law, Securities Law and the human rights, legal ethics, economic crime, practical skills for advocacy, negotiation and dispute resolution. In total more than 170 legal professionals were enrolled in continuing legal training courses. The Center applies modern teaching methodologies.
 - A training course for prosecutors conducted between March 5 and April 13, 2001
 - A training course for judges conducted between April 16 and May 25, 2001
- A one-month Legal English and Computer training course for Supreme Court judges and staff, Constitutional Tsets members and employees was conducted in February 2001.
- At the end of May the Center in conjunction with the Ministry of Justice and Home Affairs organized a 3-day training on Business Law for businessmen and administration of business entities.

Currently the Center is focusing on developing its external relations, improving the curriculum and the skills of trainers.

In future the Center will organize specialized training courses for legal advisors, advocates and the management of courts and prosecutor's offices.

Conferences: The International Law Department of the NUM Law Faculty, the Legal Retraining Center and the Mongolian Human Rights Center jointly organized a seminar "Capital punishment and the global trends" at the National University of Mongolia on May 1, 2001.

MINISTRY OF JUSTICE AND HOME AFFAIRS

Events: Commemoration of 80th Anniversary of Mongolian Justice System. Seminars with participation of foreign experts from Germany, Russian Federation, USA (November)

MONGOLIAN WOMEN LAWYERS ASSOCIATION

Training:

- August 5 - 6 Trademark & Patent Law
- August 7 - Domestic Violence

NATIONAL CENTER AGAINST VIOLENCE
Training:

- June 18-20 Senior Police Officers and State Prosecutors will attend Domestic Violence Awareness Workshop
- June 20-22 Training of the Trainers with Police on Domestic Violence.
- June 26-27 Law school professors, Teachers, Lawyers, Police officers From Ulaanbaatar and Aimags will convene for Networking Seminar (Swedish experts).

Conferences: August-September Seminar for State Prosecutors on proposed DV legislation.

Other events:

- June 4-7 - Dale Hurst, Consultant Psychologist at detention centers of Ulaanbaatar in cooperation with the police will counsel DV Perpetrators
- June 11-14 - Counseling at sobering houses in Ulaanbaatar.

SOROS FOUNDATION**Training:**

- June: Sponsoring working visit by 12 Mongolian Judges to the Netherlands for training at the Center for International Legal Cooperation and the Dutch Judicial Training Center.
- August 6-8 Two Mongolian law professors to attend training in Kazakhstan.
- August 21-25 Two Mongolian law professors to attend Street Law clinic training in Budapest, Hungary.

Other events:

- June 4-9 Visit of Felisa Tibbetts, Executive Director, Human Rights Education Associates, Inc.
- June: Visit of Roy Fleming, Head of Royal Ulster Constabulary to consult with General Police Department on the development of a modern police-training program.
- June-July: Series of local training aimed at street level police officers and government officials, NGOs and media regarding crime prevention effort in Ulaanbaatar.

THE ASIA FOUNDATION

Training: Training of Lawyers and Actors on the CEDAW Convention (June) by CEDAW Watch Network.

Other events: Completion of translation of the "Pasture Land Disputes and Conflict Resolution" handbook into English Language along with UNCHR.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID)

Training: June 18-29 Introducing Legislative Drafting to State Ih Hural and MoJHA of Mongolia drafting staff. New Orleans, USA.

UNITED NATIONS HIGH COMMISSIONER ON HUMAN RIGHTS (UNHCHR)

Training: September: Workshop on plans for implementing measures on the Human Rights protection in all aimags in cooperation with National Coordinator, the project team, local authorities and research units.

Other events:

- UNHCHR Sectoral Baseline Study and conclusions by volunteers, local researchers, members of local branch offices, local authorities.
- Developing an initial draft proposal for protection of Human Rights. (August-September, 2001)
- Compiling the public opinion on Human Rights protection draft proposal. (October, 2001)
- Compiling the suggestions from aimags and local residents. (November, 2001)
- Approval of HR protection draft proposal at the local level by the Citizen's Councils. (December, 2001)
- Compilation of the opinions from the Aimags and Capital City at the National Coordinator's Office. (December, 2001)

Mongolian Legal Reform 2001 Calendar of Events

Organization Key:

GTZ German Development Co-operation
 HSS Hans Seidel Foundation
 JTC Judicial Training Center
 JRP Judicial Reform Project
 LRC Legal Retraining Center
 MGPO Mongolian General Prosecutor's Office
 MWLA Mongolian Women Lawyers Association
 NCAV National Center Against Violence
 SOROS Soros Foundation
 UNCHR United Nations Center for Human Rights
 WB World Bank

May

28-29	NCAV Police UB	Counseling Male Violators		
29-1	SOROS Police, Terelj Media Resort Relationship	Police-Media		
28-2	GTZ Judges	Dornod Aimag	Civil Law Training	
30-4	GTZ Prosec.	Sukhbaatar	Handbook Training	

June

(June)	HSS	Deputy Justice Minister to Berlin for Symposium		
4-8	LRC	Senior Ct Officers & Prosecutors	LRC (UB) (6 week course)	Bus. Law Courses
4-9	GTZ	Judges Khentii Aimag Baganuur Aimag	Civil Law	
4-9	SOROS	Visit of Felisa Tibbetts, Human Rts Education Assocs. Development of Anticorruption and Street Law Programs		
11-15	LRC	See Above 4-8		
11-23	JTC	Judges Aimag, Soum, District	JTC (UB)	Multi-Subject
18-23	GTZ	Judges	Bulgan	Civil Law
18-20(?)	NCAV	Senior Police State Prosecutors	UB	Domestic Violence Awareness
18-22	LRC	See Above 4-8		
20-22	NCAV	Police	UB	Train the Trainers Domestic Violence
23-26	Mongolian Judges 75 th Anniversary Celebration			
25-30	GTZ	Judges	Orkhan	Civil Law
25-30	LRC	See Above 4-8		
?25?	JRP	Workplan Presentation Conference		
26-27	HSS	Symposium- Mongolian Judiciary in the 21 st Century 75 th Anniv. Program; Speakers- Secretary of Supreme Ct. of Bavaria, Representatives of HSS		
28-29	NCAV	Dr.s, Teachers Lawyers, Police	UB	Networking Seminar (Swedish expert.)
?	NCAV	Detention Center Police	UB	Counseling of DV Perpetrators
?	NCAV	Sobering House Police	UB	Counseling of DV Perpetrators

? *SOROS Visit of Roy Fleming, Royal Ulster Constabulary
to consult with General Police Dpt. on development of a modern police
training program.*

July

2-3	GPO	Judges, Scholars, Prosecutors, NGOs	UB	Legal Reform Symposium
2-7	GTZ	Judges	Selenge	Civil Law
2-7	LRC	See Above (June 4-8)		
6-21	GTZ	Judges	Zavkhan	Civil Law
23-28	GTZ	Judges	Govi-Altai	Civil Law
30-04	GTZ	Judges	Bayankhongor	Civil Law

June-July *SOROS Series of local trainings aimed at street level police
officers as part of "Community Policing Program."*

August

5-31	<i>UN High Commission Human Rts Sectoral Baseline Study</i>			
5	MWLA			Trademark & Patent Law
6	MWLA			Trademark & Patent Law
7	MWLA			Domestic Violence
6-11	GTZ	Judges	Ovorkhangai	Civil Law
6-18	SOROS	Two Mongolian law professors to attend training in		Kazakhstan.
20-25	GTZ	Judges	Dornogovi	Civil Law
21-25	SOROS	Two Mongolian law professors to attend street law clinic training in Budapest, Hungary.		
27-1	GTZ	Judges	Govisumber	Civil Law
?	SOROS	Sponsoring working visit by 12 Mongolian Judges to the for training at the Center for International		Netherlands

Legal Cooperation and the Dutch Judicial Training Center.

June-Aug SOROSSeries of meetings between General Police Dpt. Mgrs,
and members of public, government, NGOs and media regarding crime
prevention efforts.

September

3-8	GTZ	Judges	Dundgovi	Civil Law
10-15	GTZ	Judges	Darkhan	Civil Law
17-22	GTZ	Judges	Tov Nalaikh	Civil Law

(HSS sponsoring officials from Ministry of Justice, Professors from Mongolian National University and Academy of Management to go to Germany.)

October

November

(HSS to sponsor 80th Anniversary of Mongolian Justice System. Seminars planned with international speakers from Germany, U.S., Russia.)



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

August 15, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic Plan for the Justice System of Mongolia. The JRP officially opened its office in Ulaanbaatar in April 2001.

Training:

- Interactive Training Session on Caseload Management and Court Administration for Tuv Aimag Court judges was held on July 26, 2001.
- Six-month English language training for 48 legal professionals from Ulaanbaatar will start in September 2001.
- A workshop on "Staffing Needs in the Justice Sector" will introduce the ways to estimate staffing needs for Courts and Prosecutor's Offices in Ulaanbaatar on September 19.
- A workshop on Adversarial Process for approximately 33 judges, prosecutors and advocates from UB, Erdenet and Huvsgul Aimag in Ulaanbaatar on September 25-27.

Conferences: "First year implementation of the Strategic Plan for the Justice system of Mongolia" held on June 28, 2001 in Ulaanbaatar introduced Mongolian key stakeholders and donor organizations to the Judicial Reform Program activities in 2001 and discussed coordination and cooperation among local and foreign organizations. The participants expressed appreciation and greater understanding of the role of JRP in implementing the components of the Strategic Plan.

Events:

- A general survey of judges, prosecutors and advocates on Court Administration and Training in Capital City and all 22 Aimags within the scope of MoJHA Inspection of legal professionals was conducted in May 2001.
- A survey on Court Administration and Training was conducted on July 20-21 in Selenge, Bulgan, Darhan-Uul, Huvsgul and Orhon Aimags.
- A survey on Court Administration and Training was conducted on July 26 in Tuv Aimag.
- Opening of the JRP Training Office.
- Funding of the Supreme Court Interpretations Digest.
- Establishing of the JRP website with links to the Parliament, Prime Minister's Office, MoJHA and Supreme Court websites in early fall.

CONSTITUTIONAL TSETS

Events: Visit of Chairman N. Jantsan and members J. Byambajav, N. Chilhaajav of the Mongolian Constitutional Tsets to Turkey upon the invitation of Mustafa Bumin, Chairman of the Turkish Constitutional Court in May 2001.

SUPREME COURT

Statistical data:

- 4,872 criminal cases involving 6,748 defendants decided in the first half of 2001 shows reduction of crime by 6.8% and decrease in the number of convictions by 8.8% compared to the first half of year 2000.
- State stamp duties and penalties in 11,002 civil cases decided in the first half of 2001 remitted ¥384,998,900 to the State.

GENERAL COUNCIL OF COURTS (GCC)

Conferences: GCC Secretary N. Ganbayar, Supreme Court Chief Justice N. Ganbat, Deputy Minister of Justice and Home Affairs Ts. Munh-Orgil and Songinohairhan District Court Chief Judge T. Urantsetseg attended the International Symposium "Independence of the Judiciary" organized in Saint-Petersburg, Russia on July 7-14, 2001.

The meeting of GCC held on July 3, 2001:

- Report on the results of the Inspection of judges presented by Chairman of the Supreme Court Criminal Chamber D. Batsaihan and GCC Senior Officer A. Otgontsetseg. GCC proposed to transfer 5 judges who got "non-

2 MONGOLIA JUDICIAL REFORM PROJECT

satisfactory” test marks to the Judicial Professional Committee, and 5 judges who have deliberately committed violations in justice administration and breached ethical norms to the Judicial Disciplinary Committee for consideration.

314 judges were tested during this inspection: “excellent” - 62 judges
“good” - 190 judges
“satisfactory” - 52 judges
“non-satisfactory” - 10 judges.

- Review of the GCC half-year Activity Report.

Events:

- Development of a 2.5 year Draft Action Plan as a follow-up of the Inspection of judges.
- Establishing of Working Group by the MoJHA Decree to work on Draft Law on Courts. Members of the Working Group are as follows:
 - Ts. Munh-Orgil, Deputy Minister of Justice and Home Affairs
 - A. Dorjgotov and Ts. Amarsaihan Supreme Court Justices
 - S. Batdelger, Chief Judge of the Capital City Court
 - N. Ganbayar, GCC Secretary
 - A. Otgontseteseg, GCC Senior Officer
 - L. Sarangerel, MoJHA Officer.
- Qualification exams held by the Judicial Professional Committee for candidates to judicial office in Uvs, Dornogobi, Zavhan, Gobi-Altai, and Dundgobi Aimags Courts.

MINISTRY OF JUSTICE AND HOME AFFAIRS (MoJHA)

Events: Visit of the German Minister of Justice Dr. Herta Daubler-Gmelin on July 30-August 2 2001.

GENERAL PROSECUTOR’S OFFICE (GPO)

Training:

- Year 2001– 12 prosecutors attended training courses for legal professionals in Irkutsk and Moscow, Russia.
- Training on the “Prosecutor’s Manual” with the assistance of GTZ for 158 prosecutors in provinces.
 - July 16-18 – Orhon, Bulgan, Zavhan, Gobi-Altai, Huvsgul, Dornod Aimags
 - July 20-23 – Selenge, Uvs, Bayan-Ulgii, Arhangai, Hentii Aimags
 - July 25-27 – Darhan-Uul, Hovd, Tuv Aimags
 - July 26-29 – Uvurhangai, Bayanhongor Aimags
 - August 2-4 – Dornogobi, Gobisumber, Dundgobi, Umnugobi Aimags
- September – 3-month German language training course in Germany for 7 prosecutors after 11 months of in-country training with the assistance of GTZ.

Conferences:

- “Legal Reform in Developing and Transitional Countries” held on July 2-3, 2001 in Ulaanbaatar and organized in conjunction with the State Ih Hural Secretariat, Legal Retraining Center, Liberty and Rule of Law Association, Washington University Asia Law Center, Melbourne University Asia Law Center.
- Prosecutor General and senior prosecutors to attend the **International Prosecutor’s Association Conference** in Sydney, Australia on September 2-7, 2001.

Events: Connection to the Internet and Government Information Network with the assistance of GTZ and Hanns-Seidel Foundation.

COURT DECISION ENFORCEMENT AGENCY (CDEA)

Events:

- Establishing of the Foundation to Support National Manufacturers in connection with the “Year for Supporting National Industry” and donation of ¥30 million to this Foundation from the prison profits.
- Number of fugitives decreased by 94 prisoners, a 49.5% decrease. The death rate caused by illness decreased by 53 cases, a 33% decrease during the first half of 2001.
- Enforcement of 12,386 Court Orders with the total amount of ¥23.5 milliard during the first half of 2001 which is 28% of 54,391 Court Orders with the total amount of ¥70,6 milliard.

POLICE ACADEMY

Training: Seminar for Police Officers on September 28-29, 2001.

THE ASIA FOUNDATION (TAF)**Events:**

- "Pasture Land Disputes and Conflict Resolution" handbook translated into English Language and published along with the Center for Human Rights and Development Center.
- The Asia Foundation is supporting the NGO, Women for Social Progress Movement (WSP), to conduct research on bylaws and regulations of Aimag Citizens' Representatives Hural (CRH). The WSP will analyze the bylaws and regulations of CRH of Ulaanbaatar and 21 Aimag with respect to their decision-making procedures. Based on these analyses WSP will issue recommendations on improvement of local Hural bylaws to strengthen transparency and accountability of local Hural and improve its public relations. The research findings and recommendations will be presented at a national level seminar including government officials, researchers and interested NGOs and citizens. After the seminar the WSP will develop a handbook on local Hural bylaws and regulations for distribution to WSP branches, members of Parliament, Aimag CRH, local public libraries, and international and local NGOs interested in local governance issues.

GERMAN DEVELOPMENT COOPERATION (GTZ)

Training: Second Round training on Civil law and Civil procedure law for Judges:

July: 2-7 Selenge Aimag
16-21 Zavhan Aimag
23-28 Gobi-Altai Aimag
July 30 - August 04 Bayanhongor Aimag

August: 6-11 Uvurhangai Aimag
20-25 Dornogobi Aimag
August 27- September 1 Gobisumber Aimag

September: 2-8 Dundgobi Aimag
10-15 Darhan-Uul Aimag
17-22 Tuv Aimag and Nalaih District.

HANNS-SEIDEL FOUNDATION (HSS)**Training:**

- 2 lecturers from the NUM Law Faculty and the Management Academy to study in Bavaria, Germany to do their Master's Degree in Law.
- Study tour for a group of Senior Officers from the Ministry of Education, Culture and Science, National University and the NUM Law Faculty to study the curricula of German Law Schools in September.

Conferences: International Symposium in Commemoration of the 80th Anniversary of establishing the Mongolian Justice System will be held in November 2001 in Ulaanbaatar.

Events:

- Opening ceremony of the Legal Education Academy on June 26, 2001. The Academy will organize training courses for legal professionals of government institutions and the general public on criminal law, public law and custom-built courses upon request. The Academy is located in the Supreme Court building and has a classroom able to accommodate 25 students.
- Technical assistance in refurbishing the Supreme Court courtroom.
- Publishing of "Judicial Power - New Century" Conference materials held on June 27-28, in Ulaanbaatar in commemoration of the 75th Anniversary of establishing the Court System in Mongolia

HUMAN RIGHTS STRENGTHENING IN MONGOLIA – HURIST/MON (UNDP/OHCHR Joint Project)
Development of the National Human Rights Action Program of Mongolia – NHRAP of Mongolia

Training:

- "Human Rights Situational Analysis" Workshop conducted on May 7-9, 2001. The participants included volunteers, legal division head officers and members of the National Coordinating Committee (NCC), in total 91

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people. "Theory & Methodology of Human Rights Situational Analysis" was published and distributed to the related organizations.

The members of the NCC visited the countryside from June 18 until July 4, 2001 with the purpose to:

1. assess the progress and results of activities conducted by local coordinating units;
2. provide recommendations to enhance their activities;
3. provide assistance.

Based on this assessment appropriate recommendations were developed and distributed to Aimag and Capital City Governors. 22 NHRAP regional branches received office equipment such as computers, fax machines, photocopiers, etc.

- Workshop on plans for implementing measures on the Human Rights protection in all Aimags in cooperation with National Coordinator, the project team, local authorities and research units (September 2001).
- Study tour to South - Eastern Asian countries in September 2001.

Conferences: "Human Rights National Conference" will be held on the International Human Rights Day (December 10, 2001).

Events:

- UNHCHR Sectoral Baseline Study in cooperation with volunteers and local authorities. Report due August 2001.
- Human Rights promotion by the National TV channel, radio and newspapers during the period July-December 2001.
- Developing of an initial draft proposal on Human Rights Protection in September-November 2001.
- Approval of HR Protection draft proposal at the local level by the Citizen's Councils in December 2001.

JAPANESE INTERNATIONAL COOPERATION AGENCY (JICA)

Events: Japanese Ministry of Justice Assessment Visit on August 15-September 12 2001.

SOROS FOUNDATION

Training:

- Series of local training aimed at street level police officers and government officials, NGOs and media regarding crime prevention effort in Ulaanbaatar (June-August 2001).
- Two Mongolian law professors to attend training in Kazakhstan on August 6-18, 2001.
- Two Mongolian law professors to attend Anticorruption and Street Law clinic training in Budapest, Hungary on August 21-25, 2001.
- Training for future street law clinic trainers at State Pedagogical University of Mongolia on development of street law course content and methodology (September 2001).
- Workshop of high-level justice system officials to raise awareness of the alternative methods of criminal punishment and to build a consensus approach on their introduction in Mongolia among the various stakeholders (September 2001 tentative).

Events: Working visit by the Dutch judges-trainers (arranged by Center for International Legal Cooperation and the Dutch Judicial Training Center) to further assist 12 Mongolian judges-trainers at JTC with development of content and methodology of selected training courses at JTC in October, 2001.

LEGAL RETRAINING CENTER (LRC)

Currently the Center is focusing on developing its external relations, improving the curriculum and the skills of its trainers.

RETRAINING CENTER FOR JUDGES (RCJ)

Training: 7-day training course for local court judges organized on site in beginning of July. The program included: judicial ethics, court administration and the concept of new draft laws such as the Civil Code, Civil Procedure Code, Criminal Code and the Criminal Procedure Code.

CENTER FOR LEGAL REFORM SUPPORT
Events:

- "Publishing of a professional newspaper" is a one-year project funded by GTZ. This project will support the publishing and dissemination of a professional legal newspaper that aims to serve as a source of information to improve professional skills and ethics of lawyers, and provide a forum in which lawyers can freely express their opinion, share their experiences, successes and challenges faced in the legal reform process. The first edition of this quarterly newspaper will be issued in September 2001.
- "For Your Legal Knowledge" TV Program - a project funded by the Ministry of Foreign Affairs and Trade of New Zealand. This TV Program will give people useful information regarding their civil and human rights, their duties to respect the rule of law, and bring knowledge concerning legal processes to claim their rights. Eagle TV will broadcast the TV Program.

MONGOLIAN CRIME PREVENTION FOUNDATION

The Foundation works with the objective to prevent crime and to support crime detection in Mongolia by implementing scientific research, surveys, training and other programs supported by the joint effort of those that are involved in the Criminal Procedure.

The Foundation's Steering Board has defined the 5 main areas of its activities as follows:

Prevention of:

- traffic infractions;
- crime related to environment and natural resource protection;
- crime related to Internet and high technologies;
- poverty and crime;
- crime related to tax law.

Activities planned for the 3rd Quarter of 2001:

- TV programs jointly with UB TV and the Traffic Police Department on:
 1. the Constitution of Mongolia, Law on Traffic Safety, Traffic Regulations and other relevant legislation;
 2. traffic lights;
 3. children and pedestrians;
 4. driver's ethics and safety of transport vehicles;
 5. city and highway roads.
- Publishing of articles on the abovementioned issues and of 6 new articles aimed to prevent traffic infractions, violation of laws and legislation regarding environment protection, the Internet and taxation in the Auto Magazine
- Other issues related to international relations and cooperation

MONGOLIAN HUMAN RIGHTS CENTER

Events: Translation and publishing of Victor Conde's "Handbook of the International Human Rights Terminology" in accordance with the agreement with the United States University of Nebraska Press (within August 30, 2001).

MONGOLIAN WOMEN LAWYERS ASSOCIATION**Training:**

- Workshop on "Patent Law and Trademark" for legal professionals and employees of legal institutions organized jointly by the Office of Intellectual Property, Foundation for Intellectual Property, GTZ, German Women Lawyers Association, Euromarkpat Co Ltd., Mongolian Women Lawyers Association July 30, 31. The German Minister of Justice Dr. Herta Daubler-Gmelin was the honorary guest and Dr. M. Grabrucker, Judge of the Federal Patent Court, Chair of the Bavarian branch of German Women Lawyers Association and Mr. A. von Funer, Executive Director of Euromarkpat Co Ltd. facilitated the seminar.
- Seminar on "Legal mechanisms to combat domestic violence" for members of Women Lawyers Association and other NGOs took place on August 1, 2001.
- Training on Trademark & Patent Law on August 5 - 6.
- Training on Domestic Violence on August 7.
- Legal knowledge training for non-legal professionals in 22 Soums and 6 Bags of Tuv Aimag in conjunction with "Oyuntulhuur Foundation".

Events:

- Translation and publishing of parts from “**International Humanitarian Law**” and “**General Theory on Human Rights**” written by Russian scholars within the scope of the AusAID funded Human Rights Resource Center and Education Project.
- Implementation of the “Enhancement of legal protection of jockey-children” funded by the International Labor Organization IPECMON Program. The purpose of this project is to determine whether jockeying should be considered as child labor, if yes, what should be the compensation, to analyze the relevant laws and conduct a survey among the jockey-children, horse trainers and the general public. The objective of this Program is to incorporate provisions regulating the above issues in the law, particularly, the issue of insurance. The project Report is expected to be ready on September 1, 2001.

NATIONAL CENTER AGAINST VIOLENCE

Training: Seminar for State Prosecutors on proposed Domestic Violence legislation in August-September 2001.

Mongolia Legal Reforms 2001 Calendar of Training Events

Organization Key:

TAF	<i>The Asia Foundation</i>
GTZ	<i>German Development Cooperation</i>
HSS	<i>Hanns-Seidel Foundation</i>
HURISTMON	<i>Project for developing the Plan for Ensuring Human Rights Protection</i>
JICA	<i>Japanese International Cooperation Agency</i>
JRP	<i>Judicial Reform Project</i>
LRC	<i>Legal Retraining Center</i>
NCAV	<i>National Center Against Violence</i>
MOJHA	<i>Ministry of Justice and Home Affairs</i>
MFOS	<i>Mongolian Foundation for Open Society (SOROS Foundation)</i>
MWLA	<i>Mongolian Women Lawyers Association</i>
RCJ	<i>Retraining Center for Judges</i>
SGPO	<i>State General Prosecutor's Office</i>
USAID	<i>U. S. Agency for International Development</i>
WB	<i>World Bank</i>

AUGUST 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
2-4	SGPO/GTZ	Prosecutors	Dornogobi, Gobisumber, Dundgobi, Umnugobi Aimags	Training on "Prosecutor's Manual"
5-6	MWLA	Trademark and Patent Law		
6-11	GTZ	Judges	Uvurhangai Aimag	Civil Law
6-18	MFOS	Two Mongolian law professors attending training in Kazakhstan		
20-25	GTZ	Judges	Dornogobi Aimag	Civil Law
21-25	MFOS	Two Mongolian Law Professors to attend street law clinic training in Budapest, Hungary		
27-1	GTZ	Judges	Gobisumber Aimag	Civil Law
	MFOS	Series of meetings between General Police Department managers and members of public, government, NGOs and media regarding crime prevention efforts.		
	NCAV	Seminar for prosecutors on proposed Domestic Violence legislation		
SEPTEMBER 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
2-8	GTZ	Judges	Dundgobi Aimag	Civil Law
10-15	GTZ	Judges	Darhan-Uul Aimag	Civil Law
17-22	GTZ	Judges	Tuv Aimag, Nalaih	Civil Law
19	JRP	Officials from MOJHA, GCC, Supreme Court, SGPO	Ulaanbaatar	Workshop on Staffing Needs in the Justice Sector
25-27	JRP	Judges, Prosecutors, Lawyers	Ulaanbaatar	Workshop on Adversarial Process
	HURISTMON	Workshop on plans for implementing measures on the Human Rights protection in all Aimags in cooperation with National Coordinator, the project team, local authorities and research units		
	GTZ	3-month German language training course in Germany for 7 prosecutors-trainers		
	JRP	6-month English language training for 48 legal professionals from Ulaanbaatar		
	NCAV	Seminar for prosecutors on proposed Domestic Violence legislation		



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

September 15, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic Plan for the Justice System of Mongolia. The JRP officially opened its office in Ulaanbaatar in April 2001.

Training:

- A six-month English language training for 48 legal professionals from Ulaanbaatar started on September 3, 2001.
- A workshop on "Estimating Staffing Needs in the Justice Sector" will introduce the ways to estimate staffing needs for Courts and Prosecutor's Offices in Ulaanbaatar on September 19.
- A workshop on Adversarial Process for approximately 33 judges, prosecutors and advocates from UB, Erdenet and Huvsgul Aimag in Ulaanbaatar on September 25-27.

Events:

- Funding of the Supreme Court Interpretations Digest.
- Establishing of the JRP website with links to the Parliament, Prime Minister's Office, MoJHA and Supreme Court websites in early fall.
- Providing the GCC, the Capital City and some District Courts with computer equipment.

SUPREME COURT

Training:

- A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" to be organized jointly with the Mongolian Advocates Association (September-October, 2001).
- A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" to be organized jointly with the Court Decision Enforcement Agency (September-October, 2001).

Events:

- Visit of Professor Joe Sburlock from the United States Wesleyan University expected in October 2001.
- Chief Justice Ch. Ganbat to attend the Conference of Supreme Court Chief Justices of the Asia-Pacific Region in New Zealand (October 2001).

GENERAL COUNCIL OF COURTS (GCC)

Meetings: The regular Session of GCC will be held on September 18, 2001. The main issue on the agenda will be the workplan developed in connection with the results of the inspection on professional skills, accountability and ethics of legal professionals.

Events: Inspection of professional skills, accountability and ethics of assistant judges and secretaries of Capital City and District Courts conducted in the first half of September.

MINISTRY OF JUSTICE AND HOME AFFAIRS (MoJHA)

Events:

- Visit of Henning Scherf, Minister of Justice, Head of Senate and Governor of Bremen, Germany on September 5-8, 2001.
- Deputy Minister Ts. Munh-Orgil attended the Conference "Against Racial Discrimination" in Durban, South Africa from August 31 till September 7, 2001.
- Visit of the delegation headed by M. M. Moziakov, Deputy Minister of Internal Affairs, and Head of the Investigation Bureau of Russia upon the invitation of Ts. Munh-Orgil, Deputy Minister of Justice and Home

Affairs on September 14-16, 2001. An agreement on the cooperation of investigative institutions of both countries was signed.

- Visit of the Russian delegation headed by Major General A.P. Pleshkov, Deputy Head of the General Department of Penal Institutions under Ministry of Justice and Head of the Siberia County Department of Penal Institutions started on September 15, 2001.
- The MoJHA draft Civil and Criminal Codes submitted to the State Ih Hural.
- The joint meeting of the Minister of Justice and Home Affairs and the Minister of Education, Culture and Science discussed the results of the July inspection of state and private law schools, and issued a decision to impose limitations on the activities of several law schools.
- The Justice Minister's Council meeting issued a decision to undertake appropriate measures in connection with the results of the nationwide inspection of legal professionals.

GENERAL PROSECUTOR'S OFFICE (GPO)

Training:

- Training on the "Prosecutor's Manual" with the assistance of GTZ for 158 prosecutors in provinces concluded.
- 7 trainer-prosecutors to be sent to Germany for 3-month language training course after 11 months of in-country training with the assistance of GTZ.
- In accordance with the Agreement with GTZ, an additional 7 prosecutors to be enrolled in German language training from September 2001. These prosecutors shall be released from duty for the whole term of the language course (9 months).
- 4 prosecutors - authors of the "Prosecutor's Manual" to be sent on a study tour to Germany in October 2001 with the assistance of GTZ.

Conferences: Prosecutor General and senior prosecutors attended the **International Prosecutor's Association Conference** in Sydney, Australia on September 2-7, 2001.

GENERAL POLICE DEPARTMENT

Training:

- 25 officers attended a training course on "Combating drugs" on August 4-29 in Cairo, Egypt.
- 25 officers will attend a training course on "Fighting Terrorism and Organized Crime" to be conducted from September 8 till October 6, 2001 in Cairo, Egypt.
- 5 officers of the National Police Department and the Institute for International Studies of Japan conducted a workshop for Selenge Aimag, Mandal Soum Police and Criminal Police officers from.

Events: A "Distinguished Detective" selected from among all detectives in commemoration of the 55th Anniversary of establishing the Investigation Police Agency in Mongolia. Delegation headed by M. M. Moziakov, Deputy Minister of Internal Affairs, Head of the Investigation Bureau of Russia participated in the celebration events.

Statistical data:

- 15,600 crimes registered in the first half of year 2001: 45.4% - in Ulaanbaatar
52.1% - in the countryside
and 2.1% - in the railway sector
0.2% - in the aviation sector.
- Compared to the first half of last year the number of unsolved cases decreased by 5.6%, the crime detection increased by 0.4%.
- The composition of perpetrators is as follows: 8.6% - women, 63.2% - public servants, 3.8% - students, 63.2% - unemployed persons.

COURT DECISION ENFORCEMENT AGENCY (CDEA)

Events: Delegation headed by Major General A.P. Pleshkov, Deputy Head of the General Department of Penal Institutions under Ministry of Justice and Head of the Siberia County Department of Penal Institutions of Russia visited the CDEA of Mongolia, and signed an agreement on cooperation.

POLICE ACADEMY

Training: Seminar for Police Officers on September 28-29, 2001.

THE ASIA FOUNDATION (TAF)

Events: The Asia Foundation is supporting the NGO, Women for Social Progress Movement (WSP), to conduct research on bylaws and regulations of Aimag Citizens' Representatives Hural (CRH). The WSP will analyze the bylaws and regulations of CRH of Ulaanbaatar and 21 Aimag with respect to their decision-making procedures. Based on these analyses WSP will issue recommendations on improvement of local Hural bylaws to strengthen transparency and accountability of local Hural and improve its public relations. The research findings and recommendations will be presented at a national level seminar including government officials, researchers and interested NGOs and citizens. After the seminar, the WSP will develop a handbook on local Hural bylaws and regulations for distribution to WSP branches, members of Parliament, Aimag CRH, local public libraries, and international and local NGOs interested in local governance issues.

GERMAN DEVELOPMENT COOPERATION (GTZ)

Training: Second Round training on Civil Code and Civil Procedure Code for Judges:

August: 6-11 Uvurhangai Aimag
20-25 Dornogobi Aimag
August 27- September 1 Gobisumber Aimag
September: 2-8 Dundgobi Aimag
10-15 Darhan-Uul Aimag
17-22 Tuv Aimag and Nalaih District.

- Rudolf Helmhagen, the GTZ Project Expert, Regensburg Court judge, trainer of the Judicial Training Center conducted an in-country retraining course for prosecutors on Civil and Criminal laws. This retraining course was conducted in the traditional training mode of GTZ. For next year German trainers will provide systematic retraining courses for prosecutors.
- Thomas Schulz and Gregor Franson, GTZ Project interns conducted German language training for prosecutors.
- Several prosecutors from the General Prosecutor's Office are to be sent to Germany on training by the end of September.

Events:

- Henning Scherf, Minister of Justice, Head of Senate and Governor of Bremen, Germany visited Mongolia on September 5-8, 2001. Mr. Henning Scherf had meetings with the Supreme Court Chief Justice Ch. Ganbat and judges, with the Deputy Prosecutor General D. Tserenbaltav and prosecutors, and with the GCC staff arranged by GTZ.
- Mr. Henning Scherf gave a lecture at the Shihihutag Law School on "The Role of the Prosecutor's Office in the Legal System".
- Member of the delegation, Dr. Rolf Knieper Professor of the Bremen University, GTZ Program Coordinator in Bremen, participated in the development of the Mongolian Civil Code from the beginning. During this visit he had several meetings with the working groups and MoJHA officers regarding the issues related to the Civil Code and the Civil Procedure Code drafting.
- The "Legal hour" TV program is being broadcasted on Wednesdays every two weeks on Mongolian National TV (ongoing).

HANNS-SEIDEL FOUNDATION (HSS)

Training:

- Training on State Law, Criminal Code, Criminal Procedure Code, Local Governance for Legal Department officers and legal professionals from Dornod, Dundgobi, Hentii, Suhebaatar, Dundgobi, Umnugobi, Gobisumber and Tuv Aimag conducted in Dornod and Dundgobi Aimag on September 24-25.
- Regional training on "Public Law" for legal professionals from Arhangai, Bayanhogor and Uvurhangai Aimag in Tsetserleg, Arhangai Aimag (October, 2001).
- Training for legal professionals from several Ministries and Agencies on "Concept of the Constitution", "Basic Obligations of Administrative Organizations", "Relationship Between Citizens and Administrative Organizations", "Accessible Administrative Organizations" and "Submission of Claims by Citizens to Administrative Organizations" (October, 2001).

Conferences: International Symposium in Commemoration of the 80th Anniversary of establishing the Mongolian Justice System will be held in November 2001 in Ulaanbaatar ("Improvement of the Justice System").

Events:

- Publishing of the 11th issue of the "State Law Pages - Deliberation" on the issue of "Coordination and Lines of Duties of Police and Prosecutor's Office".

4 MONGOLIA JUDICIAL REFORM PROJECT

- " Mongolian Law on Administrative Liabilities" on "Shine tovchoon" radio program (September 23, 2001).
- Assistance in providing equipment for the Unified Information System (UIS) of legal institutions in cooperation with GTZ and Soros Foundation.
- Technical assistance in refurbishing the Supreme Court courtroom.
- Publishing of "Judicial Power - New Century" Conference materials held on June 27-28, in Ulaanbaatar in commemoration of the 75th Anniversary of establishing the Court System in Mongolia

HUMAN RIGHTS STRENGTHENING IN MONGOLIA – HURIST/MON (UNDP/OHCHR Joint Project) Development of the National Human Rights Action Program of Mongolia – NHRAP of Mongolia

Training:

- Workshop on plans for implementing measures on the Human Rights protection in all Aimags in cooperation with National Coordinator, the project team, local authorities and research units (September 21-23, 2001).

for Western Region	in Hovd Aimag
for Central Region	in Arhangai Aimag
for Gobi Region	in Dundgobi Aimag
for Eastern Region	in Dornod Aimag

and in Ulaanbaatar will be held on 27-28 September, 2001
- Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in human rights field to be sent on a study tour to Thailand and Philippines in October 2001.

Conferences: "Human Rights National Conference" will be held on the International Human Rights Day (December 10, 2001).

Events:

- UNHCHR Sectoral Baseline Study in cooperation with volunteers and local authorities. Draft report issued in August 2001.
- Human Rights promotion by the National TV channel, radio and newspapers during the period July-December 2001.
- Developing of an initial draft proposal on Human Rights Protection in September-November 2001.
- Approval of HR Protection draft proposal at the local level by the Citizen's Councils in December 2001.

JAPANESE INTERNATIONAL COOPERATION AGENCY (JICA)

Events: Japanese Ministry of Justice Assessment Visit by Ms. Tanaka Kazuko was on August 15-September 12 2001.

SOROS FOUNDATION

Training:

- Two Mongolian law professors attended training in Kazakhstan on August 6-18, 2001.
- Two Mongolian law professors attended Anti-corruption and Street Law clinic training in Budapest, Hungary on August 21-25, 2001.
- Training for future street law clinic trainers at State Pedagogical University of Mongolia on development of street law course content and interactive techniques (September 22-24, 2001).
- Workshop for high-level criminal justice officials to raise awareness of the alternative methods of criminal punishment and to build consensus on their introduction in Mongolia among the various stakeholders (September 24-25, 2001). The event is co-organized by MoJHA, COLPI and MFOS.
- Demonstration workshop on introduction of street law clinic training at the Mongolian State Pedagogical University for related stakeholders (organized by MSPU) on September 26, 2001.
- Training for core group of street law teachers at secondary schools and street law clinic trainers at MSPU on development of street law clinic seminars for students (September 27-28, 2001).

Events:

- George Soros, Director of the Foundation for Open Society (FOS) visited Mongolia in connection with its 5th Anniversary on September 8-11, 2001. G. Soros was received by N. Bagabandi, President of Mongolia and decorated with "Altan Gadas" (Order of the North Star), one of the highest awards of Mongolia.

- "Open Doors" a two day event showcasing the individuals and organizations working towards, and contributing to the creation of an open society in Mongolia on the occasion of 5th Anniversary of the Mongolian Foundation for Open Society (September 7-8, 2001).
- Conference under the topic "Globalization and Its Achievements in Mongolia" was organized during the visit of George Soros. The Speaker of the State Ih Hural, members of Parliament, ministers, scholars, researchers and journalists participated in this Conference. In his speech Soros evaluated the activities of MFOS and its achievements, and set the future goals.
- Working visit by the Dutch judges-trainers (arranged by Center for International Legal Cooperation and the Dutch Judicial Training Center) to further assist 12 Mongolian judges-trainers at RCJ with development of content and methodology of selected training courses of RCJ in October, 2001.

LEGAL RETRAINING CENTER (LRC)

Training:

- 45 day training course on business law to be conducted from September 5 till October 12 for local government and Ministry legal advisors.
- A two-week training course to be conducted for the Immovable Property Registration Office staff upon their request.
- A DIAL Project computer training course for lawyers to be conducted in September and October.

RETRAINING CENTER FOR JUDGES (RCJ)

Training:

- 20 judges are to be enrolled in a 70 hours training on September 10, 2001.
- Training courses of the second half of 2001 are to be organized 2 times in UB and 5 times in the remote Aimags. The judge-trainers trained by RCJ with the assistance of the Center for International Legal Cooperation and the Dutch Judicial Training Center will conduct the abovementioned training courses.

CENTER FOR LEGAL REFORM SUPPORT

Events:

- The first edition of the "Professional Newspaper" funded by the GTZ was issued in the beginning of September. This edition contained various information such as comments to the draft Law on Administrative Courts, UNHCHR recommendations on the Implementation Report of the International Covenant on Civil and Political Rights in Mongolia and comments of judges on the necessity to amend the Civil Code.
- The first release of the TV Program "For Your Legal Knowledge" under the topic "Your right to defense" broadcasted on September 8, 2001 was designed to inform and explain the public about the problems related to the implementation of the individual's right to defense, and the ways to resolve those problems as well as evaluation of implementation of their legitimate right to defense.

MONGOLIAN CRIME PREVENTION FOUNDATION

The Foundation works with the objective to prevent crime and to support crime detection in Mongolia by implementing scientific research, surveys, training and other programs supported by the joint effort of those that are involved in the Criminal Procedure.

The Foundation's Steering Board has defined the 5 main areas of its activities as follows:

Prevention of:

- traffic infractions;
- crime related to environment and natural resource protection;
- crime related to Internet and high technologies;
- poverty and crime;
- crime related to tax law.

Activities planned for the 3rd Quarter of 2001:

- TV programs jointly with UB TV and the Traffic Police Department on:
 1. the Constitution of Mongolia, Law on Traffic Safety, Traffic Regulations and other relevant legislation;
 2. traffic lights;
 3. children and pedestrians;

4. Driver's ethics and safety of transport vehicles;
 5. city and highway roads.
- Publishing of articles on the abovementioned issues and of 6 new articles aimed to prevent traffic infractions, violation of laws and legislation regarding environment protection, the Internet and taxation in the Auto Magazine
 - Other issues related to international relations and cooperation.

MONGOLIAN WOMEN LAWYERS ASSOCIATION

Training: Legal knowledge training for non-legal professionals in 22 Soums and 6 Bags of Tuv Aimag in conjunction with "Oyuntulhuur Foundation".

Events:

- Translation and publishing of parts from "International Humanitarian Law" and "General Theory on Human Rights" written by Russian scholars within the scope of the AusAID funded Human Rights Resource Center and Education Project.
- Implementation of the "Enhancement of legal protection of jockey-children" funded by the International Labor Organization IPECMON Program. The purpose of this project is to determine whether jockeying should be considered as child labor, if yes, what should be the compensation, to analyze the relevant laws and conduct a survey among the jockey-children, horse trainers and the general public. The objective of this Program is to incorporate provisions regulating the above issues in the law, particularly, the issue of insurance. A Conference shall be organized on September 20, 2001 to discuss the project Draft Report issued on September 1, 2001.

CENTER FOR HUMAN RIGHTS AND DEVELOPMENT (CHRD)

Conferences: Within the framework of a project supported by TRUST FUND a meeting on "Violence Against Women" took place on September 9, 2001. CHRD members worked in close cooperation with the working group of legal professionals.

Events:

- The 4th edition of the "Human Rights and Development" quarterly newsletter to be issued in September.
- "National Human Rights Record 2001" to be finalized and published in October.
- "Violence Against Women and the Legal Environment Records" to be issued in September.
- "Human Rights and the Police" TV program (10 series) broadcasted by Mongolian TV.

NATIONAL CENTER AGAINST VIOLENCE

Training: Seminar for State Prosecutors on proposed Domestic Violence legislation in August-September 2001.

LIBERTY AND THE RULE OF LAW ASSOCIATION

Training: The Association in cooperation with the Center Against Violence conducted a 5-day training course for prosecutors of all 21 Aimags on issues of violence and legal reform (August 27-31, 2001).



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

October 15, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic Plan for the Justice System of Mongolia. The JRP officially opened its office in Ulaanbaatar in April 2001.

Training:

- A six-month English language training for 48 legal professionals from Ulaanbaatar started on September 3, 2001.
- The workshop "Estimating Staffing Needs for the Justice Sector" to introduce the ways to estimate staffing needs for Courts and Prosecutor's Offices took place in Ulaanbaatar on September 19. Over 20 officials and administrative officers of legal institutions participated in this workshop.
- The workshop on Adversarial Process for 28 judges, prosecutors, advocates and observers from UB, Erdenet and Huvsgul Aimag was conducted in Ulaanbaatar on September 25-27.
- An interactive training on Case Management and Court Administration for the District Court judges of UB to be conducted on October 26.
- An interactive training on Adversarial Process for judges, prosecutors, advocates from UB to be conducted on November 7-9 (tentative).

Events:

- The Memorandum of Understanding for publishing the Supreme Court Interpretations Digest was signed on October 9 and will result in the dissemination of the Digest to relevant stakeholders.
- Preparatory works for establishing the JRP website with links to the Parliament, Prime Minister's Office, MoJHA and Supreme Court to be completed by end of October.
- Providing the GCC, the Capital City and some District Courts with computer equipment to enhance case management and transparency.
- Recommendations on judicial selection (September 10, 2001) and ethics (October 1, 2001) provided to the GCC.

SUPREME COURT

Training:

- A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" to be organized jointly with the Mongolian Advocates Association (October, 2001).
- A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" to be organized jointly with the Court Decision Enforcement Agency (October, 2001).

Events:

- Chief Justice Ch. Gambat attended the 19th Conference of Supreme Court Chief Justices and the Conference of Lawyers of the Asia-Pacific Region in Christchurch, New Zealand (October 4-8, 2001) which discussed a broad range of issues such as judicial independence, judicial ethics, case management, court budget, training and the collaboration of courts of the Asia-Pacific Region.
- Visit of Professor Joe Sburlock from the United States Wesleyan University postponed until April 2001.

GENERAL COUNCIL OF COURTS (GCC)

Meetings:

- The Session of GCC of September 18:
 - approved the 2001-2003 Workplan developed in connection with the results of the inspection to evaluate the professional skills, accountability and ethics of judges. This workplan has 7 main objectives.
 - endorsed the decision to conduct the inspection (evaluation of professional skills, accountability and ethics) of legal professionals every three years.

2 MONGOLIA JUDICIAL REFORM PROJECT

- The Session of GCC of October 12:
 - discussed the Report on the inspection of Hovd, Bayan-Ulgii and Uvs Aimag Courts.
 - issued decisions to reappoint and transfer the following judges:

To present to the President for appointment:

2. G. Lhagvamaa as the Gobisumber Aimag Court Chief Judge
3. D. Sumya as the Bayangol District Court Chief Judge
4. D. Baatar as the Han-Uul District Court Chief Judge
5. L. Ehielt as the Zavhan Aimag First Inter-Soum Court Chief Judge
6. Ts. Baasanjav as the Zavhan Aimag Second Inter-Soum Court Chief Judge

To transfer:

1. Transfer Chief Judge D. Baasanjav from Hovd Aimag Court to the Bulgan Aimag Court
2. Transfer Chief Judge D. Taivanhuu from Bulgan Aimag Court to the Hovd Aimag Court

Events:

- On October 8 the Judicial Professional Committee conducted the examination of candidates to judicial position for some Soum, Inter-Soum Courts.
- The GCC staff inspected the work performance of Hovd, Bayan-Ulgii and Uvs Aimag Courts (September 24 – October 5).

OFFICE OF THE PRESIDENT OF MONGOLIA

Events: Working Groups for drafting “Law on Procedures for Amendments and Alterations to the Constitution of Mongolia” and “Law on Promotion and Advertisement in Mongolia” are set up by the respective Resolutions of the President of Mongolia.

MINISTRY OF JUSTICE AND HOME AFFAIRS (MoJHA)

Events:

- Visit of the delegation headed by V.V. Moziakov, Deputy Minister of Internal Affairs, and Head of the Investigation Bureau of Russia upon the invitation of Ts. Munh-Orgil, Deputy Minister of Justice and Home Affairs on September 14-16, 2001. An agreement on the cooperation of investigative institutions of both countries was signed.
- Visit of the Russian delegation headed by Major General A.P. Pleshkov, Deputy Head of the General Department of Penal Institutions under Ministry of Justice and Head of the Siberia County Department of Penal Institutions started on September 15, 2001.
- The MoJHA draft Civil and Criminal Codes submitted to the State Ih Hural.
- The Justice Minister’s Council meeting issued a decision to undertake appropriate measures in connection with the results of the nationwide inspection of legal professionals.
- The Minister of Justice and Home Affairs Mr. Ts. Nyamdorj participated in the 36th Assembly of World Intellectual Property Organization in Geneva between September 22 and October 6, 2001.
- The methodology for developing draft law concepts, the standard models for developing draft laws, and the structure of the unit to implement the “Judicial and Legal Reform Program” funded by the World Bank were adopted by the respective resolutions of the Minister of Justice and Home Affairs. In addition, the Joint Resolution of the Minister of Justice and Home Affairs and the Supreme Court Chief Justice on “Measures to be Taken in Connection with the Registration of Immovable Property” was passed and is being enforced.
- Visit of the MoJHA State Secretary Mr. B. Tserendorj to Japan on October 29.

GENERAL PROSECUTOR’S OFFICE (GPO)

Training:

- In accordance with the Agreement with GTZ, an additional 7 prosecutors to be enrolled in German language training from September 2001. These prosecutors shall be released from duty for the whole term of the language course (9 months).
- 4 prosecutors-authors of the “Prosecutor Manual” are sent to Munich, Germany on a 14-day study tour.

Conferences:

- Prosecutor General and senior prosecutors attended the **International Prosecutor's Association Conference** in Sydney, Australia on September 2-7, 2001.
- Prosecutor General M. Altanhuyag to attend a Conference in Utah, US on issues of relationship between the State and Church.

GENERAL POLICE DEPARTMENT**Training:**

- Several police officers were sent abroad for studies:
 - 2 officers to the Moscow Administration Academy of the Ministry of Internal Affairs;
 - 5 officers to the Saint Petersburg Law University;
 - 2 officers to the Volgograd Law School;
 - 5 officers to the Turkish Police Academy.
- The Capital City Police Department in cooperation with the Legal Education Academy is conducting a training on Constitutional law and administrative procedures for officers and senior inspectors of District Police Departments (October 17-26).

Events: 2 officers attended the Interpol General Assembly Conference in Budapest, Hungary. (October 2001)

Statistical data:

- 17,434 crimes registered in the first 9 months of year 2001: 44.9% - in Ulaanbaatar
52.7% - in the countryside
And 2.0% - in the aviation sector.
- Compared to the first 9 months of last year the number of crimes decreased by 1.5%, the number of unsolved cases decreased by 8.1% and the level of detection of crimes is 90%.
- The composition of perpetrators is as follows: 8.5% - women, 7.9% - minors, 68.3% - persons 18-35 years of age, 25.4% - workers and herders, 4.8% - public servants, 3.8% - students, 63.6% - unemployed persons.

COURT DECISION ENFORCEMENT AGENCY (CDEA)

Events: The brick factory building of the 1409 penitentiary completed and made operational.

MONGOLIAN ADVOCATES ASSOCIATION

Training: 15 advocates to be enrolled in the 45-day training of the Legal Retraining Center (October 22-November 30).

Events:

- 6 advocates from UB and the countryside that have records of repeated violation of professional ethics or got unsatisfactory marks during the inspection of legal professionals were suspended from practice for a term of 2 years by the Decree of the Minister of Justice and Home Affairs.
- The Decree returned the licenses of 3 advocates that were suspended from practice due to their office in State institutions.
- The Information Center of the Advocates Association developed "Methodical Recommendations for Defense in Criminal Cases" with the purpose to enhance the effectiveness of advocacy.

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

Conference: The workshop on "Enhancing Cooperation of Human Rights Organizations" organized jointly with the UNHCHR (October 8-9, 2001) discussed the cooperation of government and non-government organizations to establish human rights traditions and practice. A broad spectrum of government and non-government organizations dealing with human rights issues, and donor organizations were represented at the workshop.

POLICE ACADEMY

Training: Seminar for Police Officers on September 28-29, 2001.

THE ASIA FOUNDATION (TAF)

Training: TAF is supporting the Grazers Association of Mongolia for its Pasture Land Conflict Management Program to take place during the period September 17, 2001 through March 15, 2002. The purpose of this Program is to improve the existing formal practice of pastureland dispute resolution by strengthening and expanding alternative dispute resolution mechanisms. The program aims to produce results in conflict management but also to integrate and institutionalize conflict management into local governance. The Pasture Land Conflict Management Program includes training in five Aimags, including Arhangai, Darhan-Uul, Dundgobi, Tuv, and Uvs, to strengthen skills of Pasture Land Dispute Settling Committees (PLDSC). Principal participants will be local land specialists, government administration officers, and herders from the respective local communities and geographic areas. The Grazers Association will develop and publish practical and technical materials for use by PLDSCs.

GERMAN DEVELOPMENT COOPERATION (GTZ)

Training: Second Round training on Civil Code and Civil Procedure Code for Judges:

September: 2-8 Dundgobi Aimag
 10-15 Darhan-Uul Aimag
 17-22 Tuv Aimag and Nalaih District.

- A seminar on "The Evaluation of Legal Knowledge Dissemination" organized in cooperation with MoJHA, the Sociology, Philosophy and Law Institutes of the Academy of Science was held last week. Within the framework of this seminar a public opinion survey was conducted in some UB Districts and Tuv Aimag to evaluate the radio and TV Programs such as "Dens", "Legal hour" and "Street Law" (October, 4-10).
- The Mongolian Government in conjunction with the State Ih Hural Secretariat and MoJHA will organize a Conference on the new Draft Civil Code presented to the Parliament. Dr. Rolf Knieper, Professor of the Bremen University, GTZ Program Coordinator shall participate in this Conference (middle of October).
- 4 prosecutors-authors of the "Prosecutor Manual" are sent to Munich on a 14-day study tour.

Events: The "Legal hour" TV program is being broadcasted on Wednesdays every two weeks on Mongolian National TV (ongoing).

HANNS-SEIDEL FOUNDATION (HSS)

Training:

- Training on State Law, Criminal Code, Criminal Procedure Code, Local Governance for Legal Department officers and legal professionals from Dornod, Dundgobi, Hentii, Suhebaatar, Dundgobi, Umnugobi, Gobisumber and Tuv Aimags conducted in Dornod and Dundgobi Aimags on September 24-25.
- Regional training on "Public Law" for legal professionals from Arhangai, Bayanhogor and Uvurhangai Aimags in Tsetserleg, Arhangai Aimag (October 18-19, 2001).
- Training for legal professionals from several Ministries and Agencies on "Concept of the Constitution", "Basic Obligations of Administrative Organizations", "Relationship Between Citizens and Administrative Organizations", "Accessible Administrative Organizations" and "Submission of Claims by Citizens to Administrative Organizations", "Local Governance", "Administrative Court and Administrative Liabilities" (September 17-19, October 1-3, 8-10, 2001).

Conferences: International Symposium in Commemoration of the 80th Anniversary of establishing the Mongolian Justice System will be held in November 2001 in Ulaanbaatar ("Improvement of the Justice System").

Events:

- Publishing of the 11th issue of the "State Law Pages - Deliberation" on the issue of "Coordination and Lines of Duties of Police and Prosecutor's Office".
- "Mongolian Law on Administrative Liabilities" on "Shine tovchoon" radio program (September 23, 2001).
- Assistance in providing equipment for the Unified Information System (UIS) to various legal institutions in cooperation with GTZ and Soros Foundation.
- Technical assistance in refurbishing the Supreme Court courtroom.
- Publishing of "Judicial Power - New Century" Conference materials held on June 27-28, in Ulaanbaatar in commemoration of the 75th Anniversary of establishing the Court System in Mongolia

**HUMAN RIGHTS STRENGTHENING IN MONGOLIA – HURIST/MON (UNDP/OHCHR Joint Project)
Development of the National Human Rights Action Program of Mongolia – NHRAP of Mongolia**

Training:

- Workshop on plans for implementing measures on the Human Rights protection in all Aimags in cooperation with National Coordinator, the project team, local authorities, and research units (September 21-23, 2001).

for Western Region	in Hovd Aimag
for Central Region	in Arhangai Aimag
for Gobi Region	in Dundgobi Aimag
for Eastern Region	in Dornod Aimag

and in Ulaanbaatar was held on October 1-2, 2001
- Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in human rights field to be sent on a study tour to Thailand and Philippines in November 12-19, 2001.

Conferences: “Human Rights National Conference” will be held on the International Human Rights Day (December 10, 2001).

Events:

- Human Rights promotion by the National TV channel, radio and newspapers during the period July-December 2001.
- Developing of an initial draft proposal on Human Rights Protection in September-November 2001.
- Approval of HR Protection draft proposal at the local level by the Citizen’s Councils in December 2001.

JAPANESE INTERNATIONAL COOPERATION AGENCY (JICA)

Events:

- Japanese Ministry of Justice Assessment Visit by Ms. Tanaka Kazuko was on August 15-September 12 2001.
- Funding of the MoJHA State Secretary’s visit to Japan on October 29.

SOROS FOUNDATION

Training:

- Training for future street law clinic trainers at State Pedagogical University of Mongolia on development of street law course content and interactive techniques (September 22-24, 2001).
- Workshop for high-level criminal justice officials to raise awareness of the alternative methods of criminal punishment and to build consensus on their introduction in Mongolia among the various stakeholders (September 24-25, 2001). The event is co-organized by MoJHA, COLPI and MFOS.
- Demonstration workshop on introduction of street law clinic training at the Mongolian State Pedagogical University for related stakeholders (organized by MSPU) on September 26, 2001.
- Training for core group of street law teachers at secondary schools and street law clinic trainers at MSPU on development of street law clinic seminars for students (September 27-28, 2001).

Events:

- George Soros, Director of the Foundation for Open Society (FOS) visited Mongolia in connection with its 5th Anniversary on September 8-11, 2001. G. Soros was received by N. Bagabandi, President of Mongolia and decorated with “Altan Gadas” (Order of the North Star), one of the highest awards of Mongolia. Conference under the topic “Globalization and Its Achievements in Mongolia” was organized during the visit of George Soros. In his speech Soros evaluated the activities of MFOS and its achievements, and set the future goals.
- “Open Doors” a two day event showcasing the individuals and organizations working towards, and contributing to the creation of an open society in Mongolia on the occasion of 5th Anniversary of the Mongolian Foundation for Open Society (September 7-8, 2001).
- Working visit by the Dutch judges-trainers (arranged by Center for International Legal Cooperation and the Dutch Judicial Training Center) to further assist 12 Mongolian judges-trainers at RCJ with development of content and methodology of selected training courses of RCJ in October 15-19, 2001.

LEGAL RETRAINING CENTER (LRC)

Training:

- 45 days training for legal advisors was conducted in September and October 2001.
- The next 45 days training will be conducted from October 22 till November 30, 2001 for advocates.
- One week training on "Trade Law" (tentative).
- One-day computer training for judges and prosecutors within the DIAL Project.

Events: The LRC Management Board meeting of October 5, 2001 discussed the following issues:

- 1) LRC Activities Report for the first half of year 2001;
- 2) Training programs to be conducted within the framework of DIAL Project for next year.

RETRAINING CENTER FOR JUDGES (RCJ)

Training:

- 2-week training for 40 judges from UB and Aimags were held in September and October.
- 7 days training for judges and staff of the Huvsgul Aimag Court from September 28 till October 1, 2001. The training was conducted on the following topics:
 - Concepts of Draft Civil, Civil Procedure, Criminal and Criminal Procedure Code
 - Court Management
 - Judicial Ethics.
- The abovementioned 7 days training will be conducted in Dornod Aimag Court (end of October) and in Hovd, Dornogobi and Selenge Aimag Courts (November).

Events: Within the framework of the "Training of Trainers" project 6 judges-trainers from the Netherlands will attend the classes of 12 Mongolian judges-trainers and provide advice (October 15-22, 2001).

CENTER FOR LEGAL REFORM SUPPORT

Events:

- The first edition of the "Professional Newspaper" funded by the GTZ was issued in the beginning of September. This edition contained various information such as comments to the draft Law on Administrative Courts, UNHCHR recommendations on the Implementation Report of the International Covenant on Civil and Political Rights in Mongolia and comments of judges on the necessity to amend the Civil Code.
- The second release of the TV Program "For Your Legal Knowledge" under the topic "Court Decision Enforcement" broadcasted on October 6, 2001 was designed to inform and explain the public about the problems related to the enforcement of court decisions, and the ways to resolve those problems.

MONGOLIAN CRIME PREVENTION FOUNDATION

The Foundation works with the objective to prevent crime and to support crime detection in Mongolia by implementing scientific research, surveys, training and other programs supported by the joint effort of those that are involved in the Criminal Procedure.

Activities planned for the 3rd Quarter of 2001:

- TV programs jointly with UB TV and the Traffic Police Department on:
 1. the Constitution of Mongolia, Law on Traffic Safety, Traffic Regulations and other relevant legislation;
 2. traffic lights;
 3. children and pedestrians;
 4. Driver's ethics and safety of transport vehicles;
 5. city and highway roads.
- Publishing of articles on the abovementioned issues and of 6 new articles aimed to prevent traffic infractions, violation of laws and legislation regarding environment protection, the Internet and taxation in the Auto Magazine
- Other issues related to international relations and cooperation.

MONGOLIAN WOMEN LAWYERS ASSOCIATION

Training: Legal knowledge training for non-legal professionals in 22 Soums and 6 Bags of Tuv Aimag in conjunction with "Oyuntulhuur Foundation".

CENTER FOR HUMAN RIGHTS AND DEVELOPMENT (CHRD)

Conferences: Within the framework of a project supported by TRUST FUND a meeting on "Violence Against Women" took place on September 9, 2001. CHRD members worked in close cooperation with the working group of legal professionals.

Events:

- "National Human Rights Record 2001" to be finalized and published in October.
- "Human Rights and the Police" TV program (10 series) broadcasted by Mongolian TV.

NATIONAL CENTER AGAINST VIOLENCE**Events:**

- Launching of a community oriented three-year project in conjunction with the Swedish Association for Sex Education (RFSU). This project is funded by the Swedish International Development Agency (SIDA).
- Ministers of Justice and Home Affairs and the Social Welfare and Labor issued a joint Decree on celebration of the 20th Anniversary of becoming a signatory to the CEDAW. Several government and non-government organizations participated in the monthly (September 17 - October 17) campaign commemorating this Anniversary. The NCAV's participation entailed activities such as providing legal and psychological advice, disseminating of related reference materials and manuals, demonstration of documentary films and distribution of clothes for women in the women's prison in Bayanzurh District (October 10-11).
- 16 days media campaign promoting the International Day of Non-Violence Against Women and Girls (November 25).
- "Influence of prejudice about the men's and women's role on children" photo exhibition to open on November 21 with the assistance of the British "Save the Children" Fund.

Mongolia Legal Reforms 2001 Calendar of Training Events

Organization Key:

TAF	The Asia Foundation
GTZ	German Development Cooperation
HSS	Hanns-Seidel Foundation
HURISTMON	Project for developing the Plan for Ensuring Human Rights Protection
JICA	Japanese International Cooperation Agency
JRP	Judicial Reform Project
LRC	Legal Retraining Center
NCAV	National Center Against Violence
MOJHA	Ministry of Justice and Home Affairs
MFOS	Mongolian Foundation for Open Society (SOROS Foundation)
MWLA	Mongolian Women Lawyers Association
RCJ	Retraining Center for Judges
SGPO	State General Prosecutor's Office
USAID	U. S. Agency for International Development
WB	World Bank
GPD	General Police Department
PA	Police Academy

OCTOBER 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
28Sept-1	RCJ	Judges and staff of the Aimag Court	Huvsgul Aimag	Concepts of Draft Civil, Civil Procedure, Criminal Criminal Procedure Code, Court Management, Judicial Ethics
1-2	HURISTMON	National Coordinator, project team, local authorities, research units	Ulaanbaatar	Workshop on plans for implementing measures on the Human Rights protection
2-4	SGPO/GTZ	Prosecutors	Dornogobi, Gobisumber, Dundgobi, Umnugobi Aimag	Training on "Prosecutor's Manual"
4-10	GTZ	Some Districts of UB, Tuv aimag	Ulaanbaatar	"Evaluation of Legal Knowledge Dissemination"
5-6	MWLA	Trademark and Patent Law		
6-11	GTZ	Judges	Uvurhangai Aimag	Civil Law
6-18	MFOS	Two Mongolian law professors attending training in Kazakhstan		
17-26	GPD	Officers and Senior Inspectors of District Police Departments	Ulaanbaatar	Constitutional Law Administrative Procedures
18-19	HSS	Legal professionals from Arhangai, Bayanhongor, Uvurhangai	Tsetserleg, Arhangai Aimag	Public Law
20-25	GTZ	Judges	Dornogobi Aimag	Civil Law
21-25	MFOS	Two Mongolian Law Professors to attend street law clinic training in Budapest, Hungary		
22-30Nov	LRC	15 advocates	Ulaanbaatar	45-day training

27-1	GTZ	Judges	Gobisumber Aimag	Civil Law
	HSS	3 training workshops: 17-19 September 1-3 Oct, and 8-10 Oct, for Officers and Senior Inspectors of District Police Departments.	Ulaanbaatar	Training on "Concept of the Constitution", "Basic Obligations of Administrative Organizations", "Relationship Between Citizens and Administrative Organizations", "Accessible Administrative Organizations", "Submission of Claims by Citizens to Administrative Organizations", "Local Governance", "Administrative Court and Administrative Liabilities"
	Supreme Court	A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" to be organized jointly with the Mongolian Advocates Association		
	Supreme Court	A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" to be organized jointly with the Court Decision Enforcement Agency		
	GPO	4 prosecutors-authors of the "Prosecutor Manual"	Munich	14 days study tour
	GPD	2 officers 5 officers 2 officers 5 officers	Moscow Administration Academy of the Ministry of Internal Affairs, Russia Saint-Petersburg Law University, Russia Volgograd Law School, Russia Police Academy, Turkey	Study
	MFOS	Series of meetings between General Police Department managers and members of public, government, NGOs and media regarding crime prevention efforts.		
	NCAV	Prosecutors	Ulaanbaatar	Seminar on Domestic Violence legislation
	LRC	Judges, prosecutors Legal advisors	Ulaanbaatar	DIAL Project computer training course 45 days training
	RCJ	Judges and staff of the Aimag Court	Dornod aimag	Concepts of Draft Civil, Civil Procedure, Criminal Criminal Procedure Code, Court Management, Judicial Ethics
	RCJ	40 judges from UB and Aimags	Ulaanbaatar	2 week training

NOVEMBER 2001

DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
2-4	SGPO/GTZ	Prosecutors	Dornogobi, Gobisumber, Dundgobi, Umnugobi Aimags	Training on "Prosecutor's Manual"
7-9	JRP	Judges, prosecutors, advocates from Ulaanbaatar	Ulaanbaatar	"Adversarial process"

12-19	HURISTMON	Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in human rights field	Thailand and Philippines	Study tour
	RCJ	Judges and staff of the Aimag Court	Hovd, Dornogobi, Selenge Aimags	Concepts of Draft Civil, Civil Procedure, Criminal, Criminal Procedure Code, Court Management, Judicial Ethics



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

November 15, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic Plan for the Justice System of Mongolia. The JRP officially opened its office in Ulaanbaatar in April 2001.

Training:

- An interactive training on Case Management and Court Administration for the District Court judges of UB was conducted on October 26.
- An interactive training on Adversarial Process for judges, prosecutors, advocates from UB was organized on November 7-9. 22 judges, prosecutors, advocates from UB participated in this training. Representatives from GCC, RCJ, GPO and Capital City, District Prosecutor's Offices, members of the Open Debates Society and law drafting working groups from SIH and MoJHA, and participants of the previous training participated as observers.

Events:

- Preparatory works for establishing the JRP website with links to the Parliament, Prime Minister's Office, MoJHA and Supreme Court to be completed by end of November.
- Providing the GCC, the Capital City and some District Courts with computer equipment to enhance case management and transparency.
- Assessment of the Dundgobi, Gobi-sumber Aimag and Nalaih District Courts was made for technical needs during the period of October-November.
- Draft Workplan for 2002 submitted to members of the JRP Coordinating Board.
- Recommendations to the Judicial Code of Ethics (November 19, 2001) provided to GCC.

TSETS (CONSTITUTIONAL COURT)

Events: The Chairman of the Tsets Mr. N. Jantsan participated in the celebration of the 10th Anniversary of the Constitutional Court of Russia upon the invitation of its Chairman Mr. M. Baglai (October 31- November 4, 2001, Moscow). Constitutional Court delegations of 27 countries participated in the International Conference "The New Century Constitutional Court" organized in commemoration of this Anniversary. Mr. N. Jantsan had a personal meeting with Mr. M. Baglai.

Vladimir Putin, President of Russia gave a speech at the Conference and had a separate meeting with the participants.

SUPREME COURT

Training:

- A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" to be organized jointly with the Mongolian Advocates Association (November, 2001).
- A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" was organized jointly with the Court Decision Enforcement Agency on November 2, 2001.

Events:

- In October the Supreme Court conducted an inspection of the Capital City, Bayanzurh, Songinohairhan, Han-Uul and Baganuur District Courts regarding the adjudication of criminal cases and several other issues. A similar inspection is being conducted in Dornod and Dornogobi Aimags.
- The Supreme Court Administrative Department, the Research Center and the Union of Young Lawyers will organize a discussion on "The Role of the Legal Staff in Judicial Reform" among assistants to judges, secretaries of court proceedings of the Capital City and all District Courts (last week of November).

GENERAL COUNCIL OF COURTS (GCC)

Meetings: The following regular Session of the GCC will be held on November 27. The issues on the agenda are as follows:

- modifications to the Judicial Selection Procedure
- modifications to the Judicial Code of Ethics
- presenting candidates for judicial office selected on November 15, 2001 for appointment to the President of Mongolia.

Events: On November 15 the Judicial Professional Committee will conduct the examination of candidates for the following positions:

- Chief Judge, Hentii Aimag Court
- Chief Judge, Bayanhongor Aimag Court
- Chief Judge, Harhorin Inter-Soum Court of Uvurhangai Aimag
- several positions of Inter-Soum Courts Judges.

OFFICE OF THE PRESIDENT OF MONGOLIA

Events: Working Groups for drafting "Law on Procedures for Amendments and Alterations to the Constitution of Mongolia" and "Law on Promotion and Advertisement in Mongolia" are set up by the respective Resolutions of the President of Mongolia.

MINISTRY OF JUSTICE AND HOME AFFAIRS (MoJHA)

Law Drafting:

- The draft of the Cabinet's opinion and conclusion on the "Law on Application of Law Provisions" initiated by MP L. Enebish was developed and submitted to the Cabinet Secretariat.
- The bills on amending the Law on Health, Law on Drugs, and Law on Citizens' Health Insurance were revised and edited.

Recommendations and proposals to:

Draft Resolutions of the State Ih Hural:

- on Measures to Enforce the Law on Support of Regional Development
- on Law Drafting
- on Approving the General Scheme of the Regional Coordinating Boards
- on Setting the Wage Scale of State Ih Hural Employees, High-ranking Officials, Prosecutors, and Judges
- on Delegation of Power.

Other:

- Draft Government Resolution on "Measures Regarding the Erdenet Enterprise"
- Development Loan Agreement Between the Government of Mongolia and International Development Association
- Loan Agreement Between Mongol Bank and ICO of Spain
- Draft Protocol on Trade and Economic Development Between the Governments of Mongolia and Russia.

Events:

- Methodology for developing draft law concepts, the standard models for developing draft laws, and the structure of the unit to implement the "Judicial and Legal Reform Program" funded by the World Bank were adopted by the respective resolutions of the Minister of Justice and Home Affairs. In addition, the Joint Resolution of the Minister of Justice and Home Affairs and the Supreme Court Chief Justice on "Measures to be taken in Connection with the Registration of Immovable Property" was passed and is being enforced.
- A handbook on legal cooperation was prepared and delivered to the newly appointed Ambassadors.
- Deputy Minister of Justice and Home Affairs Ts. Munh-Orgil is accompanying the Prime Minister on his official visit to the United States.
- MoJHA inspected the activities of its Implementory Agency the Fire Fighting Department.
- The progress and results of the Anti-alcohol campaign were reported to the President and a press conference was organized in this regard.

MINISTRY OF FOREIGN AFFAIRS (MFA)

Events: The Cabinet meeting discussed and endorsed the authority of MFA to sign up to the International Convention on Against Financing Terrorism of 1999.

GENERAL PROSECUTOR'S OFFICE (GPO)

Conferences: A delegation of Mongolian prosecutors headed by the Prosecutor General attended the Conference of Prosecutor Generals of Asian and European countries in Guangzhou, China (November 12-19, 2001).

Events: The General Prosecutor's Office inspected the operation of the Capital City and all District Prosecutor's Offices in the 1st quarter of 2001 and conducted the 2nd stage inspection in October, 2001.

GENERAL POLICE DEPARTMENT

Training:

- The opening ceremony of the 2001-2002 Academic Year for Senior Police Officers was held on November 1, 2001. Dr. Lhaashid, Prof., Head of the Management Department, Management Academy gave a lecture on "Development Problems of the Modern World and Mongolia".
- Several police officers will attend a training course on "Combating drugs" conducted by the Turkish Police in November (Ankara, Turkey).
- Training on Teaching Methodology for officers-instructors of the "Training for Center Recruits" was conducted on October 25-26, 2001.

Events: The delegation of Mongolian Police officials participated in the round table meeting of Immigration, Customs, Tax and Police organizations of Mongolia and Russia (November, 2001, Ulaan-Ud, Russia).

Statistical data:

- 19,222 crimes registered in the first 10 months of year 2001:
 - 44.8% - in Ulaanbaatar
 - 52.9% - in the countryside
 - 0.2% - in the aviation sector
 - 2.1% - in railway sector.
- Compared to the first 10 months of last year the number of crimes decreased by 2.0%, the number of unsolved cases decreased by 6.7% or by 139 cases and the level of detection of crimes is 90% and increased by 0.5%.
- The composition of perpetrators is as follows: 8.4% - women, 7.9% - minors, 68.2% - persons 18-35 years of age, 24.9% - workers and herders, 4.8% - public servants, 3.7% - students, 64.1% - unemployed persons.

COURT DECISION ENFORCEMENT AGENCY (CDEA)

Events:

- The "Erel" unified activities for capturing fugitives were conducted in conformity with the Decree of the Head of the CDEA. As a result 5 fugitives were caught during the period of November 1-15, 2001.
- A 3 months campaign on enforcement of court orders related to social insurance and tax payment is being conducted by the CDEA jointly with the General Departments for Social Insurance and Taxation.

Training:

- The Heads of the Zuunharaa and Darit penitentiaries Mr. Sugarjav and Mr. Battsooj are participating in the International Conference for Senior Officers of Penitentiaries (Popova, Poland).
- CDEA is conducting a training on the "Methodology of Diagnosing and Remedying of Tuberculosis" for senior officers and doctors of prison hospitals jointly with Soros Foundation and the National Tuberculosis Center (November 5-16, 2001).

MONGOLIAN ADVOCATES ASSOCIATION (MAA)

Training:

- 3 advocates participated in a 4-day "Training of Trainers on Human Rights" organized by Amnesty International.
- The MAA in cooperation with the Hanns-Seidel Academy of Legal Education is planning to organize four training courses on the new Criminal, Criminal Procedure Codes and the Law on Administrative Court (2002). Each training will involve 24 advocates from UB and the countryside.

4 MONGOLIA JUDICIAL REFORM PROJECT

Events: The President of MAA approved the "Methodical Recommendations for Defense in Criminal Cases" and "Standpoint of Defense" by Decree 40 of October, 2001 and Decree 45 of November, 2001 respectively.

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

Conference: The workshop on "Enhancing Cooperation of Human Rights Organizations" organized jointly with the UNHCHR (October 8-9, 2001) discussed the cooperation of government and non-government organizations to establish human rights traditions and practice. A broad spectrum of government and non-government organizations dealing with human rights issues, and donor organizations were represented at the workshop.

Events:

- The Commission invited representatives of central and daily newspapers to discuss the possible ways of cooperation in order to foster and protect human rights. This meeting took place on October 18 and resulted in defining the guidelines for cooperation.
- In commemoration of the International Human Rights Day the Commission announced a contest for the best essay, composition, radio, TV program on human rights issues among journalists, reporters and publishers. The materials will be accepted till November 20 and the winners awarded on December 10, the Human Rights Day. The purpose of this contest is to provide evidence of violation, contradictions, problematic issues on human rights, and by conveying this message to the public and relevant state institutions to secure the appropriate measures.
- On December 10, 2001 the Commission shall present the Final Report of the Baseline Study. The same day the Commission will launch a new project to be implemented in cooperation with the UNHRHC and UNDP.

GERMAN DEVELOPMENT COOPERATION (GTZ)

Training:

- A seminar on "The Evaluation of Legal Knowledge Dissemination" organized in cooperation with MoJHA, the Sociology, Philosophy and Law Institutes of the Academy of Science was in October. Within the framework of this seminar a public opinion survey was conducted in some UB Districts and Tuv Aimag to evaluate the radio and TV Programs such as "Dens", "Legal hour" and "Street Law" (October 4-10).
- The Mongolian Government in conjunction with the State Ih Hural Secretariat and MoJHA organized a Conference on the new Draft Civil Code presented to the Parliament. Dr. Rolf Knieper, Professor of the Bremen University, GTZ Program Coordinator was invited to in this Conference (middle of October).
- A seminar on the new Draft Civil Code for members of the Legal and Economic Standing Committees of SIH and drafting groups will be organized in the middle of November.
- The regular training for judges of the Capital City and District Courts shall be held on November 30 in cooperation with the Capital City Court.

Events: The "Legal hour" TV program is being broadcasted on Wednesdays every two weeks on Mongolian National TV (ongoing).

HANNS-SEIDEL FOUNDATION (HSS)

Training:

- Regional training on "Public Law" for legal professionals from Arhangai, Bayanhongor and Uvurhangai Aimags in Tsetserleg, Arhangai Aimag (October 18-19, 2001).
- Training for legal professionals from several Ministries and Agencies on "Concept of the Constitution", "Basic Obligations of Administrative Organizations", "Relationship Between Citizens and Administrative Organizations", "Accessible Administrative Organizations" and "Submission of Claims by Citizens to Administrative Organizations", "Local Governance", "Administrative Court and Administrative Liabilities" (September 17-19, October 1-3, 8-10, 2001).
- Academy for Legal Education in cooperation with MoJHA organized workshops for local Government officers of 12 Aimags in 4 different locations.

Conferences: International Symposium in Commemoration of the 80th Anniversary of establishing the Mongolian Justice System will be held on November 30, 2001 in Ulaanbaatar ("Improvement of the Justice System").

Events:

- Assistance in providing equipment for the Unified Information System (UIS) to various legal institutions in cooperation with GTZ and Soros Foundation.
- Technical assistance in refurbishing the Supreme Court courtroom.

**HUMAN RIGHTS STRENGTHENING IN MONGOLIA – HURIST/MON (UNDP/OHCHR Joint Project)
Development of the National Human Rights Action Program of Mongolia – NHRAP of Mongolia**

Training: Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in human rights field are on a study tour to Thailand (November 12-17). The second group will visit Philippines on November 19-26.

Conferences: “Human Rights National Conference” will be held on the International Human Rights Day (December 10, 2001).

Events:

- Human Rights promotion by the National TV channel, radio and newspapers during the period July-December 2001.
- Developing of an initial draft proposal on Human Rights Protection in September-November 2001.
- Approval of HR Protection draft proposal at the local level by the Citizen’s Councils in December 2001.

SOROS FOUNDATION

Events: Working visit by the Dutch judges-trainers (arranged by Center for International Legal Cooperation and the Dutch Judicial Training Center) to further assist 12 Mongolian judges-trainers at RCJ with development of content and methodology of selected training courses of RCJ in October 15-19, 2001.

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Events: Articles aimed to prevent traffic infractions on the subject of traffic regulations and school children, pedestrians, traffic lights and signs, city roads published in the Auto Magazine November issue.

MONGOLIAN WOMEN LAWYERS ASSOCIATION

Training: Legal knowledge training for non-legal professionals in 22 Soums and 6 Bags of Tuv Aimag in conjunction with "Oyuntulhuur Foundation".

CENTER FOR HUMAN RIGHTS AND DEVELOPMENT (CHRD)

Events:

- "National Human Rights Record 2001" finalized and published in October.
- "Human Rights and the Police" TV program (10 series) broadcasted by Mongolian TV.

CENTER FOR LEGAL REFORM SUPPORT

Events: The special edition of the "Professional Newspaper" funded by the GTZ will cover the reading of the Draft Civil Code by the State Ih Hural. This edition will also publish the speeches and presentations of participants to the "Free Market Economy and the New Draft Civil Code" Conference organized by GTZ on October 24, 2001. The special edition will be issued on November 16, 2001.

NATIONAL CENTER AGAINST VIOLENCE

Events:

- Launching of a community oriented three-year project in conjunction with the Swedish Association for Sex Education (RFSU). This project is funded by the Swedish International Development Agency (SIDA).
- Ministers of Justice and Home Affairs and the Social Welfare and Labor issued a joint Decree on celebration of the 20th Anniversary of becoming a signatory to the CEDAW. Several government and non-government organizations participated in the monthly (September 17 - October 17) campaign commemorating this Anniversary. The NCAV's participation entailed activities such as providing legal and psychological advice, disseminating of related reference materials and manuals, demonstration of documentary films and distribution of clothes for women in the women's prison in Bayanzurh District (October 10-11).
- 16 days media campaign promoting the International Day of Non-Violence Against Women and Girls (November 25).
- "Influence of prejudice about the men's and women's role on children" photo exhibition to open on November 21 with the assistance of the British "Save the Children" Fund.

CITY LIBRARY

Events: A Promotion Day of the Legal Information Center of the Central Library of Ulaanbaatar named after D. Natsagdorj will take place on November 30, 2001. The management of all legal institutions and law schools are invited to the event. The agenda and relevant information will be placed on the Legal Information Center's WEB site <http://www.mclibrary.edu.mn/>.

Mongolia Legal Reforms 2001 Calendar of Training Events

Organization Key:

CDEA	<i>Court Decision Enforcement</i>
GPD	<i>General Police Department</i>
GTZ	<i>German Development Cooperation</i>
HSS	<i>Hanns-Seidel Foundation</i>
HURISTMON	<i>Project for developing the Plan for Ensuring Human Rights Protection</i>
JICA	<i>Japanese International Cooperation Agency</i>
JRP	Judicial Reform Project
LRC	<i>Legal Retraining Center</i>
MAA	<i>Mongolian Advocates Association</i>
MFOS	<i>Mongolian Foundation for Open Society (SOROS Foundation)</i>
MOJHA	<i>Ministry of Justice and Home Affairs</i>
MWLA	<i>Mongolian Women Lawyers Association</i>
NCAV	<i>National Center Against Violence</i>
PA	<i>Police Academy</i>
RCJ	<i>Retraining Center for Judges</i>
SGPO	<i>State General Prosecutor's Office</i>
TAF	<i>The Asia Foundation</i>
USAID	<i>U. S. Agency for International Development</i>
WB	<i>World Bank</i>

NOVEMBER 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
1	GPD	Senior Police Officers	Ulaanbaatar	"Development Problems of the Modern World and Mongolia"
1	Criminal Police Department and Police Academy	Police officers of UB and local Police Departments	Ulaanbaatar	One month retraining
2	Supreme Court	A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" to be organized jointly with the Court Decision Enforcement Agency		
5-16	CDEA/MFOS National Tuberculosis Center	Senior officers and doctors of prison hospitals	Ulaanbaatar	"Methodology of Diagnosing and Remediating of Tuberculosis"
7-9	JRP	Judges, prosecutors, advocates from Ulaanbaatar	Ulaanbaatar	Adversarial process
12-26	HURISTMON	Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in Human rights field	Thailand and Philippines	Study tour
30	GTZ	Judges of the Capital City and District Courts	Ulaanbaatar	Regular training
Oct 22 till Nov 30	LRC	Advocates	Ulaanbaatar	45 days training

	RCJ	Judges and staff of the Aimag Court	Hovd, Dornogobi, Selenge Aimag	7 days training on Concepts of Draft Civil, Civil Procedure, Criminal, Criminal Procedure Code, Court Management, Judicial Ethics
	GTZ	Members of the Legal and Economic Standing Committees of SIH, drafting groups	Ulaanbaatar	A seminar on the new Draft Civil Code
	MAA	3 advocates	Ulaanbaatar	4-day "Training of Trainers on Human Rights"
	CDEA	Senior Officers of Penitentiaries	Popova, Poland	International Conference
	GPD	5 officers	Police Academy, Turkey	Workshop on Combating Drugs
	Academy for Legal Education in cooperation with MoJHA	Local Government officers of 12 Aimag	4 different locations	Workshops
	Supreme Court	A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" to be organized jointly with the Mongolian Advocates Association		
DECEMBER 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
	Arhangai Aimag Court	Judges and court staff	Arhangai Aimag	Regular and specialized training
	MAA	Law professors and advocates	NUM Law Faculty	Ts.Tserenje, Director of "Erdem" Legal Aid Bureau gave a presentation on "Protection of Property Rights" at the "Debates on the Draft Civil Code"
	Academy for Legal Education in cooperation with MoJHA	Local Government officers of 12 Aimag	4 different locations	Workshops
Tue, Fri 2,4 weeks of Dec	Center for Human Rights and Development		Nationwide	"Human Rights" radio training program
Year 2002	MAA/HSS	24 advocates from UB and Aimag	Ulaanbaatar	Training on the new Criminal, Criminal Procedure Codes and the Law on Administrative Court



RULE OF LAW NEWSLETTER

MONGOLIA JUDICIAL REFORM PROGRAM

December 15, 2001

MONGOLIA JUDICIAL REFORM PROGRAM (JRP)

The Judicial Reform Program is a USAID funded project providing assistance to the Government of Mongolia in implementing the Strategic Plan for the Justice System of Mongolia.

Training: An interactive training on Adversarial Process for judges, prosecutors, and advocates from UB was organized on November 7-9. 22 judges, prosecutors, advocates from UB participated in this training. Representatives from GCC, RCJ, GPO and Capital City, District Prosecutor's Offices, members of the Open Debates Society and law drafting working groups from SIH and MoJHA, and participants of the previous training participated as observers.

Events:

- The JRP website with links to the Parliament, Prime Minister's Office, MoJHA and Supreme Court will be launched on January 1, 2002.
- Recommendations to the Judicial Code of Ethics (November 19, 2001) provided to GCC.
- The Coordinating Board of JRP convened on November 28 to discuss the JRP Workplan 2002.
- Report and recommendations on the "Structure and Functionality of the GCC" (November 29, 2001) developed.
- The GCC and the Capital City Court were provided computer equipment in accordance with the JRP Workplan.

TSETS (CONSTITUTIONAL COURT)

Session: The Constitutional Court Middle Bench will hear a case initiated by V. Udval, Member of the Constitutional Court based on the claim submitted by P. Battogtoh on December 19, 2001. Citizen P. Battogtoh claims that the provisions of the "Law on Administrative Liabilities" and "Law Imposing Labor as Administrative Sanction" are misinterpreting the concept of "arrest" indicated in the Article 16, Part 13 of the Constitution.

Events:

- The Chairman of the Tsets Mr. N. Jantsan participated in the celebration of the 10th Anniversary of the Constitutional Court of Russia upon the invitation of its Chairman Mr. M. Baglai (October 31 - November 4, 2001, Moscow). Constitutional Court delegations of 27 countries participated in the International Conference "The New Century Constitutional Court" organized in commemoration of this Anniversary. Mr. N. Jantsan had a personal meeting with Mr. M. Baglai. Vladimir Putin, President of Russia gave a speech at the Conference and had a separate meeting with the participants.
- N. Jantsan, Chairman of the Constitutional Tsets gave a presentation at the Conference organized in commemoration of the 10th Anniversary of the new Constitution of Mongolia and the International Day of Human Rights. In his presentation "Human Rights and the Judiciary" he pointed out Constitution and the Judiciary are the major guarantees of human rights and that the protection of human rights and its implementation is the basic principle of democracy. Also he mentioned about the role of the Tsets in protecting human rights and gave examples of serious violation of human rights in Mongolia.

SUPREME COURT

Training:

- A workshop on "Enhancement of Court Decision Enforcement Cooperation Efficiency, Assessment and Resolution of Related Issues" was organized jointly with the Court Decision Enforcement Agency on November 2, 2001.
- A workshop on "Participation of Advocates in Civil and Criminal Procedures, Interaction of Courts with Advocates, Issues on Human Rights Protection" was organized jointly with the Mongolian Advocates Association on December 6, 2001. As a result a joint Recommendation of the Supreme Court Chief Justice and the President of MAA on the ethical conduct and more active participation of advocates in the adjudication process will be issued.

Events: The Supreme Court Administrative Department, the Research Center and the Union of Young Lawyers organized a round table discussion on "The Role of the Legal Staff in Judicial Reform" among assistants to judges, secretaries of court proceedings of the Capital City and all District Courts (November 29, 2001). Ch. Ganbat, Chief Justice of the Supreme Court and Robert La Mont, Chief of Party of the JRP participated in the discussions.

GENERAL COUNCIL OF COURTS (GCC)

Meetings: The regular Session of the GCC was held on November 27. The decisions issued are as follows:

1. Modifications to the Judicial Selection Procedure were accepted and the GCC staff shall incorporate the recommendations and opinions raised during the session;
2. The draft Judicial Code of Ethics will be modified and amended after getting the input of judges;
3. Candidates for judicial office selected on November 15, 2001 shall be presented for appointment to the President of Mongolia:
T. Davaasuren – as Chief Judge of Uvurhangai Aimag Second Inter-Soum Court;
B. Tungalagsaihan – as Chief Judge of Arhangai Aimag First Inter-Soum Court;
T. Batsaihan – as Judge of Uvurhangai Aimag Second Inter-Soum Court;
N. Batchimeg – as Judge of Dornogobi Aimag Inter-Soum Court.
4. The report of the Judicial Retraining Center was discussed.

Events:

- The Judicial Professional Committee conducted the examination of candidates for the following positions:
 - Chief Judge, Hentii Aimag Court
 - Chief Judge, Bayanhongor Aimag Court
 - Judge of the Capital City Court.6 persons applied for the position of the Capital City Court judge, from which 2 candidates were qualified by the Judicial Professional Committee and submitted to the GCC for selection.
- The joint inspection by the Supreme Court and GCC of the Umnugobi Aimag Court was conducted on December 7-14.
- The GCC transferred their 5 used computers to Umnugobi, Bulgan, Selenge, Orhon Aimag and Harhorin Inter-Soum Courts after receiving computer equipment from JRP.

ARHANGAI AIMAG COURT

Training: Regular and specialized training for judges and staff are being conducted according to an approved plan.

Events:

- Promotion of court activities and legal advice on "Tamir" TV, the local TV network.
- The Court activities report based on the year 2001 statistical data shall be released through the local mass media.
- The Court will evaluate the activities of year 2001 and determine the objectives and goals for year 2002.
- Proposals regarding the local program on protection of human rights was submitted to the Aimag Citizens Representative's Hural and discussed by the Hural on December 12, 2001.

OFFICE OF THE PRESIDENT OF MONGOLIA

Events:

- The President of Mongolia expressed his opinion in his letter E/10 of December 12, 2001 with regard to the consideration of the draft Criminal, Civil, Criminal Procedure and Civil Procedure Codes at the Parliament.
- Working Groups for drafting "Law on Procedures for Amendments and Alterations to the Constitution of Mongolia" and "Law on Promotion and Advertisement in Mongolia" were set up by the respective Resolutions of the President of Mongolia.

SECRETARIAT OF STATE IH HURAL

Events:

- Member of Parliament N. Bayartsaihan, Chairman of the Budget Standing Committee held a press conference with regard to the adoption of the State Budget for year 2002.
- MP Ts. Damiran held a press conference on amendments and alterations to the Law on Civil Aviation.
- Members of Parliament Ts. Baasanjav, E. Gombojav, N. Gerelsuren and Ts. Nyam-Osor requested the Minister of Infrastructure B. Jigid to review the reasons for public and administrative organizations to increase the cost of water, garbage usage and the proposal to increase the public transportation cost for elderly and disabled citizens. They regard the above measures as serious violation of their rights that are causing public protest and anger and require that appropriate measures be taken in order to eliminate the conflict.
- During the last month the State Ih Hural Secretariat received 175 letters that raised 237 issues from which 51 were related to the State and Government policy and activities, and to the draft Laws that are under consideration in Parliament.

- Interviews in commemoration of the 10th Anniversary of the new democratic Constitution with ex-members of the People's Ih Hural and State Baga Hural are being released twice a week by the mass media. P. Ochirbat, the first President of Mongolia, J. Urtnasan, ex-Chairman of the People's Ih Hural, B. Chimid, Honored Lawyer, L. Dashnyam, ex-member of the People's Ih Hural, S. Tumor, current MP, D. Lamjav, ex-member of the State Baga Hural, and N. Jantsan, Head of the Constitutional Court have been interviewed thus far.

MINISTRY OF JUSTICE AND HOME AFFAIRS (MoJHA)

Recommendations and proposals to:

- The conclusions of the Government to the drafts of the Law on MONTSAME Information Agency of Mongolia, Civil Code, Law on State Audit, Law on Court Decision Enforcement, Law on Amending the Banking Law were discussed at the Cabinet meeting.
- Conclusions and recommendations were given on:
 - Law on Amending the Law on Financial Audit
 - Law on Amending the Law on Natural Environment
 - Law on Amending the Law on Forestry
 - Law on Amending the Law on Hunting
 - Draft Law on State Language
 - Draft Law on Vocational Education
 - Draft Law on Amending the Law on Culture
 - Draft Law on Exemption from Customs Duties and VAT
 - Draft Law on Building International Engineering Constructions on the Territory of Mongolia
 - Draft Law on Citizen's Health Insurance, etc.
- The draft of the State Ih Hural Resolution on the Expected Number, Composition and Allocation of Migrants between 2000-2004 years in Mongolia was developed and submitted to the Cabinet for consideration.
- The MoJHA submitted 13 proposals on the Cabinet orders, 2 on the Prime Minister's resolution, and 2 on the Cabinet session minutes.
- A recommendation was given on the amendments to the bilateral agreement on Assistance to the State Auditing Committee, on Supporting the Privatization of Veterinary Services, and Training Power Station Employees between the Government of Mongolia and Germany.

Events:

- Ts. Nyamdorj, Minister of Justice and Home Affairs has been on an official visit to Japan on December 7-12, 2001.
- V. A. Evdokimov, Deputy Minister of Justice of Russia and the General Director of the World Intellectual Property Organization Kamil Idris paid visits to Mongolia.
- The delegation of the Immovable Property Agency visited Russia.
- The guide to the MoJHA has been prepared and published.
- The MoJHA has conducted inspection on the activities of Office for Registration of Immovable Property and of the Tuv Aimag Police Unit.
- The results of the "Rule of Law - Justice System" contest organized in cooperation with the Hanns-Seidel Foundation in commemoration of the 80th Anniversary of the Justice System were announced.
- In commemoration of the 80th Anniversary of the development of the Mongolian Justice System officers of Legal Departments of the Aimag and Capital City Governor's Offices were evaluated and awarded.
- Two special editions of "Shine Tovchoo" radio program were broadcasted on the occasion of the 80th Anniversary of the Justice System.
- "Dens" TV program was released on MN-25 TV according to the schedule.
- The Legal Information Promotion and Training Cabinet and the joint WEB site of all legal institutions was launched on November 29, 2001.
- The regular meeting of the Coordinating Council on Preventing Crime discussed the "Implementation of the Anti-theft Program and its Problems" report (Sh. Boldbaatar, Deputy Head of GPD), the report on solving the issue of homeless in Ulaanbaatar (R. Jambaa, State Secretary of the MoL), and the report of state administrative and law enforcement institutions of Hentii and Suhebaatar Aimag on crime prevention.
- The Rules for the Coordinating Council's Support Staff were adopted by the joint Resolution No282 of the Minister of Justice and Home Affairs and the Chair of the Coordinating Council.

Statistics:

- MoJHA received 76 written and 89 oral petitions from citizens, 142 of which were resolved in due time and 23 are pending.
- 27 NGOs, 3 Trade Unions, 5 condominium associations, 11 media organizations, and 3 religious organizations were registered to date.
- 51 Copyright, 15 Brand name, and 46 Patent Certificates were issued to date.

4 MONGOLIA JUDICIAL REFORM PROJECT

- 2 requests for immigration, 3 applications for permanent residency from foreigners married to Mongolian citizens and 2 applications for long term residency, in total 7 applications were satisfied.
- 689 requests from Kazahs to leave the country are submitted to the President's Office for approval.
- 5 applications for withdrawal from Mongolian citizenship are submitted to the relevant authorities. At present 3 requests are approved by the President's Resolution No70.
- 68 persons received residence permission, 196 persons extended their residence permission, 87 persons made changes in address, 65 persons newly arrived for business and private purposes were registered, 21 persons were removed from the registrar, and 401 invitations were issued.

MINISTRY OF FOREIGN AFFAIRS (MFA)

Events: The Cabinet meeting discussed and endorsed the authority of MFA to sign up to the International Convention on Against Financing Terrorism of 1999.

GENERAL PROSECUTOR'S OFFICE (GPO)

Conferences:

- A delegation of Mongolian prosecutors headed by the Prosecutor General attended the Conference of Prosecutor Generals of Asian and European countries in Guangzhou, China (November 12-19, 2001).
- D. Tserenbaltav, Deputy Prosecutor General attended the meeting on the implementation of the project on development of a National Plan on ensuring human rights in Mongolia (November 17-27, 2001, Manila, Philippines).

Events:

- The GPO established its Press Department.
- The delegation headed by V. A. Evdokimov, Deputy Minister of Justice of Russia who was invited in connection with the 80th Anniversary of the Justice System of Mongolia visited the General Prosecutor's Office.
- The "Procedure on Issuing Ranks to Prosecutors" was adopted by the President's Decree No 89 of November 27, 2001.

GENERAL POLICE DEPARTMENT

Training:

- The Criminal Police Department and Police Academy conducted a joint training for police officers of Ulaanbaatar and local Police Departments (November 1 - December 1, 2001).
- Several police officers attended a training course on "Combating drugs" conducted by the Turkish Police in November (Ankara, Turkey).

Events:

- The delegation of Mongolian Police officials participated in the round table meeting of Immigration, Customs, Tax and Police organizations of Mongolia and Russia (November, 2001, Ulaan-Ude, Russia).
- The GPD delegation headed by D. Sandag-Ochir visited Germany upon the invitation of the Ministry of Internal Affairs of Germany. The delegation was introduced with the structure, organization and activities of the German Criminal Police Department.

Statistical data: 21,611 crimes registered in the first 11 months of year 2001: 44.5% - in Ulaanbaatar
53.2% - in the countryside
0.2% - in the aviation sector
2.0% - in railway sector.

In comparison to the same period of last year the crime decreased by 0.3%.

COURT DECISION ENFORCEMENT AGENCY (CDEA)

Training:

- CDEA is conducting training on the "Methodology of Diagnosing and Remedying of Tuberculosis" for senior officers and doctors of prison hospitals jointly with Soros Foundation and the National Tuberculosis Center (November 5-16, 2001).

Events:

- Lieutenant-Colonel D. Davaa-Ochir, Head of the Capital City Court Decision Enforcement Department departed to attend the 9th Session of the Mongolian and Russian Intergovernmental Commission to be held on December 20-30, 2001 in Moscow.
- The "Erel" unified activities for capturing fugitives were conducted in conformity with the Decree of the Head of the CDEA. As a result 21 fugitives were caught during the period of November 1-30, 2001. As of December 1, 2001 149 (88.6%) fugitives from the total of 168 were caught, the remaining 19 fugitives are being searched. In comparison with last year the number of fugitives decreased by 48.7%.
- 170 alcoholics are being treated at the Bagahangai Rehabilitation Center.
- A 3 months campaign on enforcement of court orders related to social insurance and tax payment is being conducted by the CDEA jointly with the General Departments for Social Insurance and Taxation.

Statistical Data: As of December 1, 2001 CDEA received 75,209 court orders with the total amount of 114.6 billion ¥. 19,327 court orders with the total amount of 33.4 billion ¥ are enforced; 17,739 court orders with the total amount of 29.3 trillion ¥ are in process; 49.3% of court orders and 54.7% of the collections are enforced.

MONGOLIAN ADVOCATES ASSOCIATION (MAA)**Training:**

- The MAA in cooperation with the Hanns-Seidel Academy of Legal Education is planning to organize four training courses on the new Criminal, Criminal Procedure Codes and the Law on Administrative Court (2002). Each training will involve 24 advocates from UB and the countryside.
- Ts.Tserenje, Director of "Erdem" Legal Aid Bureau gave a presentation on "Protection of Property Rights" at the "Debates on the Draft Civil Code" held in December at the NUM Law Faculty for law professors and advocates.

Events: The Norwegian Bar Association will grant equipment for 50,000US\$ in year 2002 in response to the MAA's request to the International Bar Association.

NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

Conference: The Conference "Human Rights and the Constitution" was organized in cooperation with the State Ih Hural, UNDP, HURISTMON (Project for Development of the National Human Rights Action Program of Mongolia) in commemoration of the 10th Anniversary of the new Constitution of Mongolia and the International Human Rights Day on December 10, 2001. The Commission presented the Final Report of the Human Rights Baseline Study, and handed the "Human Rights Baseline Study Report 2001" brochure to the participants. A new project on capacity building of the National Human Rights Commission of Mongolia supported by UNDP was officially launched during the closing ceremony of the Conference.

Events: In commemoration of the International Human Rights Day the Commission announced a contest for the best essay, composition, radio, TV program on human rights issues among journalists, reporters and publishers. The materials were accepted till November 20 and the winners awarded on December 10, the Human Rights Day. The purpose of this contest is to provide evidence of violation, contradictions, problematic issues on human rights, and by conveying this message to the public and relevant state institutions to secure the appropriate measures.

GERMAN DEVELOPMENT COOPERATION (GTZ)**Training:**

- A seminar on the new Draft Civil Code for members of the Legal and Economic Standing Committees of SIH and drafting groups was organized in the middle of November.
- The regular training for judges of the Capital City and District Courts was held on November 30 in cooperation with the Capital City Court.

Events:

- The "Legal hour" TV program is being broadcasted on Wednesdays every two weeks on Mongolian National TV (ongoing).
- The development of "Judge-2000" and "Prosecutor-2000" software is completed and the testing phase has started.

HANNS-SEIDEL FOUNDATION (HSS)

Training: Academy for Legal Education in cooperation with MoJHA organized workshops for local Government officers of 12 Aimags in 4 different locations.

Conferences: Assistance in organizing the "Rule of Law – Justice System" Conference in commemoration of the 80th Anniversary of establishing the Mongolian Justice System held on November 28-29, 2001 in Ulaanbaatar.

Events:

- Assistance in providing equipment for the Unified Information System (UIS) to various legal institutions in cooperation with GTZ and Soros Foundation.
- Technical assistance in refurbishing the Supreme Court courtroom.

**HUMAN RIGHTS STRENGTHENING IN MONGOLIA – HURIST/MON (UNDP/OHCHR Joint Project)
Development of the National Human Rights Action Program of Mongolia – NHRAP of Mongolia**

Training: Key stakeholders in formulation and further implementation of the NHRAP, including members of the National Coordinating Committee (NCC) as well as national volunteers active in human rights field were on a study tour to Thailand and Philippines on November 19-26.

Conferences: "Human Rights National Conference" was held on the International Human Rights Day (December 10, 2001).

Events:

- Human Rights promotion by the National TV channel, radio and newspapers during the period July-December 2001.
- The Draft Human Rights Action Program was discussed at the "Nuht" workshop on November 27-29, 2001. The participants discussed and exchanged opinion on the structure, organization and activities of the National Human Rights Commission and developed recommendations.
- Consideration of Draft Human Rights Action Program by the Aimag and Capital City Citizen's Representatives Hural (December 7-11, 2001).
- "Human Rights Baseline Study Report 2001" brochure is published.

JAPANESE INTERNATIONAL COOPERATION AGENCY (JICA)

Events: The Japanese Government at the request of the Mongolian Government will implement a grant aid project for Improvement of Fire Fighting Equipment and Workshop. The Project will start on April 2002 after the signing of Exchange Notes between both Governments.

SOROS FOUNDATION

Events: Working visit by 2 Dutch judges-trainers (arranged by Center for International Legal Cooperation and the Dutch Judicial Training Center) on December 17, 2001.

LEGAL RETRAINING CENTER (LRC)

Training: The next 45 days training will be conducted from October 22 till November 30, 2001 for advocates.

RETRAINING CENTER FOR JUDGES (RCJ)

Training: 7 days training for judges and staff of the Hovd, Dornogobi and Selenge Aimag Courts was conducted in November on the following topics:

- Concepts of Draft Civil, Civil Procedure, Criminal and Criminal Procedure Code
- Court Management
- Judicial Ethics.

Events: Within the framework of the "Training of Trainers" project 2 judges-trainers from the Netherlands will visit Mongolia on December 17, 2001.

MONGOLIAN WOMEN LAWYERS ASSOCIATION

Training: Legal knowledge training for non-legal professionals in 22 Soums and 6 Bags of Tuv Aimag in conjunction with "Oyuntulhuur Foundation".

CENTER FOR HUMAN RIGHTS AND DEVELOPMENT (CHRD)

Training: "Human Rights" radio training program is being broadcasted on Tuesdays and Fridays of the 2,4 weeks of December at 2:00 pm on the following issues:

1. human rights
2. the responsibility of the State to protect human rights
3. the responsibility of the State to ensure human rights
4. equality of rights.

Events:

- "National Human Rights Record 2001" finalized and published.
- The Center proposed amendments relating to the issue of violence against women to the Draft Criminal Procedure Code.
- "Human Rights and Police" booklet is being developed.
- The 5th edition of the "Human Rights and Development" newspaper will be issued in December 2001.

CENTER TO SUPPORT LEGAL REFORM

Events:

- The TV Program "For Your Legal Knowledge" broadcasted on December 7, 2001 was designed to inform and explain the public about the judicial reforms. The program will be repeated on December 21, 2001 on Eagle TV.
- The 5th edition of the "Professional Newspaper" funded by the GTZ will be issued in December 2001.

NATIONAL CENTER AGAINST VIOLENCE

Events:

- Launching of a community oriented three-year project in conjunction with the Swedish Association for Sex Education (RFSU). This project is funded by the Swedish International Development Agency (SIDA).
- 16 days media campaign promoting the International Day of Non-Violence Against Women and Girls (November 25).
- "Influence of prejudice about the men's and women's role on children" photo exhibition to open on November 21 with the assistance of the British "Save the Children" Fund.

CITY LIBRARY

Events: A Promotion Day of the Legal Information Center of the Central Library of Ulaanbaatar named after D. Natsagdorj took place on November 30, 2001. The management and employees of legal institutions and 18 law schools, students and regular customers, in total 402 people attended the exhibition of briefing materials, references and legal textbooks. During the opening ceremony of the Legal Information Center's Day, 20 universities and schools received a Bulletin Board of the Legal Information Center and concluded agreement on future cooperation with the Center.

Mongolia Legal Reforms 2002 Calendar of Training Events

Organization Key:

CDEA	<i>Court Decision Enforcement</i>
GPD	<i>General Police Department</i>
GTZ	<i>German Development Cooperation</i>
HSS	<i>Hanns-Seidel Foundation</i>
HURISTMON	<i>Project for developing the Plan for Ensuring Human Rights Protection</i>
JICA	<i>Japanese International Cooperation Agency</i>
JRP	Judicial Reform Project
LRC	<i>Legal Retraining Center</i>
MAA	<i>Mongolian Advocates Association</i>
MFOS	<i>Mongolian Foundation for Open Society (SOROS Foundation)</i>
MOJHA	<i>Ministry of Justice and Home Affairs</i>
MWLA	<i>Mongolian Women Lawyers Association</i>
NCAV	<i>National Center Against Violence</i>
PA	<i>Police Academy</i>
RCJ	<i>Retraining Center for Judges</i>
SGPO	<i>State General Prosecutor's Office</i>
TAF	<i>The Asia Foundation</i>
USAID	<i>U. S. Agency for International Development</i>
WB	<i>World Bank</i>

DECEMBER 2001				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
	MAA	Law professors and advocates	NUM Law Faculty	The Draft Civil Code
	Academy for Legal Education in cooperation with MoJHA	Local Government officers of 12 Aimags	4 different locations	Workshops
	WLA, "Soyombo", "8 : 11" radio program	Citizens	Nationwide	"How to prevent violation of citizen's rights, and what to do if their rights are violated"
JANUARY 2002				
DATE	SPONSOR	ATTENDEES	LOCATION	TOPIC
15	GCC	Accountants of Capital City and Aimag Courts	Ulaanbaatar	
Tue, Fri 2,4 weeks of Jan	Center for Human Rights and Development		Nationwide	"Human Rights" radio training program
4 times in 2002	MAA/HSS	24 advocates from UB and Aimags	Ulaanbaatar	Training on the new Criminal, Criminal Procedure Codes and the Law on Resolving Administrative Case
	Arhangai Aimag Court	Judges and court staff	Arhangai Aimag	Regular and specialized training
	LRC	Officers of the State Ih Hural Secretariat, NUM Law School faculty and the Police Academy	LRC	DIAL-Internet legal search

**"МОНГОЛ УЛСЫН ДЭЭД ШҮҮХИЙН
ТОГТООЛЫН ЭМХТГЭЛ"**
I дэвтэр



Энэхүү ботийг АНУ-ын Олон Улсын Хөгжлийн Агентлагийн
санхүүжилтээр хэвлүүлсэн болно.

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Хянан тохиолдуулсан:	Ж.Энхчулуун
Хэвлэлд бэлтгэсэн:	Б.Арвинтариа А.Отгонцэцэг Ц.Нарангэрэл
Хэвлэлийн эх бэлтгэсэн: Хэвлэсэн:	Б.Арвинтариа
Цаасны хэмжээ: Хэвлэсэн тоо Хэвлэлийн хуудас	60x84/16 1000 ш 25 хх
2001 оны 10 дугаар сар	

ӨМНӨХ ҮГ

Монгол Улсын Үндсэн хуулийн тавьдугаар зүйлийн 1-ийн 4-т "Монгол Улсын Дээд шүүх Үндсэн хуулиас бусад хуулийг хэрэглэх талаар албан ёсны тайлбар гаргах эрхтэй" гэж заасан нь Дээд шүүхийн бүрэн эрхэд хамаарах заалт юм.

Улсын Дээд шүүх өөрийн бүрэн эрхийн хүрээнд Монгол Улсад одоогоор хүчин төгөлдөр үйлчилж байгаа хуулиудын зарим зүйл, заалтыг тайлбарласан тогтоолын эмхтгэлийн хоёрдахь хэвлэлийг та бүхэнд толилуулж байна.

Тогтоолын эмхтгэлийн эхний хэвлэлд 1973-1999 оны эхний улирал хүртэлх хугацаанд Дээд шүүхээс гаргасан 99 тогтоол орсон бол бидний толилуулж буй хоёр дахь хэвлэлд 2001 оны 7 дугаар сарыг дуусталх хугацаанд гаргасан, одоогоор хүчин төгөлдөр үйлчилж буй 115 тогтоол багтаж байгаа болно.

Энэхүү эмхтгэлийг хоёр дахь удаагийн хэвлэлд бэлтгэхдээ эхний хэвлэлийн талаар гарсан зарим санал, шүүмжлэлийн дагуу эх бэлтгэлийн чанар, тогтоолуудыг ангилсан байдалд анхаарч, сайжруулсны зэрэгцээ бүх тогтоолуудад холбогдох нэмэлт, өөрчлөлтийг бүрэн тусгаж, тэдгээрийг эрүү, иргэний шүүн таслах ажиллагааны талаар гарсан тайлбар, бусад гэж бүлэглэн төрөлжүүлж, батлагдсан он дарааллын дагуу ангилсан нь ашиглахад илүү дөхөмтэй байх болов уу? Гэвч энэхүү эмхтгэлийн талаар та бүхний зүгээс ашигтай санал, шүүмж ирүүлсэн тохиолдолд бид дургатайяа хүлээн авах болно.

Цаашид жил бүр Улсын Дээд шүүхээс батлан гаргасан, хуулийн зарим зүйл, заалтыг тайлбарласан тогтоолуудыг эмхтгэл болгон цуаралаар гаргах юм.

Монгол оронд өрнөсөн ардчилалыг гүнзгийрүүлэх, эрх зүйг төрийг төлөвшүүлэх, иргэн бүрт хуулийг нэг мөр ойлгож, хэрэглэх дадал олгоход энэхүү эмхтгэл тодорхой үр дүн үзүүлнэ гэдэгт гүнээ итгэж байна.

Энэхүү эмхтгэлийг хэвлэхэд санхүүгийн дэмжлэг үзүүлсэн АНУ-ын Олон Улсын Хөгжлийн Агентлаг/USAID/-аас хэрэгжүүлж буй "Шүүх эрх мэдлийн шинэтгэлийн хөтөлбөр" төслийн удирдагч Роберт Лиа Монт, төслийн сургалтын мэргэжилтэн Херберт Боуман нарт гүн талархал илэрхийлье.

Монгол Улсын Дээд шүүхийн
Ерөнхий шүүгч Ч.Ганбат

APPENDIX L

**Mongolia Judicial Reform Program (JRP)
National Center for State Courts (NCSC)**

**A Review of Judicial Ethics Issues
Raised by the Draft Law on the Courts of Mongolia**

**Cooperative Agreement
#492-A-00-01-00001**

Ulaanbaatar, Mongolia



Introduction

This memorandum looks at Judicial Ethics from a variety of view points. The first section (I. Corruption) deals with the problem of corruption, which goes beyond the draft code of ethics or the draft law on the courts. The next section outlines an improved method of enforcing ethics (II. Ethics Enforcement). The third section comments on the draft code of ethics submitted to the Judicial Reform Project and makes some suggestions for revisions (III. Comments on Judicial Ethics).

I. Corruption

The primary ethical problem in the Mongolian Justice system today is corruption. While corruption is impossible to completely quantify, the universal comments of businesspeople that all cases in court can be influenced with money must have more than an imaginary basis. It is easy to believe that corruption must be wide spread because salaries are so low that a judge with a family could not provide an adequate life to his family without additional income.

The second most critical ethical problem facing the Mongolian Justice System seem to be real or wide spread belief in political interference. This phenomenon is even harder to document than corruption. The number of transfers effected by the GCC in the last year is widely believed to have been motivated by the desire to reward judges who had aided the new political majority. The current method of court supervision, whereby virtually every decision in some first instance courts are reviewed by a supervisory judge/panel, even if there has been no appeal by the parties, do not promote independent decision making by individual judges. Likewise, the Chief Judge's ability to control the career advancement of judges reporting to him by his professional evaluations represents a strong potential source of influence over individual judges decision-making.

It is important to have an ethics code in place that addresses the relevant ethical issues concretely. It is also important to have an efficient system in place to enforce ethics. Comments on the draft code of ethics and an outline for an enforcement system are the other parts of this memorandum. But, by themselves, these measures will not solve the ethical problems. Sources of corruption and improper influence need to be addressed both within the context of the law on the courts and beyond it.

Salaries must be addressed. While Parliament seems to be sympathetic, having granted increases to judges in excess of those to other civil servants, the amounts from 25% to 30% are not significant enough to reduce the temptation for corruption. Nor are the current salaries sufficient to attract talented and honest people into the judiciary. Salaries need to be tripled or quadrupled before judges will be making enough so that they not only feel that they are making enough money for their personal and family needs, but also that they are making enough so that they will lose something of value if they act unethically and risk losing their position as judge.

Both Parliament and the Ministry of Finance need to be convinced of the rational for making such unprecedented salary increases. The tendency to treat judges as any other civil servant is ingrained in the history of Mongolia's governmental structure. We must break this perception by demonstrating not just that the courts are a politically co-equal branch under the constitution, but that promoting an honest judiciary will have an enormous impact on state revenue collection itself. Initially it is impossible to prosecute tax cheats and dishonest tax collectors in a corrupt judicial system. More fundamentally, a dishonest judicial system is a very large, if unquantifiable barrier to economic activity. Without courts to honestly enforce contracts and commercial laws, foreigners are less inclined to invest and domestic savers are more likely to put savings into less productive investments where security is greater (such as private homes), rather than more productive investments such as factories which depend on trust in strangers which must be backed with contracts and law. Both Parliament and the Ministry of Finance must also be convinced that the judiciary is making real changes and is worthy of increased funding.

Corruption needs to be confronted from many angles. A credible threat of prosecution needs to exist to break habits and customs that grew up when corruption was a financial necessity. This paper suggests that disciplinary investigations continue, even if the allegations would constitute a crime, because judicial discipline serves a separate function, where even the appearance of impropriety should be punished, a higher standard than applied in criminal court. Yet, real criminal prosecution will be vital to breaking the cycle of corruption. The criminal code and criminal procedure code need to be examined to identify obstacles to successful prosecution. The rule that a bribe

giver must be tried with the bribe acceptor does not apply in America as it does in many continental legal systems. Such provisions need to be examined in light of Mongolia's current situation to determine an overall strategy for fighting corruption. Methods such as annual filing of income and net worth statements by judges and members of their households are suggested. There needs to be in place a mechanism that can investigate any unexplained increase in wealth and statuses that would allow the prosecution of falsifying such statements or concealing assets.

The perception of interference can be remedied with more transparent procedures in court administration, particularly more transparent procedures for promotion and transfer. Changing the perceptions of judges, officials and the public will also lead to a reduction in the tolerance for such interference.

II. Ethics Enforcement

The Current system:

Currently each Aimag has a committee of judges charged with investigating and judging ethical violations. Appeals can be taken to the committee of the next higher level courts (for example Soum/Intersoum to Aimag, Aimag to Supreme Court). Complaints are made by the presiding judge of the court where the suspected judge sits. Currently, ethical violations that would constitute crimes are not investigated, but referred to the police.

Currently the disciplinary committees recommend three possible sanctions when they find an ethical violation: 1) Public Reprimand, 2) Reduction in Salary of 20% for six months or 3) Discharge. The GCC may agree or change a penalty. The discharge penalty must be forwarded as a recommendation to the President.

This process has several weaknesses. First, the judges must judge colleagues who they work closely with, so that impartiality is difficult. Second, since the judge's both investigate and decide ethical violations, there is a denial of the principle of independence by the decision maker. Third, the absence of lay people and the absence of procedures for transparency make the process appear opaque and subject to criticism. The public may feel that judges prefer to protect their own profession and avoid scandal rather than expose ethical violations. Fourth, these committees have no staff or budget for investigation of cases.

The fact that penalties must be approved by the GCC further reduces the appearance of independent judgment of the ethical violations. The limited range of penalties may fail to correspond to the range seriousness of infractions that will be possible under the new ethics code.

Proposals:

Because Mongolia has only about 360 judges, it is feasible to have a single national body charged with investigating all complaints.¹ This body should be allowed to receive complaints from any person about supposed ethical violations by any judge. The body should have a small staff, including an investigator, who can receive complaints and make initial assessments. Experience from other countries indicates that the vast majority of such complaints will be by parties who did not like the result in a particular case and feel the judge was unfair. Such complaints can be identified fairly simply and disposed of by a letter telling the party that the proper remedy is an appeal of the judgment to the proper appellate court. Where appropriate, the accused judge should be allowed and encouraged to write a letter of explanation or apology. The head of this body should have discretion to dismiss cases where there is no proper allegation of an ethical violation.

If there is cause for further investigation, the head of the body should bring the complaint to the full body, have the professional investigator and other staff conduct a full investigation. The accused judge should be advised of the complaint and allowed to supply evidence and testify. The comments of the Chief Judge of the court where the accused judge sits should be solicited and added to the file.

¹ This proposal is follows the general outlines of the Canadian system as described in the attached "New Paradigms of Judicial Discipline: Application of Foreign Models in the American System" pages 1430-1433.

If the council believes that there is sufficient evidence of an ethical violation, a complaint should be made to Judicial Disciplinary Hearing Board. This board could be made up of appellate and Supreme Court judges². They could be chosen annually by lot or rotation. The Judicial Disciplinary Hearing Board ought to be composed of 5 judges. Adding 2 lay people and a prosecutor and advocate could be considered to make it independent. It should have strict rules about recusal when any of the Board members is friends with or has worked with the accused judge. The investigating body could present its evidence and the accused judge would be allowed to present his/her defense. The judge would be entitled to be represented by an advocate. Any decision should be appealable to the Supreme Court *en banc*. The decision of the Disciplinary Hearing Board or if appealed the Supreme Court should be final, requiring no endorsement by the GCC or other body. If the President's consent for removal is constitutionally required, the disciplinary board or the Supreme Court should be able forward its judgment directly to the President for action.

The body conducting the investigation should have judges, lawyers and lay people represented on it. Judges will be able to add an appreciation of the role of the judge, but other lawyers and lay people will bring valuable outside experience and add to the sense of public accountability. All cases should be reported in an annual report with the names and personal details omitted in cases where no public punishment was decided.

The body should investigate ethical violations that may be crimes after reporting them to the police. Even if the police conclude their may not be enough evidence to convict in a criminal case, there is a separate interest in preserving the appearance of probity in the judiciary that warrants a separate investigation for fitness as a judge.

The investigatory body could be a unit of the GCC, but the GCC's need to work closely with judges might make such an arrangement difficult. It could be within the Supreme Court, except that if the Supreme Court were the body to try appeals, it would create a conflict with the impartiality of the Supreme Court hearing on appeal. If the body were in the Ministry of Justice, it might look like executive branch interference. It would be better if the investigatory body were under the Office of the Prosecutor General, though perhaps with its members appointed by the GCC. In the prosecutor's office, the body would be able to second investigators and use the expertise of that office. The decision making board should probably be within the court system to remain independent.

A private reprimand for minor cases should be added as a possible penalty. A sliding scale of salary reduction ought to be added to make that a more flexible punishment. Training, counseling or treatment, especially for alcohol abuse should be added as a requirement that can be made as a separate penalty or made together with a reprimand. The possibility of transfer to a less another location should be considered as a possible penalty, especially if the ethical violation was caused by the judges close relationship to persons in the jurisdiction where the violation occurred.

III. Comments on Judicial Ethics

Articles of the draft Code:

Article 8. Subpart 2) clubs and organizations that practice invidious discrimination have a history in the United States, which is far more ethnically and racially diverse than Mongolia. This provision does not seem appropriate to Mongolia and should be replaced with a more general statement such as: "*a judge should not do or say anything to disparage any racial, national, ethnic, sexual, religious, class or social group because to do so would cast doubt on the ability of the judge to do equal justice in cases involving members of such a group.*"

Given the tragic history of interference in the judiciary during the socialist era by party and government, a special provision should be added putting the duty on the judge to stop all such attempts to influence him. "*A judge must refuse to discuss pending or impending cases with any political or governmental official (except the prosecutor assigned to the case). A judge must report any attempt to discuss a case with him by such an official to . . . [the police? The prosecutor general?]*"

² The standards of the Council of Europe require a minimum of 50% judges on such a body. (See attached *European Charter on Statues for Judges*, point 5.)

Article 10. Subpart 3. *Ex parte* conversations are already prohibited, but the practice in Mongolian courts is very wide spread. More than a simple prohibition is needed, if it is not to continue to be ignored. For this reason a description of appropriate behavior should be added. E.g. "A judge should only discuss a case with an advocate, procuror, or investigator at a pre-set time about which the advocate, procuror (and party if he is not represented by an advocate) have advance notice.

Article 14 subpart d): Given the frequent practice of regarding family business as personal and the shift gratuities and favors to family members to avoid detection, including "or any member of his/her family" might serve to strengthen the rule on disqualification for financial interest.

Article 15 runs up against one of the most peculiar institutions in the Mongolian judiciary. Courts run for profit operations such as restaurants and sheep herds. This is certainly a violation of the proscriptions of outside work to the extent judges work and are remunerated for these activities. Yet, it cannot be denied that they exist and they were created with the very benign motive of providing enough money for the judges to live on during the period of economic transition when salaries are inadequate and often paid in arrears. In reality some account must be taken of such activities if the ethical code is not to be observed primarily in the breach from the very beginning. While such makeshift financing should be done away with as soon as practical, until then a provision might be inserted "a judge may work on a cooperatively run venture of the court, provided that public accounting of the finances are made and the judges work and remuneration for these activities is similarly public and transparent."

Article 18: This may be only a translation issue, but given the much broader definition of "lawyer" in Mongolian (which includes a judge); "a judge should not practice law" in subpart 6) should be explained, e.g. "a judge should not practice law in any capacity other than his office." If the Mongolian is already clear, there is no need for a change.

Article 20: Judges should be required annually to file statements of the income they earned over the last year and its source. They should also list the income of their spouse. They should list all the property they own over a *de minimus* amount, say 50,000 tgs. The statements should be given to the GCC (or the disciplinary committee.) They should be checked for amounts of income from sources incompatible with a judges work, and for unexplained increases in wealth. A random number of judges should be audited each year to verify the property statements. The statements should be made under penalty of criminal prosecution for false statements. (Such a system needs coordinated clauses in the ethics code and the Law on the Courts.)

Appendix M

Training on impartiality for judges to be conducted

Zuuni Medee, # 262, November 6, 2001

Mongolia Judicial Reform Program (JRP) is to conduct the second stage Adversarial Process training for the Mongolian judges, prosecutors and advocates on 7 to 9 November, 2001.

JRP is a USAID-funded judicial reform project aimed at laying the foundation for building effective law-enforcement authorities capable of adhering to the rule of law.

The Adversarial Process training program was created as many Mongolian lawyers expressed an interest in learning more about the adversarial principle and the possibilities of its application in Mongolia.

The purpose of the training is to provide the Mongolian judges, prosecutors and advocates with information about the impartiality and neutrality of judges and the broad ability for the prosecutor and advocate to participate in trial- the basic elements that make up the adversarial principle. The program will also encourage a discussion among the legal professionals about application and interpretation of the Mongolian laws that call for the use of the adversarial principle.

The training shall include lectures by experts from USA, Australia and Mongolia.

ХӨНДЛӨНГИЙН НӨЛӨӨНД ҮЛ АВТАХ ТАЛААР ШҮҮГЧДЭД СУРГАЛТ ЯВУУЛНА

Монголын шүүх эрх мэдлийн шинэтгэлийн хөтөлбөр (ШЭМШХ)-өөс Монгол Улсын шүүгч, прокурор, өмгөөлөгч нарт зориулан 2001 оны арваннэгдүгээр сарын 7-9-нд "Мэтгэлзэх ажиллагаа" сэдвээр хоёр дахь шатны сургалтаа явуулах гэж байна.

ШЭМШХ гэдэг нь АНУ-

ын Олон улсын хөгжлийн агентлагаас санхүүжүүлж байгаа. Монгол Улсад хууль дээдлэх ёсыг баримтлах чадвартай, нөлөө бүхий хуулийн байгууллагуудыг бий болгох үндэс суурийг нь тавихад зориулсан эрх зүйн шинэтгэлийн төсөл юм.

Монголын олон хуульч мэтгэлзэх зарчим ба түүнийг Монгол Улсад хэрхэн хэрэглэж болох талаар илүү их зүйл олж мэдэх сонирхолтой

байгаагаа илэрхийлсэн учир ШЭМШХ-өөс "Мэтгэлзэх ажиллагаа" сэдэвт энэхүү сургалтын хөтөлбөрийг бий болгосон юм.

Энэхүү сургалтын зорилго нь шүүгчээс хөндлөнгийн нөлөөнд үл автах, төвийг сэдвисэн байдал, прокурор, эмгөөлөгчөөс шүүх хуралд оролцох өргөн боломжтой байдаг зэрэг мэтгэлзэх ажиллагааг бүрдүүлдэг үндсэн элементийн талаархи мэ-

дээллээр Монголын шүүгчид болон хуульчдыг хангах аж. Түүнчлэн мэтгэлзэх зарчмыг хэрэглэхийг шаардаж буй Монгол Улсын хуулиудыг хэрхэн тайлбарлаж, хэрэглэх талаар хуульчдын дунд хэлэлцүүлэг өрнүүлэх юм.

АНУ, Австрали болон манай улсын мэргэжилтнүүд сургалтын үеэр илтгэл тавих ажээ.

Г.БОЛОРТУЯА

“Adversarial Trial System: We Are On Our Way”

By B. Purevnyam¹

Udriin Sonin, 7 November 2001

English Translation

The introduction of the adversarial process into the Mongolian legal system in 1994 meant that legislators recognized its advantages. It was a major step toward the protection of individual rights, the fundamental idea of the Constitution, making domestic law consistent with international treaties, and was a major measure against the drawbacks of procedural law.

Article 21 of the Code of Criminal Procedure provides that “trial in the court of the first instance and in the appellate court shall be conducted on the basis of the adversarial principles.” Article 10 of the Code of Civil Procedure provides that “court trial shall be conducted on the basis of the adversarial principles.” Article 15 of the Law on Courts provides that “court trial shall be conducted on the basis of the adversarial principles.”

While in civil trials some judges attempt to apply adversarial principles, no definite concept, especially in criminal trials, has been established, and the legal mechanism is non-existent. The main obstacle to the application of the adversarial principles rests in the applicable provisions of the Code of Criminal Procedure.

For instance, Article 21¹ of the Code of Criminal Procedure states “during the court trial, the prosecution and defense shall be conducted separately.” Paragraphs 2 and 3 of the same article provide that “the accused, defendant, his advocate, victim, plaintiff, civil defendant and their representatives have equal rights to participate in the court proceedings by presenting evidence on any matter of importance to establishing truth in the case, to participate in the examination thereof, to submit requests, and to make statements.” It is doubtful whether these provisions are consistent with the classical adversarial system.

In September this year Judicial Reform Program organized the Adversarial Process Training for an equal number of judges, prosecutors and advocates for the first time in Mongolia. The training included a detailed explanation of the concept, its origins, and the US and Australian experience. The adversarial process consists of the following 3 elements:

1. The decision maker is neutral and passive.
2. Litigants are responsible for presenting proof and making reasoned arguments.
3. Proof is presented in a formal setting where a complex set of rules governs the trial and the behavior of the litigants.

There has always been a debate about how active a judge should be. At one end of the scale are those who argue that judges should be entirely passive. Their only function

¹ Assistant to the President of the Mongolian Advocates' Association

should be to control the admission of testimony using the law of evidence. Proponents of this position argue that both parties play by rules designed to make the trial a fair contest. At the other end of the scale are those that believe a judge's primary objective is to ensure the discovery of the truth. According to them, a judge should actively assist the truth-finding process in cases where, in the court's judgment, the parties have failed to do so. However, the system that employs adversarial principles can in fact rest at any point along this broad continuum. In other words, there is no purely adversarial system. Even the U.S. system is a mixture of adversarial and inquisitorial procedures and practices.

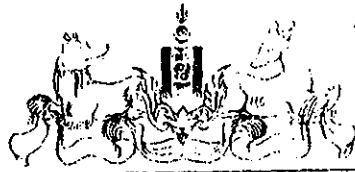
The experience of the jurisdictions that employ adversarial principles shows the following advantages:

- Ensures judicial impartiality and neutrality.
- Superior mechanism to uncover the truth.
- Creates an open and participatory form of dispute resolution consistent with democratic ideals.
- The adversarial trial provides a fixed date when the matter may be resolved.

When compared to the classical concept, the adversarial principle introduced into the Mongolian legal system in 1994 is not being realized. This should be attributed to the existing Code of Criminal Procedure, which in Article 21 provides the "court...shall be obliged to establish circumstances both accusing and acquitting the defendant, as well as those aggravating and mitigating liability." According to this, that is not only obligation of the parties, but also of the judge. The judge has the burden of proof and plays an active role in trial. Article 274 of the Code states "the presiding judge shall ask the defendant if he/she will testify and begin examining him/her. Then the prosecutor, defense counsel, other defendants, their representatives, the victim, plaintiff and their defense counsels ask questions with the permission of the presiding judge." In other words, the judge begins the examination and then the parties can examine the defendant or witnesses if the presiding judge permits them to do so. This makes application of the adversarial principle difficult in the practice of the court trial. The above wording – the judge *examines*, while the parties *ask questions* – shows the judge's dominant role in a trial.

The draft revised Code soon to be considered by Parliament envisages the adversarial principles as follows: separation of the prosecution, defense and trial functions, with the accusing evidence presented by the prosecution and the acquitting ones by the defense; the prosecution and defense shall have the right to examine the defendant as well as the participants deemed necessary, while the court shall ask clarifying questions at any stage of the trial. This would be the expression of the neutrality and impartiality of the court.

If the Code is passed in this conceptual framework, it will be a major reform in court trials. An adversarial trial system is on the way.



Judges, Lawyers Brush Up on Due Process of Law

By G. ENKHEE

TODAY, according to Mongolian law, a person accused of committing a crime is innocent until proven guilty. Previously, in the communist era, the accused had no such right to a due process of law. Yet the democratic reforms of the early 1990s provided this right. Or has it? Over 80 percent of professionals working in the current Mongolian judicial system were educated under communist methodologies.

From November 7-9, 2001, the Mongolian Judicial Reform Project (JRP) conducted its second Adversarial Process Training for Mongolian judges, prosecutors and advocates. JRP is a United States Agency for International Development (USAID) sponsored legal reform effort designed to lay the foundation for the development of effective Mongolian legal institutions capable of adhering to the rule of law.

The JRP Adversarial Process Training program was created because many Mongolian legal

professionals expressed a strong interest to learn about the adversarial process and to explore how the adversarial principles which are currently part of Mongolian law, might be more consistently applied. They also expressed a desire to explore the use of trial procedures that emphasize the protection of civil and political rights of individual citizens.

The purpose of the second Adversarial Process Training was to provide Mongolian judges and lawyers with information regarding the basic elements that make up the adversarial process—elements such as the impartiality and neutrality of the judge and the broad ability of the prosecutor and advocate participating in court hearings. The program's larger goal is to encourage discussion within the Mongolian legal community about how Mongolian laws that call for the use of adversarial principles should be interpreted and applied.

The program included lectures by experts from the United States, Australia and



Photo by Khartsaga

Mongolia. The majority of the program was interactive and designed to give the participants "hands on" experience using adversarial trial skills. The highlight of the training is expected to be the "mock trial" competitions, which were held on the last day of the program. After the trial competitions, an open discussion took place concerning the future of the adversarial process in Mongolia.

Two dozen Mongolian judges, prosecutors and advocates officially participated in the training. Apart from them,

10 new members of the Mongolian judicial administration also participated as observers. Herbert Bowman, JRP Training Advisor, and B. Otgonbayar, JRP Training Project Coordinator, headed the three-day program. Mr. Bowman presented lectures entitled "Adversarial Process—Origins and Definition," and "Criminal Trial Procedure—U.S."

After the training, Bayanzurkh district judge N. Sukhbaatar said the training was valuable and would be put to use in the Mongolian judicial process.

New Volume of Supreme Court Interpretations Now Available

The Mongolian Judicial Reform Project (JRP), the Mongolian Supreme Court, and the The Mongolian Judicial Retraining Center (JRC), has announced the publication of its latest volume of Supreme Court Interpretations. The book is now available for legal professionals and interested organizations and citizens to acquire.

This volume contains interpretations of the law made by the Mongolian Supreme Court from April 1999 to July 2001.

The Mongolian Constitution gives the Mongolian Supreme Court the authority to issue official interpretations of all Mongolian laws, with the exception of the Constitution itself. These interpretations are meant to guide Mongolian judges and lawyers in their application of the laws. They are also meant to educate Mongolian citizens on the meaning and impact of new legislation.

The publication of the volume is part of the JRP's wider effort to provide Mongolian legal practitioners with the information they need to implement the rule of law in Mongolia. It is also represents an effort by the JRP to assist the Mon-

golian judiciary to develop a strong and independent voice.

In acknowledgment of the Compilation of Resolutions of the Supreme Court of Mongolia, Chief Justice Ch. Ganbat stated, "I firmly believe this compilation will be a contribution to the strengthening of democracy, stabilization of the rule of law, and uniform interpretation and application of the law by every citizen in Mongolia."

The JRP is a United States Agency for International Development (USAID) sponsored legal reform effort designed to lay the foundations for the development of effective Mongolian legal institutions capable of adhering to the rule of law.

Parties interested in purchasing this new volume of interpretations should contact J. Enkhchuluun, Judicial Retraining Center Director or Sh. Davaadulam, JRC Training Manager at Supreme Court Building, Revolutionaries Avenue, Ulaanbaatar-11, telephone: 324423. The proceeds from the sales will be used to fund the publication of next year's interpretations.