

Juvenile Justice - The rights of boys and girls in Conflict with the Law in Afghanistan

Research-analysis on Juvenile Justice System in Afghanistan

Children in conflict with the Law, not with Justice



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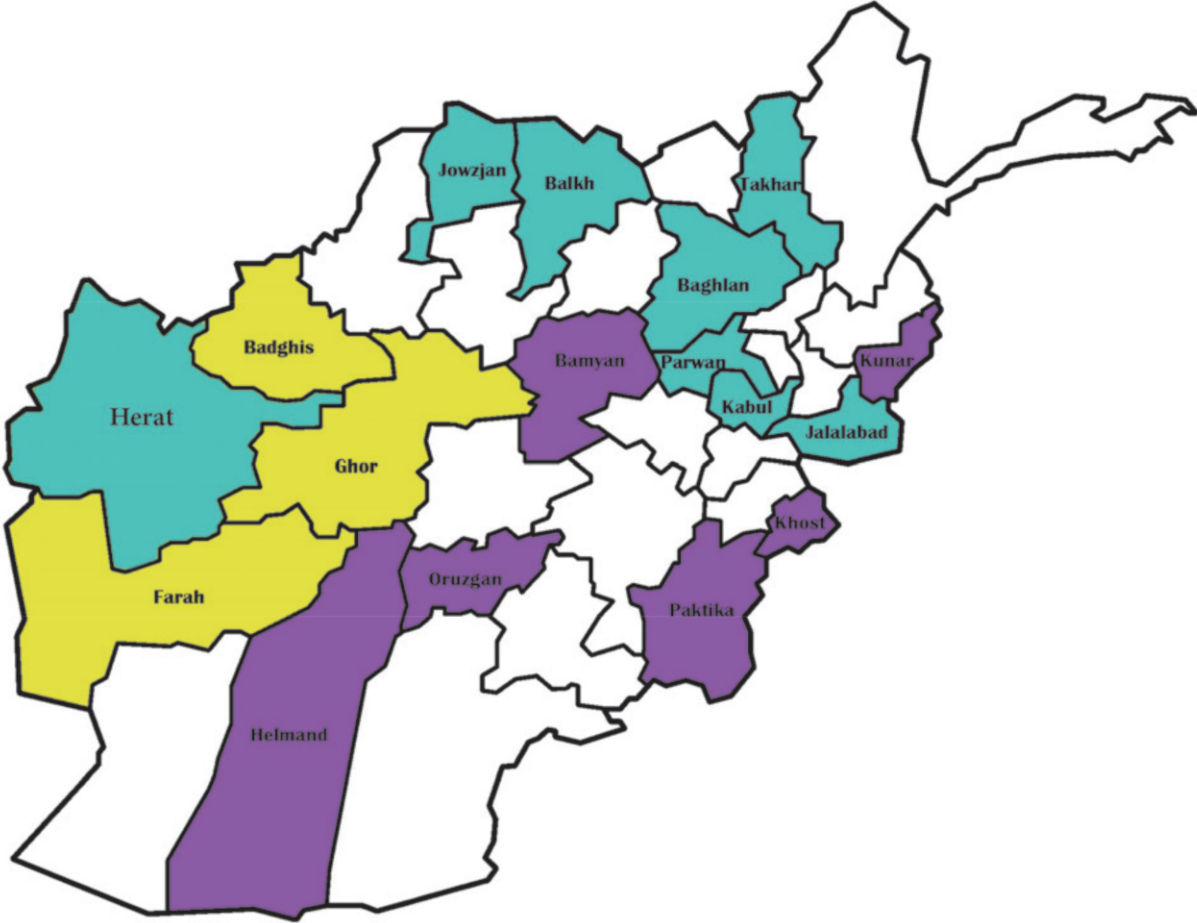
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Covered provinces based on Afghanistan's Map

The JJ Researcher collected the data from 8 provinces

The staff of Department of Monitoring and Evaluation of the JRD/MOJ collected the data in 6 provinces

The staff of ASCHIAN's Herat office collected the data from 3 provinces



Acronyms

AGO	Attorney General's Office
AIHRC	Afghanistan Independent Human Rights Commission
ANDS	Afghan National Directorate of Security
ANP	Afghan National Police
CRC	Convention of the Rights of the Child
FGD	Focus Group Discussions
GDJRC	General Directorate of Juvenile Rehabilitation
GoA	Government of Afghanistan
JJ System	Juvenile Justice System
JRC	Juvenile Rehabilitation Center
JSSP	Justice Sector Support Program
LoA	Letter of Agreement
MoE	Ministry of Education
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLSAMD	Ministry of Labor Social Affairs Martyrs and Disabled
MoPH	Ministry of Public Health
MoU	Memorandum of Understanding
NDS	National Directorate of Security
NGO	Non Government Organization
SIR	Social Inquiry Report
UNAMA	United Nations Assistance Mission in Afghanistan
UNICEF	United Nation Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime

Dari, Pashto and Arabic words

<i>Jirga</i>	Gathering of elders
<i>Sharia</i>	Code of law derived from the Holy Quran and the teachings and examples of the Prophet Mohammad, may peace be up on him
<i>Shura</i>	Local council

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This report is the result of the collaboration between CIAI, ACHIANA and the MoJ. It builds on the continued struggling of CIAI, ACHIANA and the MoJ for reform and improvement of the Juvenile Justice system of Afghanistan.

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I wish that this report will be useful and helpful to the Ministry of Justice, to the Attorney General's Office, the Ministry of Interior, the Supreme Court, the Ministry of Labor, Social Affairs, Martyrs and Disabled, the Ministry of Education, the National Directorate of Security and to other relevant institutions in terms of understanding the situation of children in conflict with the law in Afghanistan and bringing some change in the Juvenile Justice system.

Regards,

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Executive summary

Introduction:

Afghanistan has a population of 32 million persons of whom 16.8 (51%) are male and 15.9 (49%) female. It is estimated that 63 % of the population is below the age of 25 and 46 % below the age of 15¹. These segments of the society, which constitute not only the majority but also the future of the country, have very minimal opportunity for education, employment and participation in the decision making processes at national level. Data indicate that the lack of skills and illiteracy among young people are certainly causes of unemployment, but there is also a high level of unemployment among university graduates across the country². The three decades of war and internal conflict resulted in an extensive destruction of the entire economy and infrastructures of the country and had a very adverse impact on the society as well as public institutions. We have witnessed an increase of poverty, inequalities and delinquency among adults and young people on one hand, and on the other, the lack of application of the Rule of Law, which the Afghan institutions and partners are trying to restore. The Justice system has faced and is still facing many challenges due to the conflict, which has caused not only the destruction of buildings and loss of legal resources and records, but most tragically the death, the imprisonment, and migration of hundreds of professional justice officials, including qualified judges, prosecutors, police officers, and prison wardens³. Based on the Bonn Agreement, the Government of Afghanistan is rebuilding the post-Taliban Justice system with the support of the United States, Italy, Germany, United Nations and Canada.

Scope and method:

The goal of the present research is to provide evidence on the situation of children in conflict with the Law in the Juvenile Justice system of Afghanistan and to identify the main constraints and possible solutions.

To achieve the goal of the research, specific sub - objectives were formulated:

- Understand the trial process of the children in JJ system of Afghanistan;
- Analysis of the problems of children in conflict with the law in the Juvenile Justice system;
- Understand the application of the Letter of Agreement on Juvenile Justice;

1 Central Statistics Organization, 2104

2 National Youth Policy (draft July 2013) p.12

3 Wardak Ali ,State and non-state justice system in Afghanistan, 2011 p.1305

- Identify challenges and constraints for the use of the alternatives to detention and diversion;
- Acquire evidence-based knowledge on the structure and functioning of Juvenile Rehabilitation Centres in 17 provinces (50% of JRCs across the country);
- Identify proposals for the improvement of the Juvenile Justice system in Afghanistan.

The current study reviewed the capacity of the formal and informal Juvenile Justice system in the country: the key role of the informal Juvenile Justice system (*Shura* and *Jirga*) in the community mediation and in the reconciliation process of the cases; in formal Juvenile Justice system the research focused on the following steps: (1) detection and arrest phase; (2) prosecution phase; and (3) decision making phase. The sample is designed based on the purposive sampling. The sample is composed of 145 children (113 boys and 32 girls), 34 judges (28 male and 6 female), 33 prosecutors (31 male and 2 female), 33 police (32 male and 1 female), 17 JRCs' directors (16 male and 1 female), 25 social workers (23 male and 2 female), 31 parents (26 male and 5 female) and 34 community elders/representative (all male).

Recommendations:

- Advocate the Ministry of Finance to allocate a specific budget line for the better implementation of Juvenile Code, in order to improve the rehabilitation process in the correction center and the application of article 35.
- The MoJ is recommended to develop a five years National Strategy for the protection of the children in conflict with the law, in order to have a clear framework targeting prevention, service delivered to children inside JRCs, rehabilitation and reintegration of children in the JRCs and in the communities, as well as a clear budget expenditure.
- The MoJ shall review, upgrade, amend and strengthen the Juvenile Code by the provision of clear procedures for the application of the alternatives to detention.
- The MoJ is requested to coordinate regular meetings and discussions among the 9 Parties and monitor the application of Letter of Agreement.
- The MoJ is recommended to establish a standard management and monitoring system in all JRCs, in order to provide fair and transparent services which lead to the rehabilitation and reintegration of children in conflict with the law.

- The MoJ is recommended to provide special programs to children who have acted against public security such as of psychological support and the provision of religious programs to change their beliefs and behaviors.
- The MoI is recommended to increase the number of the trained specialized juvenile male and female police in Juvenile Crime Departments of all provinces.
- The MoI shall introduce a common procedure to establish a Stream Committee (1 prosecutor, 1 police men or women, 1 social worker, 1 judge, 1 community leader and parents of the child), in order to act on diversion and community mediation based on the best interest of the child.
- The AGO is recommended to increase the number of trained and specialized juvenile male and female prosecutors in the Juvenile Primary and Appeal Prosecution Offices.
- The AGO is requested to ensure that social workers and defense attorneys collaborate with Prosecutors.
- The Supreme Court is recommended to establish Specialized Juvenile Primary and Appeal Courts in all provinces and a Special Juvenile Court within the Supreme Court, in order to accelerate the trial completion.
- The Supreme Court is requested to increase training opportunities of judges ensuring that all judges are aware of how to implement the Juvenile Code and alternatives to detention.

The MoLSAMD is recommended to increase the number of trained male and female social workers, to facilitate the process of diversion and improve social investigations - for the purpose of filling the SIR - and to follow up of the cases of the released children.

- The MoLSAMD is requested to develop a comprehensive mechanism related to crime prevention with the cooperation of the relevant public institutions and institutions at community level.
- The MoLSAMD is requested to establish referral mechanism for child offenders to social service institutions that provide alternative to detention services.
- The National Directorate of Security is recommended to conduct regular awareness programs on Childs' Rights among NDS officers.

- The Ministry of Education is recommended to establish standard educational classes and market oriented vocational training in all JRCs.
- The Ministry of Public health is recommended to provide each JRCs with a health clinic and the regular supply of all necessary medicines to all JRCs.
- The MoPH is requested to ensure standards for the age determination process and improve the birth registration system.



Chapter 1

Literature Review

The Justice system of Afghanistan has faced and is still facing many challenges due to the conflict which has caused not only the destruction of buildings and loss of legal resources and records, but most tragically the death, the imprisonment, and migration of hundreds of professional justice officials, including qualified judges, prosecutors, police officers, and prison wardens¹. Based on the Bonn Agreement, the Government of Afghanistan is rebuilding the post-Taliban Justice system with the support of the United States, Italy, Germany, United Nations and Canada. Many efforts have been guided by a series of strategies such as the Afghanistan National Development Strategy (2008), the National Justice Sector Strategy, the National Justice Program and the 2010 Afghanistan National Development Strategy Prioritization and Implementation Plan. The ANDS had some key objectives to be achieved by the end of 2010 which included: the completion of the basic legal framework, the establishment of functional justice institutions, rebuilding of the physical infrastructure of the Justice institutions, review and reform corruption-related procedures, addressing lack of due process and miscarriages of Justice, and strengthening the professionalism, credibility, and integrity of the judiciary personnel². One of the most important measures was the adoption of the Juvenile Code in 23rd March, 2005.

The Juvenile Code is applicable to three categories of children: child offenders; children at risk; children in need of care and protection. In order to address the problems of all three categories of children, the Juvenile Code is adopted based on the legal framework set by Art. 54 of the Constitution and in compliance with ratified International Conventions including the UN Convention on the Rights of the Child³.

The Juvenile Code codifies on the cases of children in conflict with law and by definition as a Penal Code allows the Criminal Law to be more democratically made and amended. The Juvenile Code in Afghanistan sets the legal framework for the overall functioning of the Criminal Juvenile Justice System. One of the most important Articles of the Juvenile Code for the purpose of this research is Art. 35, which sets the legal framework for alternative to detention measures. Article 35 is of the utmost importance as long as from its proper application depends the rehabilitation of juvenile offenders and their future re-integration in their societies.

The purpose of this research is to bring to Afghan justice and public Institutions and other national and international stakeholders, evidence- based knowledge on the application of Art.

1 Ibidem n. 3, p.1305

2 Ibidem n. 4, p.1306

3 Article 1, Juvenile Code 2005, p.1

35, reasons for any shortcoming and offer evidence-based solution. The rehabilitation and reintegration of juvenile offenders is the most important challenge the Juvenile Justice system must face especially giving the rise of numbers of juvenile offenders. Former researches conducted by different organizations and researchers (Motley, K M, An Assessment of Juveniles Justice in Afghanistan, 2010; Implementing alternatives to detention “Community Sanctions” for children in Afghanistan, Child Right Consortium Program, 2013) show that the number of the children in conflict with the law has been constantly increasing. It has doubled in last five years from 455 in 2008 to 1,118 in 2013. The increased number of children in conflict with the law has been followed also by an increased number of children detained in correction facilities. The above mentioned researches draw the conclusion that the increased number of children detained in Juvenile Rehabilitation Centers, is not only due to the increased involvement of children in delinquent and criminal activities, but to the lack of application of alternative measures to detention as foreseen by Art. 35 of the Juvenile Code. UNICEF surveyed in 2008 the living condition of children in 22 Juvenile Rehabilitation Centers of the country and indicates that while 71% of the juvenile offenders were sentenced to more than one year of detention, 29% were sentenced to less than one year. These 29% could have been sentenced with alternatives to detention by the courts.⁴

The application of Art. 35 encounters many difficulties, most importantly the lack of facilities to which juvenile offenders could be sent to serve their sentence in the spirit of rehabilitating and restorative justice. But this is not the only challenge related to its application. Practical obstacles are coupled with inadequate knowledge and little training of Judges and Prosecutors on the application of the Juvenile Code (particularly on Article 35) and with the absence of specialized Judges and Prosecutors in the majority of the provinces, particularly in the insecure ones. Research shows that judges of Juvenile Courts are rarely likely to apply Article 35 as they believe that the Juvenile Code provides no clear guidance about how to apply alternative to detention⁵. Children in conflict with the law are being detained for months in pre-trial detention. Imprisonment is still the main sentence used, in contravention of all international standards, good practice and despite a list of alternatives provided in the Juvenile Code.⁶

4 UNICEF & AIHRC, Justice for children, the situation of children in conflict with law in Afghanistan, p.23

5 Implementing alternatives to detention, “Community Sanctions”, for children in Afghanistan, Child Right Consortium Program, 2013, Juvenile Justice Stakeholder Focus Group, Kabul, p.14

6 UNODC (May 2008) Afghanistan, Implementing Alternatives to Imprisonment, in line with International Standards and National Legislation, Prison system reform in Afghanistan, p.8

Procedure of child arrest and detention in Afghanistan:

The application of the Juvenile Code, encounters many difficulties and not only related to the application of Art. 35. It emphasizes on the restriction of a child's freedom as a last resort for the minimum period of time⁷. It strictly prohibits punishment, torture or any humiliating and inhuman treatment of offenders during the time of the arrest and investigation. Former researches indicates that 45% of the juvenile offenders reported of being physically abused by the police at the time of the arrest and orally abused by prosecutors at the time of investigation. This figure contains mostly boys, although girls also reported mostly of being intimidated by the police or even if rarely, of being beaten. The research further indicates that while children were at the custody of the police, most of them have signed confession written by the police and against their will. The children reported that they were either physically forced or intimidated to sign the confessions or that it was not known to them the content of the confession until they attended the court. Children also reported of being asked for bribes by the police, and that if the bribe could not be afforded a confession would have been written by the police itself and the case sent to the Prosecutor. The report also indicates that most of them reported to their defence attorney or to the Judge during trial but despite of that no measures were taken - even if the law states that, evidence which has been collected without respect of the legal requirements indicated in the law itself is to be considered invalid and the Court cannot base its judgment on it⁸. It seemed, according to the research that within the system no one takes care of the children's voice and what they experience at the time of arrest or prosecution⁹. The findings did not differ from one region to the other showing no significant better achievements in secure regions. These findings underline the importance of the introduction and application within Juvenile Justice Legislation, of the provisions contained in Rule 12(1) of the Beijing Rules: special juvenile police should be established for the purpose of the prevention and protection of the rights of the children in conflict with law in large cities¹⁰. The few trained afghan policemen in Juvenile Justice are placed at provincial level in secure areas, living unmet needs at the field level. The importance of the application of the Beijing Rules is recognized by Juvenile Justice system in different countries also in South Asia (such as India or Nepal¹¹) and was acknowledged

7 Juvenile Code 2005, article 8, p. 5-6

8 Article 7(1) Interim Criminal Code for Courts, 2004, p.7

9 Motley, K M (2010) an assessment of juveniles justice in Afghanistan, TdH, p.36

10 United Nations Standard and Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), adopted by General Assembly resolution 40/33 of 29th November 1985, p.7

11 Juvenile Justice in South Asia, improving protection for children in conflict with law, 2006, p.33-105

by the 9 Parties of the Letter of Agreement¹² for the prevention of juvenile crime and the protection of the rights of juvenile offenders. The LoA is the only official document that foresees the introduction and training of special juvenile police forces, able to properly handle the delicate moment of the arrest of a young suspected offender. Unfortunately such commitment has not at today brought any active measure in such sense.

Prosecution of child offenders:

The procedure for the prosecution of accused juvenile offenders is defined in the Juvenile Code (Articles 14, 15, 16, 17, 18) and in the Law on Structure and Authority of the Attorney General's Office (Article 15). Review of data indicates that during the prosecution phase, the rights of accused juvenile offenders are not being respected fully. A research conducted in the JRC of Balkh in 2012, describes how parents (mothers and fathers) of detained children perceive the prosecution process based on their experience. 80% of the respondents were dissatisfied with prosecution process. The majority of complaints include prosecutors asking for bribes and corruption in the overall system, lack of accurate investigation of children's cases, lack of attention to the cases of poor children and delays in follow up of the cases of children¹³.

More recent data focus on the implementation of the Juvenile Code by the Prosecutors. Shortcomings referred include: not informing the Social Workers at the time of the prosecution or not giving value to the Social Inquiry Report (SIR) prepared by the Social Workers; not requesting the Court to set bail for the child release until the investigation process is completed; not respecting the deadline within which the trial stages and procedures should take place; not paying attention to the age of the offenders during age determination and sending of elders to the JRCs; not releasing children considered innocent by the lower court, or whose served detention time is considered to be sufficient, because they cannot pay the bail amount or their guardians are not ready to accept them¹⁴. The above data have been obtained during a lecture held by Mr Sidiq Sidiqi, General Director of JRCs on October 23rd, 2014, so it is clear that justice institutions are aware and are attempting to amend the situation.

The Ruling of Courts:

The ruling of the Court on a case of a juvenile offender is the most important stage in Juvenile Justice system and is regulated by the Judicial Laws of Afghanistan. To protect the child's rights,

12 Letter of Agreement signed in March 2010 between the Ministry of Interior (MoI), Ministry of Labour, Social Affairs, Martyr and Disabled (MoLSAMD), Attorney General's Office (AGO), Ministry of Justice (MoJ), Ministry of Education (MoE), Supreme Court (SC) and during the year 2010 the Ministry of Women's Affairs, National Directorate of Security and the Ministry of Public Health (MoPH) were added to the LoA

13 Alemi Mohammad Nazer, Functioning of Juvenile Rehabilitation Center & the Living Condition of Children in Conflict with Law 2012, p. 57

14 Lecture by Sidiq Sidiqi, general director of JRCs about the situation children in conflict with law in Afghanistan, 23 Oct, 2014

there are three categories of Court each of them representing one level of jurisdiction: Primary Court; Appeal Court; Supreme Court. Respectively, cases are first judged by the Primary Court, after by the Appeal Court and finally they reach the Supreme Court for the final judgment¹⁵.

The cases of the children in conflict with the law should be handled within a month in the Primary Court. This is an important phase where Judges can sentence a child offender to detention or seek alternative to it. If the decision of the Primary Court is not acceptable for the juvenile offender, his/her legal guardians can contest against the decision of the Primary Court in front of the Appeal Court.

The Appeal Court Judge if the child is judged guilty can make a decision whether to sentence a child offender for detention or seek alternative to it. The Court shall reconsider the whole legal process. It may correct, overturn, amend, confirm or repeal the ruling and decisions of the lower Court.

The Supreme Court is the highest judicial institution, heading the judicial power of the Islamic republic of Afghanistan¹⁶. The Court provides an opportunity for the child offender or his/her legal guardian or the Prosecutor to submit recourse to the Supreme Court within 30 days against the decision of the Appeal Court. The recourse shall be submitted to the secretary of the Appeal Court that has issued the order or to the secretary of the Supreme Court¹⁷. The Supreme Court should rule within 5 months, but past researches indicated that they often take longer¹⁸.

The trial at the Supreme Court is different in comparison to the Primary and Appeal Court. This means that neither the child, nor his/her guardians, nor the prosecutors can attend to the meeting of the Judges in Supreme Court. The Judges shall make a decisions based on the case file of the child offender¹⁹.

Based on the Law on the Organization and Jurisdiction of the Courts (LOJC), there should be 34 Juvenile Primary and Appeal Courts in the county, one in each province and in each province under the Appeals Court there should be a juvenile division (Dewan)²⁰. Out of 34 only 6

15 Article 27, Juvenile Code 2005, p. 23

16 Article 116, Constitution of the Islamic Republic of Afghanistan ,ratified on 26 January, 2004

17 Article 42(6) Act of Appeal , Juvenile Code 2005, p.38

18 Ibidem, n. 8, p.11

19 Ibidem n. 21, p.11

20 Article 31(1) ,Article 44(1) Law on Organization and Jurisdiction of Court (LOJC) 2005, p.8-11

provinces have Juvenile Appeal Courts: Kabul, Mazar-e-Sharif, Kunduz, Herat, Jalalabad and Kandahar.

Research shows that 90% of the cases of juvenile offenders reach the Appeal Court while this figure is about 15% at the Supreme Court²¹.

Evidence from past research show that the rights of suspected juvenile offenders are not always being respected by the Judges at the different levels of ruling. It is however fair to underline that such evidence is mainly referred to Primary and Appeal Courts' Judges, as the majority of cases of juvenile offenders do not reach the Supreme Court. Children have reported of being asked by Judges at the Primary Court for bribe; those who were not able to pay risked harsher sentences²²; a child was sentenced with seven years of imprisonment where evidence was very poor²³. In the central region it was found that the Judges believed that child offenders lie all the time to the Court. To convince the child to collaborate, the Judge warns the child offender of a harsh sentence as techniques of dealing with children²⁴. In the western region, some children claimed that the judge sentenced them with detention for a minor offence, others particularly girls claimed that although they were the victims of rape, the Judge sentenced them with detention²⁵ The majority of the children who were sentenced to imprisonment in Kabul and Herat were confused about the Court processes by which they are affected. The complaints of the children include, shouting of the Judges, they ignore the steps of the trial and lack of access to the defence attorney²⁶.

Research also shows that preparation and training of Judges is insufficient: 46% of those tested in the research were unaware of what the UN Convention of the Rights of the Child was, thinking it was a speech given either by President Karzai or U.S. President Obama; 53% reported of being unaware of some of the detention rights for juvenile offenders; many believed that handcuffs could be used either when the juvenile is simply being questioned by the police or handcuffs can be used when a juvenile is a suspect in a crime; 71% also believed that if a juvenile invokes their right to remain silent in Court, as codified in Article 5 of the ICPC, then

21 Ibidem n. 22, p.9

22 Ibidem n. 12, p.63

23 Ibidem n.25, p.27

24 Ibidem n. 26, p.28

25 Ibidem n. 27, p.29

26 Ibidem n. 24, p.24

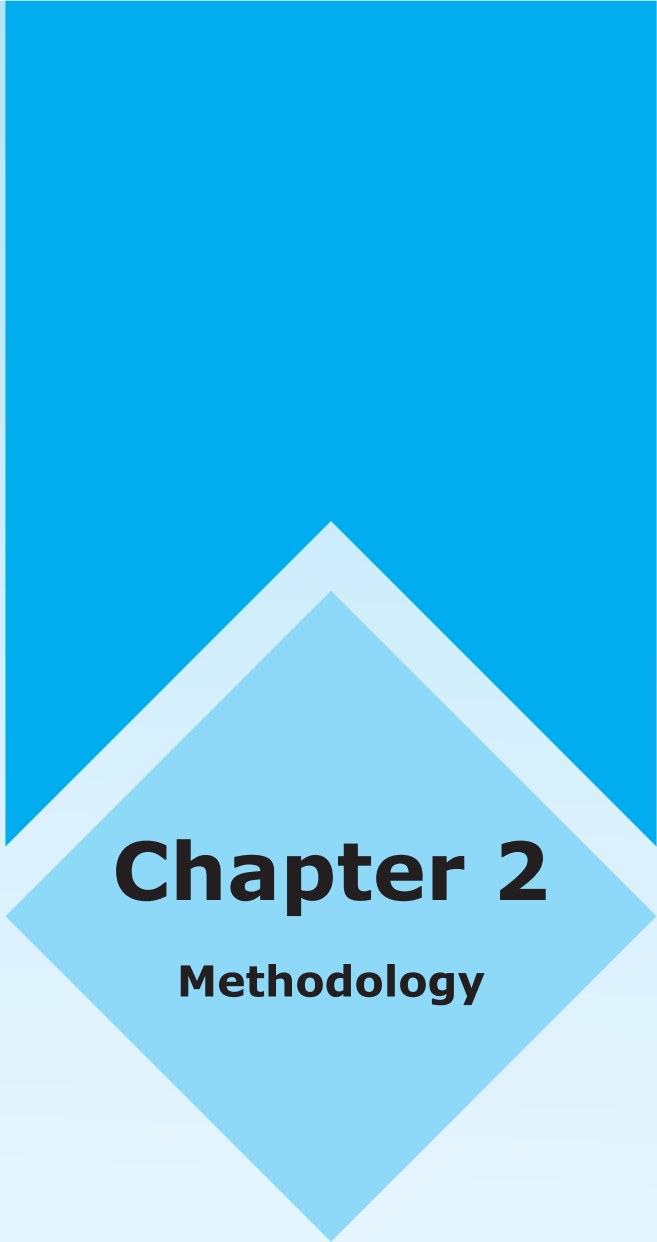
they must be guilty ²⁷. Evidence from the Central Region indicates that many of the child offenders who attended the Primary Court reported they had been asked by the Judge to accept or admit their crime and not stare at or speak when before the Judge²⁸.

In general, findings of external and internal (within the Juvenile Justice system) researches show that the main challenges that faces the Judicial Juvenile system include: the lack of specialized Juvenile Courts in 28 province; lack of the professional and skilled Judges, lack of attention during the age determination phase; lack of attention to the opinion or decision of JRC's directors based on the Article 50 of the Juvenile Code in pursue of the best interest of the child and his/her reintegration in the society; lack of attention and value given to the Social Inquiry Report (SIR) prepared by the Social Workers, little or no use of the alternative to detention based on Article 35 of the Juvenile Code²⁹.

27 Ibidem n. 28, p.34

28 Ibidem n.30, p.35

29 Ibidem n. 17



Chapter 2

Methodology

Goal:

The goal of the present research is to gather evidence on the situation of children in conflict with the Law in the Juvenile Justice system of Afghanistan and to identify the main constraints and possible solutions.

Objectives of the research:

To achieve the goal of the research, specific sub - objectives were formulated:

- Identify the reasons of delinquency among the children and adolescent at the community level;
- Understand the trial process of children in the JJ System;
- Analyse the problems of children in conflict with the law in the Juvenile Justice system;
- Understand the application of the Letter of Agreement on Juvenile Justice;
- Identify challenges and constraints for the use of the alternatives to detention and diversion;
- Gather evidence on the structure and functioning of Juvenile Rehabilitation Centers in 17 provinces (50% of JRCs across the country);
- Identify proposals for improvement of the Juvenile Justice system in Afghanistan.

Sampling selection:

The sample is designed based on the purposive sampling. The sample was composed of:

- 145 children (113 boys and 32 girls);
- 34 judges (28 male and 6 female);
- 33 prosecutors (31 male and 2 female);
- 33 police (32 male and 1 female);
- 17 JRCs' directors (16 male and 1 female);
- 25 social workers (23 male and 2 female);
- 31 parents (26 male and 5 female);
- 34 community elders or representative (all male).

Data collection was conducted in 17 provinces where there were Juvenile Rehabilitation Centres, during 6 months, from May 2015 to October 2015. It was conducted by CIAI's Juvenile Justice researcher with the cooperation of the staff of the Monitoring and Evaluation Unit of the MoJ, JRD and ASCHINA's Herat office.

Table 2.1: Description of the sample based on the number of the respondents divided by gender (N=352)

Provinces	Child		Judges		Parents		JRC's Directors		Social workers		Police		Prosecutors		Community elders		Total
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
Jalalabad	9	1	2		2		1		2		2		2		2		23
Balkh	8	2		2	2		1		1	1	2		2		2		23
Jawzjan	7	2	2		2		1		2		2		2		2		22
Kabul	5	5		2	1	1	1		2		2		2		2		23
Parwan	10		2		2		1		2		2		2		2		23
Baghlan	7	3	2		2		1		1	1	2		2		2		23
Takhar	5	5	2		1	1	1		1	1	2		2		2		23
Herat	5	5	1	1	2			1	2		2		2		2		23
Farah	7	3	2		1	1	1		2		2		2		2		23
Badghis	5	2	2		2		1		1		2		2		2		19
Ghor	4		2		1		1		2		1		1		2		14
Helmand	6	4	2		2		1		1		2		2		2		22
Paktika	10		2		2		1				2		2		2		21
Khost	5		2		2		1		1		2		2		2		17
Urozgan	2		2				1				1	1	2		2		11
Kunar	10		2		2		1		1		2		2		2		22
Bamyon	8		2		2		1		1		2		2		2		20
Total	113	32	29	5	28	3	16	1	22	3	32	1	33	0	34	0	352

The age of the children who have been interviewed in this study was between 12 and under 18 years old. The age of judges was between 29 to 62 years; the age of the prosecutors between 24 to 68 years; the age of policemen between 24 to 58 years; the age of JRC's directors between 26 to 58 years; the age of the social workers were between 22 to 58 years; the age of the parents interviewed between 28 to 90 years; finally the age of the community elders was between 20 to 72 years.

Table 2.2: Age breakdown of the children (N = 145)

Age	Male	Female	Total
12	1		1
13- 15	23	12	35
16- 18	89	20	109
Total	113	32	145

Inclusion and Exclusion Criteria For The Sampling:

Table 2.6: Inclusion and exclusion criteria for prosecutors:

Inclusion	Exclusion
<ol style="list-style-type: none"> 1. Prosecutors who prosecuted the cases of children in Primary or Appeal Prosecution Offices. 2. Prosecutors who are currently working in Primary or Appealing prosecution office. 3. Prosecutors who are willing to be interviewed. 	<ol style="list-style-type: none"> 1. Prosecutors who are not willing to be interviewed. 2. Retired Prosecutors. 3. Prosecutors who do not handle the cases of the children.

Table 2.7: Inclusion and exclusion criteria for police:

Inclusion	Exclusion
<ol style="list-style-type: none"> 1. Police officers who deals with cases of children. 2. Police officers who are currently working in juvenile crime departments. 3. Police officers who are willing to be interviewed. 	<ol style="list-style-type: none"> 1. Police officers who are not willing to be interviewed. 2. Retired Police officers. 3. Police officers who don't handle the cases of children.

Table 2.8: Inclusion and exclusion criteria for JRC's directors:

Inclusion	Exclusion
<ol style="list-style-type: none"> 1. The director or acting director who is currently in charge of running the JRC in the target provinces. 	<ol style="list-style-type: none"> 1. The JRC's director who is retired of his/her job. 2. The JRC's director who is not in charge of other JRCs.

Table 2.9: Inclusion and exclusion criteria for social workers:

Inclusion	Exclusion
<ol style="list-style-type: none"> 1. Social workers of JRCs, MoLSAMD or any relevant NGO who manages cases of children in conflict with the law. 2. Social workers who are willing to be interviewed. 	<ol style="list-style-type: none"> 1. Social workers who are not willing to be interviewed. 2. Retired Social workers. 3. Social workers whose work is not related to children in conflict with the law.

Table 2.10: Inclusion and exclusion criteria for parents:

Inclusion	Exclusion
<ol style="list-style-type: none"> 1. Parents whose child case is pending at Primary, Appeal or Supreme Courts. 2. Parents on whose child case was ruled at Primary, Appeal or Supreme courts. 3. Parents who were voluntarily available for the interview. 4. Parents who were mentally in a good condition. 	<ol style="list-style-type: none"> 1. Parents who were not voluntarily willing for the interview. 2. Parent with mental disability. 3. Parents whose child is released.

Table 2.3: Age breakdown of the respondents (N = 207)

Respondents	Age	Male	Female	Total
Judges	29-50	29	1	34
	56-62	4		
Prosecutors	24-50	21		33
	55-68	11	1	
Police	24-50	25	1	33
	51-58	7		
JRC's directors	26-50	12	1	17
	53-56	4		
Social workers	22-50	20	2	25
	52-58	3		
Parents	28-50	21		31
	52-90	8	2	
Community elders	20-50	19		34
	52-72	15		
Total				207

Inclusion and exclusion criteria for the sampling:

Table 2.4: Inclusion and exclusion criteria for children:

Inclusion	Exclusion
<ol style="list-style-type: none"> Children whose case are finalized and sentenced for detention whether from Primary, Appeals or Supreme Courts. Children whose case was pending whether in Primary, Appeal or Supreme courts. Children convicted with different offences. Children who are willing to be interviewed. 	<ol style="list-style-type: none"> Children who are not willing for the interview. Children with mental disability. Children whose case had not reached at least the primary court.

Table 2.5: Inclusion and exclusion criteria for judges:

Inclusion	Exclusion
<ol style="list-style-type: none"> Judges who ruled on cases of children in the Primary, Appeal or Supreme Court. Judges currently working in Primary, Appeal or Supreme Court. Judges who are willing to be interviewed. 	<ol style="list-style-type: none"> Judges who are not willing to be interviewed. Retired judges Judges who do not handle the cases of children

Table 2.11: Inclusion and exclusion criteria for community representatives:

Inclusion	Exclusion
1. Community leader with at least 1 year of experience in the community.	1. Community leaders who are not willing to be interviewed.
2. Community leaders who are currently working as representative of the people in one of the region of the city.	2. Community leaders who have been retired or who are not acting as representative of the people at the community level.
3. Community leaders who are willing to be interviewed.	

Tools used in the research:

To achieve the goal and objectives of the current research, different tools have been developed by the researcher for the purpose of data collection.

The followings are the tools which were used:

Socio-demographic sheet:

The socio-demographic sheet consist of information about the age, sex, education, occupation, marital status, kinds of offences, period of trial, temporary and permanent address of all the interviewees.

Questionnaire for the Children:

It consists of 66 questions related to different legal aspects of the child's case. The questions focus on the kind of services provided to the children in conflict with law from the time of arrest until their release. The questions aim to describe what, where, when, how and why the children in conflict with law encountered challenges and problems (at the arrest, prosecution and trial stages). The questions were formulated to assess the perception of children regarding the Juvenile Justice system.

Questionnaire for the Judges:

It consists of 61 questions related to the kind of legal services and facilities provided to children in conflict with law at the time of the ruling. The questions mainly focus on the application of fair trial, gaps in the Juvenile Code and other Laws. Aims to describe whether and how the judges use alternative to detention. The questions are formulated to identify recommendations to the judges for the improvement and reforming the Juvenile Justice system of the country.

Questionnaire for the Prosecutors:

It consists of 54 questions. The questions are focused on the prosecution stage in order to assess if it is implemented in compliance with the law. The questions are formulated to identify recommendation to the prosecutors for the improvement and reforming of the Juvenile Justice system of the country.

Questionnaire for the Police Officers:

It involves of 45 questions on direct action police officers take toward juvenile offenders, how they apply the procedures related to diversion of juvenile offenders to institutions different than the formal Juvenile Justice system, what consideration they make at the time of the arrest and immediately after the arrest and how these two tasks are performed. The questions are formulated to identify recommendations for the improvement and reforming the Juvenile Justice system of the country.

Questionnaire for the Directors of JRCs:

It contains 47 questions on the services provided to the detained children in the JRCs. The questions want to identify if the time spent in JRC is rehabilitative for juvenile offenders or if their presence in the JRCs is putting them more at risk. The questions are meant to identify problems and challenges the JRCs face at present and recommendations that JRCs might suggest for improvements.

Questionnaire for the Social Workers:

It contains 49 questions related to Social Inquiry Report (SIR) and the provision of social services to juvenile offenders by social workers. The questions intend to give knowledge about the means and tools the social workers can use to identify and address the problems of children in conflict with law. The questions intend to identify recommendations of social workers for the improvement and reforming.

Questionnaire for the Parents:

It contains 38 questions related how parents had perceived the experience of their children from the time of arrest until their release. Consequently we asked them their view about the police officers, judges and prosecutors, social workers, defence attorneys, JRC staff etc. The questions intended to identify recommendations of parents for the improvement and reforming.

Questionnaire for community representatives:

It consists of 27 question related to the perceptions of the community elders regarding the role and behaviour of the different actors of the Juvenile Justice system: police officers, judges and prosecutors, social workers, attorneys, JRC staff. The questions were also prepared to give knowledge on the functioning of the informal justice system in their communities and its application (if any) by them.

Procedures of the study:

It was very important to sign a MoU between the MoJ, ASCHIANA and CIAI. It would not have been possible to collect data from 17 JRCs of the country and perform the research without the kind cooperation of the MoJ and JRD. The MoU has been signed between the MoJ, ASCHIANA and CIAI May 9th 2015.

In addition to the MoU, consent letters were received from the Supreme Court, the Attorney General's Office and the MoI for the purpose of giving the necessary permissions for judges, prosecutors and Juvenile Crime Department officers of the 17 targeted provinces. It would not have been possible to interview the judges, prosecutors and juvenile police officers of the targeted provinces without the kind cooperation of the Supreme Court, the Attorney General's Office and the Ministry of Interior.

Focus Group Discussions (FGDs) were formulated as method for data collection since the beginning of the research with the aim to identify the perceptions of the different stakeholder regarding the functioning of the Juvenile Justice system. The FGD were conducted in Herat and Kabul provinces for a total number of 412 stakeholders (205 stakeholders in Herat and 207 stakeholders in Kabul). To the FGD have directly participated social works, teachers, police officers and community leaders³⁰.

In addition, there have been different meetings with different Ministries, NGOs, UN Agencies and Donors, for the purpose of information gathering and the identification of gaps. During these meetings have been discussed and collected many recommendations of the above stakeholders for the purpose of improving the Juvenile Justice system.

Data analysis methods:

Statistical analysis has been used for analysing all collected data. The collected data were analysed through descriptive statistics like frequencies and percentages. Thematic and content analysis were performed for the open and ended questions with the purpose of obtaining similar patterns among the responses of the target groups in this study.

Ethical consideration:

Participation in the study was purely voluntary and the participants were informed that they could terminate the interview at any time.

Participants were assured of their replies being treated in an anonymous way.

³⁰ A total of 18 Mixed Group Training Workshop for different stakeholders have been conducted by CIAI and Aschiana in Herat and Kabul provinces. During these mixed groups training workshops (FGD) case study and mapping have been performed for the purpose of data collection for the current study

Limitations/constraints:

There were some limitations and constraints during the data collection for the current study in all 17 provinces. One of them was the security situation. Threats and attacks of the Taliban and anti-government insurgents on the Justice institutions resulted to an increased discomfort of the researcher and his team while interviewing especially in insecure provinces.

One of the major limitations at the JRCs level was related to the lack of a specific room in JRCs for interviewing of the girls and boys without the presence of the JRC's staff. It would have been desirable to interview children in the only presence of their legal guardians or lawyers. This never happened. While in some JRCs it was possible to interview male juvenile offenders alone, this was never the case for female juvenile offenders. The presence of JRCs staff consequently might have influenced the answers given.

In general, boys seemed to be more interested in sharing information about their experiences, thoughts and feeling about the Juvenile Justice system; girls in general were more reluctant to share their problems even though a few were willing to share challenges encountered from the time of arrest until the ruling. Data collection was limited to 145 children for 17 JRCs, even if there were more children who were interested to share. There were some children whose first trial had yet to start, and thus were excluded from the current research.

It is regretted that the doors of the courts and police stations are closed to the public also for security reasons. It was very difficult enter the mentioned institutions, although the permission letter from the Supreme Court and the MoI had been released. The closed doors to the public, barbed wires, barrier walls and the reluctance of security officials result in a great perceived distance between the security officers, the judicial sectors and the public.



Chapter 3

Key findings

The sample is designed based on the purposive sampling. The sample was composed of 145 children (113 boys and 32 girls), 34 judges (28 male and 6 female), 33 prosecutors (31 male and 2 female), 33 police (32 male and 1 female), 17 JRCs' directors (16 male and 1 female), 25 social workers (23 male and 2 female), 31 parents (26 male and 5 female) and 34 community elders/representative (all male).

Table 3.1: Socio-demographic data of the Children (N=145)

Children's data - Age	Boys (N=113)	Girls (N=32)	% Boys	% Girls
12	1	0	1%	0%
13- 15	23	12	20%	38%
16- 18	89	20	79%	62%

Children's data - Educational records	Boys (N=113)	Girls (N=32)	% Boys	% Girls
Illiterate	11	9	10%	28%
Discontinue Education/Drop out	5	4	4%	13%
Educated (from class 4 th to 12 th level)	94	19	83%	59%
Educated up to 12 th level	3	0	3%	0%
Religious studies in Madrasa	6	0	5%	0%

Table 3.1 shows the percentages of boys and girls divided by group age: Boys: 12 years old: 1%; 13 to 15 years old: 20%; 16 to 18 years: 79%. Girls: no girls of 12 years old; 13 to 15 years: 38%; 16-18 years old: 62%.

In absolute numbers boys were much more present than girls in the JRCs. Even if the percentage of not educated or little educated girls is much higher than boys.

Children background:

The tables 3.1 describe the social-economic background of the children and the environment they lived in; family environment, school environment or work environment. The parents of the children in this research report low and medium incomes; the parents of 80 % of the children reported low incomes; 20 % medium incomes. None of the parents of the detained children reported a high income.

Although Article 8 of the Juvenile Code stipulates that the confinement of a child is considered to be the last resort for rehabilitation and re-education of the child and Article 35 provides

measures in alternative to detention, children who could have been probably referred to alternative to detention (theft 18 %; traffic accident 5 %; fighting and injury 3 %) were found in JRC.

The rest of the main charges for which children were in the JRCs are:

- males: 29 % crimes against the internal and external security, 19% murder, 18% theft;
- females: 29% adultery, 26% running away from home, 24% murder.

Chart 3.1 : Nature of offenses - male

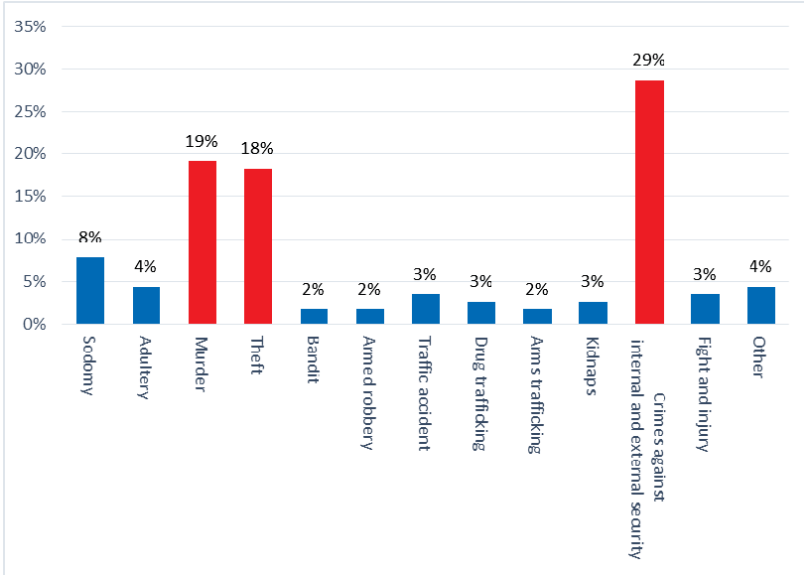
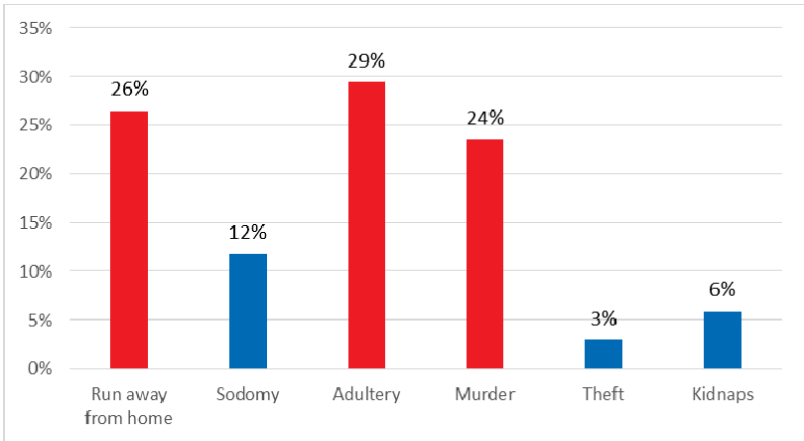


Chart 3.2 : Nature of offenses - female



Reasons of child delinquency at community level:

Without understanding the causes of the involvement of the children in criminal activities, we would not be able to develop effective crime prevention programs at community level.

Interviews have been conducted with 34 community representatives of the 17 large cities of the country in order to understand the main reasons of child delinquency³¹.

26 % of the community representative reported a high number of delinquency in large cities; while 64 % of the community representatives reported a low degree of the delinquency in large cities.

All the community representative believed the main reasons include: poverty, illiteracy, unemployment, insecurity, carelessness of parents, negative influence of media, lack of interest of government and NGOs to eliminate immorality, abuse of freedom, lack of educational programs at community level, lack of the knowledge of the parents regarding the rights of the children, lack of crime prevention programs at the community level, lack of awareness and knowledge about the laws, no rule of law, little law enforcement early & forced marriage, domestic violence, little discipline, too strict discipline, lack of good Islamic educational training facilities, migration, discrimination, increased size of families, lack of schools for children, existence of criminal bands who recruit children.

Different methods were used to interview stakeholders. One was conducting Focus Group Discussion (FGD). The FGDs were conducted involving 412 representatives with similar patterns³².

Child's case management at community level:

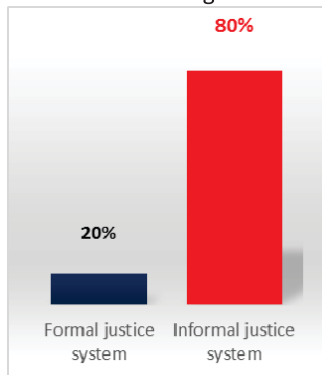
At community level, justice in Afghanistan can be delivered through the informal Justice system. One of the objectives of the current research is to understand which system the people prefer in order to resolve legal problems of juvenile offenders.

88% the community representatives reported the positive effectiveness of the informal justice system in case resolution or case reconciliation. They reported that the informal justice system does not take long, there is no bribery, corruption and bureaucracy, people trust the elders of the community more than the public institutions, there is possibility of reconciliation of families through *Jirgas* and *Shuras*. They reported to think the contrary of the formal system. The community elders have perceived the formal justice system as corrupted. They also indicate that being the people religious, the informal justice system is the easiest way for them.

31 The 34 community representatives include the Presidents of community councils, representatives of regions, elders of the community, religious leaders, teachers of Madrasa, members of the community councils. 2 persons were selected from each province.

32 18 FGDs have been conducted from Dec 2014 to March 2015 for 205 stakeholders in Herat and 207 stakeholders in Kabul. The stakeholders included judges, prosecutors, social workers, teachers, community elders, doctors from forensic department and CPAN's members in MoLSAMD.

Chart 3.3: Percentage of case resolution in formal and informal justice system



On the contrary, 20% of the respondents (chart 3.3) believed that people prefer to resolve their legal conflicts through the formal justice system and reported that the formal justice system is effective and will lead to the correction of juvenile offenders. They believe that Justice Departments and police stations are institutions people can easily approach. According to them the formal justice system punishes offenders in compliance with the law.

Meanwhile, 52% of the social workers in the current study said the government does not control remote areas and is not capable of delivering justice to the people. They believe that *Jirgas* and *Shuras* are capable of resolving the problems of the people in a short period of time. The respondents reported of bribery, corruption, length of trials and lack of transparency which leads to low trust of the people in formal justice system. Whereas, 48% of the social workers participating to the current research reported they believe Courts deliver justice with neutrality and fairness.

Likewise, the perceptions of the judges were not so much different in comparison to the perception of the social workers and community elders. The research finding shows that 36% of the judges believe that people prefer to resolve their legal problems through the informal Justice system while the figure for those who believe that the people prefer the formal justice system was 64%.

70% of the police officers believe people are more likely to resolve their problems through the informal justice system while, this figure is 30% for those who believe people prefer to resolve their legal disputes through the formal justice system.

The research finds that 60% of the prosecutors believe that people prefer to resolve their problem through the informal justice system while 40% of them indicated that people are more likely to prefer the formal one.

In addition, the research finds that the majority of the parents (68%) were more supportive to the informal justice system rather than the formal while, 32% of them reported the effectiveness of the formal Juvenile Justice system.

In general, the research found that people at community level still want to resolve their legal problems through the informal justice system.

Such finding poses concerns especially for girls who are more likely to have their rights violated by the decision of the informal justice system due to the social stigma and social belief that people have regarding the cases of rape, running away from home etc.

Coordination activities of the police with people at the community level:

The current research investigates on the coordination of the police at the time of child arrest with the community representatives at the community level. 55% of the community representatives reported that the police do not trust people at the community level. This leads to the lack of coordination at the time of arrest. It was reported that the police do not inform community elders at the time of the arrest. The community elders believed that majority of the police officers are illiterate and unprofessional and not interested to provide fair services to the people. The mentioned number of community representatives reported that the police do not apply neither the public law nor the *Sharia* law due to corruption and bribery. They perceive the police officers as not neutral and independent: racism, linguistics and ethnic group belonging influence the neutrality of the police.

On the other hand, 44% of the community representatives reported the contrary: that the police officers coordinate with local communities. They believe that those police officers who work in their own Province of residence are more likely to coordinate with people at the community level.

Preventive strategies at community level:

79% of the community representatives reported lack of crime and offense prevention programs at community level, while 21% of the respondents reported of some kinds of crime prevention awareness programs through the mosques. Out of 17 provinces, only Kunar province was found with a traditional law which has been passed since 1992 by its community council. Based on this law, most of the children's cases will be solved by cash penalty which will be agreed by the community council.

88% of the social workers in the current research reported that neither the government nor the NGOs have any crime prevention programs in place at community level while, 12% of the social

workers reported that there are some awareness programs through the mosques by the religious leaders at the community level. However it was reported that *Jirgas* and *Shuras* are not capable of managing the cases therefore, they are referred to the formal justice system.

Detection and arrest procedures in Juvenile Justice system:

Article 10 of the Juvenile Code states that if there is grounded evidence of misdemeanour, felony, or crime, police has the authority to arrest a child under any one of the following circumstance: Risk of flight; Alteration of documents and evidence; Risk of repetition of a new crime.

The below procedures should be followed at the time of arrest:

- The arrested child must not be detained together with an adult
- Within 24 hours, the legal guardian of the arrested child and the social services institution must be informed and notified of his/her place of detention
- The request of the child's legal guardians for his/her release on bail must be appraised within 24 hours of receipt of the request by the competent office
- Within the 24 hours, all the informative documents related to the arrested child must be dispatched to the specialized office of prosecution
- Based on the article 13 (2) of the Juvenile Code, if all the documentation related to the child investigation is not completed, the police can ask the prosecutor for time extension with the purpose of the completion of the investigation. The prosecutor has the authority to extend detention for another 48 hour in addition to the first 24 hours based on the official request of the police or release the child to his/her legal guardian
- Detained children must be held in a special temporary location, and have the right to social, education, vocational, psychological and health services³³

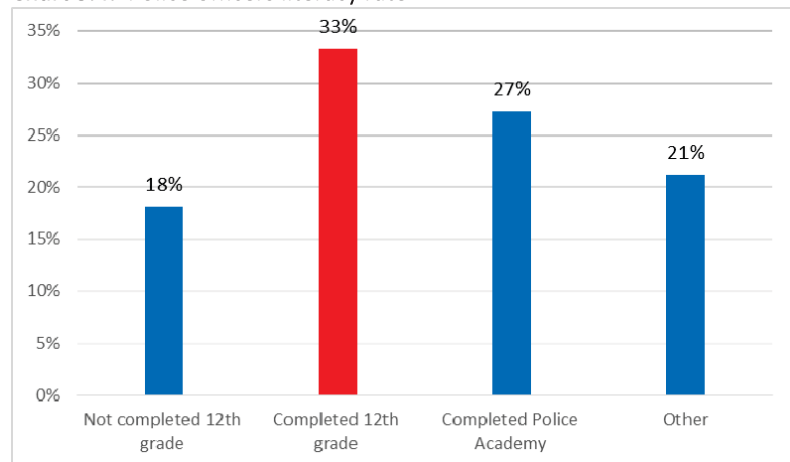
Police Academic Background:

33 police officers from the juvenile crime department of the 17 provinces have been interviewed in this research. It was found (Chart 3.4) that 18% of the police officers had not completed a 12th grade education, 33% of the police officers were graduated from school, 27% of the

³³ Juvenile code 2005, Article 12

respondents were graduated at the Police Academy while 21% reported having a diploma (14th grade graduations). 70% of them have claimed of being special juvenile police.

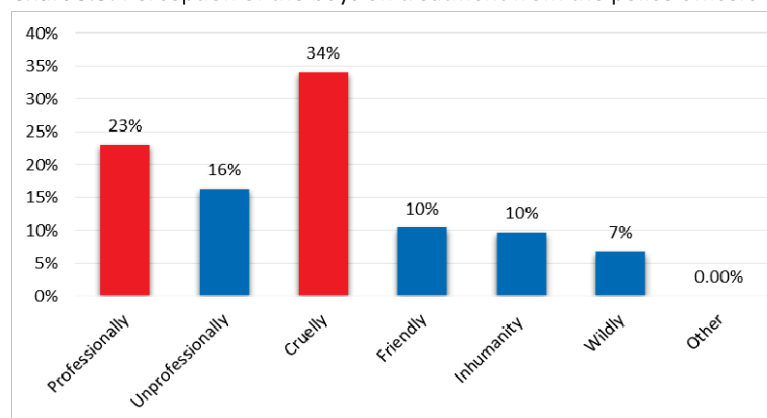
Chart 3.4: Police officers literacy rate



It was found that there were only two police officers (one director and one member) in each of the Juvenile Crime Departments of the police station of each Province of the country. While 1 out of 33 was a policewoman in Urozgan province who was acting as a member of the Juvenile Crime Department.

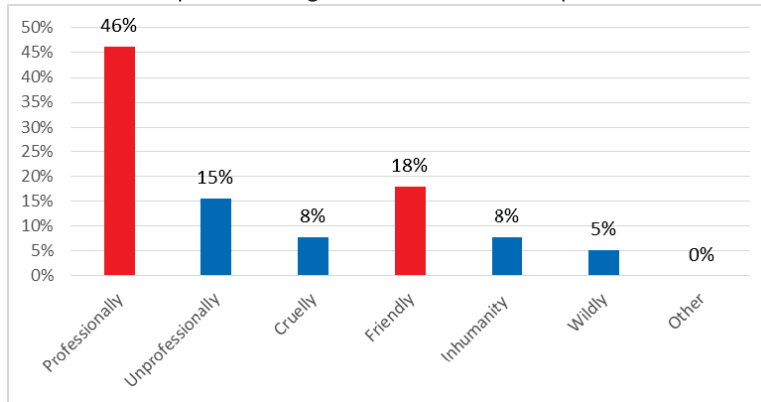
Chart 3.5 indicates that 34% of the detained boys perceived the treatment of the police as cruel, 23% as professional, 23% as unprofessional at the time of the arrest. Only 10% of the children reported a friendly treatment at the same moment.

Chart 3.5: Perception of the boys on treatment from the police officers at the time of arrest



The findings indicate that male children are more likely to experience mistreatment than the girls. Chart 3.6 shows different perceptions of the girls. 46% of the girls believe that the police treated them professionally, 15% reported unprofessional treatment of the police at the time of arrest, 18% reported a friendly treatment, only 8% cruelly.

Chart 3.6: Perception of the girls on treatment from police officers at the time of arrest



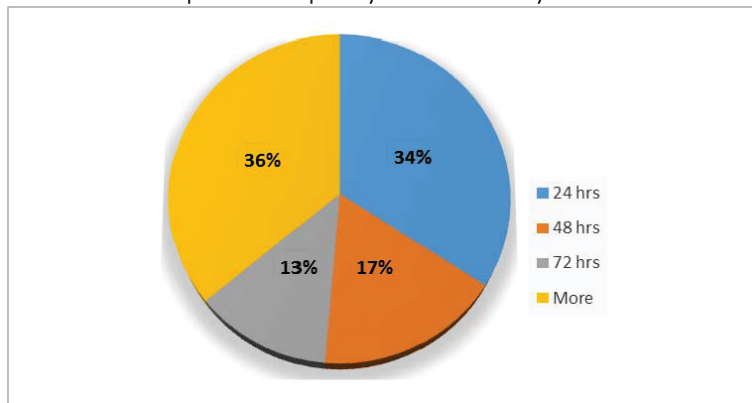
The most common mistreatment include: beating, cursing, humiliating, insulting and use of handcuff at the time of arrest.

Girls reported to have been arrested by male policemen. Money and mobile phones taken at the time of arrest were not returned to them by the police. The police had entered their homes without any official letter or informing the families.

Required time for primary investigation in police custody:

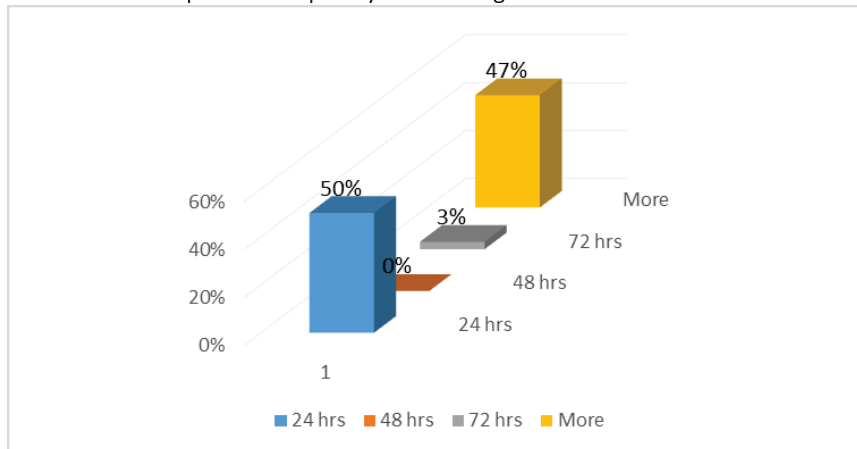
Chart 3.7 indicates that 34% of the male children have been kept for temporary detention whether in police stations or in juvenile crime departments for 24 hours. 17% of them reported 48 hours, 13% were kept for 72 hours, while 36% of the children reported of being kept illegally from one week to 45 days.

Chart 3.7: Time spent in temporary detention - boys



While chart 3.8 shows that 50% of the girls have being kept for 24 hours in temporary detention, none of them were kept for 48 hours. 3 % of the girls were kept for the duration of 72 hours and 47% of the respondents reported that they were kept more than 72 hours in temporary detention in the police custody.

Chart 3.8: Time spent in temporary detention girls



Place for detention of the children after arrest:

Article 12 of the Juvenile Code stipulates that arrested children should be placed in special temporary location where they can access to social, educational, vocational, psychological and health services. Unfortunately, no special temporary locations were found in any of the 17 provinces.

Chart 3.9 indicates that 33% of the boys have been kept in the police station after the arrest. 19% of the male children reported of being kept in NDS, while 20% of the respondents were directly sent to the JRC by the police. 28% of the boys were kept in different places such as the District level Prisons, Terrorism Departments etc.

Chart 3.9: Place of detention after arrest - boys

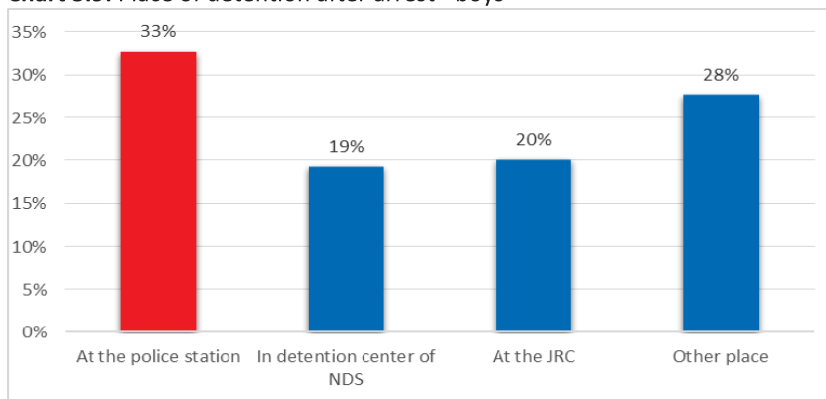
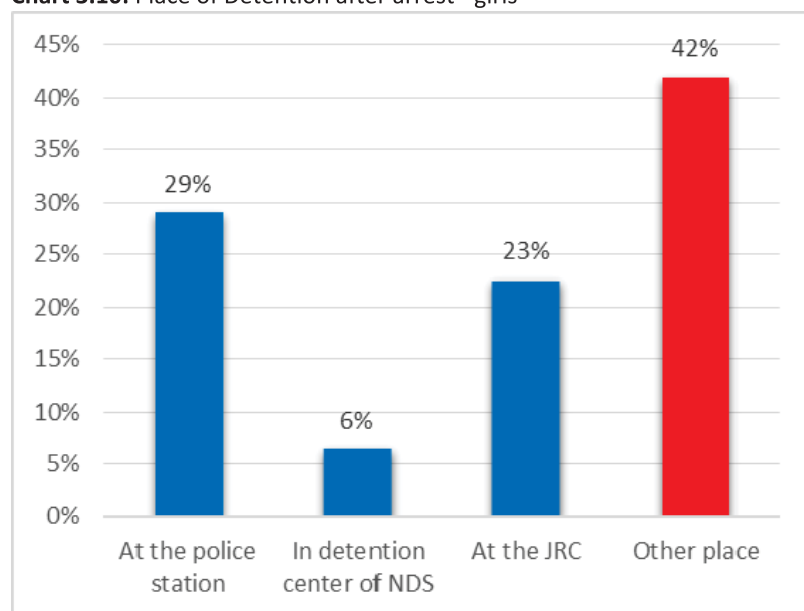


Chart 3.10 indicates that girls also have been kept in different places after the arrest. 29% of the girls reported that they have been kept at the police station after the arrest while 6% at NDS. 23% of the girls were sent to the JRCs after the arrest and 42% were detained in different places such as shelters, Police Headquarters, Juvenile Crime Departments.

Chart 3.10: Place of Detention after arrest - girls



Role of the social workers at the time of arrest:

The LoA defines the role of social workers in completing the work of police officers and prosecutors at the time of arrest and investigation and ensures that detention and custodial sentences are to be used as a last resort and for the shortest period of time. There is a commitment between all parties to take all feasible measures to use alternatives to detention, diversion, to assure that effective involvement of the social workers in the Juvenile Justice system, and a greater use of the Social Inquiry Report (SIR) which would provide accurate and sufficient information about the child to the judge³⁴.

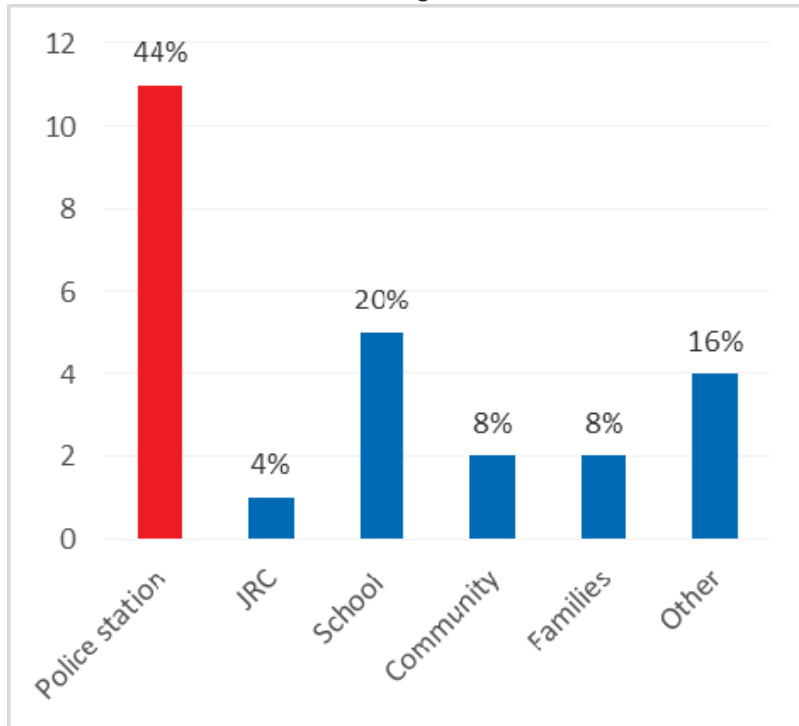
Interviewed social workers were asked if the police invite them immediately after the child arrest for any possible intervention: 88% of them reported that the police officers as unprofessional, that do not value the role of the social worker in the Juvenile Justice system and have little or no knowledge about the contents of the agreement and laws. The social workers have claimed that although the MoLSAMD has provided the list of the trained social workers the police officers do not have the covered the cost of the phone calls for intervention. Only 12% of the social workers reported that the police officers contacted them after the arrest though not regularly.

Chart 3.11 reveals that social workers usually face significant problems while filling the SIR. The data indicates that 44% of the social workers have encountered lack of cooperation from the

³⁴ Letter of Agreement signed in March 2010 between the Ministry of Interior(MoI), Ministry of Labor & social Affairs ,Martyr and Disabled (MoLSAMD), , Attorney General Office(AGO),Ministry of Justice(MoJ), Ministry of Education (MoE),Supreme Court(SC) and during the year 2010 the Ministry of Women's Affairs ,National Directorate of Security and the Ministry of Public Health(MoPH) were added to the LoA

police at the time of filling the SIR, while 4% faced problems in JRCs. 20% of the social workers complained about schools, 8 % of them reported of challenges at community level, 8% of the social workers faced problems with children's families.

Chart 3.11: Problematic actors for filling the SIR



Confession of the child at the initial investigation:

The findings show that neither the social workers nor the legal representatives attend the initial investigation after the arrest of the children in any of the police stations. Children reported of being physically abused by the police at the time arrest as well as during the initial investigation.

Chart 3.12 indicates that 30% of the children in the current study have given their confession because they believed it was in their best interest, while 46% of the respondents said to have experienced coercion at the time of confession, 9% of the children reported of threats at the time of confession while 5% of male children reported of signing on a white paper at the time of confession.

Chart 3.12: The experience of confession - male

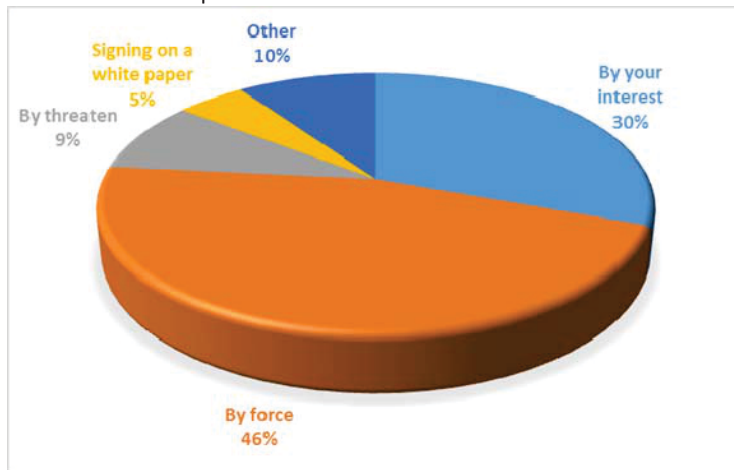
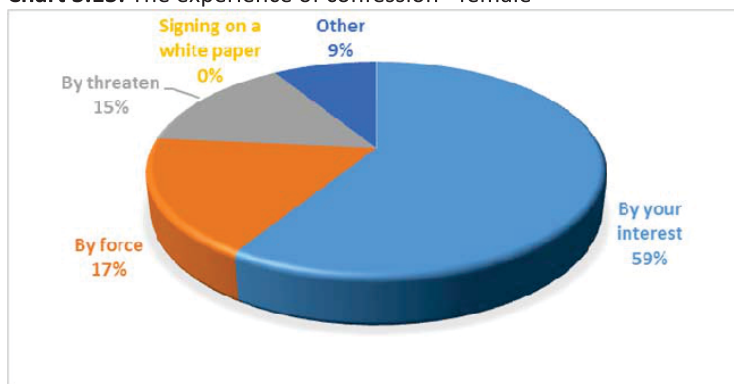


Chart 3.13 indicates that girls also had similar experience as boys. 59% have given their confession because it was their best interest while 17% of the respondents reported of coercion, 15% have experienced threats, 9% of them reported of having been scared or having signed a white paper.

Chart 3.13: The experience of confession - female



Utilization of diversion

No official mechanism is in place in any of the provinces that could prevent first time offenders to enter the formal Juvenile Justice system. However the research shows that people refer frequently to the informal system. The informal justice system plays a key role in the mediation between the family of the victims and the one of offenders for instance.

Even if such system is deeply rooted at community level police officers interviewed in the current study believed that a child found guilty of an offense should be sentenced to detention rather than referred for mediation. The detention is perceived as the best way to prevent crime reiteration. 58% of the police officers reported that they do not divert the cases of the children

due to the law restrictions and fear of the prosecutor. They believe that if they divert any case, the prosecutor will prosecute them. In addition, they reported that they do not have any legal authority to divert the case from formal to informal justice. "We want the child offender to be rehabilitated and reintegrated in the society. The offender has violated the rights of the victim and has committed the crime therefore, we have to submit him/her to the prosecutor".

On the other hand 42% of the police officers reported they believe that as the children would not be rehabilitated in JRCs due to the lack of facilities, they should be trying to solve the cases of the children through mediation. This category reported that imprisonment would mean to destroy the future of the children and that they would be deprived of education in the JRCs. They also reported that they will divert only first time offenders and only for minor crimes.

Role of to the defense attorney:

Article 152 of the Criminal Procedure Code, the Attorney's Law (Article 2) and Article 22(1,2) of the Juvenile Code stipulate that children have the right to access to an attorney starting immediately after the arrest.

Among the 32 girls and 113 boys interviewed 1 girl and 16 boys did not have access to an attorney.

One child reported that he had an attorney for few days but when he could not pay the requested amount of 20000 AFN the attorney did not show up. Another child reported that he had an attorney at the Primary Court, but since 5 months he did not have any attorney and news.

Chart 3.14 indicates that 11% of the male children at the time of the research had access to an attorney after the arrest; 32% of them had access to them after a week; 7% of the respondents reported that they had access to the attorney after a month; 50% of the male respondents reported that they had access to the attorney within 10 to 180 days.

Chart 3.14: Access to defense attorney - boys

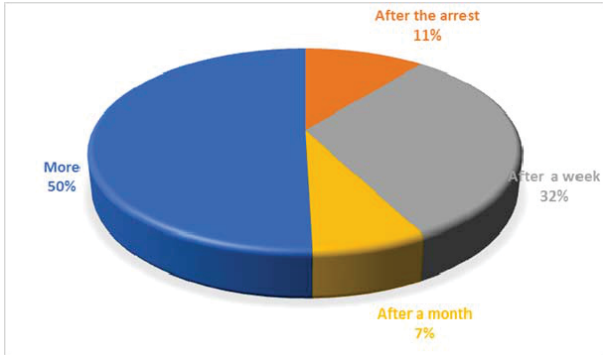
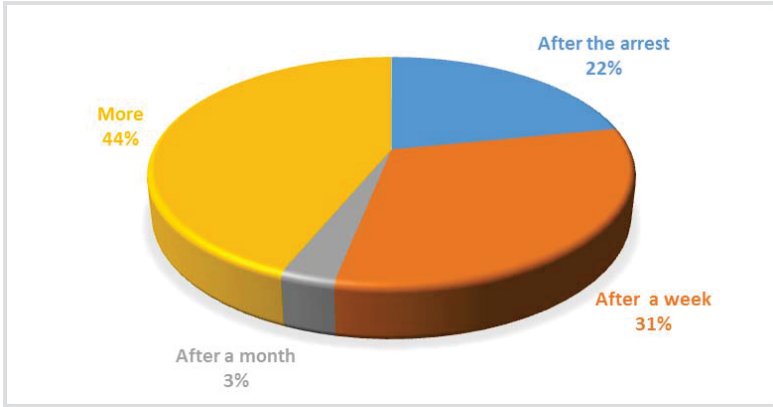


Chart 3.15 shows that girls who were detained in JRCs have experienced similar circumstances: 22% of the girls reported that they had access to the attorney after the arrest while 31% after a week. 3% of the female detainees reported that they have had access to the attorney after a month whereas 44% within 5 to more than 90 days.

Chart 3.15: Access to defense attorney - girls

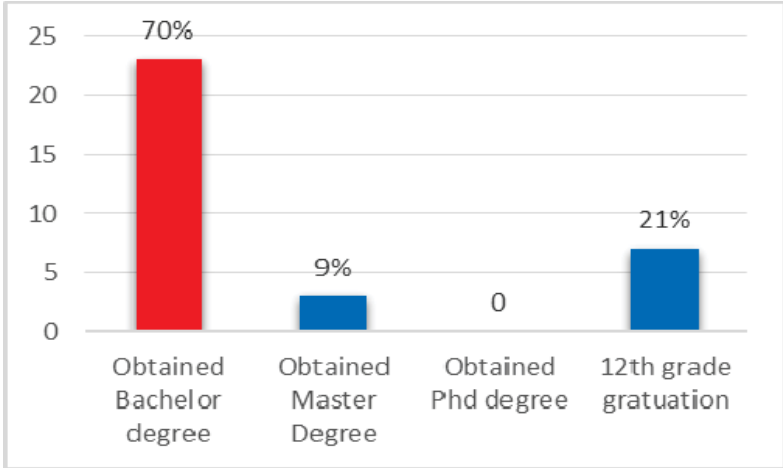


Prosecution process:

Educational background of the prosecutors:

33 prosecutors of the primary and appeal prosecution offices of the 17 provinces have been interviewed in this research. Chart 3.16 indicates that 70% of the prosecutors had B.A degree whether in Law or *Sharia* Law, 9% of the prosecutors had a Master Degree while 21% of them had graduated at grade 12th.

Chart 3.16: Educational background of prosecutors



70% of the respondents were Specialized Juvenile Prosecutors and they work in Juvenile Special Prosecution offices while 30% of them were not Specialized Juvenile Prosecutors. The total number of the Primary Juvenile Specialized Prosecutors is 24. In 6 provinces there is a specialized Juvenile Appeal Prosecution Office whereas 3 provinces neither have the Primary Juvenile Specialized Prosecution Offices nor Specialized Juvenile Appeal Prosecution Office.

Challenges at the time of prosecution:

The research found significant challenges in all primary Juvenile Specialized Prosecution Offices of the 17 provinces. The majority of the prosecutors (70%) reported lack of staff (in each of the Specialized Juvenile Prosecution Office, there were only one prosecutor and one administrative staff), lack of criminology equipment, insufficient time for the completion of the prosecution, lack of SIR in the file of the child offender, lack of facilities etc. The prosecutors also reported that interrogation occurred sometimes without the presence of the attorney or the guardian of the child. It was reported that the police does not always provide all evidentiary document on time. The prosecutors also claimed that the initial investigation is not complete due to the lack of professional police officers. The prosecutors also reported that corruption is a problem.

The research finds insufficient Specialized Juvenile Appeal Prosecutor.

70% of the Specialized Juvenile Prosecutors responded that they rely on the evidentiary documents provided by the police to assess who is the victim and who is the offender, but also by asking questions, building the trust, listening to the child, considering the background and the environment he/she lives, understanding the educational status of the children.

Prosecutors who were working at the Appeal Prosecution Office reported that they do not meet the child because at the Appeal stage they rely on the investigation of the Primary Specialized Juvenile Prosecutors.

Child confession:

The research found that there were no special room in all offices for the interrogation of the children therefore, it takes place at the JRCs often with no attorneys, social workers or the parents.

Children perception regarding the prosecution process:

Data was produced while asking the children regarding their satisfaction or dissatisfaction about the prosecution process. 49% of the children expressed their dissatisfaction about the prosecution process.

Chart 3.17 indicates that 56% reported a good treatment of the prosecutor, while 15% of the boys reported a bad treatment; 9% of the respondents reported that the prosecutors treated them friendly; 6% of the respondent reported that the prosecutors treated them cruelly; 7% of the boys reported that the prosecutors had threaten them; 5% of the respondents report of humiliating behavior; 2% of the boys reported that the prosecutors treated them unprofessionally or violently.

Chart 3.17: Perception on prosecutors treatment - boys

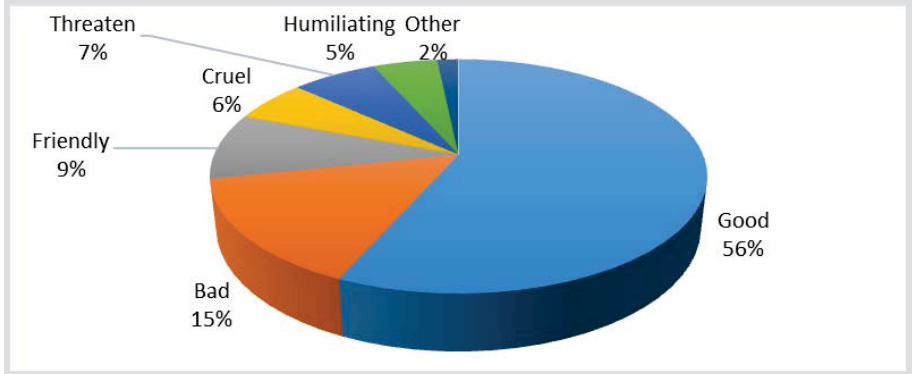
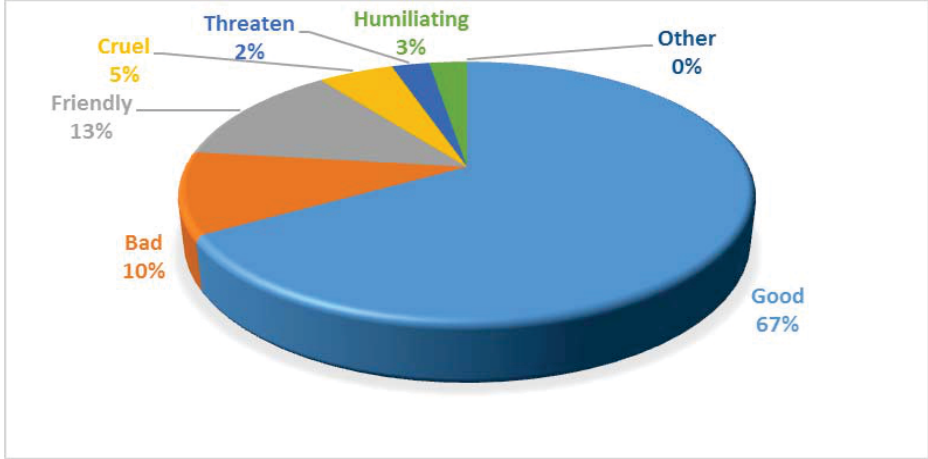


Chart 3.18 indicates that treatment differs based on gender. 67% of the girls reported a good treatment: 10% of the girls experienced a bad treatment; 13% of the respondent reported of friendly treatment; the figure of cruel treatment is 5%; 2% of the girls reported that the prosecutors had threatened them; 3% of them reported of humiliating treatment.

Chart 3.18: Perception on prosecutors treatment - girls



63% of the girls perceived the prosecution process as fair while 37% perceived it as unfair. The figure differs from the boy's perception: 35% of the boys perceived the investigation process as fair while 65% of the boys perceived it as unfair.

Charts 3.17 and 3.18 show that 29% of the boys believed that the process provided them justice while the figure for injustice is 51% and for punishment is 19%. The figure for girls who believe they were served justly is 53%; unjustly 31% and 18% felt punished.

None of the children at the time of research reported mediation between families.

Role of the social workers and SIR in prosecution process:

As specified in the LoA, the prosecutors must use the SIR in close collaboration with social workers. In addition, prior to making decisions, the prosecutors have to coordinate and share information related to the cases of the children with the social workers.

The research found that neither the prosecutors nor the judges or the police value the role of the social workers. This includes not inviting the social workers at the time of interrogation or not considering the SIR.

63% of the prosecutors reported that they do not inform the social workers due to lack of budget for communication. Other believed that the task of the social workers is completed after filling the SIR.

Prosecutors in the Appeal Office think that the presence of the social workers is not needed because in the Appeal phase no new evidence is taken into consideration and prosecutors do not meet the children offenders.

37% of the prosecutors reported they had informed the social workers in order to provide information by filling SIR.

Bail:

Based on the result of the 13th meetings of the Committee of the Judicial Institution dated 30 Dec 2010, a child released by the primary Court cannot be detained in JRC for the purpose of the provision of guarantee by prosecutor.

The findings of the research show that the children will not be released unless bail is set and paid. For 58% of the prosecutors is considered as a demand from the Court and a lawful act.

42% of the prosecutor reported that asking for bail consideration is against the law and the decision of the Primary Court.

Resorting to alternative to detention:

The current research found the use of alternatives to detention and mediation (reconciliation between the victim and offender's family) has been low. 73% of prosecutors consulted do not refer to it, while 27% were supportive for children who had committed minor offenses (theft, fighting, running away and possession of drugs).

It was found that there is a lack of confidence within the prosecutor's office to suggest the use of alternatives to detention: only the 39% of consulted prosecutors reported that they usually suggest the judges to use it. The reasons they gave for not using it included:

- they do not have the power to recommend alternatives to detention, only defense attorneys or judges have that power. Even if they recommend it their request needs to be approved by judges;
- although they requested the judge the use of alternative to detention in the past they rejected it;
- in the Penal Code the use of alternative to detention is not mentioned;
- Article 35 of Juvenile Code does not clarify the type of offense for which it has to be applied;
- warning because is not a category of punishment based on the Article 409 of the Penal Code;
- alternative to detention does not lead to the rehabilitation of the children;
- lack of facilities to use alternatives to detention;
- home confinement is difficult because it requires mentoring for which the families do not have the capacity;
- the use of alternative to detention does not provide a punishment, so it leads to dissatisfaction of the victim's family;
- to date the society is not ready jet;
- warning is not effective.

Chart 3.19: Degree of the request of the prosecutors to the judges for application of alternative to detention

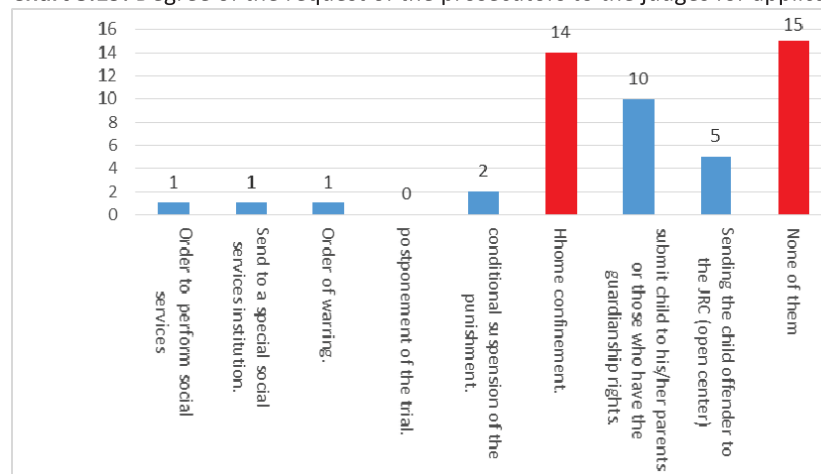
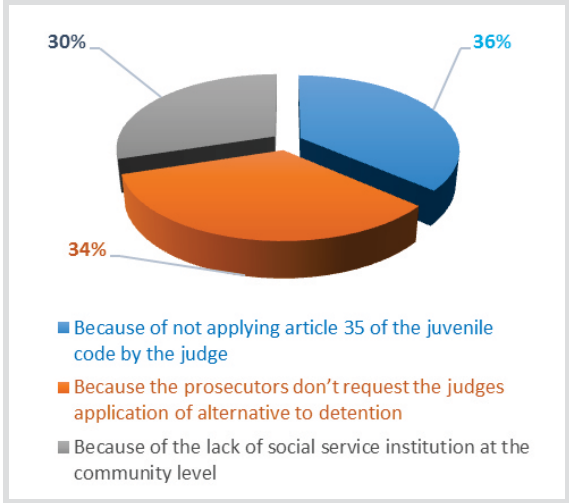


Chart 3.19 shows how measures indicated in Article 35 were likely to be requested. It indicates that 1 out of 33 prosecutors would request the judge the performance of social service, 1 out of 33 preferred special social service institutions, and 1 out of 33 preferred warning. While none of the respondents preferred postponement of the trial, 2 out of 33 the conditional suspension of the trial, home confinement 14 out of 33, and 10 out of 33 submission of the child to his/her guardianship/parents. Whereas, 15 out of 33 prosecutors declared that they would not suggest any options of the alternative to detention to the judges at all. 5 out of 33 prosecutors reported that they are more likely to send the child in Open JRCs. Female consulted prosecutors were 2 out of 33, both of them were likely to use none of the options of Article 35.

The chart 3.20 summaries the reasons the prosecutors gave for the accumulation of the detained children in JRCs: they were in the belief that the judges do not apply alternative to detention (36%), the prosecutors do not request the judge application of it (34%), and lack of the social service institutions (30%).

Chart 3.20: Reasons for presence of children in JRCs- prosecutors



The decision making process in Juvenile Justice System:

The research found there is a too limited numbers of judges - who have been appointed for justice delivery to targeted provinces - to satisfy the needs. Although the trial duration in each court is specified in the Criminal Procedure Code - the trial process for each Primary and Appeal Court is 30 days, and 60 days in the Supreme Court - it takes longer. The trial in Supreme Court for 21% of the cases took place within 3 to 8 months. The major reasons for this delay according to the judges is the lack of Special Juvenile Court or Division at the Supreme Court and due to the load of the cases from all provinces.

Educational background of the Judges:

The judges interviewed in the study were 34, of which 8 were special juvenile judges. 4 judges out of 34 had obtained a master degree, while 30 judges had a B.A in *Sharia* Law. The research found great gender imbalance at the courts structure in the majority of the provinces: only 6 female judges in Kabul, Balkh and Herat provinces have been interviewed. At the time of the research, 17 judges were selected from the Primary Courts and 17 from the Appeal Courts, 3 female and 14 male judges were selected for the interview from each court.

In the majority of the provinces, the cases of children were handled by judges not specialized on Juvenile Justice: only in Kabul, Balkh, Nangarhar and Herat provinces there were 8 specialized juvenile judges, out of 34 interviewed. Moreover, the research found that with the current structure, it was difficult for the judges to handle the cases of the children based on the Law, due to the shortages of the judges and insecurity. For example, in Jawzjan province, the Primary Court had to simultaneously handle the cases of the children of both provinces Jawzjan and Sar-e-Pul.

Judges in all provinces complained of the facilities and inadequate equipment in the Primary and Appeal Courts. The more relevant challenges and constraints reported by the judges at the courts level include:

- limited number of judges and lack of the female judges;
- accumulation of cases and file of children;
- lack of office supplies (furniture, computer equipment);
- lack of access to the collection of laws;
- limited access of social workers and defense attorneys to the trial process or pre-trial process;
- external interference of influential persons;
- lack of cooperation among judges and prosecutors.

Perception of the boys regarding the judges and child's participation in judicial proceedings:

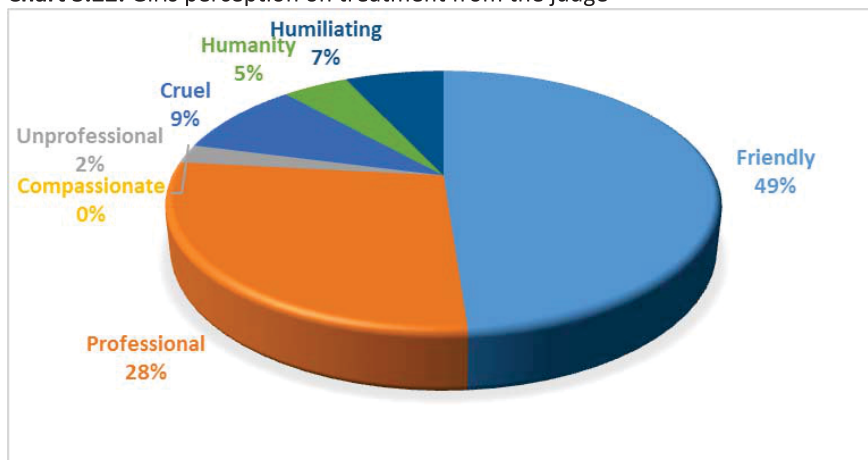
The chart 3.21 and 3.22 show the boys' and girls' perception of the judges' behavior. The chart 3.21 indicates the boys' perception: 33% of respondents perceived the judge as child-friendly; 26% reported that judges treated them professionally, only 9% reported unprofessional treatment; 6% reported of compassionate behavior of the judges; 18% perceived them as cruel; the figure for humiliating reached 8%.

Chart 3.21: Boys perception on the treatment from the judge



The figure for the girls does not differ. The chart 3.22 indicates that 49% of the girls perceived judges as child-friendly; 28% reported of professional treatment, while the figure for unprofessional is 2%; 9% reported cruel behavior of the judges at the time of ruling; the figure for inhuman is 5% and for humiliating is 7%.

Chart 3.22: Girls perception on treatment from the judge



42 children out of 145 were dissatisfied from the decision of the courts, 10 of them were girls. Their perception was based on the behavior the judges have shown at the time of ruling and on the fairness of the decisions made by the judges.

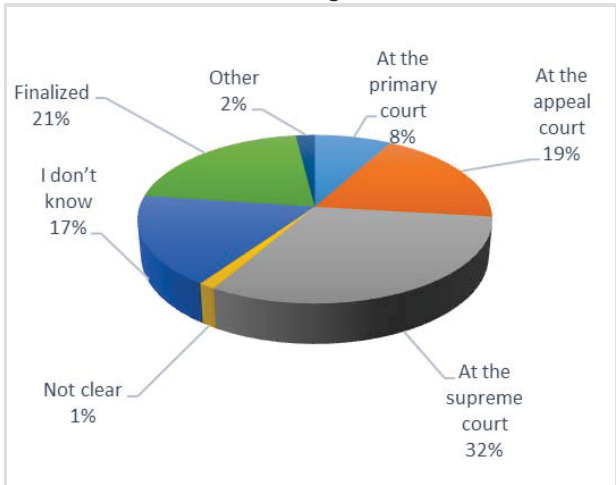
The majority of the children claimed of being innocent, but they had been sentenced to detention; moreover, some of them reported to be the victims of conflicts between prosecutors and judges during the trial.

Some girls reported that although they were the victims of rape or kidnapping, the judges have sentenced them with detention. They reported unprofessional and aggressive behavior of the judges toward them. 80% of the girls feel punished by the decision of the judges; the 11% reported that the decision of the judges is facilitating their rehabilitations. The figure for reintegration of the girls was 9%.

In the case of boys, 70% of the respondents believed that the judges made the decisions in order to punish them, while the figure for the rehabilitation was 24% and 5% for the reintegration.

The children’s participation in the judicial proceedings was very low. In majority of the JRCs, the children did not know about their cases, their trial stages and their fundamental rights. They complain lack of support, participation and follow up on their cases. Chart 3.23 indicates that 8% of the respondents knew that their cases were in the Primary Court, while 19% that their cases were in the Appeal Courts and 32% that their cases have been sent to Supreme Court. For 1% of the children it was not clear where their case were, 17% of the children did not know anything about their cases at all.

Chart 3.23: Children's knowledge on their cases



The current research focused on understanding the challenges and constraints of attendance of children in the Supreme Court. The majority of the respondents have never attended it. 24% of

the judges believed that it would be beneficial for the child to attend the Supreme Court after the first and second phases of the trial, because listening to them and being aware of child's psychology would help them to make the correct decision; moreover, they reported that attendance of the child, attorney or parents is one of the principles of the fair trial.

On the contrary, 76% of judges were against the presence of the child in the Supreme Court due to different reasons: the role of the Supreme Court is to approve, reject or amend the decision of the lower Courts not meeting the child face to face; lack of time to meet child individually due to the accumulation of the cases; difficulties for the child to attend the Supreme Court due logistic and transportation cost.

Challenges/problems reported by the judges:

The judges consulted reported the following problems related to the arrest of the child:

- law capacity of the Police Force to attend the accused child in appropriate ways and with a child-sensitive approach, due lack of knowledge on Juvenile Code and on child-sensitive investigation and consultation approaches;
- aggressive behavior and physical abuse of police officers toward the children;
- absence of prosecutor and parents at the time of arrest;
- absence of defense attorney at the time of primary investigation;
- lack of temporary detention centers to detain suspected and accused children after the arrest;
- incomplete and wrong documents related to the child confession provided by the police to prosecutors;
- lack of equipment at the police stations;
- lack of the cooperation within the Police.

Likewise, the judges consulted reported the following challenges and constraints related to the investigation process:

- absence of the defense lawyer at the time of prosecution;
- case management is based on the information of the primary investigation;
- lack the credible documents supporting the cases;
- incomplete child's confessions;
- lack of age determination documents;
- lack of specialized juvenile prosecutors;
- lack of female doctors as result male doctors examined girls for virginity test in some provinces;

- lack of psychologists;
- children are not aware of their rights and of the trial stages.

The challenges and constraint in the Supreme Court reported by judges include:

- lack of the Special Juvenile Court/Division;
- delays due to accumulation of cases.

Utilization of Alternative to Detention:

The current research found that 12 % of the judges were more likely to sentence to detention rather than to alternatives to detention. The consulted judges who opposed to the use of alternative to detention believe that it is not effective and the children will not be controlled due to insecurity; moreover it would lead to accusations of bribery by the community members. 4 provinces (Helmand, Takhar, Baghlan and Urozgan) out of 17 do not use alternative to detention at all.

The 88% of the judges reported they rule on alternatives to detention based on the facilities available in the province.

Chart 3.24 : Degree of the Application of Alternative to Detention by judges

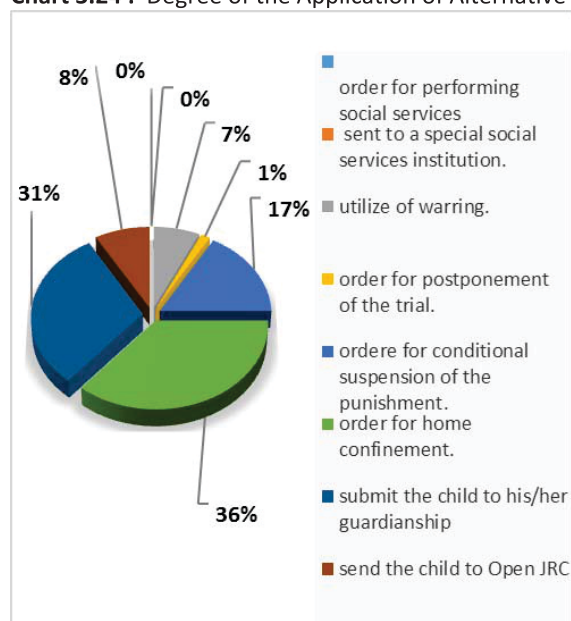


Chart 3.24 indicates the degree of the utilization of measures foreseen in Article 35 by judges:

- performing social services: 0%;
- special social services institutions: 0%;
- waning: 7%;
- order for postponement of the trial: 1%;

- conditional suspension of the punishment: 17%;
- home confinement: 36%;
- submission of the child to his/her guardianship: 31%.

Although referral the child to Open JRCs is not an alternative to detention according to the Juvenile Code, the judges rule for it by 8%.

Problems related to the utilization of the alternative to detention:

The research analyzed the choice of the judges on the community sanctions. It was found that judges do not use warning, because they believe that it will not lead to the rehabilitation of the children.

The main problems related to the use of alternative to detention reported by the judges are:

- lack of the social service institutions at central and provincial level;
- lack of monitoring system by social workers;
- incapability of the parents to control their children if home confinement is used;
- lack of cooperation and monitoring system of the MoLSAMD at the central and provincial level.

What the juvenile justice researcher found during his observation at the central and provincial level is in contradiction with the information reported by the judges. For instance, the degree of the utilization of home confinement, sending to Open JRCs, conditional suspension of the punishment and submission of the child to his/her guardianship was reported very high by the judges, while in majority of the provinces no children were found to have been sentenced with such measures.

Problems in the juvenile code:

68% of the judges reported that the Juvenile Code is a comprehensive code and it does not need any amendment; while 32% reported the Juvenile Code needs an amendment. The judges in favor to amend the Juvenile Code reported:

- there are no clear procedures for the application of the alternatives to detention;
- the degree of the punishment for the children between the ages of 16-18 is too less in murder cases, they would suggest life imprisonment for such category of offenders;
- the Code is more focused on only one category "children in conflict with the law" and the others two mentioned categories "children at risk" and "children in need of care and protection" are neglected;

- the Code is copied from other laws which need amendment, for instance crime responsibility in the Juvenile Code is defined over the age of 12, they requested to change the age of penal responsibility under the age of 12;
- the judge from the Appeal Courts reported that the role of the Primary Court is clarified in the Juvenile Code, while there are no clarifications on the role of Appeal Courts.

The research also found that the terms "crime" - massively used in the Juvenile Code - has negative impact on the psychological and social characteristics of the child offender. It is therefore, requested that the terms "crime" should be replaced by "offense" due to its less seriousness. Criminological theories advise that the use of criminal label should be avoided as much as possible, particularly in the case of children.

Letter of Agreement (LoA):

The Letter of Agreement committed the Supreme Court to consider the SIR at the time of ruling, allow the social workers to attend the judicial meeting and ask them to express their view. Although these obligations and commitments, 71% of the judges were not aware of the document and they do not have any information about its contents. Likewise, 29% of the judges were somehow aware of the LoA, but still need some awareness in relation to the responsibilities of each party.

The role of the social workers in the judicial proceedings is still weak. The majority of the interviewed judges were not in favor of ruling based on the recommendation of the social workers and 65% of them do not allow the social workers to attend the hearing. Judges reported the following justifications:

- is not necessary to invite them;
- it is prohibited by law;
- in order to preserve the identity of the children social workers cannot be invited;
- there is not any official documents to legitimize the presence of the social workers;
- SIR is a comprehensive document, so no need for the testimony of social workers.

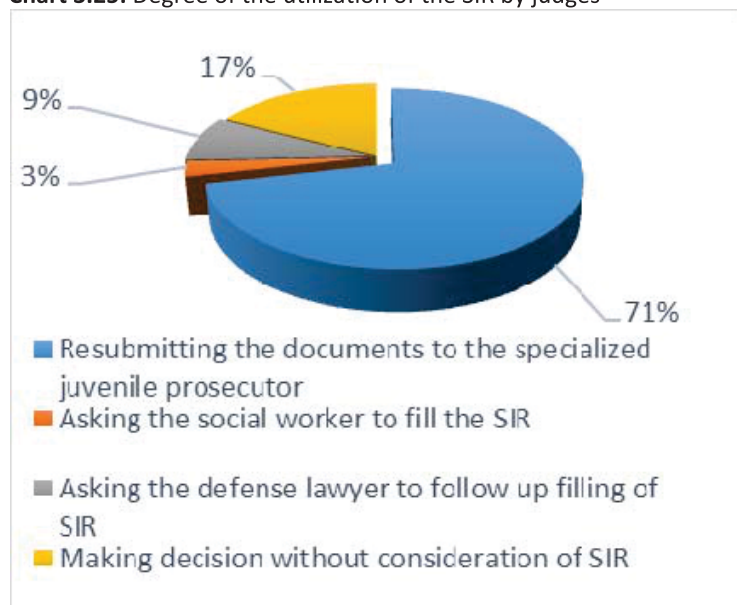
Nevertheless, it was found that 35% of the judges - in necessary cases - were willing to have social workers attending the judicial hearing and when needed the judges relied on the SIR. These judges reported they value the role of the social workers within the Juvenile Justice system. Few judges reported that after a formal invitation, the social workers did not attend the hearing.

Utilization of SIR:

The Letter of Agreement emphasizes the importance of the social workers and of the SIR. In fact, in all cases, before the Court's ruling, the background and circumstances in which the juvenile is living and of the offense that has been committed, should be properly investigated so as to facilitate judicious adjudication of the case by the Court.

Despite these recommendations, the use of the SIR is still weak. In Farah province, it was found that the judges do not attach the SIR in the file of the child offenders.

Chart 3.25: Degree of the utilization of the SIR by judges



The chart 3.25 indicates the different approaches the judges apply if the SIR is not available. 71% of the judges resubmit the case to specialized juvenile prosecutor; 3% ask the social workers to fill the SIR; 9% of the judges ask the defense lawyers to fill the SIR; 17% rule without considering the SIR.

Moreover, the social workers (52%) believe that judges rely more on documents produced by police and prosecutors rather than on the SIR. Finally social workers reported their challenges to filling the SIR: limited budget for transport and communication and insecurity.

Age determination and other medical checkups in Forensic Departments:

The finding of the research indicates that age determination of the children is one of the most complicated and challenging processes. Many individuals detained in JRCs show a physical appearance of more than 18 years, but they have been determined to be under 18 years old.

It was found that there is not a clear procedure on which institution (police or JRC's staff) is supposed to accompany the child to the Forensic Department for age determination.

The judges reported a list of problems related to age determination, virginity test and medical checkups in the Forensic Department at the central and provincial level:

- lack of a standard procedure;
- lack of Forensic Department in majority of the provinces, as result untrained doctors perform the task;
- lack of adequate equipment;
- lack of knowledge about Juvenile Justice Law among health practitioners in Forensic Department;
- the report of the doctors is in latin which is not understandable for the judges;
- lack of official committee in the hospital of Farah province.

In addition, the research found that the age determination jeopardizes the justice delivery. Have been reported many cases of delay of the trial due the age determination problems. In Jalalabad province, doctors report to prosecutors about the age determination in 7 days; the prosecution office in Nangarhar province send some severe case to Kabul for test - due to the lack of criminal techniques in the province - and the result has been resent within 1 to 3 month; in Takhar province, age determination takes place only once a week; in Jawzjan province, there is lack of equipment and professional doctors in the hospital, therefore the prosecutors send the children for age determination to Mazar city once a week.

Humiliation of girls during the virginity test has been reported twice: one case in Balkh province, and one in Herat.

Corruption, bribery and bureaucracy:

When questioned, if anyone asked them for bribe, 61% of boys and 66% of girls in JRCs reported that no one has asked them for bribe.

Although children in JRCs did not feel confident to talk about bribery within the Juvenile Justice system, 39% of boys and 34% of girls reported to have been asked to pay a bribe in order to be released or to be helped in terms of decreasing their detention period.

The amount of the bribe requested from the child or his/her parents differed according to the actors involved. It has been reported, that the amount of the bribe asked by the police is between 10,000 AFN - 300,000 AFN, by the prosecutors between 20,000 AFN - 200,000 AFN, by the community elder 70,000 AFN, by the Primary Court between 1,000 USD – 2,000 USD, in the

Appeal Court between 2,000 USD – 3,000 USD, by defense attorneys was between 8,000 AFN - 100,000 AFN, by NDS prosecutor was 2,000 USD.

Judges perception on bribery:

The chart 3.26 indicates that 29% of the judges perceived that the police officers are more likely to ask for bribe at the time of arrest and initial investigation. 31% reported that the prosecutors ask for bribe, 12% that the defense attorneys ask for bribe, 3% perceived the social workers are the ones who receive bribes and 12% reported that the judges in the Primary and Appeal Court ask for bribe as well. Whereas 13% of the judges believed that none of the stakeholder specified in the chart 3.26 are likely to ask for the bribe.

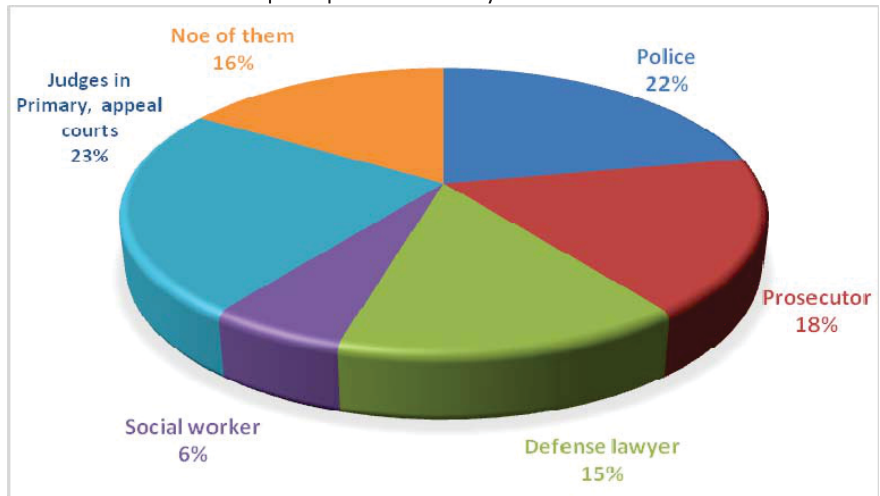
Chart 3.26: Judges' perception on bribery



Prosecutor's perception on bribery:

Chart 3.27 reveals that 22% of the prosecutors believe that the police is more likely to ask for bribe, while 18% reported that the prosecutors ask bribe, 15% of the prosecutors indicated that the defense attorneys ask for bribe. The figure for social workers is 6% and 23% reported that the judges in the Primary and Appeal Court ask for bribe. 16% of the prosecutor perceived that none of the stakeholders ask for bribe.

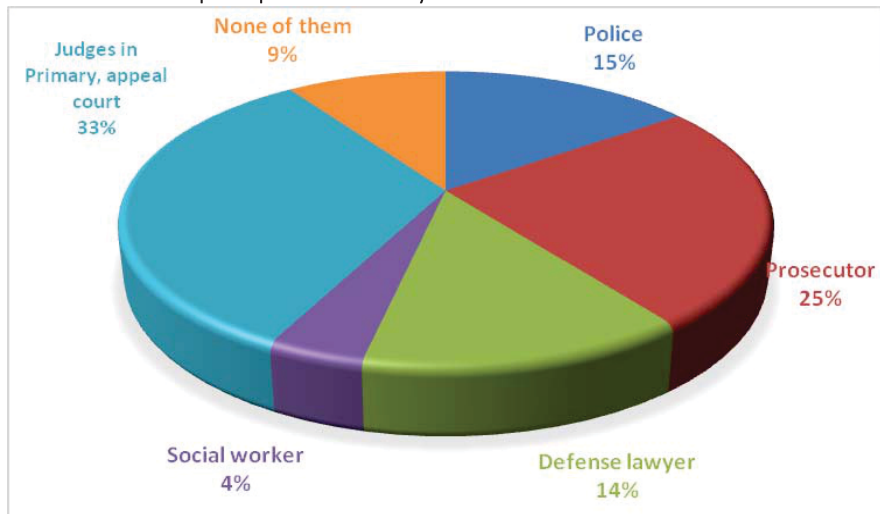
Chart 3.27: Prosecutors' perception on bribery



Police's perception on bribery:

Chart 3.28 indicates that 15% of the police believe that the police officers ask for bribe, 25% reported that the prosecutor ask bribe, 14 % indicated that the defense attorneys ask for bribe, 4% reported that the social workers receive bribe. 33 % were in the belief that the judges in the Primary and Appeal Courts ask for bribe. 9% of the police officers reported that none of the specified stakeholders ask or receive bribe while performing their duties.

Chart 3.28: Police perception on bribery

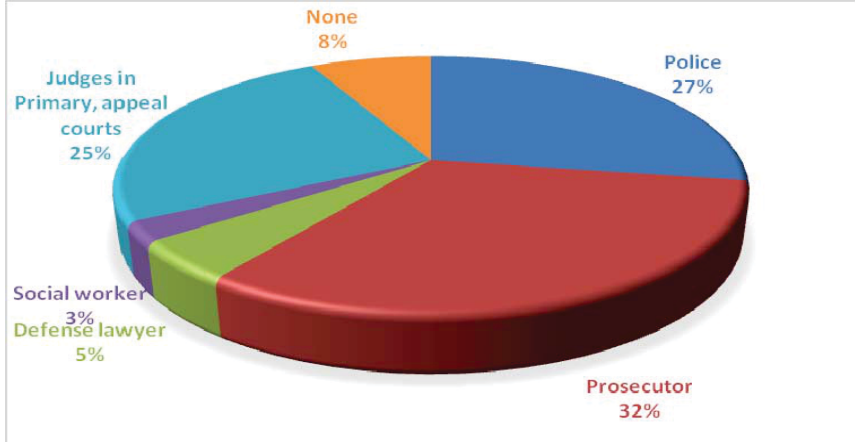


Perception of the JRC's directors on bribery:

Chart 3.29 indicates that 27% of the JRC's directors believe that the police officers receive bribe, 32% reported that prosecutors ask for bribe. The JRC's director were in the belief that 5% of the defense attorneys are involved in corruptive activities, 3 % reported that the social workers ask

for bribe, 25% declared that the judges in the Primary and Appeal Court ask for bribe. The 8% JRC’s directors reported that none of the specified stakeholders ask for the bribe, while handling the cases of the children.

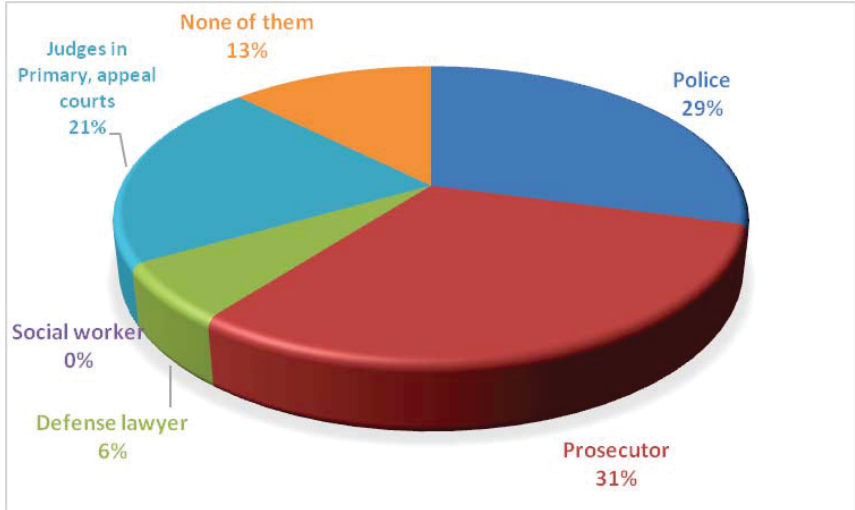
Chart 3.29: JRC’s directors perception on bribery



Perception of the social worker on bribery:

Chart 3.30 indicates that 29% of the social workers believe that the police officers ask for bribe, 31% reported that the prosecutors ask for bribe, likewise 6% believe that the defense attorneys receive bribe while helping the children. 21% of the respondents indicated that the judges in the Primary and Appeal Courts ask for bribe, whereas 13% said that none of the indicated stakeholders ask for the bribe.

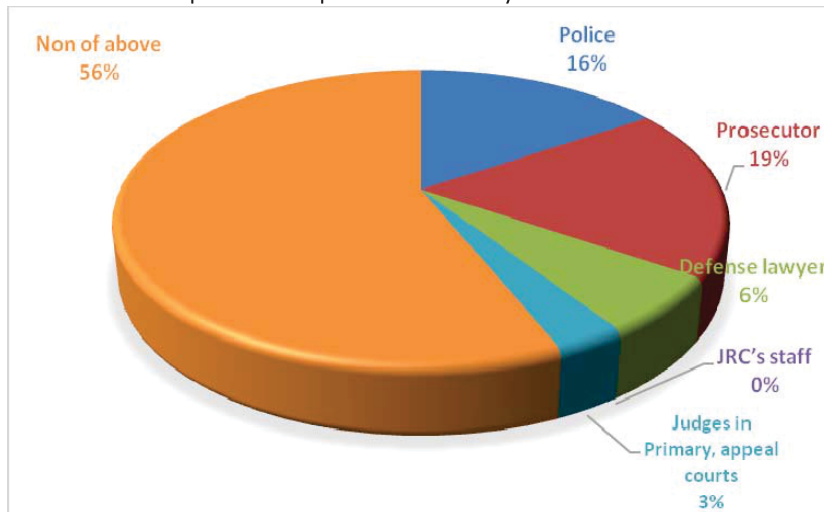
Chart 3.30: Perception of the social workers on bribery



Parent's perception on bribery:

Chart 3.31 explains that 16% of the parents perceived that the police officers ask for bribe, 19% reported that the prosecutor ask for bribe, 6% reported that the defense lawyers receive bribe while handling the cases of the children. The figure for JRC's staff was 0%, whereas 3% of the parents reported that the judges in the Primary and Appeal Court ask for bribe. The majority (56%) of the respondents show that none of the specified stakeholders ask for the bribe.

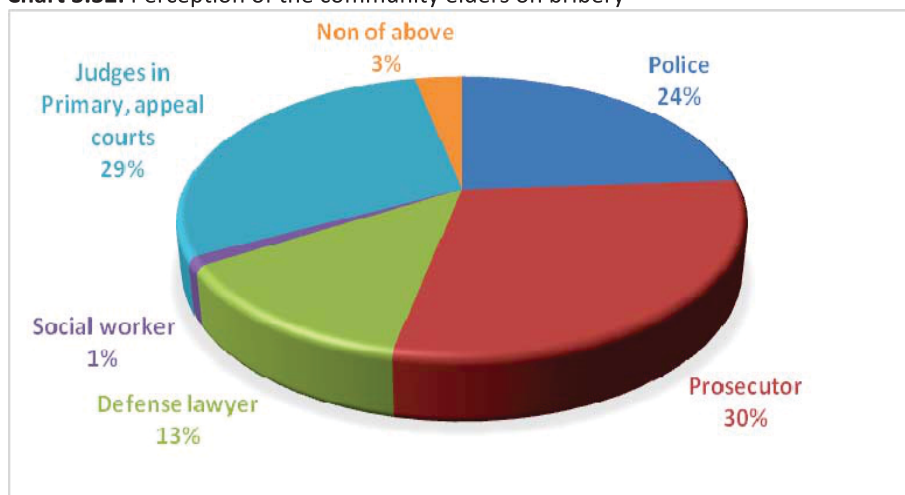
Chart 3.31: Perception of the parents on bribery



Perceptions of the community representatives on bribery:

Chart 3.32 indicates that 24% of the community representatives perceive that the police officers ask for bribe, 30% reported that the prosecutors receive bribe, 13% of the community representative believe defense attorneys play the mediator between the judge and the family of the child to receive the bribe. The figure for the social workers is 1%. 29% of the respondents believe that judges in the Primary and Appeal Courts ask for bribe. 3% of the community elders reported that none of the stakeholders ask for bribe.

Chart 3.32: Perception of the community elders on bribery



The Juvenile Rehabilitation Center:

The Juvenile Rehabilitation Center, known also as Daarul-Tadeeb (correction house) was established (1967) with the purpose of educating and rehabilitating children in conflict with the law. Daarul-Tadeeb was functioning under the supervision of the Ministry of Interior from 1982-1990 and 5 new structures were established in Taliban regime (in Paktia, Nangarhar, Kunduz, Kandahar and Herat provinces). In this period, around 1,000 children were detained in Kabul Daarul-Tadeeb.

After the fall of the Taliban regime, in 2003, Daarul-Tadeeb was renamed to Children's Rehabilitation Center, because of the negative meaning of the words "Daarul-Tadeeb", that have a negative impact on the detained children.

The current research found that 34 JRCs have been established across the country since 2005, to provide rehabilitation and reintegration services for children in conflict with the law. Two JRCs out of 34 JRCs have standard buildings (Kabul and Herat). There were only 2 open JRCs across the country, while the law stipulates establishment of open JRC in all provinces.

Out the 34 JRCs, only Kabul, Herat, Kandahar, Helmand, Wardak, Khost and recently Nangarhar provinces have their own JRC building. In Balkh province the building is under the construction.

The sample size of the JRCs in the current research was 17. 5 JRCs out of 17 were settled in government properties, while 12 JRCs were providing rehabilitation services rented houses with no standards. The monthly rent varies from province to province; for instance the lowest monthly payment was 19,000 AFN in Ghor province and the highest monthly payment was 12,5000 AFN in Nangarhar province.

JRC's structure:

One of the objectives of current research was to understand the structure and functioning of the JRCs in 17 provinces. The finding of the research show a that the structure of the JRCs vary from province to province, in terms of quantity and quality of the staff, access to services, and gender equality.

According to JRC's directors, the professional staff includes the JRC's directors, educational managers, social workers, legal manager, hostel managers and doctor's assistants.

The number of the female personnel in 17 provinces is 57. Only 1 of them works as JRC director in Herat province, and another works as social workers in Balkh. The remaining are either cleaners or guards for the night shift in the girls dormitory. 2 provinces out of 17 did not have any female staff (Helmand and Paktika).

Kabul JRC is an Independent Presidency Government Organization which has an independent budget of 9 million AFN a year. Whereas, the 16 JRCs in the others provinces work under the supervision of the Justice Department at the provincial level.

Challenges in JRCs:

The research reveals that there are similar problems in all JRCs:

- lack of standard building in the majority of the provinces;
- lack of adequate space for the convicted children;
- lack of adequate, standardized rehabilitation programs, shortages of formal educational programs, shortages and inequality of vocational training programs for girls and boys and lack of access to entertaining facilities and activities;
- lack of health facilities (medicines, male and female doctors, nurses and psychologist. Except Jalalabad, doctors are not available at night);
- in majority of the JRCs lack of access to potable water and electricity ;
- shortage of transport and communication cost for personnel;
- lack of female police;
- shortages of security guards;
- lack of access on independent budget, which leads to delays in the procurement process (from 10-15 days).

Coordination of supports/services for JRC:

The research found that there is no equal access to services and support among the JRCs in the country; most of the programs supporting services delivery in the JRCs are supported by international donors and are concentrated in the central and secure provinces.

However is important to underline that the majority of children living in JRCs are detained in Kabul and Herat JRCs.

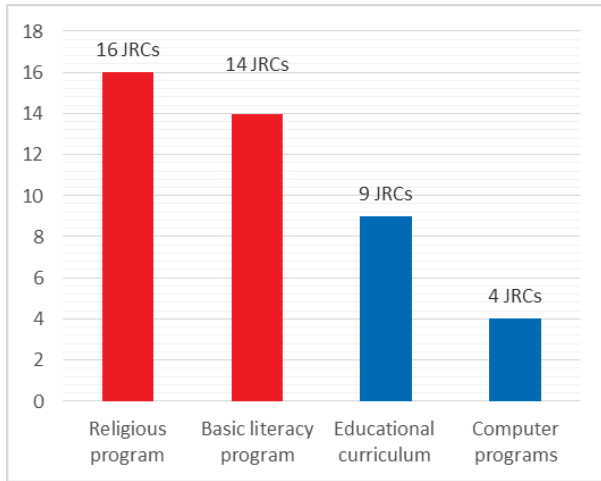
Even though the cooperation of the donors led to the satisfaction of the JRC's director, still there were a few complaints: some programs had not been done on the JRC's director priorities, and JRC's directors reported lack of the coordination among MoJ and donors.

Educational and vocational programs in JRCs:

The findings of the research show significant inequality on providing educational and vocational training programs for the children among the provinces. The current educational and vocational training systems are not sufficient to respond to the needs of all male and female children and to guarantee their reintegration and rehabilitation after release. In fact, the research findings show that 76% of the JRC's directors believe that the provided vocational training programs are not enough to guarantee the rehabilitation of the children, while only 24% reported the contrary. In general, the vocational trainings provided to the children by the government in all JRCs are carpet weaving, embroidery, metal work, tailoring, cabinet making, mobile repairing, bead weaving and jewelry making.

Chart 3.33 indicates the difference offer in the JRCs. 14 JRCs provides literacy courses and educational programs supported by Education Departments; 9 JRCs provide educational curriculum, which are not in line with the school's official curriculum; 16 JRCs provides religious programs for the duration of one hour 1-3 times a week by the Departments of Pilgrimage (only for boys); and 4 JRCs provide computer classes (only for boys). Girls do not have equal access to educational and support services in the JRCs.

Chart 3.33: Educational programs in JRCs



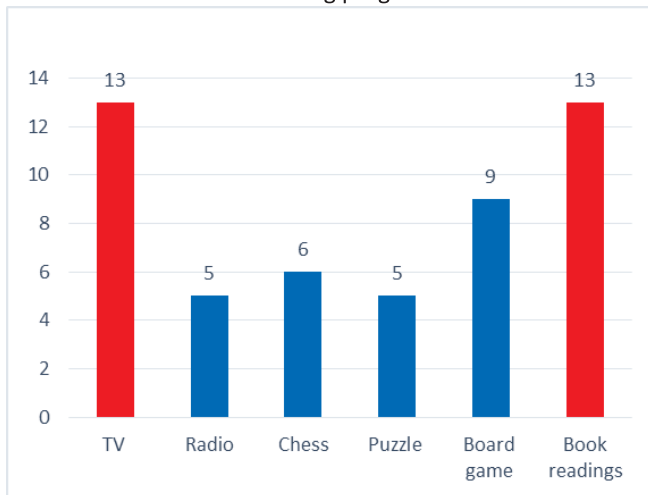
When girls fight with each other, they are handcuffed to the bed's leg, even for 3 days, as a punishment.

Female juvenile detainee

Entertaining programs for children:

Chart 3.34 shows the offer of entertainment activities in the target JRCs, disaggregated by gender: in 13 JRCs the children had access to TV, in 5 JRCs to Radio, while in 6 provinces only boys had access to chess, in 5 JRCs children had access to puzzles, in 9 JRCs children had access to board games (only boys) and in 13 JRCs there were reading facilities.

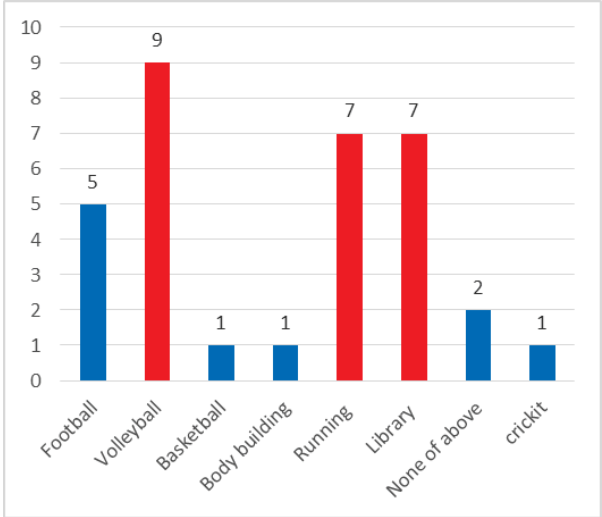
Chart 3.34: Indoor entertaining programs in JRCs



The chart 3.35 indicates gender bias in the provision of outdoor sport activities: in 5 JRCs only boys could play football, in 9 JRC only boys could play volleyball, in 1 JRC only boys could play

basketball and access gym facilities, 7 JRCs have running facilities only for boys, children had access to library in 7 JRCs, there were no outdoor facilities in 2 JRCs and in 1 JRC only boys could play cricket.

Chart 3.35: Outdoor entertaining programs in JRCs



The current research investigated to understand if the educational, vocational, entertaining and other programs of JRCs were instrumental to the rehabilitation and reintegration of the children in conflict with the law. 41% of the JRC’s directors believe that there are possibilities of the rehabilitation of the children in conflict with the law in JRCs. 59% of JRC’s directors expressed their concerns regarding the detention of the children in JRC, where no rehabilitation and reintegration needs will be met. Moreover, they reported that the environment and accommodation provided to children do not allow the participation of juvenile in sports, physical exercises and leisure-time activities.

I fought with a child and I complained to the JRC staff. I was insulted and beaten as a result
Male juvenile detainee

Health services in JRC:

There were two types of health treatment within the JRCs: (1) internal treatment and (2) external treatment. The first type of treatment uses internal resources; a doctor’s assistant is allocated to respond all health issues of children; while the second type of the treatment is provided by external resources, such as public hospital and NGOs’ services. It was found that only one JRC (Nangarhar province) has established a health clinic. The clinic is run by 1 director, 1 male doctor, 1 nurse, 1 pharmacist, 1 health mobilizer and it has a laboratory. None of the clinic staff were working in night shift and there were not any female doctors. In the other 16 provinces the public hospitals send one male doctor to each of JRC to examine the children. In a

few JRCs, there were NGOs who provided female doctors for the girls. In general children do not have access to proper health care and sufficient medication. Children reported they have to buy their medication from outside with their own resources once the doctor prescribes them medication. They also reported delays in their referral to the hospital by the staff of JRC in all provinces.

Children perception on JRC's staff:

The finding of the research indicates that 94% of the children were happy and satisfied of the behavior and treatment of the JRC's staff toward them. They report to refer to them as to their parents, brothers, friends and family members. The children reported that the staff is empathetic and addresses their needs. Still there were some complaints: 6% of the children reported maltreatment of the JRC's staff toward them. Children reported of being insulted (Kabul and Parwan), a few reported of being beaten (Takhar) and punished, other few reported that they are allowed to participate in outdoor activities only once a month (Balkh). In addition, the children reported that the JRC's personnel resort to handcuffs (Herat), while transferring them to the hospital, Courts, prosecution offices or if there is an argument among children.



Chapter 4

Summary of the findings

The summary of the findings of the current research are as follow:

1. The social-economic background of the children as well as their family environment, work place and school directly influence the children involvement in delinquent activities. 80% of the children's families (girls and boys) have low economic incomes; while 20% of families (girls and boys) have medium economic income; none high economic income. 10% of the boys and 28% of the girls were not enrolled in schools. In addition, 4% of the boys and 12% of the girls had left their schools before their detention due to socio-economic reasons (girls were prevented by their parent not going school).
2. Children commit offences because of poverty unemployment and illiteracy of families, but also because of lack of parenting skills, lack of the government attention for children at risk and on crime prevention, lack of schools for children, deprivation of orphans from education, early and forced marriage, lack of good Islamic educational training within schools and because of social discrimination at community level.
3. There is lack of crime prevention strategies by the relevant ministries such as MoLSAMD, Ministry of Pilgrimage, Ministry of Interior and Ministry of Culture and Information at community level.
4. There is low capacity of the police to collaborate with social workers and parents of the child offenders during the time of the arrest and first steps of the investigation.
5. There is limited coordination between the police and community representatives at the time of child arrest, due the limited trust toward the police.
6. There is lack of cooperation between the police and prosecutors regarding the utilization of diversion. The police reported diversion is prohibited or that they do not have the authority to divert the cases of children.
7. There were found cases of physical and psychological abuse on children at the time of arrest and confession. The interviewed children reported of coerced confessions, of having been beaten, frightened, threatened at the time of arrest and confession.
8. There is lack of Temporary Detention Centres at the provincial level for children arrested by the police, in all 17 provinces. The research found that the children were send directly to JRCs, or detained in police stations or in NDS detention centres.
9. There is over time detention of children in the police custody. Boys were detained for the period of 7 to 45 days and girls from 7 to 60 days.

10. Community members lack trust in the formal Juvenile Justice system. They perceive it as corrupted and bureaucratic.
11. There are few professional social workers and there is no gender balance among social workers in all 17 provinces. There were only two female social workers in all selected provinces, 1 in Balkh and 1 in Baghlan. Out of 17 provinces, two provinces (Urozgan and Paktika) did not have social workers, five provinces (Helmand, Khost, Kunar, Bomyon and Badghis) have one social worker each, ten provinces have two social workers each.
12. Social Inquiry Report (SIR) is not used as a source of reliable information by prosecutors and Courts. The SIR is often incomplete, being filled whether in JRCs or in prosecutor offices without any social investigation at the community level. The major problems the social workers face are: lack of the cooperation among different key stakeholders such as police, JRCs' staff, school teachers, community elders and families; moreover, there is no transport or communication budget for them to complete the social investigation.
13. The role of the social worker is not valued during investigation and trial. It was found the judges in the Courts of all 17 provinces rarely permit the social workers to participate in the judicial hearing to testify as specified in the Letter of Agreement. In addition, neither the prosecutors nor the police were likely to invite the social workers at the time of initial investigation. There is lack of knowledge about the importance of the social workers' participation in all the investigation and trial stages.
14. Children have difficult access to defence attorneys. 1 girl out of 32 and 16 boys out of 113 interviewed, did not have access to defence attorney at all. Moreover, 50% of the male children had access to defence attorneys from 10 to 180 days after the arrest, whereas 44% of girls had access from 5 to more than 90 days after the arrest.
15. There is lack of specific knowledge on Juvenile Justice among prosecutors and specialized juvenile prosecutors. 70% of the prosecutors were Specialized Juvenile Prosecutors and they worked in Special Juvenile Prosecution offices. 21% of the prosecutors have a 12th grade graduation. The Specialized Primary Juvenile prosecutors were 24 in 17 provinces; there were 6 Specialized Appeal Juvenile Prosecutors in 6 provinces out of 17 (Baghlan, Takhar, Nangarhar, Herat, Farah and Badghis). In the provinces where Special Primary Juvenile Prosecution offices exist, there was only one prosecutor and one administrative staff who had to handle the cases.

16. There is lack of female specialized juvenile prosecutors in all provinces. In fact, female prosecutors work only in Herat and Kabul.
17. In all provinces it was found that the prosecution offices, lack of criminology equipment, lack of a special room for the purpose of children's interrogation and as result the interrogation normally occurs at the JRCs.
18. There were found cases of psychological and physical abuse (humiliating treatments, threats, cruel and bad behaviour) on children at the time of prosecution by the prosecutors.
19. There is lack of utilization of diversion or resort to mediation by prosecutors. Although prosecutors have the authority to resort to mediation, none has been provided between the families of the victim and offender by the prosecutors. 58% of the prosecutors usually asked to set bail for the release of children.
20. There are limited requests to apply alternatives to detention by prosecutors. 61% of the prosecutors were not in favour of alternatives to detention due the lack of social service institutions, because it is perceived as not leading to the rehabilitation of the children, or in some cases because it was believed to be even prohibited or not mentioned in the law.
21. There is lack of specific knowledge among judges. It was found that only 4 provinces (Kabul, Balkh, Nangarhar and Herat) had Specialized Juvenile Judges. Judges in the Primary and Appeal Courts are perceived in different ways; the interviewed children reported judges to be friendly, compassionate, professional, but also unprofessional, cruel, humiliating.
22. There were reported many delays in the trial stages. 32 % of the children were waiting for the finalization of their cases by the Supreme Court from 3 to 8 months.
23. 21% of children whose cases had been finalized in Supreme Court had never attended the Supreme Court.
24. There is lack of the Special Juvenile Court within the Supreme Court.
25. There is limited application of alternative to detention by judges. The research found 12 % of the judges do not apply Article 35 of Juvenile Code, while 88% resorts to alternative to detention based on the facilities available at the community level. Despite the alternative to detention options, no children were found to be sent for home confinement in majority

of the provinces and no children were found to have benefited from the conditional suspension of the punishment or submission to his/her guardianship.

26. It was found that 32% of the judges thought the Juvenile Code needs an amendment. The judges reported that the Juvenile Code does not provide applicable procedures particularly with reference to the application of Article 35.
27. The research also found that the term "crime" used in the Juvenile Code has a negative impact on the psychology of young offenders. It is therefore, requested that the term "crime" to be replaced by "offence". Criminological theories advise to avoid as much as possible the use of criminal labelling particularly in the case of children.
28. The contents of the Juvenile Code are most focused on the category "children in conflict with the law" and the others two categories "children in need of care and protection" and "children at risk" are neglected.
29. 71% of the judges were not aware of the Letter of Agreement.
30. There is no clear procedure of who is in charge of accompanying the children to forensic departments or hospitals for the age determination of the children, which is one of the most challenging processes.
31. The research found different problems in forensic departments or hospitals with reference to the age determination: lack of a standard procedure for age determination, lack of Forensic Departments in the majority of the provinces, lack of official committee in one of the hospitals (Farah province), lack of adequate equipment in particular criminological equipment, lack of knowledge about Juvenile Justice laws among health practitioners in Forensic Department, Latin language being used by doctors in the report which are not understandable by the judges.
32. Corruption, bribery and bureaucracy in Juvenile Justice system jeopardizes justice delivery to the children. The amount of the bribe requested from the child or from his/her parents differ from sector to sector. The amount of the bribe asked by unknown people is 200,000 AFN, the amount of the bribe asked by the police is between 10,000 AFN - 300,000 AFN, the amount of the bribe asked by the prosecutors is between 20,000 AFN - 200,000 AFN, while the amount of the bribe asked by the community elders was 70,000 AFN. The amount of the bribe asked by the Primary Court is between 1,000 USD - 2,000 USD and in the Appeal Court between 2,000 USD - 3,000 USD while the amount of the

bribe asked by defence attorneys is between 8,000 AFN - 10,000 AFN. The bribe asked by the NDS prosecutor was 2,000 USD.

33. The MoJ is renting the building of 24 JRCs. The amount paid as monthly rental vary from province to province. The lowest monthly payment was 19,000 AFN in Ghor province and the highest monthly payment was 12,5000 AFN for Nangarhar province.
34. There is lack of a standardized management structure and monitoring system of the JRCs' staff in the majority of the JRCs. There is gender inequality on the delivery of the services to children, shortages of personnel and shortages of trained staff or training opportunities in all JRCs.
35. There are two types of JRCs in the country: dependent and independent. Dependent JRCs are functioning under the supervision of the Justice Department at the provincial level; independent JRC (only Kabul JRC) has its own annual budget. The independent JRCs is more functional and has a better management system and budgeting in comparison to the dependent JRCs. Independent JRCs are able to address the needs of the children urgently while, the dependent JRCs had to wait a long time (months) for the Justice Department to reply on their requests of logistics need. There has been found lack of cooperation between dependent JRCs and Justice Department at the provincial level. The number of the staff for independent JRC is 67 staff (to consider also that Kabul JRC is the most populated JRC), while the number of the staff for the dependent JRCs is 9 -17 staff.
36. There is lack of adequate and standardized rehabilitation programs in the JRCs such as lack of formal educational programs, lack and inequality of vocational training programs for girls and boys and lack of access to educational and recreational facilities and activities for girls.
37. There is lack of male and female social workers, male and female doctors, male and female psychologist, shortages of teachers in majority of the JRCs.
38. The research found that 94% of the children were satisfied with the behaviour and treatment of the JRC's staff toward them. They thought of them as of their parents, brothers, friends and family members.
39. 6% of children however complained of ill-treatment (beaten, cursed, insulted, handcuffed) from the JRC's staff. The majority of complaints were related to Balkh, Kabul, Parwan, Takhar, and Herat JRCs. In Helmand, Badghis, Herat, Kabul and Takhar JRCs was found that girls were being handcuffed when being transferred to the hospital or to the Courts.

40. There is lack of Open JRCs in the majority of the provinces. There are only 2 Open JRCs (in Herat and Kabul provinces) across the country.
41. There was found lack of space for the detention of female children in the JRC of Paktika. As result, 3 girls were detained in the houses of community elders.
42. Lack of standard procedures to follow up the released children at community level by the social workers. The social workers reported that they do not follow up the cases due to the lack of budget to cover transportations and communication cost.



Chapter 5

Recommendations



Recommendation to the Ministry of Justice:

1. Advocate the Ministry of Finance to allocate a specific budget line for the better implementation of Juvenile Code, in order to improve the rehabilitation process in the correction centers and the application of article 35.
2. Develop a new national mechanism of coordination among international donors who sponsor projects in favour of JRCs, in order to prevent duplications of activities.
3. Advocate international donors to support Juvenile Justice System, promoting and supporting the application of alternatives to detention and diversion.
4. Develop a comprehensive Juvenile Justice Guidelines for the relevant organizations working in favour of children in conflict with the law and with children at risk. The Guideline should specify practical procedures to implement actions targeting community elders (Jirga and *shura* members) police officers, prosecutors, judges, defence attorneys, social workers, and JRC's staff.
5. Develop a five year National Strategy for the protection of the children in conflict with law, in order to have a clear framework and budget to target prevention, service delivery to children inside the JRCs, their rehabilitation and reintegration in the communities.
6. Establish a standardized management and monitoring system in all JRCs, in order to provide fair and transparent services which lead to the rehabilitation and reintegration of the children in conflict with the law.
7. Review the structure of the JRCs according to international standards and address the challenges by recruiting the necessary personnel: male and female doctors and nurses, male and female psychologists or counsellors, male and female teachers (educational and vocational teacher) and male and female social workers.
8. Categorize the children in JRCs based on the age and offences committed.
9. Advocate the Ministry of Education and Ministry of Pilgrimage to appoint qualified teachers in JRCs to implement regular and standardized educational and religious programs.
10. Provide equal and market oriented vocational trainings for boys and girls in all JRCs. To enhance the financial sustainability of the vocational trainings, the MoJ should consider selling the products to outside customers. Specific amounts or percentages of the sale should be returned to children.

11. Provide special programs to children who have acted against public security such as psychological support and provision of religious programs to change their beliefs and behaviours.
12. Establish in as many provinces as possible Open JRCs.
13. Review, upgrade, amend and strengthen the Juvenile Code by providing clear procedures for the application of alternatives to detention.
14. Develop a comprehensive Sentencing Guidelines for the judges in relation to child offenders
15. Coordinate regular meetings and discussions on the application of the Letter of Agreement at the provincial and district level among the 9 Parties. This would highlight challenges and constraints and support finding solutions.

Recommendation to the Ministry of Interior:

1. Increase the number of the specialized juvenile police officers in Juvenile Crime Departments of all provinces. This should include recruitment of the specialized juvenile male and female police officers at central and district level.
2. Recruit female police officers at the police stations, who would perform the arrest and investigation of accused girls.
3. Conduct regular awareness activities for police officers, men and women, on the rights of suspected juvenile offenders during the arrest and confession, in line with the UN Convention on the Rights of the Child, Beijing Rules and other international standards.
4. Ensure that social workers, parents and community representatives collaborate with the police institutions at the time of arrest.
5. Raise and build capacities of police officers, men and women, on the utilization of diversion, mediation and reconciliation in accordance with the best interest of the child.
6. Resubmit the buildings of the Juvenile Crime Departments of 4 provinces (Mazar-e-sharf, Nangarhar, Kabul, Herat) that are currently used by other departments. The research suggests using these buildings as a temporary detention centres for suspected children arrested by the police. Otherwise, the Ministry of Interior is recommended to establish temporary detention centres in all provinces where the children will be detained until the initial investigation is finished.

7. Introduce a common procedure to establish a Steering Committee composed by 1 prosecutor, 1 police officer (men or women), 1 social worker, 1 judge, 1 community leader and parents of the child, to intervene on mediation and reconciliation in accordance with the best interest of the child, for minor and first time offences.
8. Coordinate programs with the MoLSAMD in order to have one social worker in each police station. The social workers would play a key role on the application of diversion and mediation and could act as a deterrent for corruption and bribery.
9. Ensure the application of the Letter of Agreement across the country by Juvenile Crime Departments and district police stations.

Recommendation to the Attorney General's Office:

1. Increase the number of specialized juvenile prosecutors in Juvenile Primary Prosecution offices, Appeal Prosecution offices and Juvenile Appeal Prosecution offices, so that investigation and trial are performed in line with the Convention on the Rights of the Child, Beijing rules and international standards.
2. Recruit female juvenile prosecutors that would handle with gender sensitivity the cases of juvenile girl offenders.
3. Provide training on children's rights to improve the knowledge of prosecutors with 12th grade academic achievement in Parwan, Farah, Ghur, Badghise and Bamyan provinces.
4. Raise awareness on children's rights to prosecutors to prevent them resorting to psychological and physical abuse on children during investigation and prosecution.
5. Raise capacities of specialized juvenile prosecutors, through training and workshops, on their role in mediation and on Juvenile Code with reference to alternatives to detention.
6. Ensure that social workers and defence attorneys collaborate with prosecutors during investigation and trial.
7. Ensure collaboration with NDS prosecutors in case of offences against public security committed by children.
8. Improve facilities of the juvenile prosecution offices in all provinces.
9. Ensure the application of the Letter of Agreement across the country by the prosecution offices.

Recommendation to the Supreme Court:

1. Establish a Special Juvenile Court within the Supreme Court, in order to accelerate the trial completion of children in conflict with the law.
2. Establish Specialized Juvenile Primary and Appeal Court in all provinces where these have not been established yet.
3. Recruit female specialized juvenile judges in Primary and Appeal Courts at provincial level.
4. Ensure the monitoring of the child's rights in the Courts.
5. Conduct capacity building training or workshops to judges at central, provincial and district level on the Juvenile Code and on alternatives to detention.
6. Ensure the newly recruited, specialized juvenile judges are educated up to B.A degree with two years of experience on juvenile offenders.
7. Ensure that social workers opinions and consideration are taken in consideration for the ruling at Primary and Appeal Courts.
8. Provide the necessary equipment and facilities to Primary and Appeal Courts.

Recommendation to the Ministry of Labor, Social Affairs, Martyrs & Disabled:

1. Recruit professional and trained, male and female social workers in all provinces.
2. Provide a comprehensive list with professional and trained social workers to Juvenile Crime Departments and Police Stations.
3. Appoint one social worker in each police station as the focal point to facilitate the process of diversion.
4. Increase budget allocation on communication and transportation costs, to allow social workers to investigate for the purpose of filling the SIR and in order to follow up of the cases of the released children at community level.
5. Develop a comprehensive mechanism related to crime prevention with the cooperation of the relevant institutions at community level. The social workers of the MoLSAMD should play a key role in crime prevention by implementing of programs and monitoring activities.
6. Develop an agreement with Social Service Universities to allow students to be involved in social work activities particularly in filling of SIR, rehabilitation, reintegration and follow up of children in conflict with the law.

7. Establish referral mechanism for child offenders to social service institutions that provide alternative to detention services.
8. Conduct regular trainings and workshops to promote the application of the Letter of Agreement.
9. Conduct awareness activities with social workers and at community level on children's rights, diversion and alternatives to detention.
10. Ensure the application of the Letter of Agreement.

Recommendation to the National Directorate of Security:

1. Take measures to prevent that National Directorate of Security officers perpetrate physical and psychological abuse on children at the time of the arrest.
2. Conduct regular awareness activities for NDS officers, on the children's rights at the time of arrest and prosecution in line with the Convention on the Rights of the Child, Beijing Rules and international standards.
3. Ensure the collaboration between NDS officers and MoLSAMD social workers while children are in their custody and ensure the necessary support for filling of the SIR.
4. Ensure the application of the Letter of Agreement across the country by NDS officers.

Recommendation to the Ministry of Education:

1. Establish standardized educational classes in all JRCs in line with the competencies of the detained children.
2. Provide all necessary books in line with the MoE curriculum to JRCs.
3. Support the reintegration in schools of the released children.
4. Support and ensure the collaboration between the teachers, headmasters and MoLSAMD social workers in charge of filling of the SIR.
5. Ensure the application of the Letter of Agreement

Recommendation to the Ministry of Public health:

1. Establish a health corner or health clinic in each JRC.
2. Provide regularly all necessary supply of medicines to all JRCs.
3. Appoint male and female doctors and nurses to JRC for the purpose of the examination of children.

4. Develop capacity building programs to doctors in the field of forensic science.
5. Ensure and monitor attitude and behaviour of doctors in public hospital to avoid any type of abuse.
6. Ensure standardized age determination process.
7. Improve birth registration system in all provinces.
8. Ensure the application of the Letter of Agreement.