

MINI DUBLIN GROUP

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Subject: Round Table on: *Judicial Reform in the Islamic Republic of Iran and the Prospects for Future Cooperation*

Chair:

- Dr. A. Jamshidi, Deputy Head of Judiciary for Legal Affairs and Judicial Reform, Judiciary of the I.R. of Iran;
- Ms. Sara Mannell, Second Secretary, Embassy of the United Kingdom (UK) and Chair of the Mini Dublin Group (MDG);
- Mr. Roberto Arbitrio, Representative, UNODC Iran.

Date: 7 December 2004

Venue: Office of the Deputy Head of Judiciary for Legal Affairs and Judicial Reform, next to Dasht-E-Behesht Hall, Evin Ave., Saadat Abad, Tehran, Islamic Republic of Iran

MDG Members

Attending: Australia, Belgium, Canada, Finland, France, Ireland, Italy, Japan, the Netherlands, Norway, Poland, Russia, Sweden, Switzerland, Turkey and the United Kingdom

REPORT

The Round Table

The Judiciary, the MDG Chairmanship and UNODC jointly organized the Round Table on 7 December 2004. A total of 26 representatives from the Mini Dublin Group (MDG), the Judiciary and UNODC attended the event.

UNODC distributed to MDG members the report of the previous round-table with the Anti-Narcotics Police held on 21 November 2004 and the draft project idea “Assistance in the promotion of the reform process of the Judiciary and the Prison System in the I.R. of Iran”.

The Chair and the opening remarks

The round table was opened by a welcoming speech of *Dr. Jamshidi*, Deputy Head of Judiciary for Judicial Reform and Legal Affairs and Chairman of the Round Table. He welcomed all MDG participants and thanked Mr. Arbitrio for coordinating this event

expressing the hope that this gathering could be the beginning of increased future cooperation.



The Chair of the Round Table: UK, the Judiciary and UNODC

Mr. Roberto Arbitrio, Representative of UNODC, thanked all MDG members and national counterparts for the continued support provided. Appreciation was expressed for the decision taken by the Head of the Judiciary to appoint Dr. Jamshidi as direct counterpart of UNODC. UNODC package of assistance to the Judiciary will include an on-going project on anti-corruption measures funded by the governments of the Netherlands and Sweden, a EC-funded project to support the reform of the Judiciary and an additional project promoting international judicial cooperation based on the recommendations of Judge Giovanni Melillo, one of the evaluators of NOROUZ programme.

Ms. Sara Mannell, Second Secretary of the UK Embassy and the Chair of the MDG thanked UNODC and Judiciary for organizing the event. It was noted that this initiative follows other round tables organized with the Anti-Narcotics Police, NGOs working in the field of Drug Demand Reduction (DDR) and many key government bodies involved in drug control. The round table with the Judiciary is the last joint initiative taken in the year 2004 and although the legal system of many MDG members differ from the Iranian one, there are similar problems and much can be learnt from each other.

Presentations

Dr. Jamshidi, Deputy Head of Judiciary for Judicial Reform and Legal Affairs, made a presentation on “Judicial reform in Iran: a Process Aimed at a More Efficient Judiciary and at Promoting the Rule of Law”. The presentation highlighted that Judiciary has started its reform five years ago. The first reform plan is already at the end and a second one is being launched. Over 25 million cases including criminal, non-criminal and civil disputes have been finalized during the last five years. As a priority, the judicial reform addresses the amelioration of procedures to ensure fair trial. According to the Iranian constitution, the Judiciary has four main tasks, namely: examine and pass judgments [administration of justice], crime prevention, supervision over judgments and revival of

people's rights. In addition, the supervision over the work of other governmental bodies is the responsibility of the State Inspectorate Organization affiliated to the Judiciary.



Participants to the Round Table organized by the Judiciary jointly with UNODC and the MDG

The Judiciary believes that each judicial system requires the development of 9 areas of “non-material” [or intellectual] reform and 2 areas of “material” reform. The “non-material” developments include:

- Institutional Development;
- Development of Information & Communication Technology (ICT);
- Development of Human Resources;
- Cultural Development;
- Development of Financial Resources;
- Development of Management and Programming;
- Development and updating Laws and Regulations;
- Research and Development (R&D);
- Development of Standardization and Evaluation.

The “material” part of the reform includes: Infrastructure and Equipment development.

Two identified methods of Structure System Management and Design Methods (SSMDM) and Total Quality Management System (TQMS) are being used for judicial reforms in the world. With regard to the latter system, a group composing of 4 experts in the fields of management systems, law, IT or ITC and Management, headed by Dr. Ramezani worked on Case Management System (CMS) and Expert System (ES). This system is intended to eliminate corrupted practices in the handling of cases. A pilot courtroom (Justice Complex) has been established 4-5 months ago and it has now only digital files. This system will give transparency to the judgment and will reduce the errors made by judges. The Judiciary intends to use CMS in the courts throughout the country during the 2nd reform plan. ES is an experimental system and at present is developed for theft crime cases. In this system, a judge will provide the answers to the questions asked by the computer and the system will issue the verdict (on facts) while the judge will issue the ruling for punishment.

The reform of the legislation includes criminal, legal, commercial and international regulations while the criminal reform includes the following:

Decriminalization – to encourage the minor disputes/cases of social behavior to be settled (resolved) by public participation (involvement) rather than in courts. In the last two years, about 7,000 specific councils have been formed.

De-penalization – There has been a proliferation in the number of decrees applied by courts to specific crimes. To address, *inter alia*, this problem, a reform package has been submitted to the Judiciary as a work prepared and evaluated by a team of 30 criminologists and other experts. This package will be further assessed and evaluated by a Commission composed of judges of the High Court and other relevant authorities and currently it comprises among other things:

- Juvenile justice bill – to substitute imprisonment with other punishment for those under the age of 18;
- Elimination/removal of Capital punishment for those under the age of 18;
- Restorative justice for juveniles;
- Rights of civilians – approved and now in force.

In addition, a Human Rights committee has been formed in the Judiciary to take an effective step during the 2nd reform plan.

The 2nd reform plan aims at 5 important objectives and it has initiated 5 month ago as follows:

1. Increase public and civil society participation/involvement;
2. Increase of public trust to judiciary;
3. Increase/improvement of efficiency, effectiveness of judiciary;
4. Increase of accessibility to justice;
5. Development of human resource of judiciary or non-judiciary staff.

The strategic and specific/general objectives of the 2nd reform plan have been identified and are being translated into English. The Judiciary also has 20 big projects to be implemented during the next 5 years.

In his concluding remarks Dr. Jamshidi expressed interest in increasing legal cooperation with MDG countries, particularly in drug crimes related issues. Specific areas of cooperation may also relate to:

- Penitentiary and prison system;
- Human rights issues;
- Registration of deeds and property;
- Exchange of experts and research projects;
- Signing of formal agreements.

Dr. Jamshidi informed that a project is being developed with UNODC addressing the following:

- Ensuring fair trial;
- Promoting the role of women in the Judiciary;
- Promoting the application of communication and information systems;
- Promoting public trust of the judicial system;
- Improvement of prison management.

Mr. Arbitrio emphasized that the Judiciary is the driving force of the reform and that UNODC is willing to support this process by promoting international cooperation and facilitating the exchange of experiences and best practices.

Mr. Mehrdad Rezaeian, Chief of the Rule of Law Section of UNODC Iran, made a presentation on “Evaluation of the Legal Assistance (LAS) Project and New Areas of Cooperation in Judicial Matters”. Cooperation in judicial matters with Iran dates back to 1998 with the organization of a specialized workshop and the launch of the LAS project in 1999. The LAS project is due to end in 2004 and it provided assistance in developing needed legislative and investigative tools for tackling drug trafficking and international organized crime. This project included the activities on:

- Updating Iranian anti-drug legislation vis-à-vis international norm and standards;
- Training of judges and law enforcement personnel;
- Increasing knowledge on modern technical tools and methodologies.

A project on anti-corruption has been initiated in 2004 and it is currently on going.

The evaluation of the LAS project was undertaken in September-October 2004 and the final report contains the following recommendations:

- Reform of Anti-Narcotics Law to be continued;
- Supporting the improvement of court procedures;
- Research studies in criminal matters to be continued;
- Provision of support to the judicial reform process;
- Promotion of measures against money laundering;
- Promotion of mutual legal assistance.

Currently, UNODC is developing a new project funded by the EC to support the judicial reform with the following objectives:

- Assistance for the improvement of court procedures aimed at ensuring fair trial;
- Increasing public trust to the Judiciary;
- Promotion of measures to meet specific needs of women in the criminal justice system;
- Utilization of modern technology to improve the courts procedures;

- Promotion of modern techniques to improve management in the penitentiary/prison system.

Open Discussion

H.E. Mr. Philippe Welti, Ambassador of Switzerland, thanked the organizers of the Round Table and expressed appreciation for this initiative. The Swiss Ambassador made two comments:

- *First*: “Modern doctrine puts a lot of emphasis mainly on the intention of the criminals and not so much on the objective elements of the case. When one hears that there is a system under examination, which would produce not only every information but even the verdict, that would be worrying that the most fundamental requirement for justice is missing. And that is the clear mind of a judge. By clear mind, it means the judge’s comprehensive awareness of the legality and equity of his work. As this so-called ‘system’ is still under examination, there is a hope that you will take into consideration what was mentioned now as to the quality of being a judge”.
- *Second*: “Another fundamental element of the rule of law in any judicial system is the right to revision of any court ruling. Now the system of revision should be at the centre of any judicial reform but not much was heard about this. There has been information about few cases that capital punishment decisions were taken and implemented by the first ruling only. When their cases were met with international criticism, it has been said that judges made mistakes on first instance cases. So there was no possibility of redress by second or third instances and this shows the importance of the system of revision particularly in capital punishment cases where one cannot correct anything the first ruling instance has implemented”.

H.E. Mr. Thomas O. Bolster, Ambassador of Ireland, fully supported the remarks of the previous speaker. He said that what the international community considers most important is not the quantity but the quality of justice and if the quality is good and if the system provides a good quality then it can be taken that the quantity aspect will be considerably reduced and may to great extent resolve itself. His second remark related to the question of corruption. One of the dilemmas that has faced Western jurisprudence “for not centuries but millenniums” is: “*Who will judge the judges; who will guard the guards*”. It is an enormous challenge that has not been fully resolved yet and for that reason he wished success to the initiatives discussed during the Round Table.

Dr. Jamshidi thanked for the good remarks made by the Ambassadors of Switzerland and Ireland and provided replies. As to the first question, the Expert System will not give judgment instead of the judge but it provides relevant background for the judge to deliver a fair verdict. There are thousands and thousands of pages of law books and other rules and regulations and it would be a great achievement if the system could help the judge in a right diagnosis of the case. The independence of the judge is underlined but this tool is

used to help the judge to reach a verdict. He stressed that this system is in a pilot phase and it might dropped if not proved to be effective.

Dr. Reza Ramezani, Project Manager of Case Management System & E-Court gave a brief explanation on the Expert System and its application as a pilot system.

As to the remarks on the court appeal system, *Dr. Jamshidi* added that there are several stages of appeal. These stages would include: a) the Court of First Instance; b) the Provincial Courts; c) the Supreme Court; and c) the Special Unit under supervision of Ayatollah Shahroudi, Head of the Judiciary. It would be impossible to have capital punishment in the cases mentioned by the Swiss Ambassador and it would be appreciated receiving more information so that he could personally follow-up such cases. *Dr. Jamshidi* pointed out that the Iranian Judiciary believes in the quality of justice that anyhow should be upgraded. The reform process itself was initiated, *inter alia*, to address the important question on “who will judge the judges”. Finally, *Dr. Jamshidi* extended an invitation to all members of the MDG to visit the recently established electronic courts. He concluded the round table by mentioning that good and constructive talks were made by UNODC and the honorable Ambassadors of Switzerland and Ireland. He expressed gratitude to UNODC and all the donor countries that contributed to the projects and hoped to have and increased cooperation with the countries of the MDG during the 2nd reform plan of the Judiciary. He also stated the readiness of the Iranian Judiciary to promote and support more extensive cooperation with the MDG countries.

ATTACHMENTS

- Agenda of the Round Table;
- Remarks of Mr. Roberto Arbitrio, UNODC Representative;
- Speaking Note of Ms. Sara Mannell, Second Secretary, UK Embassy and MDG Chair;
- Presentation of *Dr. Jamshidi*, Deputy Head of Judiciary for Judicial Reform and Legal Affairs;
- Presentation of Mr. Mehrdad Rezaeian, UNODC, Chief of the Rule of Law Section;
- List of Participants to the Round Table.