



AMERICAN BAR ASSOCIATION

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STATEMENT BY

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Before the

**SUBCOMMITTEE ON FOREIGN OPERATIONS,
EXPORT FINANCING, AND RELATED PROGRAMS
COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES**

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Mr. Chairman and Members of the Committee:

My name is Michael S. Greco, and I am pleased to submit this statement to the Committee in my capacity as President of the American Bar Association (ABA). The ABA believes the U.S. can and must continue to support and fund programs that promote the rule of law and democracy around the world. On behalf of the ABA, I respectfully request that the Committee in fiscal year 2007: (1) continue funding programs implemented by the ABA's Central European and Eurasian Law Initiative (CEELI) in Central and Eastern Europe and the former Soviet Union at not less than current levels; (2) expand funding for ABA rule of law programs in Asia, Africa, Latin America and the Middle East; and (3) direct that ABA programs be funded through cooperative agreements.

Transparent government institutions and a legal system based on the rule of law are fundamental prerequisites to creating vibrant democracies and market-based economies. Programs that promote the rule of law abroad are a sound investment of U.S. dollars that enhance the national security and economic prosperity of the U.S. and the emerging democracies in which the ABA works. The assistance the ABA is providing to help bring Nicaragua's competition and labor laws in line with DR-CAFTA is just one example of an ABA project that will yield enhanced prosperity and security in the region.

In the U.S., the ABA's leadership role in promoting the rule of law worldwide is best exemplified by the landmark International Rule of Law Symposium it conducted in Washington, D.C. in November 2005, an event that brought together leaders from 40 countries from the private sector, government, and civil society. This event, at which Chairman Jim Kolbe and Congresswoman Nita Lowey spoke, underscored the centrality of the rule of law in solving today's pressing global problems, including terrorism and conflict, health pandemics, and lagging economic development and poverty in the developing world. Because the absence of the rule of law, even in distant countries, can have such sweeping and negative consequences for the U.S., it is imperative that programs aimed at promoting the rule of law be given the highest priority.

CORE PRINCIPLES AND FOCAL AREAS:

Four principles govern the ABA's law reform programs in over 40 countries in Africa, Asia, Central and Eastern Europe, the former Soviet Union, Latin America and the Caribbean, and the Middle East. ABA projects (1) are responsive to host country needs and implemented in partnership with local reformers, to ensure sustainability of the reform effort; (2) provide neutral, comparative advice; (3) draw on *pro bono* expertise whenever possible; and (4) rely on project implementers bound by strict conflict-of-interest guidelines. As the world's largest voluntary legal association, the ABA draws upon more than 400,000 members, leveraging U.S. foreign assistance dollars with over \$200 million in *pro bono* assistance since 1990. The ABA's overseas projects are organized into seven substantive "focal" areas:

1. Judicial Reform. Because judicial independence is so central to the rule of law, the ABA has devoted much energy to its promotion. Examples of the ABA's judicial reform work include:

Ukraine – Supporting Fair Elections: Working with members of Ukraine’s Supreme Court, the ABA trained 700 judges on Ukraine’s Election Law, and devised an election law guide for judges that the Supreme Court relied upon in its landmark decision that declared a fraudulent election invalid, paving the way for President Yushchenko’s subsequent victory.

Mexico – Mediation: The ABA has significantly enhanced court-annexed mediation services through a project that focuses on both commercial and criminal law matters. As a result of the ABA’s efforts, the number of mediation centers increased from 19 to 35, and five additional states joined the project, bringing the total number of states working with the project to 23.

Rwanda -- The ABA and the Ministry of Justice trained more than 18,000 volunteer, community-based mediators, significantly improving access to justice throughout the country.

2. Anti-Corruption/Public Integrity. The ABA assists countries to combat corruption by helping draft and implement legislation on such vital issues as money laundering, conflicts of interest, procurement, civil servant ethics codes, and access to information. The ABA has placed regional anti-corruption advisors in Kenya, Ukraine, and Thailand to support anti-corruption efforts in East Africa, Eurasia, and the Asia-Pacific region.

3. Legal Profession Reform. The ABA works to strengthen the capacity of lawyers to advocate on behalf of civil society and to promote the rights of ordinary citizens. Examples include:

China and Cambodia – Protecting Citizens’ Rights: The ABA is strengthening the capacity of the legal profession and NGOs to advocate for citizen rights. The ABA supports legal clinics that enable young lawyers to develop their professional skills while representing low-income clients. The ABA also works with local government agencies to promote access to information and citizen participation in government decision-making.

East Africa - Supporting Legal Aid Provided by Bar Associations: The ABA is supporting bar association efforts to increase the provision of legal aid to low income women and children. These efforts not only provide critical services to the poor, but also enhance the professionalism of lawyers in the region.

Georgia and Philippines – Bar Exam Reform: In fall 2003, the ABA played a critical role in administering the first bar examination in Georgia. In the Philippines, the ABA is drawing on lessons learned in Georgia to improve the administration of the bar exam in that country.

4. Conflict Mitigation and Human Rights. The ABA continues to play a crucial role in a number of ongoing international conflict mitigation efforts by increasing awareness of international human rights standards and humanitarian law, documenting human rights abuses, promoting accountability, and improving access to the courts. As The Hague Tribunal begins to phase out, war crimes cases are being returned to local courts in the countries of the former Yugoslavia. In Croatia, the ABA has launched a comprehensive program that will give lawyers, prosecutors, and judges the tools to effectively adjudicate these cases.

5. Legal Education Reform. The ABA supports legal education reform efforts by helping law schools reform their curricula and by fostering practice-based programs such as moot court competitions, externship programs, and *pro bono* clinics. In Ukraine, a network of ABA-supported law school clinics serves the dual purpose of teaching students and serving clients unable to find affordable legal representation. In Liberia the ABA is working to rebuild a law school and develop a legal aid clinic that will give rise to a cadre of legal professionals committed to protecting human rights and rebuilding the country's legal system.

6. Gender Issues. Lack of gender equality is a major stumbling block to promoting the rule of law. Examples of work the ABA has undertaken in this area include:

Middle East – Women's Legal Network: The ABA helped found the Arab Women's Legal Network, which is promoting the professional development of women legal professionals in 16 Middle Eastern countries.

Rwanda – Promoting Women's Rights: The ABA is working with the Rwandan Bar Association, the Judges Association, the Ministry of Justice and the public to educate both the governmental and non-governmental sectors about protections provided to women and children under Rwandan legislation.

7. Criminal Law Reform/Anti-Trafficking. The ABA assists in implementing reforms aimed at combating traditional criminal activity as well as the explosion of newer forms of criminal conduct, including human trafficking, money laundering and cyber crime. Examples of work the ABA has undertaken in this area include:

Ecuador – Criminal Law Reform and Combating Human Trafficking: In fall 2005 and early 2006, the ABA conducted training for Ecuadorian prosecutors, police, and judges on Ecuador's change from an inquisitorial to a more U.S.-style adversarial system. The ABA also helped develop Ecuador's national plan to combat trafficking and conducted an anti-trafficking awareness campaign that included the airing of public service announcements.

Moldova -- Gauging the Success of Human Trafficking Efforts: The ABA recently developed an assessment tool that measures a country's compliance with the UN Trafficking Protocol. The ABA piloted the tool in Moldova and its findings helped shape Moldova's National Action Plan to combat trafficking for the period 2005-07.

China – Supporting the Criminal Defense Bar: In 2003 and 2004, the ABA hosted high-profile forums in Beijing to address criminal justice procedural reform. The Supreme People's Procuratorate cited the forums as a key factor in the promulgation of new regulations that increased the rights of defendants.

East Africa – Combating Human Trafficking: The ABA has held a series of regional workshops to improve the capacity of legal professionals to enforce criminal laws aimed at eliminating Africa's newest form of slavery - - human trafficking. The ABA's support includes assistance in drafting national and regional laws that protect trafficking victims and hold traffickers accountable.

METHODS OF ASSISTANCE:

The ABA's technical assistance efforts are carried out primarily by members of the American legal profession, often working for a year or more in field offices in over 40 countries. A large percentage serve on a *pro bono* basis. In addition, the ABA, using members from the U.S. and other experts, conducts assessments of draft legislation at the request of legislative bodies throughout the globe. The ABA also works collaboratively with other organizations. The ABA's Section of International Law's partnership with the United Nations Development Programme (UNDP) – the International Legal Resource Center – has provided support, typically on a *pro bono* basis, to UNDP governance and rule of law programs in approximately 70 countries. The CEELI Institute in Prague, which recently trained over 150 Iraqi judges, is a public-private partnership that provides reformers with extensive training on the role lawyers and judges play on topics as varied as intellectual property and human rights.

The ABA continues to provide leadership in the field of global rule of law promotion in the U.S. as well, as exemplified by the Rule of Law Symposium referred to above. Also, the ABA's research office in Washington, D.C. has devised highly regarded assessment tools that measure progress in such areas as judicial and legal profession reform, and women's rights and human trafficking. The ABA's reports are relied upon by decision makers at the Department of Justice, Department of State, the World Bank, USAID, etc., and help to gauge where future assistance is most needed or effective.

CONCLUSION:

Targeted foreign assistance to establish and enhance strong legal systems and institutions grounded in the rule of law is a critical component of U.S. efforts to foster stability among emerging democracies. Rule of law programs such as those described above are a cost-effective mechanism for advancing the development of the rule of law and democracy abroad, and thus, U.S. interests. The ABA urges the Committee to increase the overall amount of funding available for agencies and programs that support international rule of law initiatives and, in particular, to restore funding levels to at least the amounts provided in fiscal year 2006 for ABA programs in the former Soviet Union and Central and Eastern Europe.

The ABA further urges the Committee to continue to support funding for the ABA's technical legal assistance projects in Africa, Asia, Latin America and the Caribbean and the Middle East, at the same or higher levels than in fiscal year 2006. Further, because of the ABA's role as a volunteer-driven, non-profit assistance provider, the ABA respectfully requests that the Committee direct USAID and the Department of State to fund the ABA's assistance programs through cooperative agreements, a more flexible funding mechanism that allows the U.S. government to take full advantage of the ABA's uniqueness and expertise in promoting the rule of law worldwide.

The rule of law is the single best guarantor of peace and prosperity both here and abroad, and the ABA and its over 400,000 members are privileged to be called upon to assist in its promotion. The ABA would be pleased to provide further information and to respond to any questions that the Committee may have.