



AMERICAN BAR ASSOCIATION

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Statement by H. Thomas Wells, Jr., President of the American Bar Association, Submitted to the Subcommittee on State, Foreign Operations and Related Programs, Committee on Appropriations, U.S. House of Representatives - March 18, 2009

Madam Chair Lowey, Ranking Member Granger and Members of the Subcommittee:

My name is H. Thomas Wells, Jr., and I am pleased to submit this statement to the Subcommittee in my capacity as President of the American Bar Association (ABA). The American Bar Association Rule of Law Initiative is a mission-driven, nonprofit public service program grounded in the belief that rule of law promotion is the most effective long-term antidote to the most pressing problems facing the world today, including poverty, conflict, endemic corruption and disregard for human rights. With more than 400,000 members, the ABA is the largest voluntary professional membership organization in the world. To advance the rule of law worldwide, the ABA implements programs to increase public understanding of and respect for the rule of law; hold governments accountable under law; work for just laws, including human rights, and a fair legal process; assure meaningful access to justice for all persons; and preserve the independence of the legal profession and the judiciary.

On behalf of the ABA and our Rule of Law Initiative (ABA ROLI), I respectfully request that the Subcommittee for fiscal year 2010: direct continued funding for programs in Europe and Eurasia at not less than fiscal year 2009 levels for each country for which the ABA ROLI (through our CEELI program) has a program or presence; direct expanded funding for ABA ROLI programs funded by the U.S. Agency for International Development and the Department of State in Asia, Africa, Latin America and the Caribbean, and the Middle East and North Africa; and recommend that ABA ROLI programs continue to be funded through cooperative agreements.

CORE PRINCIPLES AND FOCAL AREAS

ABA ROLI's work is guided by five principles: (1) a highly consultative approach that is responsive to the requests and priorities of our local partners; (2) a comparative approach that draws upon U.S. and international legal norms; (3) neutral and apolitical technical assistance and

advice; (4) an emphasis on building local institutional capacity; and (5) thought leadership that draws on both ABA ROLI's extensive overseas field experience and on the resources and convening power of the ABA and its members in the United States and abroad. Our programs are concentrated in seven focal areas:

1. **Access to justice and human rights.** Our programs increase access to legal services by establishing legal aid and law school clinics, developing public defender programs and supporting structural changes in justice systems that increase citizen access to the courts and other forms of dispute resolution. We also work to increase awareness of international human rights standards and humanitarian law, as well as train legal professionals to seek redress for human rights violations in domestic, regional and international courts. For example, in **Armenia**, we are helping to develop a television program that will promote the role of advocates and that will educate the public on their rights and legal remedies. Our program in **Burundi** provides legal assistance and counseling referrals to former child soldiers and expands the legal system's capacity to better address their reintegration into society. At **Lebanon's** La Sagesse University, the ABA helped establish a human rights clinic to provide practical skills training to law students and to host moot court competitions. In a newly initiated program in **Panama**, we are promoting a culture of lawfulness through human rights training plus investigative skills and legal advocacy training for police and prosecutors. In the **Philippines**, the ABA leads efforts to combat extrajudicial killings through ground-breaking, multi-sector symposia and forensics trainings for prosecutors.
2. **Anti-corruption and public integrity.** ABA programs focus on drafting and implementing public integrity standards and freedom of information laws, developing national action plans, conducting public education campaigns on the corrosive impact of corruption, and encouraging the public to combat corruption through mechanisms such as anonymous hotlines. In **Asia**, the ABA supports multiple regional anti-corruption programs in partnership with the World Bank, the United Nations, and the Asia-Pacific Economic Cooperation (APEC). In **Kyrgyzstan**, the ABA developed a youth anti-corruption course to raise awareness of corruption's negative effects, while in **Morocco** we undertook a comprehensive assessment of judicial corruption. Our work in **Serbia** has included providing technical assistance to the prosecutors' and judges' associations and working to codify professional codes of conduct and disciplinary provisions. In **Ukraine**, we are

implementing an anti-corruption initiative to improve the coordination among the government, donors, nongovernmental organizations and other civil society agencies.

3. **Criminal law reform and anti-human trafficking.** Our programs train criminal justice professionals, including judges, prosecutors and police, to combat crimes such as human trafficking, money laundering and cybercrime, while helping to reform key criminal law legislation, including criminal procedure codes. The ABA has partnered with the **Bahraini** prosecutor's office in enhancing the examination process and in assessing the capacity of its forensics laboratory. In **Cameroon**, we have helped develop a strategy to prosecute human traffickers and have trained the nation's police and magistrates to combat this heinous crime. The ABA is helping to increase criminal defendants' rights and to improve the fairness and enforceability of criminal justice procedures in **China**. To assist justice professionals in **Ecuador**, we have conducted a series of in-country trainings to assist the government in implementing its new criminal procedure code. In **Georgia**, we are helping to prepare defense lawyers for the adversarial system that will be implemented under new codes. In **Tajikistan**, the ABA is helping to revise the criminal procedure code and is supporting equal access to legal information for defense attorneys.
4. **Judicial reform.** The ABA promotes greater independence, accountability and transparency in judicial systems, assists in drafting and enacting codes of judicial ethics, promotes judicial education and training, and helps enhance court administration and efficiency. Recent programs include developing pilot e-learning courses on **Algeria's** family code for the judicial training school. In **Armenia**, we are working with the judges' association to develop a new judicial conduct code and to support the application of case precedence, a new concept in the Armenian legal system. The ABA program in **Liberia** supports the judicial training institute, and it partners with the Supreme Court of Liberia to train judges and magistrates. In the **Philippines**, we recently worked with the Supreme Court to establish small claims courts, relieving case backlog and providing more accessible means to settle legal disputes.
5. **Legal education reform and civic education.** We promote legal education reform by assisting law schools in introducing new courses and practical training methods that better meet the needs of tomorrow's legal professionals. We also promote a rule of law culture through civic education campaigns on citizens' rights. As part of our partnership with local law faculties, we organized **Cambodia's** first-ever mock trial competition. Working with

five universities in **Jordan**, the ABA has helped develop alternatives to traditional legal education methods, including interactive teaching methods, moot court and legal writing competitions, summer practicums and externships. In **Kyrgyzstan**, we train law students to present civic education classes to *madrassa* students. In **Liberia**, we sponsor a scholarship program that supports law students and improves access to justice via a legal clinic. The ABA has developed a rule of law website for **Qatari** school children.

6. **Legal profession reform**. Our work includes assisting in the development and administration of bar examinations, developing codes of legal ethics and strengthening bar associations to serve as advocates for, and protectors of, the rule of law. We also enhance continuing legal education (CLE) programs to ensure adequate mastery of existing and newly-enacted laws. In the **Persian Gulf Region**, the ABA supports the development of legal professionals in government by organizing CLE programs. In **Russia**, our programs strengthen the administration of CLE by partnering with the Krasnoyarsk Chamber of Advocates. In **Thailand**, the ABA and the Thai Lawyers Council convened a meeting of bar leaders from 15 Asian countries to promote the legal profession and bar associations in the region.
7. **Women's rights**. The ABA focuses on assisting both government and nongovernmental entities in addressing women's rights issues such as domestic violence, sexual harassment in the workplace and widespread gender-based violence (GBV), including systematic rape in post-conflict situations. For example, in **Azerbaijan**, we supported the establishment of the country's first women's bar association. For a newly initiated program in **Bangladesh**, we are joining with local organizations to fight GBV and to increase women's access to justice. In the **Democratic Republic of Congo**, we launched a *pro bono* legal aid clinic that provides assistance to survivors of systematic rape and other forms of GBV. We both supported a **Georgia** coalition that successfully advocated for the nation's first domestic violence legislation and co-authored Georgia's anti-domestic violence law manual. In **Turkmenistan**, we worked with local nongovernmental organizations to train non-lawyer activists to provide legal information and effective advocacy for women who cannot afford legal services.

The ABA's overseas work is supported by legal research and assessments. Our programs conduct in-depth assessments of draft legislation at the request of host country partners, undertake legal research, produce resource guides on rule of law issues, and develop and implement a wide

range of assessment tools. Our reports are relied upon by decision makers at the U.S. Department of State, USAID, the U.S. Department of Justice, the World Bank and other prominent institutions, and they help shape policy and programming decisions about where future assistance is most needed or would be most effective. Along with the latest iterations of our long-standing sector indices (for example, on judicial reform, prosecutorial reform and legal profession reform), current research includes development of a technical assistance guide on judicial integrity reform with the United Nations Office of Drugs and Crime, while our assessment of **Mexico's** anti-human trafficking efforts is nearing publication.

METHODS OF ASSISTANCE

ABA ROLI's technical assistance efforts are carried out primarily by members of the American legal profession, some of whom serve on a *pro bono* basis for periods of up to 1–2 years or more. Leveraging this commitment of expertise and time, these individuals work in tandem with host country legal professionals in nearly 40 countries in which the ABA has programming. While the ABA's main emphasis is on providing technical assistance through its overseas offices, the ABA takes pride in providing "thought leadership" as exemplified by ABA ROLI's research and assessment tools. In addition to partnering with host country institutions, the ABA also works collaboratively with a variety of foreign and multilateral institutions, such as the Organization for Security and Cooperation in Europe, the Council of Europe and the United Nations. For example, since 1999, the ABA's partnership with the United Nations Development Programme (UNDP) – the International Legal Resource Center – has provided technical legal assistance, typically on a *pro bono* basis, to UNDP governance and rule of law programs in over 90 countries.

CONCLUSION

Targeted foreign assistance that enhances legal systems and institutions grounded in the rule of law, and that does so by building sustainable local capacity, is a critical component of U.S. foreign assistance efforts to foster democracy and sustainable development. Rule of law programs such as those of the American Bar Association are a cost-effective mechanism for advancing the development of the rule of law and democracy abroad. As such, these programs advance U.S. interests around the globe. A robust and ever-developing rule of law is the single best foundation for stability and prosperity both in the United States and abroad; and the ABA, with the support of our more than 400,000 members worldwide, is 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 the Subcommittee may have.