



AMERICAN BAR ASSOCIATION

GOVERNMENTAL AFFAIRS OFFICE • 740 FIFTEENTH STREET, NW • WASHINGTON, DC 20005-1022 • (202) 662-1760

STATEMENT BY

MICHAEL S. GRECO, PRESIDENT –ELECT, AMERICAN BAR ASSOCIATION

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

April 14, 2005

Mr. Chairman and Members of the Committee:

My name is Michael S. Greco, and I am pleased to appear before the Committee in my capacity as President-Elect of the American Bar Association. 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. Accordingly, I request that the Committee in fiscal year 2006: (1) increase the overall amount of funding available for agencies and programs that support international rule of law initiatives; (2) continue funding for the ABA's CEELI programs in Central and Eastern Europe and Eurasia at not less than current levels; (3) expand funding for ABA rule of law programs in Asia, Africa, Latin America and the Middle East; and (4) direct that the 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. Democratic regimes are less likely to engage in terrorist activity and spawn tragic and costly regional conflict. Programs to promote the rule of law and democratization abroad are a sound investment of U.S. dollars that enhance the national security and economic prosperity not only of the emerging democracies but of our own nation.

FOCAL AREAS AND CORE PRINCIPLES

Four principles govern the ABA's law reform programs, which operate in over 40 countries in Africa, Asia, Central Europe and Eurasia, Latin America and the Caribbean, and the Middle East. Our projects must respond to host country needs; provide neutral, comparative advice; draw on *pro bono* expertise whenever possible; and abide by strict conflict-of-interest guidelines. As the world's largest voluntary legal association we draw upon more than 400,000 members, leveraging U.S. foreign assistance dollars with tens of millions of dollars of *pro bono* assistance.

Conceptually, the ABA's overseas projects are organized into seven substantive "focal" areas:

Judicial Reform. The ABA has established relationships with judges and ministry officials around the globe to promote judicial reform. The ABA has developed a *Judicial Reform Index*, a tool for assessing and tracking over time the status of a country's judiciary, and has applied it in 16 countries to date. Examples of ABA judicial reform work include:

- Ukraine – Support for Fair Elections: The ABA trained 700 judges on the Election Law, and devised an election law bench book that was disseminated to every courthouse and was relied upon by the Supreme Court in the landmark case that declared then Prime Minister Yanukovich's election victory invalid.
- Jordan – Support to the Ministry of Justice: The ABA is providing assistance to the Jordanian Ministry of Justice in support of its judicial upgrading strategy.
- Mexico – Court-Annexed Mediation: The ABA has enhanced court-annexed mediation services in Mexico. The project has trained over 400 mediators and assisted in the opening of 19 mediation centers in 13 states.

Anti-Corruption/Public Integrity. The ABA assists host countries to combat corruption by helping draft and implement legislation on such vital issues as conflicts of interest, money laundering, public ethics, 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. Other ABA anti-corruption programs include:

- Costa Rica – Combating Institutional Corruption: The ABA conducted a transparency assessment of the Costa Rican Coast Guard and Customs Service. The assessment found that recent high-profile examples of public corruption had increased the likelihood of success for targeted projects to improve auditing in both the Coast Guard and Customs Services.
- Georgia – Strengthening Government Internal Oversight Mechanisms: After the “Rose Revolution,” the ABA assessed the Ministry of Justice Inspector General’s Office (IG). The ABA then recommended a series of reforms and provided the IG staff with relevant training.

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 – Supporting Public Interest Advocacy: The ABA is strengthening the capacity of the legal profession and NGOs to advocate for citizen rights. This includes clinical legal education programs, through which young lawyers develop professional skills while representing low-income clients, and working with local government agencies to promote access to information and public participation in government decision-making.
- Georgia and Philippines – Bar Exam Reform: In the fall of 2003, the ABA played a critical role in administering the first bar examination in Georgia by providing advisory, technical and financial support to the development, organization and administration of the exam. More than 1,700 applicants took the examination over a three-week period. In the Philippines, ABA is providing key support to modernize and strengthen the bar exam.

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 Croatia and other countries of the former Yugoslavia. The ABA is helping to develop local capacity to investigate, prosecute and adjudicate these complex and politically sensitive cases. In Croatia, we have launched a comprehensive program of training and visits to The Hague that will give lawyers, prosecutors, and judges the tools to fairly and effectively resolve these cases.

Legal Education Reform. The ABA supports legal education reform efforts by helping law schools reform their curricula and by fostering practice-based education programs, including moot court competitions, externship programs, and *pro bono* clinics. In Ukraine, for example, a network of ABA-supported law school clinics serves the dual purpose of teaching students and serving clients unable to find affordable legal representation. The use of legal processes to rectify the violation of rights builds confidence in the law among average citizens who remain profoundly skeptical of the fairness and efficacy of the courts.

Gender Issues. Lack of gender equality is a major stumbling block to promoting the rule of law. The ABA's pioneering work in this area includes issues such as combating domestic violence and promoting non-discrimination. Examples of work the ABA in this area include:

- Iraq – Women and the Constitution: ABA is training Iraqi attorneys and NGO representatives to conduct a *de jure* and *de facto* survey of women's rights in Iraq. The survey results will form the basis of a strategic plan for engendering the constitution and legislation more generally.
- Middle East – Women's Legal Network: In February, the ABA convened the founding steering committee meeting of the Arab Women's Legal Network in Jordan, composed of women working as judges, attorneys, and prosecutors in 12 countries. The Network will foster the professional development of women legal professionals in the Middle East.
- Rwanda – Educating the Legal Profession and the Public about 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.

Criminal Law Reform/Anti-Trafficking. The ABA assists legal professionals and law enforcement officers to reform and implement new criminal codes and combat traditional criminal activity as well as to address an explosion of newer forms of criminal conduct, including human trafficking, money laundering and cyber crime. Examples of results attained in the area of criminal law reform and anti-trafficking include:

- Global – Human Trafficking Assessment Tool: The ABA recently developed an assessment tool that measures a country's compliance with the UN Trafficking Protocol. The Tool will be used to help government officials and NGOs to improve compliance with the Protocol and more effectively combat trafficking. The ABA recently piloted the Assessment Tool in Moldova and expects to collaborate with the OSCE on further assessments in 2005.
- Bulgaria – Combating Cyber Crime: The ABA has assisted Bulgaria in designing and implementing legislative tools to fight cyber crime. The ABA has encouraged the criminalization of computer-related offenses and fostered new investigative procedures.
- 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 leading to significant new regulations increasing the rights of defendants.
- Morocco – Criminal Law Reform: In early December 2004, the ABA assisted Morocco's Ministry of Justice in convening a high-profile conference on criminal law policy that helped to initiate a major reform of the criminal code.
- Ecuador – Combating Human Trafficking: The ABA recently completed an assessment of human trafficking. An advisory committee of Ecuadorian legislators, presidential executive

office staff, law enforcement, and law professors, brought together by the ABA, is developing a national plan to eradicate trafficking and conduct awareness campaigns.

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 country, many serving on a *pro bono* basis. In addition, the ABA, using members in the U.S. and other experts, conducts assessments of draft legislation at the request of legislative bodies throughout the globe. On-ground assessments use a variety of ABA-created tools such as the Judicial Reform Index, the Legal Profession Reform Index, and the Trafficking Assessment Tool.

In addition, ABA 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 is a public-private partnership that provides reformers with extensive training on the role lawyers and judges play in a democratic society, intellectual property, and human rights. In 2004 the Institute launched a series of courses that will train over 150 Iraqi judges.

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 develop stability among emerging democracies. Advancing the rule of law is vital to ensuring the protection and promotion of U.S. national security and economic interests. Rule of law programs such as those described above are a highly cost-effective mechanism to advance the development of democracy abroad.

For these reasons, 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 2005 for the accounts for 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 at the same or higher levels than in fiscal year 2005. Finally, 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.

I thank the members of the Committee for this opportunity to discuss these important issues. The ABA will be pleased to provide any necessary further information and to respond to any questions that the Committee may have.