March 18, 2016

The Honorable Lindsey Graham
Chairman
Subcommittee on State, Foreign Operations, and Related Programs
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Washington, DC 20510

Dear Chairman Graham and Ranking Member Leahy:

The American Bar Association (ABA) works through its Rule of Law Initiative and Center for Human Rights to implement U.S. government-supported programs to advance democracy, the rule of law, and human rights around the world, contributing the expertise of its more than 400,000 members and some $3 million annually in pro bono legal assistance to these efforts. We ask for your continued support in Fiscal Year 2017 for such Democracy, Rights, and Governance (DRG) programming, so critical to global efforts to combat terrorism, extremism and insecurity and to promote equitable economic development and well-being.

The ABA participates in InterAction’s DRG Initiative and shares its appreciation of favorable bill language and funding levels in the Fiscal Year 2016 Consolidated Appropriations Act. We further support the DRG Initiative’s request for the Committee to support robust funding and to carry over important bill language from Fiscal Year 2016 into the Fiscal Year 2017 appropriations cycle. We respectfully recommend the following funding levels and language:

- $2.86 billion for Democracy Programs under Title VII. This figure approximates the President’s request. It also correlates to the spending levels for DRG programs going back to 2012 -- levels we feel provide for the most impact.

- $170 million for the National Endowment for Democracy (NED) under Title I. This figure is equal to the Congressional funding for the Endowment in 2016.

- We recommend that the set-aside bill language for Democracy Programs remains for Fiscal Year 2017 to ensure that the amount being requested and appropriated is actually spent for this purpose. The set-aside for DRG programming also prevents diversions to other, unrelated programs.

- We hope the bill language for Program Prioritization remains for Fiscal Year 2017. The prioritization for those non-profit organizations that demonstrate an enduring
commitment to democracy and the rule of law provides the type of people-to-people relations that are appropriate and most effective for DRG programs.

- We recommend the bill language for Choice of Instrument remains for Fiscal Year 2017. The bill language supporting the benefits of grants and cooperative agreements is consistent with the Federal Grant and Cooperative Agreement Act.

In addition, the ABA specifically requests consideration of the following:

- **Countering Violent Extremism**

  Governments facing violent extremism require support in developing legal frameworks to combat terrorism. To be truly effective, such frameworks must not only include law enforcement and security measures but also steps to combat the discrimination, corruption, torture, and other violations of human rights that can fuel and exacerbate terrorism. We support bill language included in Section 7073(b)(2) of the Fiscal Year 2016 Consolidated Appropriations Act, which provides for programming to combat violent extremism through promotion of human rights and the rule of law, and we request that the Committee include this language in the Fiscal Year 2017 bill.

- **Criminal Defense Advocates**

  Much U.S. government assistance appropriately prioritizes prosecutorial and judicial capacity building. To hold these authorities accountable and build a sustainable rule of law, such assistance should be complemented by a robust program of support for defense bars and programs of indigent criminal defense that guarantees an equality of arms in criminal justice systems, particularly in the countries of Latin American and Europe and Eurasia transitioning to adversarial criminal procedure. We urge the committee to include report language under Global Programs – Rule of Law in the Fiscal Year 2017 bill that recognizes the importance of assistance to criminal defense advocates and bar associations.

- **Migrants and Refugees**

  As the migration crisis continues, legal assistance to migrants and refugees in front-line states is a critical strategy to manage flows of people, address grievances that fuel insecurity, and find sustainable solutions. The ABA has pioneered some of this work in Turkey, working with local bar associations to meet the legal needs of Syrian refugees. Similar programs of assistance are needed in other states in the Middle East, the Balkans, and Central and Eastern Europe. We request that the Committee include report language in Fiscal Year 2017 to urge that legal assistance be included among the services and programs funded through the various accounts for migrant and refugee assistance.
China Rule of Law

It is in the strategic security and economic interests of the U.S. Government to continue to support improvements in rule of law in the People’s Republic of China (PRC). Whether with respect to the security of U.S. business investment in China, global food security, criminal justice, or environmental protection, China’s legal system, respect for international law, and willingness and ability to protect the basic rights of citizens, will have significant repercussions for U.S. interests. In light of increasing restrictions on lawyers and civil society organizations in China, increased support for locally-driven rule of law reforms in areas where there continue to be openings for engagement and reform is critical. Given the recent crackdown on human rights lawyers, in particular, such support should include a long-term strategy to protect the rights of lawyers and strengthen the overall stature of lawyers as important participants in creating social justice among the public, government, and justice sector. Finally, to maximize flexibility and impact, we believe that such assistance should be provided through a diversity of U.S. government funding agencies. We appreciate the Committee’s past support for democracy programs in China, and recommend that FY 2016 language providing that not less than $15,000,000 shall be made available for democracy and environment programs be amended for FY 2017 to provide not less than $15,000,000 for democracy, rule of law, and environment programs.

The ABA appreciates the Committee’s past support of funding for critical democracy, rights, and governance programs. We are cognizant of the budgetary challenges facing our nation and understand that difficult decisions must be made in allocating funding. However, if the U.S. fails to invest adequate resources in this area, countries that do not share our commitment to democratic values and free markets will continue to languish and serve as destabilizing forces, to the detriment of U.S. national interests.

If we can answer any questions or provide any additional information, please don’t hesitate to contact Kristi Gaines in the ABA Governmental Affairs Office at 202-662-1763 or at kristi.gaines@americanbar.org. Thank you for your consideration of this request.

Sincerely,

Thomas M. Susman
Director
Governmental Affairs Office