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THE AMERICAN BAR ASSOCIATION AND THE RULE OF LAW

James R. Silkenat*

SUCCESS stories often begin with the right place, with the right time, and with a group of thoughtful and determined people. This is true of the American Bar Association (ABA) and its promotion of the rule of law: from the Association's humble beginnings in Saratoga Springs, New York, in 1878, to the fall of the Berlin Wall in 1989,¹ and to the establishment of energetic and formidable rule of law programs that have had a dramatic impact all around the world. The ABA's advancement of the rule of law has been an evolutionary journey that spans the globe and continues today.² While this article is about the rule of law, it is also about commitment, generosity, and the human spirit.

When the ABA was formed more than 130 years ago,³ the legal profession as we know it today barely existed. Lawyers were generally sole practitioners who learned the trade by apprenticeship and dealt almost exclusively with domestic matters.⁴ Yet international law was the focus of one of the first seven committees established by the Association.⁵ From its inception, the ABA recognized the importance of international law in laying the foundation for what would become "one of the largest voluntary professional organizations" in the world.⁶ The ABA's International Law Committee eventually developed into the International and Comparative Law Section in 1933, and its first chair was Professor John Henry

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1. See Talbot "Sandy" D'Alemberte, Remarks at Featured Panel at the Minnesota Journal of International Law's Rule of Law Symposium: The History of CEELI, the ABA's Rule of Law Initiative, and the Rule of Law Movement Going Forward (Nov. 14, 2008), in 18 MINN. J. INT'L L. 304, 306 (2009); Victor C. Folsom, *History of the Section of International Law: The First Thirty-Five Years*, 16 INT'L LAW. 119, 119 (1982); *ABA Timeline*, A.B.A., http://www.americanbar.org/about_the_aba/timeline.html (last visited Sept. 18, 2014).

2. See Jennifer Rasmussen, *A Short History of the American Bar Association Rule of Law Initiative's Technical Assistance Approach*, 31 WIS. INT'L L.J. 776, 784 (2013); *Global Outreach-Liaisons*, A.B.A., http://www.americanbar.org/groups/international_law/initiatives_awards/international_bar_associations.html (last visited Sept. 18, 2014).

3. See Folsom, *supra* note 1, at 119; A.B.A., *supra* note 1.

4. See Mark L. Jones, *Fundamental Dimensions of Law and Legal Education: An Historical Framework—A History of U.S. Legal Education Phase I: From the Founding of the Republic Until the 1860s*, 39 J. MARSHALL L. REV. 1041, 1059—60, 1067 (2006).

5. See Folsom, *supra* note 1, at 119.

6. See, *About the American Bar Association*, A.B.A., http://www.americanbar.org/about_the_aba.html (last visited Sept. 18, 2014).

Wigmore, one of the greatest American legal scholars.⁷ The Section's name has changed a number of times over the years,⁸ but the ABA Section of International Law (SIL) has remained focused on its mission: promoting and advancing the rule of law in the world and enhancing the quality and outreach of the profession and of international lawyers worldwide.⁹ SIL has been involved in many central international legal issues throughout its history, including the relationship between international treaties and the U.S. Constitution and the formation of multilateral institutions such as the Permanent Court of International Justice, the World Trade Organization, the United Nations, and their predecessor bodies.¹⁰ The Section was also instrumental in creating numerous international bar associations and law-related organizations, including the Inter-American Bar Association, the Inter-Pacific Bar Association, the American Society of International Law, and the International Bar Association.¹¹ SIL's global outlook also led to its early involvement in technical legal assistance projects to advance the rule of law around the world.¹²

Today, SIL has more than 22,000 individual members in over 90 countries.¹³ It serves ABA members, the profession, and the public through Continuing Legal Education, publications, dozens of substantive committees, the International Legal Resource Center (a partnership with the United Nations Development Programme), outreach to the global legal community, interaction with the U.S. government, and policy development and advocacy.¹⁴

Section leadership also led to the creation of the ABA's Central European and Eurasian Law Initiative.¹⁵

I. CENTRAL EUROPEAN AND EURASIAN LAW INITIATIVE

When the Berlin Wall came down, the leadership of the American Bar Association recognized that it was uniquely poised to help empower the new countries to create their own statutes, governments, and culture of

7. See David S. Clark, *The Modern Development of American Comparative Law: 1904-1945*, 55 AM. J. COMP. L. 587, 607, 610 (2007).

8. See David S. Clark, *American Law Schools in the Age of Globalization: A Comparative Perspective*, 61 RUTGERS L. REV. 1037, 1043 (2009); Victor C. Folsom, *History of the Section of International Law and Practice 1913-1993: The Second Thirty-Five Years (1913-1948)*, 28 INT'L LAW. 587, 595 (1994).

9. See *About Us / Section of International Law*, A.B.A., http://www.americanbar.org/groups/international_law/about_us.html (last visited Sept. 19, 2014).

10. See Folsom, *supra* note 8, at 591, 594, 597-98; *The GATT Years: From Havana to Marrakesh*, WORLD TRADE.ORG: http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm (last visited Sept. 19, 2014).

11. See Folsom, *supra* note 8, at 587, 596, 598; Mark T. Shiklov, *The Spirit of Katsuura*, INTER-PAC. BAR ASS'N (Nov. 7, 1997), <https://www.ipba.org/about-us/the-spirit-of-katsuura-8/>.

12. See AM. BAR ASS'N, *supra* note 9.

13. *Id.*

14. See *American Bar Association Section of International Law*, A.B.A., http://www.americanbar.org/content/dam/aba/uncategorized/international_law/section_profile_2012.doc (last visited Sept. 19, 2014).

15. See Rasmussen, *supra* note 2, at 778 n.3.

law.¹⁶ The former Soviet bloc countries were struggling to create new societies based on the rule of law.¹⁷ Today, the rule of law means many things. Its definition has been debated by scholars, politicians, activists, and lawyers for thousands of years.¹⁸ But at that moment in time, its definition was less complicated. For these new countries, the rule of law meant hope.

I was Chair of the ABA Section of International Law during this exciting period.¹⁹ It was a dynamic time in which these new states that had been in the Soviet sphere gained independence.²⁰ But in the United States there was also continuing suspicion and distrust of communists and of the Soviet Union in particular.²¹ It was a challenge to respond to the international optimism, while also responding to the lingering domestic suspicions. Lawyers are not known for embracing change, and it was a radical notion at the time that the ABA would help promote the rule of law abroad. What was the benefit to Americans and to American lawyers? Could we build the trust necessary to be successful? A project for the American Bar Association to provide technical assistance to former communist countries was viewed with much skepticism both within the ABA and by the federal government.²²

The fall of the Iron Curtain was a new beginning for Central and Eastern Europe, and it was also the beginning of a transformation of the ABA in which it began to take a broader look at the world. In 1990, the ABA started the Central and East European Law Initiative (the name was changed, in its second decade of operation, to the “Central European and Eurasian Law Initiative”), most commonly referred to as CEELI.²³

The founding fathers of CEELI, the ABA’s first international rule of law program, were Talbot “Sandy” D’Alemberte, a former Dean of Florida State University Law School, who was President-Elect of the ABA at the time that the Berlin Wall fell, and Homer E. Moyer Jr., a Washington, D.C., lawyer, who was becoming the Chair-Elect of the ABA Section of International Law.²⁴ Also crucial to this endeavor was Mark Ellis, a graduate from Florida State University Law School (where D’Alemberte had

16. See D’Alemberte, *supra* note 1, at 306–07.

17. See *id.*

18. Theo J. Angelis & Jonathan H. Harrison, *History and Importance of the Rule of Law*, WORLD JUST. PROJECT (2003), available at http://www.worldjusticeproject.org/sites/default/files/history_and_importance_of_the_rule_of_law.pdf; Mark Ellis, *Toward a Common Ground Definition of the Rule of Law Incorporating Substantive Principles of Justice*, 72 U. PITT. L. REV., 191, 192 (2010).

19. See James R. Silkenat, *History of the Section of International Law and Practice 1913-1993: Section History 1980-90*, 28 INT’L LAW. 641, 641 n.a1 (1994).

20. See Homer E. Moyer, Jr., Remarks at Featured Panel at the Minnesota Journal of International Law’s Rule of Law Symposium: The History of CEELI, the ABA’s Rule of Law Initiative, and the Rule of Law Movement Going Forward (Nov. 14, 2008), in 18 MINN. J. INT’L L. 304, 308 (2009).

21. See *id.*

22. See *id.*

23. See Rasmussen, *supra* note 2, at 776–77.

24. See Robert Stein, Remarks at Featured Panel at the Minnesota Journal of International Law’s Rule of Law Symposium: The History of CEELI, the ABA’s Rule of Law

been Dean) and twice a Fulbright Scholar at the Economic Institute in Zagreb, Croatia, who would become the Executive Director of CEELI for its first ten years.²⁵

The “rule of law” was not an unfamiliar phrase when CEELI was founded.²⁶ In fact, the United States had been celebrating the rule of law by way of Law Day observances every May 1 since the Eisenhower administration.²⁷ Originally the idea of Charles S. Rhyne, ABA President in 1957—1958, Law Day is a day on which our nation reflects on the role of law as the foundation of America and recognizes its importance for a just and prosperous society.²⁸ But as Moyer recently recalled in a conversation:

For many of us its definition was a converse one. I know it when I don't see it. That is, we could identify the absence of the rule of law more easily than we could affirmatively define the rule of law. This allowed many communist and other repressive, authoritarian regimes to be classified as lacking the ‘rule of law’ or, more simplistically, as countries ruled by men, not laws.²⁹

As the Berlin Wall fell, establishing the rule of law quickly became a primary objective of the newly established countries.³⁰ Constitutions and statutes needed to be written, legal institutions needed to be created, and new expectations needed to be set for the social contracts that would exist between governments and the people. D’Alemberte approached Moyer with the radical idea that the ABA could help.³¹ The ABA leaders traveled abroad and met with people on the ground to see if these new countries would like help establishing their independence by asking the following questions: “Would they have any interest in hearing from American or even Western European lawyers about the law reform process? Would anyone have an interest, would they think it was inappropriate?”³² Their offer to provide technical assistance and expertise was met with great enthusiasm, and CEELI was quickly inundated with requests to help draft constitutions for several countries.³³

The first country to ask for assistance was Bulgaria.³⁴ Ellis, realizing

Initiative, and the Rule of Law Movement Going Forward (Nov. 14, 2008), in 18 MINN. J. INT'L L. 304, 304—05 (2009).

25. See Mark Ellis, Remarks at Featured Panel at the Minnesota Journal of International Law's Rule of Law Symposium: The History of CEELI, the ABA's Rule of Law Initiative, and the Rule of Law Movement Going Forward (Nov. 14, 2008), in 18 MINN. J. INT'L L. 304, 310 (2009); Stein, *supra* note 24, at 305.

26. See Angelis & Harrison, *supra* note 18, at 18—20.

27. See D’Alemberte, *supra* note 1, at 307; Chris Remington, *The Significance of May Day*, PUB. BROAD. SERV. (May 2, 2013), <http://www.pbs.org/wnet/need-to-know/immigration-3/the-importance-of-may-day-across-communities/16881/>.

28. Vincent A. Ramano, *Law Day After the Cold War: Same Mission, New Focus*, 77 MICH. B. J. 292, 293 (1998).

29. [NEED SOURCE]

30. See D’Alemberte, *supra* note 1, at 306—07.

31. See *id.* at 307—08.

32. Moyer, *supra* note 20, at 308.

33. See Ellis, *supra* note 25, at 309.

34. *Id.* at 310.

that he had never drafted a Constitution before, sought advice from a colleague:

The professor said, “Mark, not a problem, I’ll get back to you in a couple of days with some thoughts.” And two days later, I received in the mail at my office a draft constitution and the headline was “The Republic of _____.” And throughout the 20 pages—perfectly written, I suspect within the context of constitutional law—was a document that had many blanks; CEELI would just simply have to fill in the blanks with the name of the country we were assisting. I said to myself, “I don’t know much about constitutional drafting, but this is probably not the way we should go about it.”³⁵

The realization that this cookie-cutter constitution was a failure turned out to be a watershed moment, which would ultimately shape the most important work of CEELI and its legacy. Instead of drafting constitutions, CEELI would ask the country to provide a first draft, which CEELI would review in a peer-to-peer setting in the home country.³⁶

CEELI’s founding fathers felt strongly that in order to build credibility, it was important that the lawyer volunteers serve without an agenda or stratagem to drum up business.³⁷ CEELI was launched based on three basic principles:

1. “CEELI is designed to be responsive to the needs and priorities of the countries of Central and Eastern Europe and the [New Independent States of the Former Soviet Union] not those of the U.S. participants or sponsors.”³⁸

2. “U.S. legal experience and traditions offer but one approach that participating countries may wish to consider. A variety of modes, including those of many civil law countries, offer alternative legal traditions that are also valuable sources of law.”³⁹

3. “CEELI is a public service project, not a vehicle for developing business opportunities.”⁴⁰

To ensure the success of the CEELI initiative, aggressive procedural and administrative safeguards were established.⁴¹

CEELI’s conflict of interest guidelines are unique and are a fundamental element of this pro bono program Participating countries have turned to CEELI with the expectation that their programs will not be animated by some of the mixed objectives that ad hoc offers of assistance sometimes carry. Consequently, participants in CEELI programs are expected to adhere not only to all applicable ethics codes at play in their respective jurisdictions, but also to the following conflict of interest guidelines:

35. *Id.*

36. *See id.*

37. *See Moyer, supra note 20, at 308—09.*

38. Paul Moxley, *CEELI: A Pro Bono Project of the ABA*, 9 UTAH B. J. 27, 27 (1996).

39. *Id.*

40. *Id.*

41. *Id.*

1. Program participants will not seek, receive, accept, or agree to receive any compensation (except for reimbursements of expenses and gifts and mementos given in appreciation by the host country) for legal services to be rendered in connection with any CEELI program, either personally or by another, as agent or attorney or otherwise;
2. Requests for additional legal assistance made to CEELI program participants will be referred to CEELI, and follow-up assistance will be coordinated through CEELI;
3. No private promotional activities may be undertaken during, or in conjunction with, any CEELI activity or on any visit to Central or Eastern Europe or the New Independent States of the former Soviet Union (NIS) funded by CEELI. This restriction includes, but is not limited to, the dissemination of firm or client brochures or other promotional literature with a view toward client development;
4. No more than one program participant from any single law firm may participate in any single CEELI program;
5. Program participants in any CEELI project must complete and submit to the Executive Director the CEELI Disclosure Form, which is intended to identify any economic or financial interest the participant has in, or relating to, the countries participating in the project that would create a conflict of interest or the appearance of a conflict of interest. Such forms will be reviewed to determine whether the participant involved would present unacceptable conflict of interest problems or appearances; and
6. Other questions relating to possible conflicts of interest, actual or apparent, or questions relating to any interests that program participants know, or have reason to believe, may reflect unfavorably upon, or cause embarrassment to, CEELI shall be referred to the Executive Director of CEELI for decision by the Executive Board.
7. For those participants serving as CEELI liaisons, the proscriptions are even stronger. Liaisons, for one year after the conclusion of their stay in the host country, agree not to:
 - Represent or otherwise provide services to, with or without compensation, any person or entity before a court, parliamentary committee, government agency, arbitration tribunal, or any other governmental proceeding in the liaison's host country;
 - Represent or otherwise provide services to, with or without compensation, a government agency of the liaison's host country before a court, congressional committee, government agency, independent agency, arbitration tribunal, or any other proceeding in the United States;
 - Act, with or without compensation, as agent or attorney to any person or entity in connection with a commercial matter transpiring in the liaison's host country; or
 - Act, with or without compensation, as agent or attorney to any person or entity having a principal place of business in the liaison's host country in connection with a commercial matter transpiring in the United States or involving a business entity

organized or having a principal place of business in the United States.⁴²

Under this framework, CEELI conducted its first technical legal assistance program on criminal law reform in the former Czechoslovakia in November 1990.⁴³

Another significant turning point occurred one year later.⁴⁴ A Colorado lawyer named Bill Meyer called Ellis to say that his law firm had given him a one-year paid sabbatical and he wanted to use this time to volunteer overseas.⁴⁵ At the time, ABA lawyer volunteers for CEELI were flying in and out of Eastern Europe for a few days or weeks at a time.⁴⁶ As Ellis recalled during a panel:

Well, I remember thinking “that’s just odd to me, a guy from Boulder, Colorado, wanting to do this[,]” and I put him off a bit but he kept calling me and badgering me. And I told Homer about it and said we’ve got this guy who wants to do a long-term stay, what do you think? And we finally decided, what the heck, let’s just let him do it. I was eager because I didn’t want him to continue to call me! So we sent him to Bulgaria, thinking that would take care of him fairly quickly!⁴⁷

Meyer was sent to take up residence in Bulgaria.⁴⁸ This turned out to be a providential assignment. Meyer made so much headway during his first month as a pro bono liaison that it was decided the program needed to fundamentally change.⁴⁹ Instead of asking lawyers to work for CEELI pro bono for a week or two, they would ask that lawyers commit for a year or more.⁵⁰ CEELI changed the ABA’s rhetoric about the rule of law to action. D’Alemberte has been quoted as calling this massive volunteer effort as “one of the ABA’s finest hours.”⁵¹

By the end of 1992, CEELI had:

- conducted 27 technical assistance workshops in Bulgaria, Romania, the Czech and Slovak Republics, Poland, Hungary, Yugoslavia, Albania, Lithuania, Armenia, Russia, Ukraine, Belarus, and Kazakhstan;
- held 4 legal training seminars;
- assessed over 120 draft laws from 17 different countries;

42. AM. BAR ASS’N CENT. & E. EUROPEAN LAW INITIATIVE, SPECIAL ANNIVERSARY ANNUAL REPORT, 1990-2000 3 (2002) [hereinafter ABA CEELI, ANNUAL REPORT].

43. U.S. AGENCY FOR INT’L DEV., PN-ABZ-142, COUNTRY STRATEGIES FOR THE RULE OF LAW PROGRAM FOR ALBANIA, BULGARIA, CROATIA, CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA, LITHUANIA, MACEDONIA, POLAND, ROMANIA, AND SLOVAKIA 42 (1993), available at http://pdf.usaid.gov/pdf_docs/pnabz142.pdf.

44. See Ellis, *supra* note 25, at 314.

45. See *id.*

46. See *id.*

47. *Id.*

48. *Id.*

49. See *id.*

50. See *id.*

51. See A.B.A., *supra* note 1.

- placed 21 long-term Liaisons and 25 Legal Specialists in the field, from Brno to Bishkek;
- hosted 41 law school deans from Central and Eastern Europe at 120 U.S. “sister law schools;”
- coordinated with the Soros Foundation in placing 27 students from the former Soviet Union in LLM programs in the United States; and
- employed over 600 American lawyers and judges as CEELI volunteers.⁵²

While CEELI volunteers sacrificed their time, judges and lawyers in the Soviet bloc countries risked their safety and even their lives to establish the rule of law in their homelands.⁵³ They held so much esteem and hope for the rule of law that the danger was worth it.⁵⁴ For example, in 1995 a small group of judges from Sarajevo wanted so badly to meet with the U.S. experts who had drafted Bosnia’s new constitution that they embarked on a very dangerous journey.⁵⁵ In order to meet with judges in D.C. (Bosnia was a war zone and far too dangerous), they spent nine hours traveling through a water-filled tunnel, then crossed a mountain range, and rode in a car without lights to avoid gunfire, before finally getting on a plane to Washington, D.C.⁵⁶ They met with CEELI’s volunteer lawyers day and night for more than a week.⁵⁷ As Ellis recollected in an essay:

I thought how easy it would have been—and understandable—for them to stay and seek refuge in our country. But they did not. They gathered their meager belongings and boarded a plane back to Europe and repeated the same journey back home—over the mountains, past the snipers, into the darkness, through the tunnel, through the terror.⁵⁸

Months later the judges were sworn in before hundreds of people with tear-stained faces, a moment Ellis still talks about today and says he will never forget.⁵⁹ It was an extraordinary moment of hope.

More help was needed and enormous progress was made in subsequent years as Europe’s map continued to change: Czechoslovakia experienced its “velvet revolution” and split into two countries; Yugoslavia fractured; and the Soviet Union dissolved.⁶⁰ In 1995, CEELI expanded into Asia and the new Balkan republics.⁶¹ The transition process for reform, insti-

52. *Id.*

53. See Mark S. Ellis, *Searching for the Meaning of the Rule of Law: Finding Extraordinary People*, 18 MINN. J. INT’L L. 425, 425, 428–29 (2009).

54. See *id.* at 425, 430.

55. See *id.* at 426–27.

56. *Id.* at 428–29.

57. See *id.* at 429.

58. *Id.* at 430.

59. See *id.* at 429–30.

60. See Moyer, *supra* note 20, at 315; Matthew I. Van Horn, *Investigating Slovakia’s Business Climate After the “Velvet Revolution”*, 5 TULSA J. COMP. & INT’L L. 365, 365 (1998); *Timeline: Break-up of Yugoslavia*, BBC NEWS, <http://news/bbc.co.uk/2/hi/europe/4997380.stm> (last updated May 22, 2006).

61. [NEED SOURCE]

tution-building, and changes in attitude was neither quick nor simple for the many countries served by CEELI.⁶² And the progress propagated more work, from reviewing dossiers on suspected war criminals to working on gender issues, instituting practice-based programs in overseas law schools, to creating media law reform projects.⁶³ By the end of the first decade, more than 5,000 lawyers, judges, and legal scholars had volunteered their time and expertise in assisting the establishment of lasting changes in the democratic institutions of the countries of Central and Eastern Europe and the former Soviet Union.⁶⁴

Robert A. Stein, who served as the ABA's Executive Director and Chief Operating Officer from 1994 to 2006,⁶⁵ said, "I've been present when presidents of several countries, some with great emotion, have said that their nation would not be the effective democracy it is without the work of American lawyers and judges who come in to assist in developing those structures in the country."⁶⁶

Indeed, the work of CEELI reflects the very best qualities of the ABA and American lawyers. The accomplishments of CEELI are attributable to a confluence of factors: the right time, the right place, and most importantly, the right group of people with the vision, commitment, and indefatigable dedication that D'Alemberte, Moyer, Ellis, and the thousands of volunteers and staff members brought to this project.

II. ABA RULE OF LAW INITIATIVE

"The ABA established the [Rule of Law Initiative (ROLI)] program in 2007 to consolidate its five overseas rule of law programs, including the [CEELI]"⁶⁷

Over the past two decades, ABA [ROLI] has learned that strengthening the rule of law is only possible through collaboration with host-country partners who share [the ABA's] commitment to delivering justice, fostering economic opportunity and ensuring respect for human dignity. Such norms are not only sown and nurtured in law schools and courtrooms, but everywhere that people live, learn and labor. While fostering the traditional components of a transparent and fair justice system—including empowered legal professionals, efficient courts, and well-drafted and effectively implemented legislation—remains central to [the ABA's] work, promoting the rule of law extends beyond the courthouse. [ABA ROLI's] recent work is marked by new initiatives that, for example, touch upon key needs,

62. See Ellis, *supra* note 25, at 316; Stein, *supra* note 24, at 316–17.

63. See ABA CEELI, ANNUAL REPORT, *supra* note 42, at 14–15; Ellis, *supra* note 25, at 332.

64. Ellis, *supra* note 25, at 314.

65. Robert A. Stein Everett Professor of Law, UNIV. OF MINN. SCH. OF LAW, <http://www.umn.edu/facultyprofiles/steinr.html> (last visited Sept. 19, 2014).

66. Stein, *supra* note 24, at 305–06.

67. A.B.A., *supra* note 2.

in the areas of health, economic development and media rights.⁶⁸

“Since 1990, ABA ROLI has operated programs in nearly 100 countries worldwide.”⁶⁹ “While [ABA ROLI] implement[s] [its] technical assistance programs with host country partners in a wide array of substantive areas, including commercial and property law reform, [its] efforts are concentrated in” the following core “thematic areas”:

- “Access to Justice and Human Rights”;
- “Anti-Corruption and Public Integrity”;
- “Criminal Law Reform and Anti-Human Trafficking”;
- “Judicial Reform”;
- “Legal Education Reform and Civic Education”;
- “Legal Profession Reform”;
- and
- “Women’s Rights.”⁷⁰

In many countries and regions, ABA ROLI programs are cross-cutting initiatives that address several programmatic priorities and that establish partnerships throughout the broad communities in which it works.

[ABA ROLI] increases access to justice, for example, through the provision of legal aid for the indigent in Armenia and for survivors of sexual and gender-based violence (SGBV) in the Democratic Republic of Congo (DRC). Among other efforts, [ABA ROLI] strives to uphold human rights by empowering lawyers . . . to meet the needs of people with disabilities in China and of lesbian, gay, bisexual and transgender citizens in Russia.

ABA ROLI public integrity programs include efforts that prepare Panamanian police officers to work under an accusatorial justice system and that conduct anti-corruption trainings in Moldova and in Morocco. [ABA ROLI’s] criminal law reform programs train legal professionals—from Georgia and Tajikistan to Mexico and Peru—as they implement new criminal procedure codes. [ABA ROLI’s] anti-human trafficking programs in Azerbaijan, the Solomon Islands and elsewhere expand services for survivors while improving governmental responses.

[ABA ROLI] works with judges and court personnel in Egypt, Haiti, Kazakhstan and the Philippines, among other countries, to improve judicial operations through systemized training, procedural reforms and technological advances. Additionally, ABA ROLI collaborates with law schools worldwide to upgrade curricula, to establish clinical legal programs and to encourage skills-building activities, thereby preparing the next generation of legal professionals. [The program] educate[s] youth and adults, including in the [Democratic Republic of Congo (DRC)] and in Jordan, about their rights and responsibilities, along with threats to their safety and liberty.

68. A.B.A., *Promoting Justice, Economic Opportunity and Human Dignity*, in ABA ROLI PROGRAM BOOK, 2013 1 (2013), available at http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_rol_i_2013_program_book_web_email.authcheckdam.pdf [hereinafter PROGRAM BOOK, 2013].

69. *Id.* at 20.

70. *Id.* at 3.

ABA ROLI also supports the legal profession by offering technical assistance to bar associations, formalizing continuing legal education regimes and promoting legislative reforms, including in countries undergoing historic transitions such as Libya and Tunisia. And finally, [ABA ROLI] foster[s] respect for women's rights and encourage[s] full participation of women in the legal profession by supporting programs that educate communities on women's rights, that train legal professionals to better respond to SGBV and other areas of law that disproportionately affect women and girls, and that establish mentoring programs for young female legal professionals.⁷¹

ABA ROLI's most robust, well-funded, and well-regarded project in recent years is in the DRC.⁷² In April 2010, the United Nations Special Representative for Sexual Violence in Conflict, Margot Wallström, described the DRC as "the rape capital of the world."⁷³ It is estimated that since armed conflict began in 1996, "nearly two million women have been raped in the DRC."⁷⁴ This is a terrifying rate of one woman victimized nearly every minute.⁷⁵ Most victims do not have the funds to go to court.⁷⁶ Many victims do not even know that it is possible to go to court.⁷⁷ Some of the victims are small children.⁷⁸ Very few rape survivors ever see justice.⁷⁹

The ABA ROLI programs in the DRC seek to combat this impunity by providing free legal and psychological counseling to victims, by training justice sector professionals, by educating communities on the changing laws to protect women and victims of sexual violence, and by supporting local bar associations, human rights groups, and women's organizations.⁸⁰

ABA ROLI has a mobile clinic—the first of its kind⁸¹—that helps to provide justice to the most vulnerable people in the most remote regions

71. *Id.* at 1.

72. See Michael Maya, *Reflections on ABA: ROLI's Efforts to Combat the Rape Crisis in War-Torn Eastern Congo*, A.B.A. (June 2011), http://www.americanbar.org/advocacy/rule_of_law/where_we_work/africa/democratic_republic_congo/news/news_drc_reflections_aba_rol_i_efforts_to_combat_the_rape_crisis_0611.html.

73. See Margot Wallström, United Nations Special Representative on Sexual Violence in Conflict, Security Council Open Meeting on "Women, Peace and Security: Sexual Violence in Situations of Armed Conflict" Statement by UN Special Representative of the Secretary-General, Margot Wallström (Apr. 27, 2010), available at http://www.un.org/sexualviolenceinconflict/wp-content/uploads/2012/07/Statement_SVC_Open_SC_Meeting_27_April_20102.pdf.

74. See Jeffrey Gettleman, *Congo Study Sets Estimate for Rapes Much Higher*, N.Y. TIMES, May 11, 2011, at A4; Maya, *supra* note 72.

75. See Gettleman, *supra* note 74.

76. See Lily Porter, *Mobile Gender Courts: Delivering Justice in the DRC*, THINK AFRICA PRESS (July 30, 2012, 12:30 PM), <http://thinkafricapress.com/drc/tackling-impunity-democratic-republic-cogo-rape-gender-court-open-society>.

77. See *id.*

78. See Gettleman, *supra* note 74; Maya, *supra* note 72.

79. See Maya, *supra* note 72.

80. See PROGRAM BOOK, 2013, *supra* note 68, at 25.

81. See *American Bar Association—Democratic Republic of Congo*, HUMANRIGHTS.GOV, <http://www.humanrights.gov/tag/north-kivu-bar-association/> (last visited Sept. 19, 2014) [hereinafter HUMANRIGHTS.GOV].

of the DRC.⁸² The mobile clinic brings immediate action and hope to the victims, according to our staff and volunteers on the ground.⁸³ This program has helped hundreds of survivors, and it has succeeded with an unprecedented number of rape convictions.⁸⁴

The project has addressed the long-term capacity of the judicial system to adjudicate SGBV crimes by training justice sector professionals on the laws and criminal procedures governing sexual violence crimes.⁸⁵ Local justice sector professionals, including lawyers, judges, military auditors, and police are trained on the laws and criminal procedure governing SGBV crimes, and on how to correctly handle such crimes.⁸⁶ ABA ROLI recruits lawyers from the North Kivu Bar and local non-governmental organizations.⁸⁷ “[T]he North Kivu Bar Association [has even] created a mechanism by which pro bono lawyers will provide free legal services to victims who cannot afford it.”⁸⁸

In addition to legal and counseling services, all victims referred to the ABA ROLI office are tested for HIV/AIDS or other infectious diseases and receive follow-up care with ABA ROLI’s local partner, HEAL Africa hospital. An ABA ROLI-executed outreach campaign informs potential victims of existing legal and health services through referral systems, radio and TV spots, and articles.⁸⁹

According to the 2013 ABA ROLI Annual Report, the DRC “program has operated 19 legal aid clinics to assist SGBV survivors in securing legal, psychological and medical assistance” since 2008.⁹⁰ ABA ROLI has “provided *pro bono* legal counseling to” well over 10,000 “SGBV survivors and [has] helped file” more than 7,700 “cases with local authorities, resulting in” more than 1,200 “trials and” hundreds of convictions.⁹¹ “Other ABA ROLI activities” detailed in the 2013 report included:

- facilitating 62 mobile courts in remote areas of eastern DRC[;]
- supporting the digitization of court records and the creation of the first SGBV case-law database;
- creating an early warning system to enhance civilian protection[;]
- conducting 2,737 SGBV-related public and media outreach activities[;]
- training 1,974 justice sector and civil society representatives[;]
- providing scholarships to 26 women law students[; and]

82. See Maya, *supra* note 72; PROGRAM BOOK, 2013, *supra* note 68, at 26.

83. See Maya, *supra* note 72; PROGRAM BOOK 2013, *supra* note 68, at 25.

84. See PROGRAM BOOK 2013, *supra* note 68, at 25.

85. See A.B.A., *Promoting the Rule of Law*, in ABA ROLI PROGRAM BOOK, 2009 22 (2009), available at http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_rol_i_2009_program_book_web_email_authcheckdam.pdf.

86. See *id.*

87. See *id.*

88. HUMANRIGHTS.GOV, *supra* note 81.

89. *Id.*

90. See PROGRAM BOOK, 2013, *supra* note 68, at 25.

91. *Id.*

- helping secure the release of 366 people in wrongful or prolonged pre-trial detention.⁹²

ABA ROLI's DRC program is a striking example of how much our assistance programs have grown to respond to the special needs and circumstances of various regions and to ensure justice is delivered to some of the most vulnerable populations in the world.

Today, ABA ROLI implements legal reform programs in more than 60 countries in Africa, Asia, Europe and Eurasia, Latin America and the Caribbean, and the Middle East and North Africa. ABA ROLI has roughly 700 professional staff working in the United States and abroad, including a cadre of short- and long-term expatriate volunteers who, since the program's inception, have contributed more than \$200 million in pro bono legal technical assistance. [ABA ROLI's] local partners include judges, lawyers, bar associations, law schools, court administrators, legislatures, ministries of justice, human rights organizations, and civil society representatives.⁹³

III. THE WORLD JUSTICE PROJECT

As Bill Neukom began preparing for his year as president of ABA, the Association's rule of law endeavors were robust, far reaching, and growing. Yet, something was missing. Neukom, who had served as the principal legal counsel for Microsoft for almost twenty-five years and was the chairman of the Gates law firm in Seattle (now K&L Gates), wanted to fill that gap. For the 2007–2008 presidential year, he envisioned an initiative that was truly outside the book. He sought to expand conversations about the rule of law to a wider audience, to take it beyond judges, lawyers, and legal scholars, and to bring it to the mainstream.⁹⁴ The rule of law is an essential underpinning of any thriving society, yet the connection between the rule of law and economics, health, education, the environment, and basic human rights was not being made outside of the legal community. Neukom wanted multidisciplinary coalitions for justice, including doctors, educators, engineers, faith communities, and more, to become the norm.⁹⁵ In an address to the ABA House of Delegates, Neukom said, "We can learn more and accomplish more when we erect a big tent and fill it with round tables for informed deliberation—when we create an environment in which ideas and contributions are judged on their merits."⁹⁶

In addition, he aspired to define the rule of law, beyond the thin description of procedural law, in a way that would be accepted across

92. *Id.*

93. *Id.* at 2.

94. See WORLD JUSTICE PROJECT, WORLD JUSTICE FORUM: WORKING TOGETHER TO ADVANCE THE RULE OF LAW, 8 (July 2008), available at http://www.worldjusticeproject.org/sites/default/files/wjfi_program_book.pdf.

95. *See id.*

96. James Podgers, *A Big Tent Goes Up*, ABA J. (Aug. 1, 2007), http://www.abajournal.com/magazine/article/a_big_tent_goes_up/.

cultures worldwide and that could be catalogued.⁹⁷ Some people told Neukom, “Don’t take this on, it’s not possible,” recalled Claudia Dumas, who was the first executive director of the World Justice Project.⁹⁸ But he was determined. Neukom pulled together an extraordinary cadre of past and future ABA leaders, and his idea received a strong endorsement from other organizations and leading experts from around the globe, including members of the U.S. Supreme Court, leading foreign jurists, and other important world leaders who cared about the rule of law and social justice, including Desmond Tutu and Ashraf Ghani.⁹⁹

The concepts of mainstreaming, inclusion, and scholarship were the bedrock for the World Justice Project (WJP).¹⁰⁰ Starting in 2006, the WJP held “multidisciplinary outreach meetings . . . in Africa, Asia, Europe, Latin America, and North America.”¹⁰¹ In an unprecedented effort, it “brought together senior leaders from more than 71 countries, representing [diverse] fields” from architecture and the arts to media and the military.¹⁰² Educators, engineers, business people, public health, public safety officials, and more participated in these meetings, unanimously “conclud[ing] that the rule of law is essential to the success of their” communities.¹⁰³ The participants also provided comments on the WJP’s Rule of Law Index,¹⁰⁴ which now “measures how the rule of law is experienced in everyday life in 99 countries around the globe”¹⁰⁵ It is the most comprehensive index of its kind and the only one to rely solely on primary data.

The inaugural World Justice Forum was held in Vienna, Austria, in July of 2008, and included high-level experts from around the globe.¹⁰⁶ Since that initial conference, WJP has become a wealth of information on the impact that law and government have on human rights issues around the world. WJP focuses its work on analyzing different factors that contribute to successful “rule of law” societies, for example, government accountability, access to fundamental rights and justice, open government, and regulatory enforcement.¹⁰⁷ While WJP deals with complex issues, it has sought to create a system of measurement that is easy to understand and interpret.

WJP maintains four general principles must be present in a country with a successful rule of law system: (1) “[t]he government and its officials and agents are accountable under the law”; (2) [t]he laws are clear,

97. *See id.*

98. [NEED SOURCE]

99. *See* WORLD JUSTICE PROJECT, *supra* note 94 at 8, 10–13.

100. *See id.* at 8–9.

101. *Id.* at 8.

102. *See id.*

103. *Id.*

104. *See id.*

105. *WJP Rule of Law Index 2014*, WORLD JUSTICE PROJECT, <http://worldjusticeproject.org/rule-of-law-index> (last visited Sept. 19, 2014).

106. *See* WORLD JUSTICE PROJECT, *supra* note 94, at 5, 15.

107. *See id.* at 8.

publicized, stable and fair and [they] protect fundamental rights;”¹⁰⁸ (3) laws are created, applied and enforced through an accessible, fair, and efficient process; and¹⁰⁹ (4) “competent, independent and ethical” advocates are available to provide access to justice (think public defenders).¹¹⁰ According to the project, this also means there should be enough of these advocates to serve the population, and they should have adequate resources to do the job.¹¹¹

The World Justice Project was truly a unique ABA project due to its engagement of stakeholders from a variety of disciplines around the world and its active network of governmental and non-governmental leaders from all areas of society. In 2009, the World Justice Project became independent from the ABA.¹¹² The WJP is fulfilling its mission. “We believe that we have made an impact in broadening the constituency,” Executive Director Juan Carlos Botero said in a recent conversation.¹¹³ “You see the WJP definition [of the rule of law] in all corners of the planet.”¹¹⁴ WJP is involved in the conversations surrounding the post-2015 United Nations Development agenda and other important global initiatives that recognize the critical importance of a stable and functioning justice system.

Over the years, WJP has helped incubate more than 100 program on five continents.¹¹⁵ One idea, developed in Lima, Peru, and inspired by the initial World Justice Forum in 2008, has made pivotal changes for the country.¹¹⁶ The Peruvian Society for Environmental Law (SPDA) had been a largely unknown nonprofit working to integrate environmental considerations into governmental policy when its leadership attended the Forum in Vienna.¹¹⁷ The SPDA realized that it was not having the impact that it wanted and was inspired to take a multidisciplinary approach.¹¹⁸ SPDA started a website and hired a journalist; now five years later, it is the leading source of environmental news throughout the country, appearing on television news and radio in Peru and neighboring countries.¹¹⁹ SPDA works to strengthen the rights of individuals and communities to a healthy environment through a multidisciplinary, ground-up approach, often with transnational collaboration and citizen

108. *Id.*

109. *Id.*

110. *Id.*

111. *See id.*

112. *See Who We Are*, WORLD JUSTICE PROJECT, <http://worldjusticeproject.org/who-we-are> (last visited Sept. 19, 2014).

113. [NEED SOURCE]

114. [NEED SOURCE]

115. *See Programs*, WORLD JUSTICE PROJECT, <http://worldjusticeproject.org/programs> (last visited Sept. 19, 2014).

116. *See A Voice for the Amazon: How environmental reporting is changing minds—and government policy—in Peru*, WORLD JUSTICE PROJECT, <http://worldjusticeproject.org/photo-essay/voice/amazon> (last visited Sept. 19, 2014).

117. *See id.*

118. *See id.*

119. *See id.*

participation.¹²⁰ The project works to protect the underprivileged and has given a voice to indigenous communities in remote areas who were largely underrepresented in the country's policy-making process.¹²¹ The work of SPDA has cultivated the power of environmental law and is now routinely referenced in national and international policy discussions and decisions.¹²² The former CEO of SPDA, Gerardo Manuel Pulgar-Vidal Pedro Otálora, is the current Minister of Environment of Peru, largely as a result of the website's success, according to the World Justice Project staff who recently made a follow-up visit.¹²³

IV. CONCLUSION

The American Bar Association's promotion of the rule of law has seen a gradual transformation, but the transformation is still not complete. While the ABA's international activities continue to cover more ground and increase in size and scope, one thing remains constant: the determination and energy of our members, volunteers, and legal partners abroad.

When I was chair of the ABA Section of International Law, I was surprised by the extent to which lawyers, judges, and law enforcement officials were at risk of violence and yet were determined to see that the rule of law prevail. Sandy D'Alemberte, Homer Moyer, Mark Ellis, Bill Meyer, Bill Neukom, and the judges from Sarajevo, all whom I have mentioned in this text, are among the many fearless and idealistic people who are forever connected through this inspiring display of the human spirit and the commitment to the rule of law. As Moyer recalled recently via email:

We, of course, never anticipated that CEELI would have the broad impact it has had or that it would evolve into a continuing, global project. I credit that to the continuity of an exceptional, far-sighted Board; remarkable, committed volunteers; a gifted and effective Executive Director who guided the project's first decade; ABA leaders who supported the project, gave it independence, and protected it from ABA bureaucracy; and the fortunate timing of a historic series of events that provided volunteers with the opportunity to engage in a unique form of public service and to work with the kinds of issues that confronted the drafters of our own Constitution 200 years before.¹²⁴

CEELI was a grand experiment, hatched at the right time and the right place, with the generosity, experience, and spirit of ABA members committed to promoting the rule of law. The World Justice Project was considered by some to be an impossible mission, but with Neukom's leadership and buy-in from within the ABA and from business and politi-

120. *See id.*

121. *See id.*

122. *See id.*

123. *See id.*

124. [NEED SOURCE]

cal leaders around the world, it quickly became a great success. These projects could not have been achieved without intense personal and individual involvement and commitment. Thousands of people have been involved in the ABA's rule of law efforts over the years. And while we may only have a chance to honor a few of them in the way that they deserve, their work leaves an indelible mark of progress and hope for a more just and equitable world sustained by the rule of law.