

Rule of Law Initiative / Global Human Rights Training and Support

The RIGHTS Consortium

Grant No. AEP-A-00-99-00016-00

Funded by the United States Agency for International Development

Consortium Members: Freedom House (prime partner), the American Bar Association's Central and East European Law Initiative (ABA/CEELI), and the National Democratic Institute for International Affairs (NDI).

Fourteenth Interim Narrative Report
Reporting Period: July 1 to September 30, 2002

I. Executive Summary

On March 9, 1999, the U.S. Agency for International Development (USAID) awarded a grant in the amount of \$4,000,000 to Freedom House to provide support for a global program in rule of law. On September 27, 2000, USAID raised the funding ceiling to \$12,000,000. Freedom House acts as the prime recipient for the RIGHTS Consortium, which includes Freedom House (FH), the American Bar Association's Central and East European Law Initiative (ABA/CEELI) and the National Democratic Institute for International Affairs (NDI).

The RIGHTS Consortium supports the transition to and consolidation of democratic regimes throughout the world by supporting and strengthening the rule of law and human rights. Specifically, RIGHTS Consortium activities help USAID achieve the following objectives:

1. Increase legal protections for human rights and gender equity that conform to international standards;
2. Establish judicial, legal, and regulatory frameworks that support democratic institutions as well as market-based economies;
3. Support effective and fair justice sector institutions, including the judiciary, prosecution, legal defenders, and civilian police;
4. Increase equitable access to justice and the skills and knowledge necessary to use the justice system effectively; and
5. Establish technical excellence and "state of the art" sustainable activities in the field of rule of law and human rights.

During the five-year grant period, USAID supports the RIGHTS Consortium in two types of programming: (1) core activities which improve technical aspects and the sustainability of rule of

law and human rights programs (through the Leader Cooperative Agreement), and (2) longer-term, more comprehensive rule of law and human rights development activities that provide technical assistance and training (through Associate Awards). Initial core funding for the first two years provides \$500,000 for rapid response initiatives, \$500,000 for technical excellence and “state of the art” sustainable activities, and \$250,000 for overall Consortium management and ongoing operating costs for the last four years. As of September 30, 2002, USAID obligated funds to the RIGHTS Consortium under the Leader Grant totaled \$5,168,175.

This narrative report reviews the activity carried out during the fourteenth interim reporting period of July 1 – September 30, 2002.

II. Program Activities

During the fourteenth quarter, the RIGHTS Consortium continued developing and implementing activities supporting the rule of law and human rights through its Leader agreement and Associate Award agreements. Under the technical leadership component of the Leader grant, the Consortium employed the **CEDAW Assessment Tool** (available on the RIGHTS Consortium website) in four country assessments having impact on program design decisions and international compliance review, developed judicial training curriculum on the **ICCPR Index**, and planned for testing of the **Human Rights Defenders Assessment Tool**. Under this component, NDI also began work on the first of its **Rule of Law Series** papers.

Under its Leader grant, the Consortium implemented activities in the following projects:

- **Strengthening Rule of Law and Human Rights in Algeria (Freedom House, ABA-Africa, International Center for Journalists)**
- **East Timor Human Rights Support Program (Freedom House, Coalition for International Justice)**
- **Supplemental Funding For The Kosovo Rule of Law Program (ABA/CEELI)**
- **Environmental Governance in China (ABA-Asia)**
- **Mexico Human Rights Defenders Project (Freedom House)**
- **Morocco Penal Procedure Code (Freedom House, ABA/CEELI)**
- **Russian Journalist Program (Freedom House)**

Through its Associate Awards, the Consortium implemented activities in the following projects:

- **War Crimes Documentation Project (ABA/CEELI)**
- **Morocco: Promoting Ethics in Government (NDI)**
- **Mediation in Mexico (ABA-Latin America, Freedom House)**
- **Human Rights Promotion in Morocco (Freedom House)**
- **Human Rights Defenders Projects in Uzbekistan and Kyrgyzstan (Freedom House)**

Projects supported through the Leader are described in the following sections of this report. The Consortium submitted quarterly narratives for the projects funded through associate awards under separate cover.

A. TECHNICAL LEADERSHIP AND SUSTAINABLE ACTIVITIES IN RULE OF LAW AND HUMAN RIGHTS

Technical Leadership under the RIGHTS Consortium is designed to improve long-term strategic planning of rule of law and human rights assistance with the aim of creating more effective and sustainable programming. During the fourteenth quarter, the RIGHTS Consortium put into use several of the new assessment tools developed: (1) utilizing the CEDAW assessment tool to evaluate countries' compliance and inform program decisions in Armenia, Serbia, Kazakhstan and Georgia, (2) developing judicial training curriculum on the research and factors incorporated in the ICCPR index, (3) committing to use the initial test of the Human Rights Defender Assessment tool to support the USAID mission in Mexico's design of access to justice programming priorities. The Consortium also finalized the topics for a series of four rule of law discussion papers to inform countries' strategies in rule of law development and human rights protection.

1. Diagnostic Tools Development

a. CEDAW Assessment Tool

CEELI completed the first CEDAW Assessment tool project in Armenia during Spring 2002. In August 2002, the government of Armenia presented its second periodic report to the United Nations CEDAW Committee. CEELI provided members of the CEDAW committee in New York with copies of the report from the pilot project. Many of the committee members found the report to be very useful, and it served as the basis for in depth questioning of the government. As one influential member of the UN CEDAW Committee stated:

"I found the CEELI Report on Armenia extremely helpful for the purpose of analyzing the country situation in respect to CEDAW. The organization of the material shadowed the organization of the Convention thus making the Report an easy reference tool. The Report added to the legal facts and sex disaggregated statistics, views of professionals and public opinion in Armenia and thus gave an important, added perspective."

In addition, CEELI encouraged members of the NGO community in Armenia to produce shadow reports. CEELI facilitated the participation of two NGO members at the CEDAW committee presentation in New York, and CEELI program staff spoke with CEDAW committee members about the Assessment Tool. A direct result of this trip was the conception of a conference to be held in December 2002 in Armenia, which would bring members of the NGO community and the government together to work on the recommendations from the CEDAW committee and the information in the Assessment Tool report. This conference will determine priority issues to advance women's equality and participants will create a clear strategy for achieving these goals.

The CEDAW Assessment Tool project is also underway in Kazakhstan and should be completed by the end of the 2002. This project will provide a well-rounded picture of the status of women by comparing results of a survey of average women to responses from experts. To date, the

project has involved many local NGOs and trained a variety of legal professionals in women's rights and international law.

A CEDAW Assessment report was also recently completed for Serbia. The Serbian NGO community has been given the opportunity to respond to and critique the report, and at the end of that process, it will be available to the general public.

In late September, CEELI began the CEDAW Assessment Tool project in Georgia. Gender Issues Specialist Lori Mann will oversee the project and organize a team to conduct both a *de jure* and *de facto* assessment. The implementation of the CEDAW Assessment Tool will not only generate valuable information, it will serve as a capacity building project for the NGO community and legal professionals.

b. ICCPR Index

ABA/CEELI has finalized a draft of the ICCPR Index and is preparing for a second ICCPR working group meeting, to be held in December 2002. This working group, which will be composed of human rights practitioners and legal experts with a strong background in human rights and international law, will provide feedback on the articles most recently incorporated into the Index. This feedback will help strengthen and target the analysis in the Index.

The research for the ICCPR Index also served as the basis of a human rights course at the CEELI Institute in Prague. The course, which was held in April, June, and August, was aimed at Kosovar lawyers and judges. It sought to raise awareness of human rights and how they have been interpreted by independent monitoring and evaluating bodies, with the understanding that these attorneys and judges would then be better able to press for implementation through their professional activity. Through this course, the Institute successfully trained over half the lawyers in Kosovo. Responses to the course so far have been positive, and CEELI intends to produce a version of the curriculum that could serve all the countries in which CEELI works.

c. Human Rights Defender Assessment Tool

USAID/Mexico approved testing of the human rights defender assessment tool in Mexico and agreed to match funding to support initial programming based on the findings. The first test of the human rights defender assessment tool will take place in early February 2003.

d. Rule of Law Research Series

NDI is developing a series of publications to help provide political actors with practical comparative information on selected rule of law issues, starting with an initial series of four publications. This quarter the Institute conducted research for the first publication in the series, developed topics for the three remaining papers, and reached an agreement with USAID regarding the remaining three paper topics and a time line for the research series.

This first paper will provide comparative information on global trends in the structure and jurisdiction of Ombudsman offices and best practices for using these offices to not only protect

individual rights, but to promote systemic changes in administrative rules and procedures and/or remedial legislation. The paper will look specifically at the effectiveness of Ombudsman offices in handling cases that are not viewed as within the traditional purview of Ombudsman (e.g. human rights abuses, government corruption and environmental issues), and make note of the structures/mechanisms within Ombudsman offices that make some more effective in these areas than others. During the current quarter the Institute conducted a thorough review of the existing literature and found that while much has been written on the trend towards an expanded jurisdiction for Ombudsman offices, no research has been conducted on the effectiveness of Ombudsman offices in these areas or on the effectiveness of Ombudsman offices in engendering systemic change. As a result, this quarter NDI authored its own global survey of more than 100 Ombudsman offices in order to obtain the necessary data. Due to this unexpected level of primary research and data analysis, NDI and USAID have agreed to move the completion date for this paper from the last quarter of 2002 until the first quarter of 2003.

During this quarter the Institute developed topics for the three remaining papers and reached agreement with USAID regarding the topics and the timeline for completion of the series. The remaining three topics are as follows:

Independent Oversight of Law Enforcement Agencies and Effective Mechanisms for Establishing Police Accountability

This paper will provide comparative information on the legal and institutional framework that promotes and supports independent oversight of domestic law enforcement agencies and would discuss ways in which this framework can encourage police procedures that promote an effective police force and positive/healthy police-citizen relations. The paper will explore such issues as: 1) overcoming political hurdles to establishing effective civilian oversight; 2) best practices in establishing the legal and institutional framework for oversight functions (including the strengths and weaknesses of civilian review boards); and 3) effective models of community policing.

In the past year, NDI has received requests from partners in several regions (most notably Africa, Asia and Central and Eastern Europe) for assistance in dealing with this complicated issue of police reform. The lack of police accountability to civilian government authorities and to civil society has consistently been raised as an impediment to democratic governance and effective access to justice. The Institute has received numerous requests for comparative materials on establishing effective civilian oversight of the police from both elected officials and civil society groups.

Best Practices in the Development and Enforcement of Freedom of Information and Sunshine Laws

NDI will prepare one of the papers in the series on best practices in the design and enforcement of right to information legislation and open meeting laws. Globally, governments are increasingly developing the legal framework, if not always the political will, for government transparency and accountability. Over 40 countries have now adopted comprehensive laws to allow for public access to government records and 30 more have some form of legislation pending. The mere existence of such legislation is not enough, however, to secure in practice the

public's right to access to government information. Many governments that have adopted such legislation fall short when it comes to compliance either because they lack the political will or the necessary resources.

This paper will address deficiencies in enforcement mechanisms for right to information laws and provide concrete examples of best practices in designing legislation that both protects citizens access to government information and proceedings and offers a compliance scheme that can be implemented with limited resources. The paper also would provide comparative information on civil society efforts to encourage the creation of FOI legislation and, where such legislation exists, to encourage compliance with existing laws.

Parliamentarians as Human Rights Defenders

Many countries that have recently moved from an authoritarian to a more democratic political system continue to experience difficulties in guaranteeing and enforcing human rights. Remnants of the previous authoritarian regime may remain in the security apparatus or other government institutions and may be unwilling to adopt a culture of human rights protection. Additionally, in many newly democratizing countries, legal institutions, impaired by years of authoritarian control, corruption or neglect, are not in a position to adequately guarantee basic rights and freedoms. In these instances, parliaments can be effective bodies for promoting and protecting individual and group rights. NDI will prepare the last paper in the series on the role parliamentarians and parliamentary human rights committees can play in providing recourse for human rights abuses in the absence of adequate judicial avenues.

Nearly half of all national parliaments have a specialized committee designed to set standards to guarantee and monitor human rights. In many instances, these committees also include in their mandate the ability to carry out inquiries on the basis of complaints raised by individuals or groups who assert that their rights have been violated. This fourth paper will provide examples of tools human rights committees could use to promote and protect human rights effectively. The paper will also address the role of these committees in not only highlighting cases of human rights abuses, but in providing effective remedies.

In the next quarter NDI will analyze the responses to the global survey of Ombudsman offices and prepare a draft of the first paper. The Institute will also begin production of the second paper in the series.

B. RAPID RESPONSE AND DEVELOPMENT ASSISTANCE UNDER THE LEADER COOPERATIVE AGREEMENT

1. Strengthening Human Rights and the Rule of Law in Algeria

This quarter, Freedom House, ABA-Africa, and the International Center for Journalists (ICFJ) began implementing Phase II of their joint program to strengthen human rights and the rule of law in Algeria. Freedom House is currently hosting two Algerians through its Visiting Fellows Program and made substantial preparations this quarter for a study tour on victims' rights and a series of seminars on freedom of expression and defamation laws. ABA-Africa traveled to Algeria and began preparations for activities relating to the Algerian penal procedure code, a

code of conduct for judges and magistrates, and the independence of the judiciary. ICFJ is currently preparing a one-week workshop on investigative journalism for Algerian journalists who report on human rights and rule of law issues. Freedom House, ABA-Africa, and ICFJ will submit a final work plan to USAID early in the next quarter.

a. Freedom House Visiting Fellows Program

During this reporting period, Freedom House began hosting two journalists from Algeria as part of its Visiting Fellows Program (VFP). This ten-week training program (September 26 to November 15) provides young leaders in journalism and the human rights community with the opportunity to work side-by-side with their American counterparts in media and non-governmental organizations. The two Algerian participants in the Fall 2002 session of the VFP and their respective internship assignments are listed below:

- **Mr. Chafik Bendjoudi** (born: 5/13/1958) is a reporter for the National Algerian Broadcasting Company in Constantine, Algeria. Mr. Bendjoudi covers political, social, and cultural issues in the eastern region of Algeria for the Third Channel of Algerian Radio. In 1991, Mr. Bendjoudi founded a local independent weekly newspaper, which he managed for two years. Prior to his career in journalism, Mr. Bendjoudi worked as an English professor at the University of Constantine. Mr. Bendjoudi earned a Bachelor's degree in English from the University of Constantine in 1981. During his participation in the Visiting Fellows Program, Mr. Bendjoudi will work at KYW News Radio in Philadelphia, Pennsylvania, the Daily Press Newspaper in Victorville, California, and one other media outlet.
- **Mr. Malik Boumati** (born: 10/30/1970) is a local reporter for *La Tribune*, a national daily newspaper, and an active member of the Algerian League for the Defense of Human Rights (LADDH). He is based in the town of Tizi-Ouzou, which is 100 kilometers from Algiers. As a journalist, Mr. Boumati has reported widely on human rights-related events, including visits by international human rights organizations, events organized by university student groups, and efforts by the family of an assassination victim to uncover the truth surrounding the murder. As a member of LADDH, Mr. Boumati facilitates press coverage of LADDH events, educates local journalists about the organization, and attends weekly lecture series given by LADDH's Human and Citizens Rights House project. During his participation in the Visiting Fellows Program, Mr. Boumati will work at the Denver Post in Denver, Colorado, Human Rights Watch in Washington, D.C., and one other media outlet or nongovernmental organization.

b. Freedom House Study Tour on Victims Rights

Although the civil conflict in Algeria has abated significantly, more than ten thousand Algerians remain missing and are presumed to have been victims of violence by state security forces or Islamic armed groups. Many Algerians state that they will not be able to move past the civil conflict until there has been full disclosure as to the fate of the missing and recognition of the atrocities committed by all parties to the conflict. Algerians have created a number of civic organizations to advocate for victims' rights, but they have not yet obtained information about

their family members, nor have perpetrators of disappearances been brought to justice. While relations between some of the victims' organizations have been strained – largely because of their members' perceived sympathies during the underlying conflict (i.e., with the state or with the Islamic armed groups) – they recently have begun to work together to attempt to obtain information and accountability.

Given the importance of the issue of the 'disappeared' to overall peace and stability in Algeria, Freedom House will conduct a two-and-a-half week study tour to the United States and Bosnia in March 2003 for eight Algerian activists from a variety of victims' rights organizations.¹ The study tour will focus on how the key sectors of government, the judiciary, NGOs, and media can play roles in pursuing accountability and fair treatment for the victims of violence. Freedom House expects that the study tour will not only provide participants with information relevant to the victims situation in Algeria, but that it will also foster continued cooperation between the various Algerian victims rights organizations. In Bosnia, the group will learn specifically how civic organizations worked together in a post-conflict setting to obtain information about and justice for their family members. In the United States, the group will meet with international human rights organizations and learn, among other things, about advocacy techniques and transitional justice mechanisms such as truth and reconciliation commissions.

From July 23 to 30, 2002, Freedom House Senior Program Officer Mikaela A. McDermott and Freedom House consultant Asta M. Zinbo traveled to Algiers to interview candidates for the study tour and to gather additional information about the issue of the missing in Algeria. Ms. Zinbo, who has previously worked as a policy advocacy consultant for Freedom House in Algeria, heads the International Commission for Missing Person's civil society initiatives in Sarajevo and will lead the Bosnian portion of the study tour. Ms. McDermott and Ms. Zinbo conducted one-hour interviews with 23 individuals from more than 10 Algerian organizations and met with a range of Algerian government officials and lawyers regarding victims' rights issues.

Also during the trip, Ms. Zinbo conducted a roundtable discussion in Algiers entitled, "The Role of Civil Society in Working on the Issue of the Disappeared – Some Examples from Former Republics of Yugoslavia." This roundtable, which was attended by approximately 30 Algerian activists, provided comparative examples of effective strategies used by civil society groups in the former Yugoslavia and marked one of the first occasions where representatives from a variety of Algerian victims' rights organizations came together in the same room.

In late August 2002, Freedom House selected the eight participants for the study tour and began assisting them with the visa application process to visit the United States and Bosnia. In the next several months, Freedom House will remain in regular contact with the participants and will continue to monitor developments on the issue of the missing so that the study tour is as useful as possible. In addition, Freedom House plans to send Ms. Zinbo to Algeria in December 2002 to participate as a speaker in a conference hosted by Somoud, an Algerian NGO that focuses on the issue of the missing.

¹ The study tour was originally planned for October 2002, but it had to be postponed because of new delays in obtaining visas to the United States and the Ramadan and Christmas holidays.

c. ABA/Freedom House Assessment of Algerian Defamation Law and Seminars on Freedom of Expression and Defamation Laws

In comparison to many other countries in the Arab world, the Algerian print press is highly developed and relatively free. There are more than 30 independent daily newspapers, and Algerian journalists regularly criticize the government and call for increased democracy and respect for human rights. In June 2001, however, the Algerian Parliament adopted amendments to the Algerian penal code that provide for prison terms for journalists who insult the President, Parliament, the army, or other constitutional body. The amendments also provide for exceedingly high fines for publishers whose newspapers print such insults.

ABA-Africa and Freedom House are implementing a series of activities to help ensure that the Algerian press continues to be a source of freedom in Algeria and to try to mitigate the effects of the new penal code provisions. As a preliminary activity, ABA-Africa and Freedom House have gathered a group of experts in the area of media law to provide a comparative assessment of the Algeria defamation law. The primary purpose of this assessment is to provide objective, comparative information that will promote awareness among Algerian government officials, attorneys, judges, and journalists about the extent to which the Algerian law conforms to international standards and assist them in promoting freedom of expression in Algeria. A first draft of the assessment was completed this quarter and is currently being reviewed by Algerian lawyers. ABA-Africa and Freedom House expect that the final version of the assessment will be completed early in the next quarter.

In October 2002, Freedom House Senior Program Officer Mikaela A. McDermott traveled to Algeria to plan a series of seminars with Algerian judges, lawyers, and journalists on freedom of expression generally and defamation laws in particular. These seminars will take place in early January 2003. During her trip, Ms. McDermott secured partnerships for the seminars with the Algerian Bar Association, the National Magistrates Institute, the Algerian Judges Syndicate, *El Khabar* (Algeria's largest daily newspaper), and *El Youm* (also an Algerian daily newspaper). In addition, Ms. McDermott met with a host of Algerian journalists and lawyers to obtain information about the extent to which journalists and publishers are prosecuted under the Algerian defamation laws.

The primary purposes of the training sessions will be to provide Algerian judges and lawyers with information and training on international standards of freedom of expression that will encourage and assist them in adjudicating and litigating cases involving the Algerian defamation law. Training sessions will provide the journalists with information to assist them in reporting on stories relating to freedom of expression and to encourage them to continue to write stories involving the government. Jane Kirtley, the Director of the Silha Center for Journalism and Ethics at the University of Minnesota and the former Executive Director of The Reporters Committee for Freedom of the Press, will lead the training sessions.

d. ABA Activities on Justice Sector Reform

In September, Bill Meyer, long-time ABA member and the first long-term liaison to set-up an ABA office outside of the United States, traveled to Algeria with Vernice Guthrie, ABA-Africa

Director, to develop various activities relating to justice sector reform. Mr. Meyer and Ms. Guthrie met with the Algerian Bar Association, the Ministry of Justice, the Algerian Judges Syndicate, the Young Arab Lawyers Association, the Young Algerian Bar Association, RACHDA, representatives of the Constantine branch of the Algeria Bar Association, as well as representatives of the law school. ABA-Africa was well received by all and given very positive indications that the ABA-Africa program to support justice sector reform will enjoy support from every aspect of the Algerian judicial community, governmental as well as non-governmental.

ABA-Africa plans to implement the following activities for the months of November and December:

November: During meetings with both the ministry of Justice and with the Algerian Judges Syndicate, requests were made for technical assistance to develop and draft a Code of Conduct for the Judges and Magistrates. ABA-Africa has identified a Federal Bankruptcy Judge, Judge Glazebrook, who is willing and able to travel to Algeria to work with the Judges to develop this code. Judge Glazebrook will also travel to Constantine to meet with the Bar and representatives of the law school to provide training. ABA-Africa is committed to ensuring that technical assistance is extended beyond the capital city of Algiers.

The Ministry of Justice also requested ABA-Africa's assistance in revising the Algerian penal procedure code. Judge Glazebrook, who is a former prosecutor, will provide initial technical assistance to the Ministry of Justice in this area and arrange for more extensive input by international experts on penal procedure code reform in the coming months.

December: The Algeria Bar Association and the Judges Syndicate will organize and hold a workshop on the Independence of the Judiciary. ABA-Africa has identified a senior level attorney Michael E. M. Sudarkasa, who lives in South Africa and is quite familiar with the challenges to judicial reform in Africa. ABA-Africa is working with the Algeria Bar Association to refine the workshops and presentation ABA-Africa will provide in support of the overall conference.

2. East Timor Human Rights Support Program

The overarching goal of the East Timor Human Rights Support Program, as implemented by Freedom House and its subgrantee, the Coalition for International Justice (CIJ), is to contribute to sustained democratic development in East Timor through the support of justice, accountability and the protection of human rights. In a previous phase of the project, Freedom House worked to strengthen the capacity and geographical outreach of local human rights groups, and to increase access to justice at the local level. CIJ currently has deployed criminal investigators and experts to work with the United Nations Temporary Administration of East Timor (UNTAET) Office of Serious Crimes in its prosecutions of past human rights atrocities.

During this quarter, CIJ's local partner, the Serious Crimes Unit (SCU) continues to progress in its investigations. However, a lack of attention to other aspects of the judicial process has brought to a virtual standstill the effort to try historic crimes in East Timor. In a recent six-week period, 17 of the last 29 hearings scheduled before the Special Panel were postponed.

After two years of steady progress on the prosecution side, adequate resources and attention have failed to materialize for defense counsel, judges, and courtroom administration, threatening to paralyze the process at a time when the *ad hoc* Human Rights Court in Indonesia seems bankrupt. This hiatus is fueling concern that Indonesian officials may never be held accountable for violence perpetrated in East Timor. Unless resources are made available for defense counsel, judges (including appellate), law clerks, interpreters, court reporters, and general court administration, neither the East Timorese nor the international community will be able to consider this effort, unprecedented in many ways, a success.

Summary of Work, to date:

42 indictments issued

119 individuals indicted

28 tried

22 cases with proceedings pending (6 awaiting trial, 5 awaiting preliminary hearings, 2 trials ongoing, 9 cases on appeal)

Sentences range between 4 years and 34 years, 4 months.

CIJ Prosecutor

The Malaysian prosecutor supported through this grant since January 2001, completed her contract on September 15, 2002. As a highly valued member of the prosecution team she has since been hired directly by the United Nations to continue her work with the SCU.

Work Undertaken by CIJ Consultant/Prosecutor

- The Lolotoe case, which began March 4, 2002 and continued into May 2002, was suspended through September and only recently recommenced. One of the accused pleaded guilty and is awaiting sentencing. The case involves *crimes against humanity* charges for rape, murder, torture, inhumane treatment and persecution for acts committed between May and September 1999 in and around Lolotoe near the border with West Timor. It is one of ten priority cases for the Serious Crimes Unit.
- The Same trial was originally scheduled to begin August 30, 2002 but has been set back to December 2, 2002. Charges against the four accused involve *crimes against humanity* for murders, persecution, imprisonment and the deportation of hundreds of villagers from Same sub-district during the period leading up to and immediately following the popular consultation on 30 August 1999.
- The case against Antonio Lemos, was recently dismissed after the accused had been held in pre-trial detention two years.
- Two ongoing investigations in Covalima and Manatuto districts are proceeding well. Two suspects in the Covalima case are currently in custody and the prosecutor plans to proceed with individual indictments against the accused for acts of rape, murder and

detentions. Of the four under investigation in the Manatuto case, one is the district administrator, a high civilian authority.

- The prosecutor also participated in two “ordinary crimes” cases. One involved a rape committed by an off-duty Jordanian CivPol officer who fled to Jordan. Currently there are plans to try him *in absentia*. The second involved the murder of an Australian national. The trial was completed and the judgment is pending.

"Timorization"

CIJ completed its second of two four-week police/prosecutor training course for East Timorese professionals through a separate OTI-funded grant. The training program was extremely well received by the participants, East Timorese government officials and members of the SCU. One British prosecutor commented that the training course was “the jewel in their crown”. Through this grant, we were able to support an additional trainer, which greatly enhanced classroom presentations and practical exercises and therefore the overall quality of the course. Fourteen ETPS officers participated along with two East Timorese data entry clerks responsible for entering all witness statements into the SCU’s database. The program received favorable media coverage and several delegations visited the course including the Australian Federal Police Commissioner and several Australian Regional Police Commissioners and Deputy Commissioners.

3. Environmental Governance in China (EGC)

During this reporting period, the ABA –Asia held three training workshops in China (Shenyang, Wuhan, Chifeng) on environmental governance for attorneys, businesspeople, judges, officials of environmental protection agencies, citizens, media representatives, academicians, and representatives of environmental NGOs. Training sessions focused on the skill sets of the various participants and their role in formulating environmental governance decisions. Topics included environmental law, public interest advocacy and litigation, public access to information, and legal tools that citizens and groups can use to help them play active roles in the decision-making process.

Other than the ABA-Asia country liaison, the majority of instructors were Chinese experts. A remarkable thirteen of the Project Advisory Council (PAC), comprised of leading figures in environmental law and policy from all sectors of Chinese society, served as instructors; nine of the thirteen participated in two workshops and five of the thirteen participated in all three. The PAC thereby demonstrated its strong support for the Program. In addition, a total of some 25 non-PAC members gave presentations at the workshops, including six foreign experts. All of the instructors were well qualified, and proved to be well-motivated and inspirational speakers who drew out the opinions of the attendees. Trainees at the three sessions were engaged and responsive.

Trainee evaluations of the material and instructors were extraordinarily high. All three of the training workshops were video-taped, and ABA-Asia is now producing a composite training

DVD that will enable the Program to extend the impact of the sessions to approximately 100 other EPBs around the country.

Follow-on Events

The PAC met in early September to review the results of the three training sessions and provide input for three follow-on events. These activities highlight innovative environmental management techniques in the context of Chinese environmental law. Each activity also demonstrates best practices in rule of law and good governance, thus assisting ABA's Chinese partners to develop models that provide for greater governmental transparency, increased citizen participation in decision-making, and enhanced respect for and implementation of Chinese law.

A different follow-on activity is being undertaken in each city. The third day of each training session focused primarily on local environmental problems, and afforded local participants the opportunity to develop consensus among themselves as to the type of follow-on activity to pursue in each location. Based on the outcomes of these discussions the follow-on activities are proceeding as follows

- **A Public Participation Law in Shenyang.** The Shenyang EPB has prepared a draft of what is likely the first city-level public participation law in China. The draft law is specific and comprehensive, including elements of citizen access to information, public participation requirements, and mandatory transparency among facilities releasing pollutants into the environment. In August and September, ABA coordinated an assessment of the draft law by a team of Chinese and international experts; on September 17 and 18 ABA and the EPB hosted a drafting and analysis workshop in Shenyang attended by EPB officials, People's Congress representatives, and about a dozen other stakeholders, including visiting Chinese and foreign experts. This yielded extensive written comments on the draft law, which ABA has compiled and presented to the EPB and all participants; a re-draft is underway.

ABA and the Shenyang EPB currently are discussing ways to publicize the draft law in ways that will increase public dialogue. Discussions also are underway regarding post-enactment citizen education and implementation of the law. The Shenyang EPB anticipates initial promulgation as an EPB order, and then (within approximately one year) adoption as a municipal ordinance. ABA and the EPB are committed to successful implementation of this law, not only to increase good governance in Shenyang, but also so that this law may grow into a model that other municipalities and provinces can consider in their own legal reform efforts.

- **A Pollutant Release and Transfer Register in Wuhan.** Wuhan training participants are exploring the feasibility of creating a publicly accessible website database that stores comprehensive environmental data on Wuhan --- a kind of local "pollutant release and transfer register," or PRTR, for the city. PRTR has emerged as a potent access to information and transparency tool in many countries, but is unknown in China. A workshop on the topic will take place in Wuhan on October 28 and 29. ABA has recruited experts on internet applications of environmental data, as well as representatives

of the Wuhan EPB and the various Wuhan stakeholder groups. The workshop will explore the following issues:

- What are the basic purposes to be served by the website?
 - How will the website be financed?
 - Should the website be managed by the EPB, by an NGO, or according to some partnership relationship?
 - What data should be made available on the site? How can it be gathered?
 - To whom does the relevant information legally belong, and by what authority can this website use it, and in what ways?
 - How can citizens, the media, and NGOs access, manipulate, and use the data?
 - Is information in the database admissible evidence in pollution lawsuits?
 - Will the site be GIS (geographic information system) based?
 - How will the information be made available to those without computer access?
- **Sustainable Development of Chifeng.** Chifeng, in Inner Mongolia, has a severe desertification problem, and is considering a follow-up project that emphasizes practical ecological preservation steps. Provisionally planned for November 18 and 19, a workshop in Chifeng will bring desertification experts, legal experts and sustainable development experts to Chifeng to recommend actual measures the Chifeng EPB and other local government entities can take within existing law to promote ecological protection, restoration of range, and sustainable economic development in the region.

The trainings have substantially raised awareness of environmental law and governance issues in the three cities in which they have taken place. The follow-on activities are building on and solidifying this effect in a concrete and replicable manner. At the same time, during the trainings, there was pronounced interest in all aspects of citizens' rights advocacy. There is an increasing trend within China of individual advocates initiating legal actions that stretch the Chinese legal system, seeking greater governmental accountability and respect for rule of law. ABA currently is positioning itself with Chinese partners to undertake a major advocacy component in its future activities.

Other Program Activities

ABA-Asia's conduct of the training workshops and follow-on activities has resulted in strong ties to the law faculties of four major Chinese universities, and has cemented a close collegial relationship with the All China Lawyers Association and its Environmental Committee. Close connections with the Center for Environmental Education and Communications of SEPA, the China Law Society, the Environmental Committee of the National People's Congress and the Legislative Affairs Bureau of the State Council have also been developed. These relationships are at the heart of the Program's success. ABA-Asia is poised to build on this foundation as it expands its trainings, good governance models, and support to citizen advocacy efforts.

4. Kosovo Rule of Law Project

Legal Information Website

During this reporting period, CEELI reproduced over 1500 copies of its CD ROM Compilation of legal materials related to Kosovo and has distributed these widely through Kosovo. As previously reported, although initial plans called for the creation of a website of legal information, CD ROMs have proven to be a more efficient way to disseminate legal information widely in Kosovo. Accordingly, CEELI has redirected funds to this endeavor. The *CEELI CD ROM Compilation of Legal Materials Related to Kosovo* comprises UNMIK Regulations and Administrative Directions, a selection of international human rights treaties (including the two most important for Kosovo, the International Convention on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR)), and the *CEELI Cumulative Index of United Nations Legal Materials Produced and Applied in Kosovo*. All of the documents on the CD ROM are in English, Albanian, and Serbian. There has been significant demand for the CD. Representatives of the Ombudsperson Institution in Kosovo, the Organization for Security and Cooperation in Europe (OSCE), the Department of Judicial Affairs, and the local Soros Foundation, KFOS, have requested numerous copies, which CEELI has provided.

As previously reported, CEELI learned in its investigation of the viability of a website of legal information that an effective use of the web would be to link the card catalogues of various libraries in Kosovo to improve the usability of these materials. During this reporting period, CEELI continued to work with the Kosovo Law Center (KLC) to disseminate to KLC a subgrant to finance such a law library database project. However, delays in contract approval process have postponed dispersal of these funds to the KLC. In the interim CEELI has devoted time and funds to the creation and distribution of legal materials in the form of CD ROMS [reported above]. The conclusion of the KLC library project will be subsidized with separate USAID funds in the next reporting period.

Public Education Campaign

During this reporting period, CEELI Foreign Legal Counsel and public education campaign project coordinator, Entela Josifi, completed her contract with CEELI and concluded the remaining projects under the public education campaign. As previously reported, CEELI had completed the preparation of the five legal informational brochures for final printing and submitted the text for USAID approval. CEELI has also submitted to USAID the text of six television public announcements intended to illustrate specific legal principles relevant to the general public.

In furthering the establishment of a hotline for legal information, Foreign Legal Counsel Josifi has been working closely with the working group established by the Chamber to secure funding and to plan the creation of a public service telephone hotline that would be available as an information, intake, and referral service for legal issues. During the reporting period, Foreign Legal Counsel Josifi and the working group drafted a grant proposal for realizing the project's objectives. USAID expressed some interest in this project, but by mid-August, CEELI and the Chamber learned that USAID was not in a position to support such project. CEELI consequently advised the Chamber to pursue other funding options.

As previously reported, CEELI organized three successful citizen roundtables in Prishtina, Peja, and Prizren in June, where the general public was invited to ask basic legal questions to a panel of legal experts. The Kosovar Council for the Protection of Human Rights (KMDNJ) has offered to cooperate in organizing such roundtables in the future. KMDNJ representatives in attendance at these roundtables lauded the idea and have expressed interest in utilizing their own ties with the public and successful experience in organizing large public gatherings to promote discussion of similar topics. Based on lessons learned and detailed needs and dissemination assessments, CEELI has recommended that future roundtables should take full advantage of local TV and radio stations to publicize the details and goals of the project. An evaluation of the roundtable participants established that organizing open TV shows of the same nature as the roundtables, where a telephone line would be available to the public, would promote wider interest on the topic of legal system and how it functions.

Kosovo Chamber of Advocates sub-grant

This grant goal was fully met when CEELI provided an advocacy grant for the Chamber to obtain permanent office space in summer 2001.

Kosovo Law Center legal aid clinics sub-grant

As previously reported, the Kosovo Law Center (KLC) has not been in a position to develop legal aid clinics since the European Agency for Reconstruction provided significant funds to the Chamber of Advocates to develop a separate legal aid program. However, in the effort to increase access to the legal system CEELI has devoted funds to support the Chamber of Advocates legal internship program (the *Praktikant* Program) as the most effective means to this goal.

Since 1990, when Kosovo's autonomy was revoked and its administrative bodies stripped of power, the Serbian Ministry of Justice suspended the offering of the bar exam in Kosovo. As a result, only two or three intern lawyers have registered with the Chamber over the past ten years because they were not entitled to apply for or take the exam. The effect of this has been that numerous law graduates have been unable to register with the Chamber because they have either not completed their internship and thus were not eligible to take the exam, or they had completed their internships, but the exam necessary for them to complete their certification process and register was not being offered. In December 2001, a coalition of groups, including leading Kosovar lawyers, OSCE, CEELI, Council of Europe (COE), and UNMIK succeeded in reconstituting the bar exam. However, to fully re-establish the system of training and vetting new lawyers into the legal system, reforms should be targeted to address the needs of existing law graduates. Some needed training to take the bar exam, while others needed to serve their internship before they were able to take the exam. To begin to decrease the number of law graduates waiting to take the exam for lack of internship requirement and thereby qualify new lawyers to take the bar exam and practice in their profession, the Chamber and CEELI have developed the *Praktikant* Project. This project has placed approximately sixty lawyers (jurists), who completed law school in the past ten years, in law offices for one year to work one-on-one with lawyers and fulfill the internship requirement. These sixty *praktikants* are in "classes" of twenty; one of these classes is partially funded from this grant.

During this reporting period, the third class of twenty *praktikants* commenced their yearlong internship. CEELI also facilitated the hiring of new *Praktikant* Coordinator, Xhevat Balaj, who has provided exceptional value to the program since his arrival. With his leadership the *Praktikant* Program has organized a seminar on criminal law, and arranged visits to the notary, prosecutor, and investigating judges in all district courts. With CEELI assistance, the Chamber has created a draft workplan for the entire duration of the *praktikant* program, which has included hiring a continuing education coordinator and development of the Chamber staff's report writing and financial reporting skills. Also during this quarter, Mr. Balaj has created a regional coordination effort by selecting "lead" *praktikants* from each region to serve as contacts in *praktikant* communication efforts. In September, the *Praktikant* Program organized a two-day seminar on Introduction to the legal System for the third *praktikant* class. The seminar, held September 20 and 21, was a notable, substantive, and logistical success. Several Chamber members participated, including three committee members. With only minor advice and technical assistance from CEELI, the Chamber essentially planned and executed the seminar entirely on its own.

5. Mexican Human Rights Defender Support Project

The current political environment in Mexico provides a new opportunity to impact human rights promotion and protection. The Fox Administration's commitment to human rights in both the short and long term is encouraging and provides room for change as well as challenges. To support these initiatives, USAID/Mexico awarded Freedom House \$120,000 through the Leader cooperative agreement to assess and recommend development assistance programming and to deliver initial technical assistance and training in the human rights field for Mexican human rights organizations and institutions. Through the program, Freedom House proposes to identify opportunities and recommend appropriate and feasible ways to support the human rights community in defending and promoting human rights protections in Mexico. Furthermore, the

program proposes to build relationships with actors in the human rights community, and pilot one or more projects to support human rights defenders in their objectives, including training and on-site technical assistance by Freedom House human rights specialists. Freedom House is currently negotiating an implementation plan with the input of the Mexican human rights community and USAID/Mexico.

6. Moroccan Penal Procedure Code Project

Over the last three quarters, Freedom House and the ABA joined to provide "rapid response" assistance with the reform of the Moroccan Penal Procedure Code. The final report for this project outlining the contribution and impact of this project is attached as Attachment A.

7. Russian Journalists Project

In April 2002, Freedom House formally launched the Russian Journalist Program (RJP) to raise the objectivity and accuracy of reporting by Russian journalists on the situation of ethnic-Russians in Estonia and Latvia. This program was conceived as a logical follow-on activity to the RIGHTS consortium's assistance to the Latvian Naturalization Board, beginning in March 1999. The Baltic countries of Latvia and Estonia each contain large groups of ethnic Russians (30% and 28% respectively) who arrived during the Soviet era or who were born since those countries gained independence in 1991. The fact that the majority of the ethnic Russian communities in both countries has not achieved citizenship since the breakup of the Soviet Union has led to criticism of Estonia's and Latvia's policies in regards to citizenship and human rights. In particular, both the Russian government and media have used this sensitive issue to strongly criticize these former Soviet republics for human rights abuses. Partly as a result of this criticism and their heavy economic dependence on trade with Russia, as well as pressure to meet criteria for entering the European Union, both countries have taken steps to not only encourage their ethnic Russian populations to attain citizenship but to facilitate this process as well.

The RJP program consists of three eight-day study tours for approximately 18 Russian journalists and human rights activists to visit Estonia and Latvia to examine the on-going efforts taking place there to integrate Russian non-citizens. Freedom House is coordinating the study tour program with local partners in all three countries. The Estonian Newspaper Association in Tallinn and the Latvian Institute in Riga are working with Freedom House to organize the three-to four-day visits to each country. In Russia, Irina Mikhaltchenko of the Saint Petersburg Union of Journalists and Ms. Elena Kuznetsova, an economic journalist now working for a public relations firm, provide logistical support in promoting the program and scheduling interviews for the selection of participants.

a. Second Study Tour

The second study tour to Latvia and Estonia took place from September 16-September 27, 2002. The following candidates were selected for the 2nd Study Tour:

- 1) Elena Balaeva, Journalist, Radio Mayak, Moscow
- 2) Marina Latysheva, Political Analyst, Top Secret-Versia, Moscow
- 3) Maxim Matvejchenkov, Staff Writer, Ezhenedelnyi Zhurnal, Moscow

- 4) Vladimir Perekrest, Journalist, Vek Weekly, Moscow
- 5) Igor Sidorov, Chairman, Saint Petersburg Union of Journalists, St Pete.
- 6) Andrei Slonetsky, Deputy Director, Teleinvest, St Pete.

Paula Schriefer, Freedom House's Director of Programs, accompanied the group during the entire Latvia portion of the program and for the first two days of the Estonia program. Once again the host organizations put together excellent schedules, incorporating most of the recommendations that the first group of journalists had suggested to improve the program. For instance, the organizers included more time in the program visiting cities outside the capitals. They also created more opportunities for the journalists to spend time with everyday ethnic Russians, such as school children, pensioners and businesspersons, in addition to high-level meetings with government officials. (In Latvia, the group met with President Vīķe-Freiberga). Participants gave high praise for the program and expressed great appreciation for the opportunity to get first-hand information about the situation in Latvia and Estonia, not only about the ethnic Russian population, but about the overall economic and political situation as well. All have agreed to produce stories or articles about their experiences. (To date, Freedom House has received five articles written by the first group of study tour participants.)

b. Follow-on Conference

An additional \$52,000 in FSA funds was obligated to Freedom House for the program for which Freedom House proposed to fund four additional participants on the study tours and to conduct a follow-on conference in Saint Petersburg on Russian-Baltic relations. Freedom House staff members Paula Schriefer and Patrick Egan traveled to Saint Petersburg on September 25 and met with David Siefkin and Vera Savko at the U.S. Consulate to discuss the conference idea and potential co-host: an organization named Strategia. Freedom House requested Strategia to submit a concept paper and budget by the end of October, and agreed to discuss further a detailed agenda, list potential speakers, location, etc., for the conference.

C. ASSOCIATE AWARDS

Associate Award mechanisms allow the RIGHTS Consortium to support longer-term, more comprehensive rule of law and human rights development activities by providing technical expertise and training. During the fourteenth quarter, the Consortium implemented projects through the following associate awards:

- **War Crimes Documentation Project in Kosovo (ABA/CEELI)**
- **Morocco: Promoting Ethics in Government (NDI)**
- **Human Rights Promotion in Morocco (Freedom House)**
- **Mediation in Mexico (ABA-Latin America/Freedom House)**
- **Uzbekistan Human Rights Defenders Support (Freedom House)**
- **Kyrgyzstan Human Rights Defenders Support (Freedom House/NDI)**

Full reports of activities under the Associate Awards are submitted under separate cover.

III. Conclusion

As this quarter's activities demonstrate, the wide array of programmatic tools at the Consortium's disposal are making it possible for the Consortium to fulfill its primary objectives. The objective of promoting human rights protections and practices that conform to international standards is supported through the tools being developed under the Technical Leadership activities, and through training technical assistance offered to human rights NGOs around the world. This training is increasing the capacity of local human rights groups to document human rights abuses and advocate for increased protections and accountability.

The Consortium is working to develop judicial, legal, and regulatory frameworks that support democratic institutions and market-based economies through activities such as the Kosovo Rule of Law Program, the Morocco Ethics in Government, the Environmental Governance in China project, and the Morocco Penal Procedure Code project. Our work to strengthen justice sector institutions and processes is significantly contributing to the investigation and prosecution of war crimes in both Kosovo and East Timor, as well as capacity building of local advocacy groups in Algeria, Morocco, Kosovo, and Uzbekistan.

Consortium activities are receiving positive feedback from USAID Missions and U.S. Government posts, demonstrating that the programs developed under this cooperative agreement are responsive and have an impact on priority issues of rule of law and human rights.

The RIGHTS Consortium
Rule of Law Initiative/Global Human Rights Training and Support

Morocco Penal Procedure Code Reform Initiative
Final Report

Executive Summary

In early 2002, the Moroccan government released and invited input on a proposed new penal procedure code ("draft code"). In March 2002, the United States Department of State's Bureau of Democracy, Human Rights, and Labor awarded \$63,000 to RIGHTS Consortium partners Freedom House and the American Bar Association's Central and East European Law Initiative (ABA-CEELI) to provide "rapid response" assistance to Moroccan civil society in advocating for further improvements to the draft code. In April 2002, Freedom House formed a partnership with the Moroccan Bar Association and Moroccan human rights organizations to co-host regional public discussions / roundtables on the draft penal procedure code. ABA-CEELI sent three international criminal procedure and human rights experts to Morocco to provide comparative and legal advice during the review of the draft code in the public roundtables. With the assistance of the international experts, the roundtable participants developed detailed recommendations of improvements to the draft code, which were presented in a written report to the legislative committee charged with presenting a final version of the draft code to the Moroccan Parliament. A substantial portion of the recommendations in the report concerned due process.

In August, the Moroccan Parliament adopted a new penal procedure code, which incorporates a number of the recommendations from the roundtable report. In short, the project had a demonstrable impact in improving the provisions in the Moroccan penal procedure code and in providing Moroccan civil society with a model of how to advocate effectively for improved legislation.

I. Background

The human rights situation in Morocco, a country that was once regarded as having one of the most egregious human rights records in the world, has improved substantially in the past decade. The liberalization process begun by the late King Hassan II in the early 1990's and continued by his son and successor, King Mohamed VI, resulted in the release of hundreds of political prisoners, a substantial reduction in the frequency of torture and enforced disappearances, and increased exposure of past atrocities committed by state security forces. Despite these positive measures, there remain significant human rights problems, due in part to the absence of legislative or practical safeguards. Various Moroccan laws, including the penal and penal procedure codes, do not yet comport with international and criminal justice standards.

In early 2002, the Moroccan government announced that it would undertake a comprehensive reform of the justice sector, including revision of certain legislation. As part of this reform process, in December 2001, the Moroccan Ministry of Justice released and invited comment on a proposed new penal procedure code. In response to the Ministry's solicitation, and based on concerns that the draft code did not conform with international standards, the Moroccan Bar Association and various Moroccan non-governmental organizations sought assistance from Freedom House and the ABA in analyzing and preparing recommendations for further revision to the draft code. In March 2002, the United States Department of State's Bureau of Democracy, Human Rights, and Labor awarded Freedom House and ABA-CEELI \$63,000 to provide "rapid response" assistance in connection with reform of the Moroccan penal procedure code.

II. Program Objectives and Activities

From April 19 to 29, 2002, Freedom House and the ABA-CEELI conducted a series of five roundtable discussions on the draft penal procedure code in cooperation with the Moroccan Bar Association and various Moroccan NGO's. Freedom House and ABA-CEELI brought three international experts to Morocco to participate in the roundtables: Professor Joachim Herrman, University of Augsburg, Germany; Hadar Harris, Executive Director of the Human Rights and Humanitarian Law Program, American University, Washington, D.C.; and Paul Seil, Esq. of the Center for Transitional Justice, New York, New York. Moroccan participants in the roundtables included government officials, parliamentarians, and members of the legal, academic, and NGO communities.

The objectives of the roundtable discussions, which were held in Rabat, Fes, Oudja, Tanger, and Marrakesch were: (1) to provide a forum for substantive input on the draft code; (2) to educate policy makers about international standards and comparative approaches to criminal law and procedure; and (3) to raise public awareness of the status of the legislation and its importance. The roundtables included presentations on the draft code and international criminal law and procedure standards, as well as sessions where Moroccan participants worked with the international experts to recommend improvements to the draft code. The roundtable discussions were productive and well-received, in some cases lasting several hours longer than scheduled as participants debated and analyzed individual articles of the code. The discussions were transcribed, and the final recommendations were compiled into a written report that was presented to the legislative committee charged with presenting a final version of the legislation to the Parliament. This report is attached as Attachment A. The sessions received extensive press coverage.

In July 2002, the legislative committee forwarded a proposed revised penal procedure code to the Moroccan Parliament, which incorporated several recommendations made in the roundtable report. In August 2002, the Moroccan Parliament approved this version of the code. The new code is expected to become law in October or November 2002, when, in a *pro forma* procedure, it is published by the Moroccan government. Members of the legislative committee expressed to Freedom House and ABA-CEELI their appreciation for the roundtable report and said that it influenced their work on the final draft.

III. Program Impact

A. General

The Freedom House/ABA-CEELI project had a discernible impact on two levels. First, the roundtable discussions led directly to improved legislation. As noted above, a number of the recommendations contained in the roundtable report were incorporated into the final version of the code. The adoption of these recommendations resulted in a code that better comports with international standards and gives Moroccan citizens greater *de jure* protections vis-à-vis the state. The individual roundtable recommendations that were incorporated into the final version of the new Moroccan penal procedure code are detailed in the section below.

Second, the roundtable discussions provided an effective model for improving the transparency of the legislative process and the public-private dialogue in this area. In planning the roundtables, several participating organizations told Freedom House/ABA-CEELI that they believed issuing a press release criticizing the draft penal procedure code would be more effective than participating in roundtable discussions because they did not think their views would be seriously considered by the Parliament. The impact of the roundtables on the final penal procedure code, however, has prompted these organizations to consider how Moroccan civil society might similarly influence the revision of other legislation. In short, the project gave participants both motivation and skills to participate in the legislative process.

B. Roundtable Recommendations Incorporated in the New Penal Procedure Code

Described below are some of more significant roundtable recommendations that were incorporated in into the amended Moroccan penal procedure code. The recommendations are listed in the order they appear in the roundtable report.

- Article 21(4)/Right to an Interpreter: Article 21(4) of the proposed code stated that judicial police officers “*may* seek the help of an interpreter if the person being interviewed speaks a language or dialect in which the judicial police officer is not proficient.” (Emphasis added). The new code incorporates the roundtable recommendation that the word “*may*” be changed to “*required*,” thereby increasing the chances that interviewees will not be subject to criminal processes based on misinformation.
- Articles 66 and 80/Access to Counsel during Speculative Custody: Articles 66 and 80 of the proposed code, which regulate speculative custody, did not guarantee detainees access to counsel during periods of speculative custody. Articles 66 and 80 of the new code incorporate the roundtable recommendations that detainees have access to counsel during speculative custody. However, the

new code does allow the Public Prosecution to postpone such access in certain circumstances.

- Article 283/Ability to Challenge Official Reports: Article 283 of the proposed code effectively prevented defendants from challenging police reports, stating: “No person will have the right to cite witnesses in order to provide evidence that is in addition or contradictory to the contents of the reports or records drawn up by officials or assistants, whose investigations are reliable under the law, either by challenging them, alleging falsehood, or by their annulment as a result of some breach in that respect.” This provision was regarded as highly objectionable because it undermined the presumption of innocence by establishing police reports – often made based on conversations with accused persons without access to counsel – as irrefutable evidence. As recommended by the roundtable report, Article 283 is deleted from the new code. The former penal procedure code (i.e., the code that was in force prior to the new code) contained a provision similar to Article 283, so the absence of any such provision in the final code is highly significant in that defendants now will have an increased ability to challenge police reports.
- Articles 40, 49, 133, 288-296/Eavesdropping: The roundtable report expressed concern that Articles 40, 49, 133, and 288 to 296 gave overly broad eavesdropping powers to the Procurator, the Procurator General, and investigating judges. Articles 108 to 116 of the new code, which address eavesdropping, incorporate the roundtable recommendations by eliminating the Procurator’s ability to obtain eavesdropping orders. Instead, under the new code, such orders may only be obtained the Procurator General (i.e., a prosecutor ranked above the Procurator) and investigating judges. By limiting the actors who can obtain eavesdropping orders, the new code increases the chances that such orders will be issued less frequently and more judiciously.
- Article 530/Appeals: The proposed code required defendants pay a fee of 3000 dirhams in order to appeal their cases. Many participants in the roundtables considered this fee to be unreasonably burdensome and believed it would make it effectively impossible for some defendants to exercise their right to appeal. The roundtable report recommended that proposed Article 530 be amended to provide that defendants need not provide a deposit in order to appeal their cases. The roundtable recommendation was partially adopted in that the fee for appeals was reduced from 3000 to 1000 Moroccan dirhams. The former Moroccan penal procedure code also required a deposit of 1000 dirhams for appeals, so the new code does not differ from the former code in the area of appeals fees.

IV. Proposed Future Activities

Freedom House and ABA-CEELI have submitted a proposal to the U.S. Department of State’s Bureau of Democracy, Human Rights, and Labor (DRL) and to USAID for funding to consolidate and increase the impact of their work with respect to the Moroccan

penal procedure code. Although the Freedom House/ABA-CEELI roundtables had an important impact on improving the Moroccan penal procedure code, not all of the roundtable recommendations were adopted by the legislative committee and the Moroccan Parliament, and the new penal procedure code remains deficient on certain due process issues (e.g., access to counsel). Further international involvement in and technical assistance would significantly improve the chances that the Parliament would consider additional revisions necessary to increase the code's compliance with international standards. In addition to assistance on the code drafting process, basic educational programs are needed to reorient judges and prosecutors toward the protection of citizens and their rights and to ensure that the improved penal procedure code provisions are implemented in practice.

To address the need for additional legislative reform, Freedom House and ABA-CEELI have proposed sending an international expert to Morocco for two weeks to provide further technical assistance to the Moroccan Parliament. Among other things, the expert would facilitate review and comment on the revised code by local bar councils and representatives of other organizations and conduct a comparative roundtable discussion on the revised code for the Parliament. To address the need for education on the revised penal procedure code, Freedom House and ABA-CEELI have proposed sending a second international expert to Morocco for seven months to conduct basic educational programs on international standards of criminal law and procedure, primarily for judges and prosecutors. The activities conducted by this international expert would include: developing a training manual on international standards of criminal law and procedure for use by local trainers, as well as for judges and other members of the legal community; conducting a "train the trainers" training for a core group of trainers on international standards of criminal law and procedure; and conducting a supplemental training for human rights defenders on monitoring implementation of the international standards of criminal law and procedure and on policy advocacy for reforms related to human rights vis-à-vis the justice sector. Freedom House and ABA-CEELI have received positive reaction from Moroccan legislators, lawyers, and NGOs with respect to these ideas and have local partners eager to assist them in implementation of the proposed program.