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Promoting the Rule of Law at Home and Abroad: The Role of the ABA

By Hilarie Bass

Promoting the Rule of Law at home and around the world is one of four core goals of the American Bar Association (ABA), and in many ways, this goal is at the center of everything the association does. In strengthening the skills of legal professionals, advocating for legal services for the poor, combating discrimination, accrediting law schools, setting ethics standards, reviewing the qualifications of judicial nominees, and myriad other activities and initiatives, the ABA works to advance the Rule of Law.

Our interest in the Rule of Law does not stop at our borders. In our globalized world, gaps in the Rule of Law reverberate around the globe. Corruption, marginalization and human rights abuse in other countries are drivers of extremism, conflict and mass migration, the effects of which we feel here at home. Weak Rule of Law abroad also affects U.S. commercial interests, creating instability and untenable risk for U.S. foreign investment and supply chains as well as an uneven competitive playing field for U.S. manufacturers and workers. In the face of these international realities, the ABA sees its Rule of Law mission as a global one, and it works to promote these principles in more than 50 countries as well as in the United States.

The following highlights some examples of work carried out around the world by the ABA's Rule of Law Initiative (ABA ROLI), its impact, and its relevance to American lawyers.

Rule of Law Approaches to Combating Violent Extremism

Since 9/11, combating terrorism has been a singular priority of U.S. security policy, and the more we learn about the drivers of extremism and terrorism, the more important the Rule of Law appears to be. Experts have found military responses to terrorism insufficient and even counterproductive, so attention has turned to preventive approaches that address underlying grievances.¹ Whether these grievances are the effects of corruption, disenfranchisement or gross violations of human rights, they stem from gaps in the Rule of Law, and legal responses can provide critical, peaceful solutions.²

I recently had the opportunity to visit Morocco, where ABA ROLI programs take this approach, educating citizens about their new rights and remedies under the 2011 Constitution and facilitating civil society engagement with local government to address grievances through policy initiatives. Keenly aware of the turn to violence in other countries in the region, representatives of local governments and civil society organizations are working to find another path to change for their country. In a similar vein, an ABA ROLI program in Libya is giving citizens opportunities to contribute to and gain a stake in the ongoing constitutional reform process there. And in Mali, ABA ROLI works with youth organizations that have successfully engaged young people about their grievances, dissuaded them from planned violence, and channeled their energies more productively, through sports, legal action and advocacy.

Each of these programs uses Rule of Law approaches to nip extremism in the bud.

Rule of Law Responses to Forced Migration

As the world strains at the record 60 million people forced to flee their homes, the ABA is advancing Rule of Law responses – in countries from which they are fleeing, transit countries, and destination countries alike.³

Many ABA ROLI programs seek to address the violent crime, conflict, and systematic human rights violations that are at the root of the mass migration. Thus, for example, in the Democratic Republic of Congo, ABA ROLI combats impunity for widespread sexual assault, a residue of that country's two decades of conflict. In El Salvador and Guatemala, ABA ROLI helps develop the capacity of law enforcement and the judiciary to curb the murderous

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criminal gangs who have forced hundreds of thousands of adults, families and unaccompanied children to flee north through Mexico to the United States.

In transit countries, such as Turkey, ABA ROLI is working with local lawyers to provide critical legal information to Syrian refugees, helping them realize their rights to housing, health care and schooling for their children. Similarly, in the United States, a destination country, the ABA's Commission on Immigration works through its ProBAR⁴ program in south Texas to provide legal representation to immigrants and asylum-seekers crossing the U.S. southern border.

Promoting Labor Rule of Law

Labor Rule of Law demands labor laws that are compliant with international standards and their effective administrative and judicial enforcement. Globally, labor Rule of Law is endemically weak. In many countries, domestic labor laws often fall short of international standards, failing to adequately protect workers' rights. Administrative and judicial sector authorities often lack the capacity to effectively enforce labor protections. And workers often do not fully understand their rights or have sufficient resources to claim them. As a result, employers in these countries violate workers' rights with impunity, posing significant challenges to U.S.-based multinational corporations dedicated

to responsible supply chain management, and putting U.S. workers and employers at a competitive disadvantage.

To address such Rule of Law gaps in Mexico, ABA ROLI is developing a new program that, in its initial phase, will help establish labor law clinical programs at three leading Mexican law schools. The clinics will support application of Mexican labor law, including the historic constitutional labor justice reforms adopted in early 2017, by providing workers with educational programming about their rights and pro bono legal representation and guidance to realize them. Long term, the clinics will help inspire the next generation of Mexican lawyers to engage in labor lawyering in the public interest. Appreciating the relevance of this program to her work and to the law students and Buffalo community she serves, Nicole Hallett, assistant clinical professor of law at the University at Buffalo School of Law and director of the school's Community Justice Clinic, will serve as a pro bono legal specialist for the program, contributing her valuable time and expertise.

The foregoing examples of the ABA's international Rule of Law development efforts highlight ways in which these programs address problems abroad that may impact the United States and its security and commercial interests. These consequences in turn challenge our own Rule of Law, giving rise to proposed policy responses that would undermine civil liberties or back away from our international refugee commitments. In this way, the Rule of Law truly is interconnected globally; our success supporting it abroad affects our ability to maintain it at home.

We do this work around the world with a mix of pride and modesty – pride in the U.S. Rule of Law tradition but cognizant that our system is neither perfect nor necessarily a perfect fit for other contexts. Indeed, as the articles in this issue reflect, there is no one-size-fits-all Rule of Law, and the work to develop and reinforce the Rule of Law is never done. Rather, the Rule of Law is a system of checks and balances that needs constant and perpetual testing, nurturing and strengthening. Bar associations such as the ABA and the New York State Bar Association have a critical role to play in developing and sustaining the Rule of Law, and it is that experience that we seek to share and develop together with our justice sector colleagues around the world. ■

1. See, e.g., Center for Strategic and International Studies Commission on Countering Violent Extremism, *Turning Point: A New Comprehensive Strategy for Countering Violent Extremism*, 8 (2016); United Nations General Assembly, *Plan of Action to Prevent Violent Extremism: Report of the Secretary-General*, A/70/674, December 2015.

2. For a survey of such Rule of Law approaches, see Nicholas Robinson & Catherine Lena Kelly, *Rule of Law Approaches to Countering Violent Extremism*, American Bar Association Rule of Law Issues Paper (May 2017).

3. The United Nations High Commissioner for Human Rights has also drawn attention to the Rule of Law dimensions of the refugee crisis; see Executive Committee of the High Commissioner's Program, *Note on International Protection*, EC/66/SC/CRP.10, June 2015.

4. https://www.americanbar.org/groups/public_services/immigration/projects_initiatives/south_texas_pro_bono_asylum_representation_project_probar.html.