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ABA-ROLI ACTIVITIES IN KOSOVO

EVALUATION REPORT

MARCH 2010

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DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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ABBREVIATIONS

ABA-ROLI	American Bar Association Rule of Law Initiative
CLE	Continuing Legal Education
DPK	DPK Consulting - A Division of ARD, Inc.
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
KCA	Kosovo Chamber of Advocates
KJA	Kosovo Judges Association
KJC	Kosovo Judicial Council
KJSP	USAID's Kosovo Justice Support Program
KPPA	Kosovo Public Prosecutors Association
ICO	International Civilian Office
ICR	International Civilian Representative
LERI	Legal Education Reform Index
LPDI	Legal Profession Development Initiative
MCLE	Mandatory Continuing Legal Education
MOU	Memorandum of Understanding
NITA	National Institute for Trial Advocacy
NGO	Non-governmental Organization
OPDAT	Overseas Prosecutorial Development, Assistance, and Training
OSCE	Organization for Security and Co-operation in Europe
PMEP	Performance Monitoring and Evaluation Plan
SEAD	USAID's Systems for Enforcing Agreements and Decisions Program
UNDP	United Nations Development Programme
UNMIK	United Nations Mission in Kosovo
USAID	United States Agency for International Development
USDOJ	United States Department of Justice
USG	United States Government

EXECUTIVE SUMMARY

The role of the lawyer and the legal profession in building and promoting the rule of law in any society is arguably the most critical. For more than 10 years now United States Agency for International Development (USAID)/Kosovo has turned to the American Bar Association and its Rule of Law Initiative (ABA-ROLI) to guide and support Kosovo's lawyers and lawyers-to-be in their appreciation of the rule of law and understanding of the justice sector's responsibility in a democracy. Now as ABA-ROLI/Kosovo enters the final year of the current Cooperative Agreement, it is focused on five program areas: improving legal education, strengthening the Kosovo Chamber of Advocates and addressing the needs of the Kosovo legal community, administering small grants, conducting a variety of justice sector assessments, and embarking on a public awareness campaign. This evaluation reviews and analyzes ABA-ROLI's efforts of the past two years and makes recommendations on how to maintain successes and improve results in each of the program areas.

Among ABA-ROLI's most important beneficiaries are the students it reaches through programs to improve Kosovo's legal education and law faculties and for this work ABA-ROLI focuses primarily on the course offerings at the Law Faculty of the University of Pristina. Both the US and European Union (EU) recognize that among shortcomings at the University of Pristina is a curriculum focused on rote learning and instruction too reliant on lecture. ABA-ROLI is aware of these concerns and thus has efficiently devoted resources to developing classes that offer practical information using interactive formats. The results of these efforts are classes on Legal Methodology, Legal Ethics and Professional Responsibility, and Legal Analysis and Writing, and two simulation Legal Clinics in civil and criminal law. These courses offer information and styles of learning that create interest and, especially with the practical clinics, enthusiasm among the students and ABA-ROLI is rightfully commended for this program.

What is needed now is to expand on these successes, especially by making the courses more widely available. Practical clinics at present are limited to no more than 60 students, and thus these courses reach less than one percent of the student body. Maintaining useful levels of interactivity with students is certainly important, but it must be considered alongside the goal of reaching as many students as possible. It is here where ABA-ROLI must work more proactively and creatively to reach a wider audience, whether it is through larger, slightly less interactive classes, media such as the internet, or some other means. The mock courtroom established by the United States Government (USG) is certainly an ideal setting for these legal clinics, but ABA-ROLI should not limit course availability based on the lack of the perfect environment; any classroom can serve as a mock courtroom.

ABA-ROLI is keen to develop new curriculum and has identified courses including commercial law, intellectual property, and EU Court of Human Rights procedures. Though ambitious, these initiatives don't play to ABA-ROLI's strengths, and as well do not necessarily provide the courses most needed. Classes being considered may be more appropriately developed by another project, such as USAID's Systems for Enforcing Agreements and Decisions Program (SEAD) for commercial law, or the EU Higher Legal Education Twinning Project for the human rights work. Instead, the University and students will be better served if ABA-ROLI commits to developing fundamental courses such as legal analysis or new practical courses similar to the clinics. ABA-ROLI as well should investigate and facilitate relationships between students and professional organizations to create interest in particular practice areas and develop internship programs that provide practical information and guidance in developing a legal career.

The hallmark of ABA-ROLI programs worldwide is their work with lawyers and lawyer associations. In Kosovo ABA-ROLI supports the Kosovo Chamber of Advocates (KCA), a semi-public body. The KCA regulates the practice of law for all attorneys who desire to advocate at a higher level of practice than is permitted to others. The KCA has jurisdiction to receive complaints regarding members' unethical conduct and the power to discipline them, which includes license revocation. ABA-ROLI is charged with the responsibility of assessing the legal framework of the legal profession, and advising and assisting in preparing legislation, as well as assisting in the development of a Five Year Strategic Plan.

Other mandates include working with the KCA committees in developing a mandatory continuing legal education program, as well as a fair and transparent disciplinary mechanism with the capacity to track and report the status of complaints. Under a broad mandate, ABA-ROLI was tasked with working with the KCA Legislative Committee and other committees to review and revise draft laws including the Law on Bar. It was also authorized to work with the KCA in enhancing diversity in the legal profession by advising and assisting in the recruitment of women and minorities.

ABA-ROLI's work over the last two years comes at a time of great challenges to the KCA. The new Law on Bar, although slow to work its way through the legislative process, has imposed weighty responsibility on this organization, including attorney discipline and a program for mandatory continued education. Several important issues remain unresolved or partially resolved. The unregistered practice of law by those who are not required to be members of the KCA and who are not subject to its discipline or required education program remains a problem. Also remaining is the challenge of improving the membership and status of women and minorities in the profession.

Several of the mandates have been realized. The ABA-ROLI was very instrumental in having the Assessment of Legal Framework completed, which became the basis for a Five Year Strategic Plan, a blueprint for future activities with a timeline for completion. There is now a functional Disciplinary Committee and a Mandatory Continuing Legal Education Program is being developed and should be operational on September 20, 2010. While much has been accomplished, there are a number of important initiatives that remain incomplete and some goals unrealized. Change is always difficult and is seldom a welcome event to many. Most importantly, being an agent of change requires one to beware of reversals. They will always occur if the momentum of change slackens; momentum for change can easily become inertia.

ABA-ROLI has moved many initiatives to the forefront, but follow-up is always required, and in some areas this has been minimal. It is evident that significant progress has been made, much of which is due to ABA-ROLI's role. Conversely, modest successes in some areas could have been more aggressively exploited. The Evaluation Team has identified a number of areas in which a more active approach could have more fully advanced the capacity of the KCA and its staff. It was noted that the staff of ABA-ROLI Kosovo is relatively small. It is also noted, however, that the American Bar Association has a number of resources which may have been available. The Team believes that ABA-ROLI could have been more proactive in the following areas:

- Working with all committees but particularly with the Legislative, Ethics, and Women and Minorities Committees to develop annual plans, schedules, and budgets; making the committees officers and staff a more cohesive and structured organization working together;
- Assisting the KCA officers and staff to build leadership and professional development;

- Assisting in the development of an integrated software package to manage KCA administrative operations including a master membership list, Mandatory Continuing Legal Education (MCLE) records, attorney disciplinary records, committee membership, and records for budget and finance;
- Providing support to the KCA's outreach to enhance the membership of the KCA including but not limited to increased membership of women and minority students;
- Development of a "legislative package" and institutionalized lobbying agenda and effort;
- Moving the KCA closer to a formal budget with automation capabilities;
- Producing a quantitative analysis of the attorney disciplinary proceedings and auditing training; and
- More regularly engaging the staff responsible for development of the MCLE program.

ABA-ROLI continues to operate a small grants program. It is clear from current grant recipients that ABA-ROLI has provided sound and consistent administrative support to their efforts. On the substantive side, grant awards have been loosely associated with the rule of law. While clearly not outside ABA-ROLI's program, ABA-ROLI should more carefully consider the scope of grants that it supports and focus its requests so that awards are linked to Project activities. A more focused approach could ask, for example, for proposals related to monitoring the quality of criminal defense counsel. Such programs could provide important information on the impact of ABA-ROLI's own programming, and identify subjects for future curriculum development for the law school and KCA.

As it does in many countries the ABA conducts a variety of justice sector assessments that result in three Indices: a Legal Profession Reform Index, a Legal Education Reform Index, and a Judicial Reform Index. For purposes of this evaluation the issue is whether these were performed timely and adequately per the methodologies employed by the ABA worldwide. The answer to that question is yes. The Team suggests that this tool be supplemented with a User Satisfaction Survey from time to time to identify the satisfaction quotient for actual users of legal services and the legal system in general, perhaps by simply drawing on the results of the user survey currently implemented by USAID's Kosovo Justice Support Program. It is also recommended that the ABA-ROLI give top priority to the items identified as "Negative" in the assessments.

Three crosscutting issues deserve mention here. First, greater emphasis must be placed on public outreach and awareness of all activities, more than that envisioned in ABA-ROLI's public awareness component. This includes working with the Law Faculty to engage with the legal community to create interest in and opportunities for career development in the justice sector. It, as well, includes making the public aware of what steps the KCA has and will be taking to improve the practice, professionalism, and ethical standards among its members, and providing the public information on the rights and procedures available to them when these standards are not observed. The annual Law Day held in January was a successful outreach effort, but it does not appear that advantage was taken of the momentum it created. Second, donor coordination in Kosovo has always been difficult, but ABA-ROLI must make greater efforts to coordinate with other USG-funded projects, including on curriculum development, with the United States Department of Justice (USDOJ) and SEAD, and coordinate with these already existing resources to support their program. Third, ABA-ROLI's performance monitoring can be seen as overly quantitative and not providing a means for assessing Project activities. For example, counting how many beneficiaries attended a particular training is not as useful as an assessment of whether those who attended were better prepared in a court proceeding than those who did not. Where quantitative information is required by USAID it obviously must be provided, but it should not entirely supplant qualitative analysis. These subjects are set forth in greater detail in the pages below.

I. INTRODUCTION

For more than 10 years the ABA has worked with the legal institutions and universities in Kosovo, a period covering the end of a significant military conflict, then complete United Nations oversight for the protectorate, finally arriving at a still-disputed independence in 2008. When the USAID and ABA entered into the most recent modification of their Cooperative Agreement, ABA-ROLI began to focus on five distinct project areas: improving legal education, strengthening the Kosovo Chamber of Advocates and addressing the needs of the Kosovo legal community, administering small grants, conducting a variety of assessments of the Kosovo justice sector, and embarking on a public awareness campaign. ABA-ROLI's beneficiaries include the Law Faculty of the University of Pristina and the Kosovo Chamber of Advocates, and it is with these institutions that ABA-ROLI works most closely.

USAID contracted DPK Consulting, a division of ARD, Inc., to conduct a mid-project evaluation of the ABA-ROLI activities in Kosovo. The purpose of the evaluation is to assess the impact of ABA-ROLI's five 'projects' in achieving the goals set forth in the USAID-ABA Cooperative Agreement modification of February 29, 2008, and as well found in ABA-ROLI's two most recent annual work plans, so as to make recommendations for future priorities during the remaining year of this Cooperative Agreement modification. The activity period covered in this evaluation is February 29, 2008 through the present. (Please see Annex 1: Statement of Work.) A team of two evaluators from DPK (the Team) conducted field research from January 26 to February 5, 2010 in Pristina, Kosovo. The following report is divided into sections that discuss each of the ABA-ROLI Projects separately and a section devoted to crosscutting issues. Each section devoted to Project analysis includes a brief overview of ABA-ROLI activities within that Project, followed by a discussion of the findings of the Team, and then conclusions and recommendations.

II. EVALUATION METHODOLOGY

DPK's Evaluation Team consisted of Team Leader Mitch Gruner and Subject Matter Specialist Joseph Traficanti, Jr. The Team began its work with an extensive documentation review of all Project background documents including ABA-ROLI work plans, quarterly reports, training materials, strategic planning documents, and other materials produced by ABA-ROLI. (Please see Annex 2: Bibliography.) Field research was conducted through in-person interviews with key participants in ABA-ROLI, including ABA-ROLI staff, USAID/Kosovo officials, partners at the University of Pristina Law Faculty, Ministry of Justice, and the Kosovo Chamber of Advocates, as well as other key counterparts. In addition, the Evaluation Team met most current ABA-ROLI grantees, and students that had taken ABA-ROLI developed courses at the Law Faculty. A complete list of interviewees may be found at Appendix 3.

III. PROJECT A: IMPROVE LEGAL EDUCATION

A. OVERVIEW OF ABA-ROLI ACTIVITIES

ABA-ROLI's activities over the past two years have focused on curriculum development with the Law Faculty at the University of Pristina. ABA-ROLI continued to refine its existing courses, such as those for legal methodology and the practical legal clinics, and develop new courses, such as those for legal ethics. ABA-ROLI as well focused to ensure that ethics played a role not only as a theoretical pursuit taught in a classroom, but also sought practical application by helping to develop a student honor code.

ABA-ROLI sought to ensure that the successful programs with which it has worked with the Law Faculty to develop are sustainable, and over the course of the last two years has worked with the University leadership, including the Rector's office, to develop budgets so that the Law Faculty may assume complete ownership of these ABA-ROLI initiatives.

ABA-ROLI further supported University development as it assisted the Law Faculty to prepare for the accreditation process led by the Kosovo Accreditation Agency, assistance that continues to provide a framework in which the Law Faculty can further develop.

Efforts were made under the area of improving legal education to include Kosovo's minorities as beneficiaries of new educational programs. ABA-ROLI, using National Institute for Trial Advocacy (NITA) style training, conducted a multi-ethnic workshop in Brezovica attended by 23 Albanian and Serb students and, based on the success of this effort, is looking to continue with the multi-ethnic workshop approach.

B. FINDINGS

The courses ABA-ROLI has worked to develop with the University of Pristina are among their most successful accomplishments. Both the US government and EU, in separate documents, have expressed the concern that the curriculum and means of instruction at the Law Faculty required change and ABA-ROLI has overall developed needed curriculum, such as legal ethics and legal writing, and helped to introduce interactive teaching methods through the practical legal clinics. Students that were able to take part in these courses and clinics were certain that the course content are important tools to helping the legal community greater develop in line with US and EU notions of legal education.

It is unclear whether the University will have the funds, the will, the organization, or some combination of these factors to wholly support the legal clinics in the coming academic year as originally planned. This is largely dependent on budget actions taken by the University Senate and University leadership. Current leadership at the Law Faculty remains positive that the University will find a way to fund these programs, but among ABA-ROLI and others it's certainly less sure this will be the case.

ABA-ROLI continues to work to develop new law curriculum and, following discussions within ABA-ROLI and with counterparts, is looking to potentially develop classes in a variety of areas that could include commercial law, intellectual property, and European Court of Human Rights procedures.

ABA-ROLI's ability to implement improving legal education activities is dependent upon having a legal education specialist on staff. In February 2009 the project's legal education specialist concluded his term and thus far ABA has yet to find a replacement for this position and it has remained vacant now for one year.

C. CONCLUSIONS

ABA-ROLI has proven itself successful in improving legal education with the Law Faculty, and rather than diversify its legal education portfolio, it should stick to its strengths and proven successes and build upon those. What is needed now is to expand on these successes, especially by making the courses more widely available. For example, the clinics at present are limited to a total of 60 students, this in a school with about 1,700 new students annually. The Team appreciates the argument that larger classes will diminish levels of interactivity, but the Project must become creative in finding ways to reach a bigger audience.

In terms of the development of new curriculum the Project has identified courses including commercial law, intellectual property, and EU Court of Human Rights procedures. In some cases it appears that these classes are more appropriately developed by another project, such as SEAD for commercial law, or the EU Legal Education Twinning project for the human rights work. The Team believes the University and students will be better served were the Project to focus on more fundamental courses such as legal analysis or new practical courses similar to the clinics.

There is an overwhelmingly positive response to practical and interactive learning among university students. Getting students enthused about their studies is a success on its own, and ABA-ROLI should maintain this momentum by finding ways to provide greater exposure to legal practice and the legal community for its students.

To meet all of these goals, recruiting the Legal Education Specialist for the Project must be an immediate priority for the ABA.

D. RECOMMENDATIONS

First and foremost ABA-ROLI must maintain the momentum achieved by the legal clinics and methodology courses. ABA-ROLI must closely monitor and keep USAID informed of any developments regarding the University's decisions on course funding. If the University is unable to support these programs in the next academic session, it's recommended that ABA-ROLI and USAID find a way to continue to support these courses. It is also recommended that if further financial support is necessary from USAID, consideration be given to entering into Memoranda of Understanding (MOU) with the Law Faculty which provides a framework in which these courses will be transferred to complete University oversight, administration, and financing as soon as possible.

The legal clinics ABA-ROLI has developed are educational, practical, and energize the students fortunate enough to take them. While the Team understands and appreciates the goals served by requiring minimum grades prior to being accepted in the courses and maintaining maximum interactivity by keeping class size small, the overall student population is not served by such restrictions and ABA-ROLI must become inventive in striking a balance between course impact and availability to students.

The Law Faculty does permit students to audit classes where no credit is given, and perhaps this can be one means of reaching a greater audience. At present classes are not videotaped and should be. This will allow the Law Faculty to develop its own course library which can later be used to provide some exposure for those students not enrolled in these courses, and can serve as a tool in training future practical course instructors as well.

Whether it is through larger, slightly less interactive classes, media such as the internet or videotaping and rebroadcast to other students, training a cadre of new instructors, or some other means, ABA-ROLI must devote time and consideration as to how they can maximize the reach of these programs without unduly sacrificing the quality of instruction. The mock courtroom established by the USG is certainly an ideal setting for these legal clinics, but ABA-ROLI should not limit course availability based on the lack of the perfect environment; any classroom can serve as a mock courtroom. Further, NITA has expressed a strong interest in participating in course development and teaching, and some disappointment that more collaboration with ABA-ROLI has not taken place. ABA-ROLI should confirm its relationship with NITA, whose instructors are often in Kosovo with other programs, and which can provide important support in practical course development and training of trainers.

Courses such as intellectual property and EU Court of Human Rights procedures are certainly of value, but they do not appear to play to ABA-ROLI's strengths or address the greatest needs of Law Faculty students. There remains a vital need for these students to better understand fundamentals of law and its practice such as legal reasoning/analysis and legal writing. ABA-ROLI should increase its efforts in courses such as these, laying a stronger foundation for students to later pursue advanced studies in the future. Simply put, areas such as intellectual property are too advanced for most students at the Law Faculty and those that would benefit by taking them are few. ABA-ROLI should focus on building strong foundational studies for the Law Faculty that have a broader impact and depend on specialists from SEAD or the European Commission Higher Legal Education Program to address more advanced studies. It is not to say that ABA-ROLI is not capable of developing these more technical courses, only that other organizations are focused on those areas, and it appears that ABA-ROLI is one of the few organizations in the donor community willing and able to focus on practical course work.

Students expressed a strong desire to see more in the way of hands on/practical instruction. To this end ABA-ROLI should investigate and facilitate relationships between students and professional organizations to create interest in particular practice areas and develop internship programs. For example, the Kosovo Judicial Council (KJC) could create an internship program whereby students worked one month over the summer in a court, providing enhanced understanding of the justice sector to students, and to the KJC a group of students interested in pursuing careers as judges upon graduation. There are a variety of institutions and organizations with whom such partnerships could work and benefit. For example, it is well understood that Kosovo suffers from a shortage of prosecutors, thus creating interest among students in pursuing careers as prosecutors serves the Kosovo Public Prosecutors Association (KPPA)'s interest. ABA-ROLI, working with their counterparts at USDOJ, should see whether KPPA and the Law Faculty could develop a "Student Prosecutors Association" which creates internships and perhaps course development geared to professional development.

The Team is aware of the essay contest conducted for students at the Law Faculty, but believes this type of outreach will be more effective if focused on students in primary and secondary school. Recommendations, therefore, concerning ABA-ROLI's essay contest may be found below in Section VII: Public Awareness of the Rule of Law and Justice System.

IV. PROJECT B: STRENGTHENING THE KCA AND DETERMINING NEEDS FOR REGULATION OF THE LEGAL PROFESSION

A. OVERVIEW OF ABA-ROLI ACTIVITIES

The current Cooperative Agreement dated February 28, 2008 entered into between USAID and ABA-ROLI envisioned activities, which would among other things, support the KCA. The Project's tasks include activities to enhance KCA capacity as a regulatory and service organization dedicated to its members with the objective of making the legal profession in Kosovo better. The Cooperative Agreement directed six activities in support of the KCA including:

- Assess the legal framework of the legal profession and provide expert technical assistance in preparing needed legislation;
- Work with KCA to develop an institutional five year plan incorporating the result of the aforesaid assessment;
- Work with the appropriate KCA committees and other organizations and institutions to encourage the development and implementation of an effective and sustainable Mandatory Continuing Legal Education Program (MCLE);
- Encourage implementation of an effective, fair, and transparent disciplinary mechanism through training, public awareness campaigns, establishment of a transparent system for tracking and reporting status of complaints and dispositions, and the enhancement of the enforcement process;
- Develop an agenda with the KCA Legislative Committee and work with other appropriate committees for reviewing and revising specific draft laws with particular attention given to the Law on Advocacy; and
- Develop, with the appropriate KCA committee, an agenda for aggressively recruiting and retaining women and minorities to the legal profession.

The Law on Bar passed by the National Assembly provides that the KCA should engage in advocacy, professional assistance and protection of citizens' rights as well as organize lawyers, issue general acts on

the Chamber's functions, register new lawyers, and provide legal assistance. The chamber has grown over the past 10 years of international assistance from approximately 60 registered lawyers to 524 at the present time. As the membership grew, the activities of the KCA in support of its members grew exponentially. By virtue of recent amendments to the law, which included increased mandates and responsibility, the need for international assistance also grew. New mandates include permanently building the professional level of lawyers and professional assistants, developing and advancing the ethnic advocacy and preserving the authority and autonomy of advocacy. The KCA is also charged with informing local competent bodies of needed measures to be undertaken for the advancement of advocacy and the rights of citizens and legal entities.

The KCA works through a committee system and has a number of committees working on various disciplines including the Ethics and Professional Discipline, Legislative, and Women and Minorities Committees.

Unauthorized as well as unregistered practice of law is a major issue for the KCA. The unauthorized practice of law involves those appearing in court or providing services to the public for matters that they are not appropriately registered. The unregistered practice is more difficult to address since the current law permits virtually anyone to prepare contracts and wills and to appear in court in matters involving 5,000 Euros or less. These may be law graduates or not. These individuals are not subject to the disciplinary procedures of the legal profession nor are they required to participate in the mandatory continuing legal education due to begin in September of 2010.

The Cooperative Agreement between USAID and the ABA-ROLI requires a number of activities involving the KCA and its committees. Included are the need for increased participation in the legal sector and the need to be more active and accountable as the revisions of the Law on Bar work through the legislative process and beyond. Some goals have been accomplished. The Agreement minimally required ABA/ROLI assistance to:

- Adopt measures for a program on MCLE;
- Assist the KCA with changes to the KCA disciplinary committee mandated by the Law on the Bar;
- Take measures to regulate the unauthorized practice of law;
- Be active in proposing initiatives for law preparation to legislative institutions;
- Adopt a code of professional ethics;
- Develop an audit committees; and
- Update the KCA Statute (by-laws) to comply with the new law.

In the Agreement ABA-ROLI proposed to assist the KCA in developing task-specific agendas for specific committees to effectively meet the requirements of the new law. The Agreement and subsequent Work Plan envisioned that each committee be responsible for developing programs that will satisfy legal requirements and advance the goals of the organization. It is further envisioned in the task order that the ABA will work closely with the KCA's Executive Board, which oversees each of the KCA's committees, in order to ensure appropriate buy-in, engagement, and support for the KCA and for each committee.

The Agreement anticipates that ABA-ROLI will continue to work with the KCA to implement the disciplinary proceedings through training committee members on their responsibilities and the whole of the KCA membership on the provisions of the law. Additionally, the Project is to work with the KCA to monitor the committee's effectiveness and suggest necessary changes to the mechanism, as appropriate. The Agreement anticipates that the Project staff will attend meetings and disciplinary hearings, attend and observe how the disciplinary process is working, and undertake audits to examine consistency in process

and adjudication. The ABA-ROLI is to assess the disciplinary system and make recommendations to the KCA Executive Board. The Project is also to monitor the implementation of the KCA Code of Ethics and work with the appropriate KCA committee to suggest any necessary changes, inform the membership of the requirements of the code, and promote professionalism and ethical practices. It is envisioned that a primary task of the KCA Public Education Committee is to inform members and citizens of the new code.

The KCA Legislative Committee is also a focus of the Cooperative Agreement. The KCA has an obligation to its members and to the public to be active in reviewing legislative drafts, proposing amendments, and lobbying for their enactment. The ABA has been tasked with continuing to work with the KCA and impress upon it the value of playing a role, which will ensure that the legislation, which is passed into law and under which they must operate, is sound, and meets the needs of the legal profession. The Agreement urges that the ABA-ROLI propose that the KCA Legislative Committee develop a liaison relationship with relevant legislative bodies to provide commentary on proposed legislation while under development.

Clearly, women and minorities are underrepresented in the active practice of law in the Republic of Kosovo. The Project is tasked to work with the KCA gender and minorities committee to examine the specific obstacles to the participation of these groups in the legal profession. The Project supported individual lawyers in the northern part of the country and held a workshop addressing this issue in June 2007 during the previous agreement.

The passage of the Law on Bar increased the KCA's responsibilities and required it to be more proactive and accountable. Areas of enhanced activities include adopting measures for continuing education, improving the disciplinary committee as required by the Law on the Bar, taking measures to regulate the unauthorized practice of law, being active in proposing legislation, enforcing and improving the code of professional ethics adopted in July 2007, developing an audit committee, and updating the KCA statute (by-laws) to comply with the laws, among other tasks. The ABA-ROLI second year Work Plan was approved and incorporates a number of these major activities, including work with the KCA Executive Board, committee chairs, KCA past presidents, KCA Legislative Committee, Continuing Legal Education (CLE) Program, and KCA Gender and Minorities Committee.

The overall objectives of the USAID/ABA-ROLI Cooperative Agreement include developing an institution of the bar that regulates the practice of law so that competency and ethical standards are ensured, education is strengthened, and the Continuing Legal Education Program meets its legal mandate under the Law on Bar. Objectives also include that the ethics, disciplinary, and gender and minorities programs of the KCA are strengthened to meet its legal mandate under the Law on Bar.

B. FINDINGS

Administration of Kosovo Chamber of Advocates: The Kosovo Chamber of Advocates, as a nascent organization, faces a number of challenges including the need for a more professional and modern approach to financial and budget management, administration of the first MCLE Program, and the need to be more proactive in proposing or opposing laws affecting the profession and the people it serves. The KCA has no workable database to record and manage data generated by its required and/or discretionary activities.

A number of shortcomings and weaknesses of the KCA have been observed which, in part, are being addressed. The KCA office has been handicapped by the lack of an executive director. This position has been vacant for far too long and hampers its progress and achievements. As a result, there are a number of capacity-building activities that have been postponed, addressed superficially, or neglected. It should be noted that several of the findings and conclusions transcends two or more of the KCA disciplines.

Legal Framework Assessment and Five Year Plan: ABA-ROLI was active in addressing the requirement for the Legal Framework Assessment and the Five Year Strategic Plan as required by the Cooperative Agreement. With sponsorship of the ABA-ROLI, the University of South Carolina School of Law Professor Burnele Powell conducted the Regulatory Bar Research and Assessment for Kosovo. With the support of ABA-ROLI a Five Year Strategic Plan was adopted by the KCA. The document dated February 2009 lays out the very important mission of the institution and identifies a number of goals. It identifies a number of important steps to meet certain degrees of success, including revision of the KCA internal policies to meet the needs of an active KCA; active committees with a level of autonomy that allows for quick action to take advantage of new opportunities; annual fundraising plan that corresponds to the KCA annual budget; active regional chapters; meeting with key policy and decision makers essential to its lobbying goals to initiate discussion on KCA lobbying issues; regular meetings with key policy and decision makers in government; detailed comments and analysis on legislation; publicity campaign on behalf of registered advocates; increased efficiency in processing disciplinary complaints; increased transparency in disciplinary proceedings; mandatory continuing legal education; *praktikant* program support; increased women and minority members in the KCA; publication and dissemination of KCA publications, among others. Prior to its adoption, drafts of the Strategic Plan were delivered for peer review in January 2009 to KCA members who were active in the planning workshops, including the KCA president and the vice president. After comments from the KCA membership were incorporated into the plan and the calendar for implementing the plan was further developed, the document was sent to and approved by the KCA Executive Board. Upon receiving that approval, the KCA Strategic Plan was translated, published, and distributed to the KCA Executive Board and to USAID in early March. ABA-ROLI held a Strategic Plan Implementation Workshop on April 24 and 25, 2009 for members of the KCA, including the Executive Board and members from the Committees on Legislation, CLE, Ethics, and Disciplinary System. Working groups met to discuss the five strategic goals set forth in the plan and to develop calendars for select committees' implementation of activities through the end of the year.

As part of the Strategic Plan, timelines were established as well as calendars for the board and for selected committees. This document provides a useful blueprint for KCA activities of the board, staff, and select committees. Some tasks are scheduled for future action well into 2010 and 2011. Although one year into the plan, the KCA is already behind schedule on what it had committed to do.

Committee on Institutional Reform of the KCA: The Strategic Plan calls for a committee to be tasked with determining what organizational reforms are needed for the KCA to become a more sophisticated and responsive organization. This committee does not appear to have become active, to date, and a number of goals remain unrealized. A decentralized model for the KCA should be studied as part of this exercise, since member services outside of Pristina seem to be favored by the policy makers and are contemplated by the Plan. A committee to adopt an annual plan and to set deadlines and an annual budget does not appear to have been activated.

Unregistered Practice of Law: An urgent challenge facing the legal profession and the KCA at this time is the proliferation of the unregistered practice of law either by those illegally representing themselves as lawyers (even before the courts) or by those who perform limited legal work but who are not subject to registration, discipline for unethical practice or continuing legal education. This is a significant matter, which concerns the KCA members, and relates directly to the protection of the public as well as the public's trust and confidence. This goal also lies unrealized, and no action appears to be pending.

Automation for the KCA Administration: The administration of the KCA is considerably hampered by the lack of automation software to manage several of its most important functions. Keeping an updated list of the membership, payment of dues, and tacking disciplined lawyers is completed virtually all manually. This shortcoming will be exacerbated by the upcoming MCLE Program, which will commence in September 2010. The KCA is required to track the attendees, which course they take, and when. A

significant requirement will be to track and notify those who do not fulfill the requirement and refer them for appropriate sanctions.

Communication with Membership and Potential Members: The Evaluation Team has found the need for better communications between the KCA, its offices, and staff and with the membership-at-large. An informed membership will be more supportive, responsive, and informed. The sustainability of any institution depends on the support of its constituents and a bar association is no exception. Regular communication is the key to this support. The KCA staff advises that there are a small number of KCA members with computers and Internet access. Paper mailings are costly and, at least for the short-term, are not feasible on a regular basis. However, automation is coming to many members, albeit at a slow pace at present. This is the future and should be explored more fully—the time to begin is now.

Membership Development and Women and Minorities: The KCA as an organization is committed to expanding the membership of the organization particularly by increasing participation of women and minorities. This commitment is clear in the Strategic Plan, which sets forth some long-range goals. It has been recognized that the membership of the KCA should be available to all who qualify. This, of course, includes the underrepresented classes of minorities and women. There are others who should be considered for membership as well. This is a policy decision to be made by the membership but facilitated by ABA-ROLI. It appears that there could be a place for students in the organization and perhaps those jurists who are now unregulated if they are legally recognized in the future. There may be a place for members who are less than full members but yet should have a voice in the institution and in the future of their profession. There have been appropriate steps taken in the past including an essay contest and the Women's Trailblazer's Program.

In support of the KCA Gender & Minority Committee's Women's Mentoring Program, ABA ROLI has recruited 50 advocates, prosecutors, and judges to act as volunteer mentors to law students in the masters program.

While impressive ideas, they have reached a relatively few number of people. More is needed. Tiers of membership should be considered, perhaps allowing an introductory reduction in dues for newly registered attorneys and/or recent graduates who have passed the bar.

A Membership Development Committee assisted by the staff of ABA-ROLI should spearhead these ideas and the decisions before presenting them to the Executive Board.

Finally, it has been observed that membership services are lacking for members of the profession.

Legislative Action and Lobbying: The Law on Bar was recently passed. This long overdue action by the National Assembly was hampered by political or bureaucratic inertia emanating from forces not under the control of the KCA or the Project. However, the law lingered for far too long and then was passed without significant or formal input from the KCA or its collective membership. The result was a law, which needs to be re-addressed and probably revised. There is a body of by-laws for the organization (KCA Statute), which was approved by the KCA members during the KCA Assembly meeting in September 2009.

There was an early effort by the KCA to influence the content of the draft Law on Bar that should be noted. KCA organized a two and a half day workshop in Prizren on "Activities of Kosovo Chambers of Advocates" on January 30, 31, and February 1st 2008 (immediately prior to the current Cooperative agreement). The purpose of the workshop was to inform KCA members about the legislative process in the Kosovo Assembly, about the techniques for drafting laws, and about the Legislative Committee of the KCA, with the aim of sparking interest among members to join the Committee. There were 31 participants who attended this workshop. ABA-ROLI was represented in this workshop and stressed that ABA-ROLI will continue working closely with KCA in the future.

For a variety of reasons this legislation lingered in the offices of the United Nations Mission in Kosovo (UNMIK) for almost three years. Suggestions and amendments were offered to the lawmakers but were generally ignored. This resulted in a law that was, in some respects, inconsistent with the Statute (by-laws) of the KCA. The KCA held a conference in Struga, Macedonia from May 8 – 10, 2009 to build consensus for harmonizing the by-laws of the organization with the new law. ABA-ROLI staff, key leaders, and committee members of the KCA were in attendance. Revised by-laws were only recently published on KCA's website.

At the May conference, the KCA created working groups to identify and address the five potential areas of difference between the new Law on the Bar and the Charter under which the KCA is currently operating. It is reported that after lengthy discussion the participants agreed that in the field of ethics and disciplinary procedures the working group should make every effort to draft changes to the by-laws that will preserve, to the greatest extent possible under the new Law, the KCA's current disciplinary system. The workshop participants determined to take this approach rather than attempt to introduce changes to the law.

Information obtained by the Evaluation Team suggests that the KCA, as an organization, contributed little by ABA standards in the lobbying effort required to bring this law to fruition. However, some efforts were made. USAID and the ABA-ROLI provided Mr. Dragusha with written statements by the UNMIK Legal Advisor. These remarks listed some important deficiencies that the pending Law on Bar was facing. It was reported in the Project's quarterly report for that period that the KCA was to continue efforts to contact the officials from the Assembly of Kosovo to further advocate for the Law on Bar.

In August and September 2008, KCA President Musa Dragusha met with several government officials, according to the quarterly reports, to ascertain the status of the draft Law on Bar. In September, the ABA-ROLI staff representatives Fatmir Kutllovci and Arianit Osmani and KCA coordinator Yll Zekaj participated in the meeting of the working group that was formed by the Legislative Commission of the Kosovo Assembly to revise the pending Law on the Bar. Having lingered for more than two years it is felt that it was obsolete by the time it was passed. The efforts made in lobbying for this important law seemed an *ad hoc* approach by individuals rather than a concerted institutional effort marshalling the collective resources of an organization with over 500 members and the resources of the ABA, as may be available.

The ABA has a robust government affairs office that lobbies the US Congress, executive branch, and other governmental entities on approximately 100 issues a year. The ABA can draw on this experience and expertise in developing the KCA's strategy to impact legislative issues. It is expected that the Law on Bar be the first target for active participation by the KCA with the support and assistance of ABA-ROLI due to the impact of the law on the legal profession.

Finance and Budgeting: Unfortunately, the KCA does not have a formal budget process or budget. There is no automated budget system and no annual budget, budget plan, or protocol for budget oversight and management. These goals are hampered by the lack of an executive director. This position was identified, as needed, in the legal framework assessment and in the KCA's Strategic Plan.

The income of the KCA, virtually only through registration fees from lawyers, is not insignificant. There is a 700 Euro initiation fee and a 240 Euro annual fee. There are over 500 lawyers presently registered—a number which has increased considerably over the last several years. ABA-ROLI has been engaged in trying to move the budget process along and is presently planning to install “QuickBooks” in an effort to automate the budget process and management. More will be needed. Those responsible for the budget, including committee chairs, are not expected to be sophisticated in budget development. It is most likely new to most. The development of an annual budget for the organization and its committees requires a series of budget development and management workshops.

There does not appear to be a system of financial reporting in place or a formal system for committees to request funding for their operations. There is also no formalized system in place to raise funds either for the organization or its committees to supplement membership dues.

Discipline and Ethics: This is an area in which the KCA has made considerable progress. An Ethics Code and a disciplinary system have been put in place for lawyers and were adopted with the support and technical assistance of ABA-ROLI. The KCA is charged with the responsibility of processing ethics complaints against lawyers. The process for accepting and acting upon ethical complaints against lawyers is relatively new. As expected, any new process, especially one involving such a delicate issue, needs strengthening as shortcomings become visible. Such a nascent process needs the full attention of the KCA with a constant eye toward ways to improve the process and making it as transparent as possible. The current process does not provide for transparency and the publication of the decision after final disposition. Transparency in disciplinary matters requires a delicate balance that guarantees due process for the lawyers and engenders the trust and confidence of the public, especially the users of the legal system. There is currently no automated database available to record the disciplinary process or which makes the results readily available to judges, other lawyers, or the public. Publication of final decisions resulting in some sanction is currently not made public. Publication and ready access is important, not only for fostering public confidence but also for judges who need to know promptly the status of an attorney appearing before the court. Such decisions are also an instructive tool for practicing attorneys and should be used as part of continuing legal education.

The Strategic Plan outlines a number of recommended steps for amending the code as well as the disciplinary process to make them both efficient and transparent. These steps do not appear to have been taken as yet by the KCA.

There is a growing need, as well, for a campaign of public awareness of an aggrieved person's rights to file a complaint. In May 2008, the KCA published and began distributing the brochure "Know your Rights in Relation to your Attorney" to inform lawyers and the public about the new system which officially entered into force in September 2008. Approximately 900 copies have been distributed both to lawyers and some users of the legal system.

MCLE: By virtue of the Law on Advocacy, there is now a requirement that each registered lawyer undertake a minimum of 15 hours per year of mandatory legal education. The rules prescribe that at least 30% of the education be in legal and professional ethics. The program must be operational on September 20, 2010. The staff of the KCA is responsible for developing this program including soliciting trained instructors, providing facilities, creating a curriculum, and keeping records of those who take the courses and following-up if the requisite numbers of hours are not met. This is a huge undertaking especially because of the lack of an appropriate automated database and the lack of experience with this type of program. The Project's Work Plan requires assistance in a number of areas including developing an annual system of assigning and tracking CLE credits; devising a system to deliver MCLE trainings to advocates throughout Kosovo; defining topics and fields for specialization; developing curriculum for specialization areas; and assisting committees in formulating unified standards, testing and accreditation. The Team has found minimal involvement of ABA as the date of implementation fast approaches. The staff of KCA claims that the only obstacle at this time is the adequacy of the potential facilities financed by the United Nations Development Programme (UNDP).

C. CONCLUSIONS

Administration of Kosovo Chamber of Advocates: Despite considerable obstacles including inertia from the National Assembly, the transition of UNMIK to European Union Rule of Law Mission in Kosovo (EULEX), and the large event of independence of the Republic of Kosovo, the KCA has made positive

strides over the last several years. There are still many needs, and these needs present an opportunity for ABA-ROLI to provide an activist role. It has the institutional capacity to afford advice and technical assistance in important areas and has an effective specialist to address the issues squarely and expeditiously. The Project has enjoyed a measure of success in moving the organization of the KCA closer to a functioning body, which will eventually have the capacity to serve its members, and consequently the public, in a meaningful way. It requires “structure,” which ABA can offer.

The ABA-ROLI has made a significant contribution by providing a strong team to conduct the Assessment of the Legal Framework of the KCA and subsequently bring to fruition the Strategic Plan—a fine blueprint for future action. This successful endeavor however should be followed by a more active approach in capacity-building of the KCA. Continued ABA support for implementation of the Strategic Plan has thus far been on an ad hoc basis such as in the areas of budget and administration and a more developed plan on how the ABA will support the KCA’s implementation of the activities envisioned in the Strategic Plan is needed.

There are several targets for active intervention including the Executive Board, staff, and the committees. It is true that the major focus of committee work is the three major committees originally assigned for ABA intervention—Ethics, Legislative, and Women and Minorities Committees. To build the capacity of this institution, however, all committees must be working committees and all must have annual budgets, schedules of activities, and developed protocol for their activities. Several are required to interact with each other as well. They need to be more homogeneous and develop a tradition of communication and interaction. This challenge suggests the need for developing leadership and communication skills. There has been only modest activity directed towards the committees and the committee system. This task requires continual and contiguous attention. The need for regular membership communication is overdue.

The staff of the KCA is in the process of personal professional development. The president of the KCA is not a full-time position and the president and staff are dependent on an executive director—a position that remains unfilled several months after it was suggested by the Legal Framework Assessment and the Strategic Plan. The lack of finality on this issue can only infest the staff’s morale and compromise performance. It needs almost daily attention to build leadership skills and direction on the mechanics of the operation of a membership institution with more than 500 members.

These needs present an opportunity for ABA-ROLI to take an activist role. It has the institutional capacity to afford advice and technical assistance in these areas and has an effective specialist to address the issues squarely and expeditiously.

The lack of an appropriate automated database has hampered the efficient operations of the KCA a shortcoming which will become more acute as time goes on and needs immediate attention. It must be addressed as soon as possible. It is laudable that the Project will assist the staff for the installation of “QuickBooks,” which will aid in budget development and management. This alone, however, will not provide the automation software capacity so urgently needed by the KCA administration. There is no question that the management of virtually every aspect of the staff’s work will be hampered. This handicap will grow exponentially with time and increased membership. The need includes modules for registration data; management of member’s accounts; MCLE Program records; committee membership, budget, and schedules; and importantly, records on ethical complaints and proceedings. This database should also be available to the judges, lawyers, and the public on a limited basis to make lawyer discipline decisions available and transparent.

The Project has a rather small staff and has been hampered by the inability to fill the educational specialist position. Even if filled, such a small staff requires that everyone be prepared for multi-tasking.

Membership Development and Women and Minorities: There has obviously been progress in increasing the number of practitioners who are members of the KCA and accordingly, registered attorneys able to

practice in all matters before the courts. The membership now stands at 524, an admirable increase from only a few years ago. However, despite a committee of the KCA dedicated to women and minorities, both classes remain underrepresented within the regulatory bar. The efforts taken to date by committees of the KCA with the support of ABA-ROLI have not been enough to turn the tide. There have been mentoring programs, workshops, essay contests, and person-to-person outreach. The effort has been noteworthy but must continue and intensify. What has been done has reached a relatively small number of people and must be expanded.

The capacity-building strengthening of committees will be extremely helpful. Scheduling regular meetings, committees with budgets, and interaction of appropriate committees will be helpful. Instigating such change in any profession is never a “sprint” but a “marathon.” It will take time but will not happen without a renewed and intensified effort of ABA-ROLI. There is no doubt of the Project’s commitment to enhance the status of both underrepresented classes. What is needed is more of the same effort and new visionary ideas. The ABA has dealt with this issue over the years in the US as well as in other countries; an expertise that may be called upon here. ABA-ROLI must go to scale and generate the ideas necessary for success.

The committees need ideas, vision, encouragement, and, to some extent, technical assistance routinely available and supported by a proactive and aggressive approach of the Project. The need for encouragement and “spinning” ideas is as important as monetary resources.

Legislative Action and Lobbying: It is clearly within the KCA mandate to seek revisions of the law, as the membership may agree upon, and to lobby for the amendments’ passage by the National Assembly. The passage of laws and their amendments and revisions are a circuitous process requiring attention and skill. This is a skill or a capacity that organizations must have as part of the service to and advocacy for their membership—in this case the protection of the legal profession as well as the individual members of the bar. The ABA itself has a robust government affairs office that lobbies the US Congress, executive branch, and other governmental entities on approximately 100 issues a year. The ABA can draw on this experience and expertise in developing the KCA’s strategy to impact legislative issues. The Project must be instrumental in encouraging a more proactive institutional role in moving pending legislation forward. The Project was tasked with helping the KCA address the new law but also revisions as needed. A Legislative Committee is in place, which could have been mobilized along with other appropriate committees in a concerted effort by the KCA as an institution.

Naturally, it is possible that such an endeavor would not have positive results. However, the KCA as an “institution” and its officers, committees, and staff would have gained enormous and valuable experience and have benefited from the ABA’s capability and proficiency in the process.

The Project should encourage the KCA president and the Executive Board to face the issue of unregistered as well as unlawful practice of law. The time is right for an in-depth analysis of the impact of the unregistered practice on the profession as well as the public. In light of the possibility of other changes in the Law on the Bar, the adoption of the Law on Notaries and other laws possibly affecting the profession, this should be considered a matter of top priority. ABA-ROLI should be ready to assist in the lobbying effort necessary to adopt whatever amendments result from this exercise and which are approved by the Board and Assembly of the KCA.

There is a broad consensus among a number of our interviewees that the organization does not represent its members or their interests as well as it should. A strong lobbying effort on behalf of the members would do much to mitigate that perception.

ABA-ROLI has a wealth of technical resources in this area and the skill to assist in the production of a “legislative package” to support, oppose, or draft legislation important to the profession. Such an ongoing task will have seasonal peaks as the legislative process and scheduling dictate but will assure that

institutionally, the KCA will be ready to act on behalf of its membership when needed. This will also require and assure ongoing communications between the administration and the membership.

Finance and Budgeting: The KCA is in need of software, which will permit it to track the budget and the yearly expenditures. This is a matter of high priority. However, the staff and appropriate officers and committee chairs are also in need of training on budget development and management. Training, over time, will need to be followed by a review of the budget processes by qualified budget experts to assure compliance with accepted budgetary standards. Included in the training should be information on designing and managing a system of financial reporting as well as the process for committees and regional offices, when established.

The KCA is in need of additional funding sources if it is to expand membership services, communications, and benefits. A fundraising plan for the KCA and its committees called for in the Strategic Plan and Work Plan should be addressed.

Discipline and Ethics: The Project has strongly supported both the development of the Code of Ethics and the disciplinary process. The disciplinary process requires a strong effort on behalf of the KCA and strong support from ABA-ROLI. Any new effort as important as lawyer discipline should be reviewed from time to time, particularly after start-up. This should include more than a calculation of the number of complaints filed and acted upon. There should be a qualitative analysis of the proceedings which should then be reviewed by the appropriate bodies for possible amendments. An evaluation of the outreach and public awareness efforts and a plan for future outreach, perhaps involving mass media, is timely. A plan should be devised to oversee future ethics training, as well.

MCLE: The KCA is in the process of developing a program to meet its obligation to deliver MCLE to the registered attorneys of the Republic of Kosovo. The program must be ready to commence on September 20, 2010. The staff of the KCA overseeing the program is confident that they will be ready. They claim, (hopefully realistically), that there are no obstacles save the issue of facilities. Since the program is new and there are numerous details to prepare, the Evaluation Team believes that the Project should be very active in overseeing the preparations. The KCA must retain qualified trainers, develop curriculum, identify and prepare materials, record participants, and monitor and evaluate the program, etc. The time is right for a concerted effort to guarantee that this first round is delivered with minimal problems. The KCA may not realize all of the activities necessary for a successful program since it is a new endeavor. ABA resources should provide that vision, as needed.

The MCLE program will be compromised by the lack of automation. The KCA is required to track the attendees, which course they take and when. It will be required to track and notify those who do not fill the requirement and refer them to appropriate sanctions. As discussed above, the KCA does not have appropriate software to automate the various functions. The MCLE will exacerbate this issue; performing these functions manually will be an onerous task which will distract this relatively small staff from important functions.

D. RECOMMENDATIONS

- An MOU should be negotiated between the KCA and ABA-ROLI with USAID approval which will outline what is expected of each. An MOU would assure full cooperation of the KCA and all of its committee chairs and staff. It should be written with a view toward daily activities between the Project and/or its consultants and specialists (including short-term consultants) and the staff and all committee chairs of the KCA;

- The position of executive director should be filled immediately in accordance with hiring laws and posting requirements;
- In addition to the planned installation of “QuickBooks” ABA-ROLI should provide technical assistance to the KCA in soliciting a vendor to install an integrated software package for the major areas of the KCA’s mandate—MCLE, disciplinary proceedings, membership registration, committee management, membership correspondence, etc. Care should be taken if “off-the-shelf” software is purchased. It should be designed to produce the various reports needed to properly manage the core functions of the organization;
- The Project should assist the KCA in developing the means of communicating with its members electronically. Although there are relatively few members with the equipment (or the will) to use automation, if started, the process will spread exponentially. A dual system of written and electronic communication should exist for the short-term using the regional offices to distribute communications where possible;
- Staffing the regional offices with volunteer attorney members from the regions should be explored. These offices need not be open on a full time basis. Rewarding volunteers should be explored (such as dues reduction);
- The regional offices should be equipped to be a “communication center” where members have access to e-mail and where they could receive newsletters or notices from the KCA;
- A member of the KCA staff should receive training in communication skills, electronic newsletter preparation, and media relations;
- All committees should be encouraged to become active. Non-participating committee members should be replaced. Intensive interaction should take place between the Project, the staff, committee chairs, and committees for discussing options and ideas. The ABA should assist each committee in preparing a budget, protocol for requesting funds, annual schedule of meetings, and annual activities with timelines. The mission and goals of each committee should be crystallized. The committee system should encourage “structure” instead of individual action;
- A “Leadership and Management” seminar/workshop should be delivered using expert consultants as well as local ABA-ROLI senior personnel. The curriculum should include a segment on “Change” and “Managing Change.” Participants should include all of the KCA officers, key staff, and all committee chairs;
- Training for selected staff to include:
 - Budget and Finance Management,
 - Human Resource Management,
 - Facilities Management (for regional offices),
 - Time Management, and
 - Information and Communication Technology;
- The KCA should with ABA-ROLI support form a short-term task force to be tasked with creating a “Legislative Package” to be submitted the KCA Assembly to contain the laws which should be lobbied for or against including new laws to be proposed by the KCA. The task force should be multi-discipline including members from all committees, staff and offices of KCA. The task force should consider among other things:

- Revisions to the Law on Bar,
 - Develop institutional position on Unregistered Practice of Law,
 - Confirm that the recently published KCA by-laws are consistent with the requirements of the Law on the Bar,¹,
 - Develop institutional strategy for lobbying the results with appropriate ministries and National Assembly, and
 - Explore Alternative fundraising potentials which may need legislation;
- ABA-ROLI should secure an international expert to present a program to the task force and the Legislative Committee on “Developing and Lobbying for Legislation;”
 - A Membership Committee, in collaboration with the Women and Minorities Committee, with support from ABA, should explore a strategy for a membership drive, which should include, but not be limited to, recruiting women and minorities and providing incentives for new membership;
 - A Membership Committee (or other appropriate committee) should develop and propose to the Executive Board a multi-tier system of membership that might include student membership and, if incorporated in a new law, those licensed only to practice in a restricted way (as the unregistered lawyers do presently) and possibly registration of foreign lawyers. ABA-ROLI should support this effort and provide examples from the US and other countries. This committee should work in collaboration with the committee tasked with recruiting new members and incorporate introductory reduced dues for new members;
 - The KCA staff should explore potential member services as suggested in the Strategic Plan including contracts with vendors for discounted services for members such as Internet, insurance, auto rental, legal research materials, etc.;
 - The Director of ABA-ROLI and the Legal Specialist should establish regular coordination meetings with the president and executive director of the KCA. These coordination meetings should take place regularly at least once a month and as needed at other times. This should be a major item in the proposed MOU;
 - The Project and KCA should propose to the Ministry of Justice that a representative of the KCA designated by the president or executive director serve on any working group considering laws affecting the legal profession or legal system;
 - The Bench Bar roundtables conducted by ABA-ROLI around the country in 2005 to 2008 should be institutionalized. The ABA should initiate contact with the Kosovo Judges Association (KJA) and assist in the establishment of a framework for regular meetings of representatives from each group. A Bench/Bar Association could be a medium-term goal. This could be a joint project with whatever non-governmental organization (NGO) is working with the KJA;
 - The KCA assisted by ABA should establish a forum to assist practitioners in establishing and maintaining an office or a small firm of two or more lawyers. This should include necessary topics such as registration, taxes, bookkeeping, accounting, confidentiality, liability issues, specialization, insurance (professional and otherwise, if appropriate), etc.;

¹ This is primarily an ABA-ROLI activity. Amended by-laws were only recently posted on KCA's website and ABA-ROLI must now review these for compliance with the Law on the Bar.

- Since there are other donors assisting the KCA, from time to time ABA-ROLI should take the lead in proposing, at least quarterly, donor coordination meetings;
- The ABA-ROLI should become intensely involved in coordinating the upcoming (and first) MCLE Program. It should monitor the delivery and critique and evaluate the results. It is suggested that this start with regular coordination meetings with the staff responsible for delivering the program. The meetings do not need to be long but, as the event gets closer, often. ABA expertise in CLE is legendary and that experience should be used as needed including outside consultants, if indicated;
- The disciplinary process needs to be reviewed. The number of complaints filed has increased, possibly showing an increased awareness by the public and by judges of their rights to file such complaints. The Project should now engage in a qualitative analysis. The entire system should be reviewed and assessed as to its fairness, accessibility, and transparency. A protocol should be urged which would make all decisions resulting in some sanction available in hard copy and on-line;
- The Project should audit trainings on ethics and evaluate the process. The Ethics Committee should be supplied with a number of options, if revisions are indicated. The ABA can supply various options, alternatives, and models from the US as well as the region. The successful parts of the Kosovo model should be exploited;
- Brochures and multi-media sources (such as CDs and DVDs) as a follow-up to the brochures published and delivered by ABA-ROLI should be prepared and distributed to inform the public as well as judges of their rights and obligation regarding the unethical conduct of attorneys; and
- Funding sources should be explored to finance a public media campaign to inform the public of its rights regarding the unethical practices of lawyers. TV and radio spots should be professionally designed to present a positive picture of the overwhelming number of good and ethical lawyers but, at the same time, advise the public of its rights if victimized by the few exceptions.

V. PROJECT C: SMALL GRANTS PROGRAM

A. OVERVIEW OF ABA-ROLI ACTIVITIES

Over the past two years the Project operated a modest grants program with two grants being awarded in 2008 and another five in 2009. Solicitations for grants were made using advertisements in local newspapers. In both years the solicitations asked for proposals on projects generally related to rule of law issues. In 2008 awards were made to the Kosovo Judges Association to support the publication of the *KJA Bulletin* and the Gjakova Women's Association for their project "Monitoring of Municipal Courts, Country Courts, and Social Service Centers."

In 2009 grants were awarded to the Center for Policies and Advocacy for "Increased Transparency and Civic Participation in Law Making Process;" Communication for Social Development for "Rights for All;" Kosovar Institute for Policy Research and Development for "Promotion and Reform of Rule of Law in Kosovo;" Kosovo Public Prosecutors Association for "Advancing the Skills of Public Prosecutors in Applying Confidential and Technical Measures of Surveillance and Investigation, Publishing the First Bulletin, and Committee Roundtables;" and Women's Association of Gjakova for "Monitoring of Municipal Courts in the Field of Heritage Rights."

B. FINDINGS

To assess the Project's grants program the Team conducted a roundtable discussion with three of five of the 2009 grantees. Without fail the grantees complimented the Project's administrative support to their efforts. Administrative and financial assistance was uniformly reported to be efficient and professional. Grantees in Kosovo are generally experienced as they have for more than a decade interacted with a substantial international presence which has included much in the way of capacity development for NGOs, including programs on proposal development and project management conducted by Organization for Security and Co-operation in Europe (OSCE) and UNDP. It was therefore unnecessary, as it is in other post-conflict environments, to engage prospective grantees first in areas such as proposal development prior to grants being awarded.

One concern expressed by two of these grantees was a delay between requests for grant proposals and award, but this is likely attributable to the arrival of the Country Director during the time at which final consideration of proposals was underway. Grantees as well noted that grant amounts were relatively small, though this is likely an issue related to Project size.

C. CONCLUSIONS

The grant program is straightforward and efficient and ABA should be complimented for its efficiency on the administrative and support side. On the substantive side, the requests for grant proposals over the past two years have been overly broad and unnecessarily overlap with the focus of other USG-funded

programs in the rule of law area. As noted above, this year the Project issued a grant to the Kosovo Public Prosecutors' Association, an organization more appropriately linked to USDOJ-funded activities.

D. RECOMMENDATIONS

As the Project develops its Work Plan for the third year, it should align its request for grant proposals with the Project's specific areas of implementation. There is, for example, well-founded and widespread concern regarding the quality of advocacy in Kosovo. Thus, requesting proposals related to monitoring the quality of criminal defense or family law counsel would be important and could be linked to the Project's support to the KCA, especially in the area of helping the KCA develop its required continuing legal education program. The same link could be made by asking for proposals from grantees interested in monitoring the quality of counsel provided by the Legal Aid Commission, whose advocates are drawn from KCA members. Another example worth mentioning is in the area of access to government information. ABA has worked in this area in other countries and with a new law in Kosovo governing freedom of information it is an area prime for grant work. It's worth noting that the ABA-ROLI grantee Centers for Policies and Advocacy has worked in this very area under a grant from UNDP.

These are but a few examples as grants could easily be linked to ABA programming in its work with the Law Faculty or in the area of public outreach, and the Project is certainly in a better position to assess which program areas will be best served by aligning those with specific grant opportunities.

VI. PROJECT D: ASSESSMENTS

A. OVERVIEW OF ABA-ROLI ACTIVITIES

In accordance with the Cooperative Agreement ABA-ROLI is required to use the Assessment Tool referred to as the Legal Professional, Legal Education, and Judicial Reform Indices.

B. FINDINGS

The Project has conducted the requisite number of Assessments both legal and judicial as contemplated by the Cooperative Agreement and delivered them in a timely way. It has also retained qualified and experienced assessors. The drafts have been submitted to the Washington DC ABA Research and Assessment Office for internal review as required. After being finalized by the local staff, the Assessments have been translated into the Albanian and Serbian languages. The drafts were then sent for peer review. The comments from Peer Review were then sent to the DC office for finalization. The final index places the answers to queries into one of three categories—positive, neutral, or negative.

C. CONCLUSIONS

The Legal Profession, Legal Education, and Justice Reform Indices are part of most, if not all ABA-ROLI programs. For the purposes of this evaluation, the issue is whether these were performed adequately per the methodologies and analysis employed by the ABA worldwide. The answer to that question is yes. It does appear that much of the information collected by the ABA assessor is done through interviews with key stakeholders, subject to review by the Washington DC ABA Research and Assessment Office and subject thereafter to a Peer Review System which includes the media. The process has been well managed.

D. RECOMMENDATIONS

- ABA-ROLI should be proactive in addressing the areas within its mandate which have been rated negative. It should propose to USAID, as necessary, initiatives to address those subjects to the extent the subject comes under the province of the Cooperative Agreement; and
- To the extent resources allow, the Evaluation Team believes that a User Survey should supplement the Assessment Tool, a positive aspect of the ABA culture. Such a periodic review could target actual users of the system who have had the most recent experience with the courts, judges, and lawyers. If another donor is conducting this activity it should be picked up by ABA-ROLI if the other donor discontinues such activity.

VII. PROJECT E: PUBLIC AWARENESS OF THE RULE OF LAW AND THE JUSTICE SYSTEM

A. OVERVIEW OF ABA-ROLI ACTIVITIES

ABA-ROLI's activities in this area are overwhelmingly focused on Law Day, a nationally recognized event with high-level and broad participation. The event seeks to educate the public on the work of the legal system and community and at the 2009 event provided particular focus on the new Kosovo constitution. ABA-ROLI as well participated in smaller events such as KCA Day and associated roundtables.

Public awareness as well is a theme that cuts across all aspects of ABA-ROLI's programming, and includes essay contests at the University of Pristina and dissemination to the public of information on clients' rights with their counsel.

B. FINDINGS

Law Day 2010 was generally regarded a success. Turnout was good as was publicity, something that was certainly aided by the demonstrations at the event conducted by Vetëvendosje, a self-determination movement in Kosovo. While the event was successful, it does appear that planning was not as smooth as the final product would suggest. Others involved in program planning noted that the Project was not fully organized and became delayed in putting Law Day together, and that more reliance on other organizations and staff was required than should have been necessary. This despite the fact that the Project had a program organizer specifically designated to work on this program.

There does not appear to be much in the way of follow-up from the momentum created by Law Day. Typically such an event would yield initiatives or action items, national or regional, for continued public awareness campaigns to follow until Law Day 2011, yet those appear lacking.

C. CONCLUSIONS

Other than Law Day and a few additional events, there does not appear to be a comprehensive approach for a public awareness campaign. There is ample room in the area of public awareness for proactive and creative thinking on the part of ABA-ROLI across their programming.

As an example, an important document created by ABA-ROLI is the brochure which helps a client understand his/her rights with their attorney. ABA-ROLI printed 1,000 copies of this brochure and now has only 80 left, certainly an impressive dissemination, though the rollout seems unfocused. Brochures were widely disseminated on events like Law Day and various seminars with the KCA, though one must certainly question if providing these brochures at a KCA seminar means that they reach the intended audience, the aggrieved client. ABA-ROLI did distribute these brochures to various towns, though there is no indication whether they were distributed to courts, where they would most effectively reach the intended audience, or if there was any input in how or where they were provided to guarantee maximum reach. Follow-up in this area is certainly necessary and ABA-ROLI should follow-up with the sites where materials were left for distribution to determine by whom the documents were taken, did they find them helpful, and were methods of display effective in distribution. Most in the development field have had the experience of providing brochures to an institution only to find them the next day scattered across a reception room coffee table, then later the floor, eventually making their way to a waste receptacle. Public awareness requires greater effort in controlling not only content of the message, but in delivery of it as well.

D. RECOMMENDATIONS

As previously noted Law Day 2010 was a success and demonstrated strong cooperation with other USAID-funded programs. However, it does seem that the Project should maintain focus on greater public awareness of the rule of law throughout the year, and not simply limit it to a day's events without taking advantage of the momentum created.

ABA-ROLI does have staff dedicated to public outreach and this has been a successful position in the areas in which the position has been brought into specific programming. ABA-ROLI should expand this position to guarantee that each element of its programming contains a public awareness or information dissemination component. Where materials are developed for a specific audience, such as the client of a potentially wronged client, ABA-ROLI must ensure that these important materials reach their audience in an effective manner. This means controlling how they are displayed and following up with recipients to determine if the materials were clear, helpful and easily accessible. In essence, ABA-ROLI should monitor the performance of its own public awareness initiatives.

ABA-ROLI is currently without its own website. The Team understands that it is ABA policy that its projects not have their own websites and the Team thinks ABA should reconsider this policy. The internet is among the most effective and efficient tools for outreach and is a resource the ABA should encourage. To so limit ABA-ROLI in Kosovo in its ability to disseminate its work and its message is to limit the program's overall effectiveness.

The Project did support an essay contest for Law Faculty students, but the reach was minimal; only 17 students submitted essays, which may demonstrate a lack of outreach in encouraging participation. Essay contests are an effective means of reaching youth, and the Project should consider expanding this notion beyond students at the Law Faculty, who by their presence at the school have already demonstrated an interest in the rule of law. Similar programs could be established for primary and secondary school students. The Project should consider working with the Ministry of Education to increase reach, and determine if there are corporate sponsors willing to provide financial or other support in providing awards.

VIII. CROSSCUTTING ISSUES

There are three areas that cut across all program activities. Following the evaluation the Team believes those below are worthy of comment.

A. PERFORMANCE MONITORING AND EVALUTION

It is unclear whether performance monitoring is a science or an art, but in either case it's a form to which USAID and others in the development world are beginning to pay greater attention and revise their thinking on how it should be approached and implemented. The premise for measuring performance in development work is to ascertain the impact and effectiveness of the programs involved. For several years now there has been movement away from quantitative analyses, employing more qualitative factors. Setting forth the number of how many participants attended a particular training and the ethnic and/or gender breakdown of attendees, for example, provides only so much in the way of impact information.

Asked about their approaches to a Performance Monitoring and Evaluation Plan (PMEP), ABA-ROLI seemed unsure of how qualitative measurements could be made. In the current work plan year, literally all performance monitoring by ABA-ROLI depends on counting the number of participants that attended trainings, whether the subject matter is developing legal clinics or finalizing the regulatory bar assessment, and it's difficult to see how this type of measurement will inform the donor regarding program effectiveness. The measurements in the area of Project E: Public Awareness of Law and Justice inexplicably include collecting data for the "number of days of interview."

Quantitative measurements are, admittedly, easier than their qualitative counterparts, and a qualitative approach requires acceptance of subjective information in making conclusions, but it is possible and in the end more informative on the success or shortcomings of programming. More creative approaches to ABA-ROLI's performance monitoring will result in more thoughtful evaluations on project impact. ABA-ROLI could and should evaluate whether those that have taken practical legal clinics at the Law Faculty are better prepared and more effective in actual court proceedings or whether those that have taken a legal ethics class at the University or through the KCA are less likely to be the subject of disciplinary proceedings. With new focus on the KCA's role in continuing legal education, and ABA-ROLI supporting that, ABA-ROLI should in the next year attempt to track the effectiveness of advocates who took a particular course versus those that did not. Grantees can play a role here were a grant awarded to monitor the trial advocacy skills of KCA members to help ascertain the effectiveness of the legal education provided.

Generally, if not always, ABA's projects worldwide involve work with bar associations and thus ABA itself has an interest in developing qualitative approaches to measuring the effectiveness of their technical work with these groups. This is not an issue that is unique to Kosovo and represents a good area for ABA to provide thoughtful institutional support which could be replicated in ABA's projects elsewhere.

B. DONOR COORDINATION

For its size and population Kosovo must surely rank among those countries with the densest donor community over the past decade. As recently as 2006 one report estimated that there was one member of the donor community working in Kosovo for every six residents. Expecting seamless coordination with a

community of this size is unrealistic, though in interviews with donors such as the EU and their Twinning Projects, it does appear that ABA-ROLI has managed to ensure that its work is not duplicative of European efforts.

The same cannot necessarily be said of ABA-ROLI's coordination with other USG-funded programs. The field in which this is most clear is that of curriculum development at both the University of Pristina Law Faculty and with the KCA as it develops a continuing legal education program. An example is curriculum development in the area of commercial law. ABA-ROLI indicated that commercial law is a subject that it would like to pursue with the Law Faculty. However, as this is an area specifically part of USAID's recently initiated SEAD program it appears that ABA-ROLI should foster a relationship with SEAD to draw on their already existing resources that support ABA-ROLI's project goals without significantly draining its resources.

Similarly, Overseas Prosecutorial Development, Assistance, and Training (OPDAT) has developed a robust training program, offered at the Kosovo Judicial Institute (KJI), one that is often attended by KCA members. OPDAT has made known to ABA-ROLI about the potential for cooperation, especially in providing courses that would support the KCA's MCLE requirements and ABA-ROLI must be more proactive in cultivating and taking advantage of these opportunities. ABA-ROLI suffers from the absence of its Legal Education Specialist, a position that has remained vacant for about one year, and this vacancy only makes the need for cooperation and coordination in the area of curriculum development more crucial.

In a similar vein, ABA-ROLI must be more pro-active in recognizing those needs of its beneficiaries that can be addressed with better cooperation with USAID's Kosovo Justice Support Program. The unregulated practice of law is a major component of ABA-ROLI's programming and yet ABA-ROLI has yet to reach out to USAID's Kosovo Justice Support Program (KJSP) to ascertain how courts can play a role in identifying and addressing concerns that are jointly held by the KCA and formal justice sector. Among the concerns of the KCA and ABA-ROLI is that unregulated lawyers regularly represent clients in cases with monetary values greater than they are permitted to by law. One way to regulate this practice would be to have courts use form 'notices of appearance' in courts so that the justice sector can monitor who is appearing in court as an advocate and whether their representation is appropriate. Regular and regional Bench-Bar meetings, coordinated with KJSP, could be an effective means of identifying and addressing areas of common concern.

C. HOME OFFICE SUPPORT

ABA maintains a regular program for placement of its international staff which includes orientation in the US prior to deployment. According to the international staff at ABA-ROLI in Kosovo this orientation was effective. Additionally, according to ABA's program management in Washington, DC which supports the Kosovo program, there are regular meetings for all ABA Country Directors held in Washington about once every two years. ABA's home office policy is to visit each of its programs annually, something that is mostly on schedule with the Kosovo project. ABA may wish to consider increasing these visits to at least twice annually, something that would provide greater interaction between home and field office, understanding by the home office of the on-the-ground status of its program, and a chance for the home office to assess project needs that it can more fully support from Washington.

In the Team's conversations with the home office staff it was clear that the program manager was well-informed of project activities, candid regarding certain shortcomings, and ready to address those in the third year of implementation. That said, there are some areas where it appears more home office support is necessary and critical among those is in the area of human resources. Recruitment for international staff is something that is generally centered in the US and yet ABA has yet to fill one of its most critical

positions, that of the Legal Education Specialist, for about one year. ABA must devote immediate resources to supporting its Kosovo program to fill this critical post.

ABA home office should as well take a proactive role in identifying program needs. When asked what are the greatest strengths ABA-ROLI/Kosovo replied that it was the resources ABA brings to project implementation and yet, in some instances, it seems those resources have been ignored. It is likely that an understanding of what the ABA can provide is something best understood by the home office which supports not just this program in Kosovo, but similar projects worldwide. Thus, ABA's home office should engage with its program in Kosovo, for example, as it considers recommendations it will make to the KCA on the type of services it could provide its members. Communication between the home and field offices is regular, but during these calls and written correspondence greater focus can certainly be placed on technical implementation and the support and resources ABA can provide towards project goals.

IX. CONCLUSION

In conclusion, ABA/ROLI has done an excellent job in some important areas of its responsibility. The engagement with the Law Faculty of the University of Pristina has left its mark on the University administration, faculty, and students alike. Needed curriculum was developed such as legal writing, legal ethics, and the introduction of interactive teaching. The practical skills clinics were very well received and praised by students and faculty alike.

Work with the law faculty showed some shortcomings, as well. The Evaluation Team observed that the popular practical skills clinics were made available to a very limited number of students especially in light of the large enrollment. Expanding the reach of the successful courses, particularly the clinical skills courses, should be given top priority. Proactive and creative approaches, calling upon the significant resources of the ABA, should be used to implement important pieces of the program. The Team believes that the University and students would be best served by the Project focusing on fundamental courses such as legal analysis or new practical courses similar to the clinics.

The Project has recently demonstrated an understanding of the immediate needs of the Kosovo Chamber of Advocates. The successes in this program include the sponsoring of an Assessment of Legal Framework and the subsequent adoption of a Five Year Strategic Plan. This has presented a blueprint to be followed by the KCA officers, staff and members. Numerous tasks are presented in the Strategic Plan, which have presented challenges to the KCA. These challenges can be realized with the assistance of the ABA with its experience and expertise. There has also been the creation of an attorney disciplinary program and a mandatory continuing legal education program is under development.

While much has been accomplished there still remains much to be done. There is a need for more active engagement by ABA-ROLI in several areas including the development of a formal budget for the KCA, automation which includes an integrated software package, development of committees as a cohesive and structured force within the organization, and development of a legislative agenda and lobbying protocol.

The Project has administered five small grants under a small grants program. After meeting with three of the five grantees the Evaluation Team has concluded that, overall, the program was well administered and can be considered a success. It can be improved by focusing future grant proposal on Project activities instead of being generally related to the rule of law.

Project Activities also included The Legal Profession, Legal Education, and Justice Reform Indices as in most ABA programs. The assessments were conducted by reputable and qualified consultants and followed ABA protocol. The Team feels, however, that a Public User Satisfaction Survey should supplement them. The public awareness activities of the Project were also well undertaken. However, here too, plans should be made for expanding the reach to many more people.

ANNEX 1: EVALUATION SCOPE OF WORK

I. PURPOSE OF THE EVALUATION

This evaluation is to provide USAID/Kosovo with an objective external evaluation and assessment of the appropriateness, effectiveness and achievements of the current USAID Legal Profession Development Initiative (LPDI) Program being implemented in Kosovo by ABA/ROLI.² The LPDI is a three year Cooperative Agreement of approximately \$3.0 Million. Additional details regarding this evaluation are set forth in Section IV, Evaluation Scope

II. BACKGROUND

Pursuant to the terms of United Nations Security Council Resolution 1244, UN-backed talks between Kosovo and Serbia began in February 2006 to determine the final status of Kosovo. The negotiations were led by UN Special Envoy Martti Ahtisaari. Although progress was made on technical matters, both parties remained diametrically opposed on the question of status itself.

In February 2007, Ahtisaari delivered a draft status settlement proposal to leaders in Belgrade and Pristina that proposed a new UN Security Council Resolution that would establish a "supervised independence" for Kosovo. The draft resolution, backed by the United States, the United Kingdom, and other European members of the Security Council, was presented and rewritten several times in an effort to accommodate Russian concerns that such a resolution would undermine the principles of state sovereignty. Russia, as one of five permanent members in the Security Council, has veto power and thus stated that it would not support any resolution that was not acceptable to both Belgrade and Kosovo. While most observers anticipated independence as the most likely outcome of the talks, others suggested that a rapid resolution might be premature.

2008 Declaration of Independence

The Assembly of Kosovo approved a declaration of independence on February 17 2008. Over the following days, several states (including the United States, Turkey, Albania, Austria, Germany, Italy, France, the United Kingdom, and Australia) announced their recognition despite protests by Russia and others in the UN. As of this writing, 62 UN member states have recognized the independent status of Kosovo.

The European Union has no official position towards Kosovo's status, but has deployed its European Union Rule of Law Mission in Kosovo (EULEX) to ensure a continuation of an international civilian presence in Kosovo.

² Formerly ABA/CEELI and hereinafter ABA/ROLI or ABA.

An International Civilian Office (ICO) led by the International Civilian Representative (ICR) is set up to monitor implementation of the Status Settlement Proposal - Ahtisaari Plan.

Most Kosovo Serbs continue to refuse to recognize the Kosovo Constitution which became effective on June 15, 2008.

Kosovo Justice Sector

A strong Rule of Law is essential for Kosovo's stability, security and economic development. USAID programs aim to increase the independence and effectiveness of the judicial and legal systems while simultaneously increasing the public's trust. With these goals in mind, USAID programs have been active in all aspects of the Kosovo justice sector.

Kosovo faces a number of challenges in modernizing the sector. The ethnic division in the northern part of the country remains as a visible obstruction to the full implementation of the Kosovo Constitution and agreement on one applicable law statewide. As suggested by the Ahtisaari Settlement Proposal, the Constitution created the ICO and EULEX. These multi-donor institutions have deployed to assist Kosovo in evolving into a fully functional democracy.

The Kosovo justice sector faces many challenges post independence. A reappointment process for judges and prosecutors is being administered by the International Judicial and Prosecutorial Commission (IJPC). Further, key pieces of legislation such as the draft law on courts and on prosecutors are under discussion with the aim of reforming and restructuring the court and the prosecutorial systems. The recently reestablished Kosovo Judicial Council (KJC) will try to deal with many obstacles in the court system and reduce inefficiency.

Kosovo Legal Profession

The Kosovo Chamber of Advocates (KCA) is an "independent organization" created by law, with an established organizational structure.³ Except in civil and administrative proceedings and except for certain legal service bureaus sponsored by municipalities or companies, the only persons who may provide legal assistance on a regular and independent basis are advocates licensed by the KCA. The KCA aggregates all Kosovo advocates, including a reasonable number of Serbs and other minorities. As is typical in the region, the KCA does not include judges, prosecutors, in-house counsel, or others. The KCA collects dues, provides a disciplinary process, suggests fees, oversees legal training, provides a focus for collective bargaining (i.e., a government contract for legal aid services), and acts as a voice for advocates.

While the KCA has increased its organizational activity over the years, as Kosovo moves towards the European Union, the need for its increased participation in the legal sector is critical. Additionally, the recently passed Law on the Bar requires the KCA to be more active and accountable, in part by: 1) adopting measures for continuing legal education, 2) creating a disciplinary committee, 3) taking measures to regulate the unauthorized practice of law, 4) being active in proposing initiatives for law preparation to legislative institutions, 5) adopting a code of professional ethics, 6) developing an audit committee, as well as updating the KCA Statute to comply with the new law.

The KCA does represent the interests of its members, however not always with the vigor that advocates might want. It has been involved in legislative drafting and reform directly related to the practice of law, but not on a wider scale. The KCA has adopted a sound code of ethics and has a disciplinary process in place, but there are questions about both the application of the code and the consistency of the disciplinary process.

³ See Law on Bar (2009/03-L-117)

Kosovo Legal Education

Legal education reform is the lynchpin of rule of law development and integral to all other justice sector reforms supported by USAID and other donors. Kosovo has made important strides towards compliance with the Bologna Declaration. While the rapidly changing political structure in Kosovo has not allowed it to participate as one of the signatories of the Bologna Declaration, Kosovo's Higher Education Law and the University of Pristina Statute reflect and incorporate the general principles established by the Bologna Declaration and acknowledge the applicability of international quality assurance standards.

The University of Pristina officially includes two law faculties—one in Pristina and one in Mitrovica—but the two operate independently from each other, with the faculty in Mitrovica serving predominantly Kosovo Serbs.

An extensive evaluation was done as part of the accreditation process by the Kosovo Accreditation Agency. The University of Prishtina was accredited and will initiate new reforms during this new academic year.

III. LEGAL PROFESSION DEVELOPMENT INITIATIVE PROGRAM/ COOPERATIVE AGREEMENT WITH (ABA-ROLI)

The technical legal assistance program of ABA-ROLI in Kosovo is currently funded by a Cooperative Agreement with the USAID that expires on February 28, 2011. Accordingly, USAID is very interested in evaluating the successes and Shortfalls of the program. The general purpose of the Legal Profession Development Initiative (LPDI) program is to further the development of a Rule of Law in Kosovo by working on the following tasks:

1. Improve Legal Education at the Law Faculty

Improve legal education for students by developing mandatory ethics course, institutionalizing piloted legal clinical and legal methodology courses, developing an honor code for the students of the law faculty, and assisting the management to accomplish reforms leading to the University final accreditation.

2. Develop a Regulatory Bar & Strengthen Kosovo Chamber of Advocates

Develop a regulatory bar in Kosovo by conducting activities derived from the recommendations and findings of the assessment conducted in year one of the award. Strengthen the ability of the Kosovo Chamber of Advocates to meet its legal requirements and organizational goals of becoming a regulatory membership association. Assistance also includes support to the KCA Executive Board and KCA committees and to develop and support the implementation of a CLE Program for lawyers.

3. Develop and Manage a Small Grants Award Project

Strengthen and promote the rule of law in Kosovo by providing assistance to legal associations, organizations, and/or NGOs through a small grants award mechanism and monitor their implementation.

4. Assessment Tools

Measure progress in the area of judicial reform and legal profession reform. During the 2008 – 2011 period, ABA will conduct the first full the Legal Education Reform Index (LERI) for Kosovo in the

Spring of 2008, Judicial Reform Index (JRI) and Legal Profession Reform Index (LPRI) in 2009. The ABA would conduct a follow up LERI in the spring of 2010 to be released in the fall of 2010.

5. Public Awareness of Law and Justice System

Obtain Ministry of Justice official recognition of January 16 as the annual Law Day in Kosovo, organize and conduct the Law Day activities on January 16, 2010 as well as develop a guide to organizing future Law Day events.

IV EVALUATION STATEMENT OF WORK

A. Objective

The purpose of this evaluation is to provide USAID/Kosovo with an objective, external assessment of the appropriateness, effectiveness and strengths and weaknesses of the Legal Profession Development Initiative Program in Kosovo being implemented by ABA-ROLI. This process should include two main tasks:

- Evaluate ABA-ROLI's performance to date under this agreement; and
- Recommend possible adjustments to ABA-ROLI's activities through the end of the Cooperative Agreement.

The Evaluation Team is tasked with assessing the efficiency, impact, sustainability, and relevance of the activities implemented through the Cooperative Agreement with ABA-ROLI.

The Evaluation Team will examine the overall impact of the activities on the target institutions and validate/observe the progress made in achieving the results and objectives as specified in the Cooperative Agreement with ABA-ROLI.

The Evaluation Team will review actual versus planned progress in attaining the anticipated results; will identify and analyze problems, delays, and other issues related to project implementation; and will document lessons learned.

The results of this evaluation will provide feedback to USAID/Kosovo and to ABA-ROLI for possible corrections for the remaining life of the Cooperative Agreement, which is expected to end by February 28, 2011.

B. Methodology

On-site research and interviews for the evaluation will be carried out in Kosovo by two people for approximately 12 person-days per Evaluation Team member. The Team will conduct structured interviews with key informants (and focus groups, if appropriate) with key beneficiaries (e.g., Law Faculty, Kosovo Chamber of Advocates and/or its members, the government, and international actors/donors), and ABA-ROLI project staff. The contractor will identify a list of key research questions to guide the semi-structured interviews. The evaluation will also draw on project documents and reports. An additional 10 person-days per team member are authorized, five for pre- and five for post-trip activities (e.g., planning, reviewing documents, report writing and editing). Note that the contractor may suggest an alternative approach if appropriate.

C. Scope of Work

The contractor will provide a team to conduct an evaluation of the USAID-funded Legal Profession Development Initiative in Kosovo as implemented by the ABA-ROLI.

The Team will develop and adopt an approach that elicits and analyzes information, and provides key findings, conclusions, and recommendations on the issues below. The Evaluation Team will draw on project documentation and reports as well as structured interviews with project participants and partners.

Priority Questions:

1. **IMPACT:** What has been the impact of USAID-funded activities through ABA-ROLI on the legal profession in Kosovo? How has ABA-ROLI made a difference in the development of the courses at the Law Faculty? Has ABA-ROLI had an impact on the overall reform of the Law Faculty? What effect did the approach adopted by ABA-ROLI have on the impact achieved? How has ABA-ROLI made a difference through the assistance to the Kosovo Chamber of Advocates and in the development of its committees?

Have the KCA committees improved and strengthened as a result of the ABA-ROLI support? Has ABA-ROLI assistance had an effect on the functioning and transparency of the KCA's disciplinary system?

Are there achievements in regulating the overall Bar in Kosovo? What effect did the approach adopted by ABA-ROLI have on the impact achieved? Have the grants provided by ABA-ROLI provided sustainable results? Has the ABA-ROLI assistance had an impact on the integration of the Kosovo minority communities into legal community and institutions of Kosovo?

2. **RELEVANCE:** As the flagship USAID project in the legal profession and legal education, how relevant has ABA-ROLI been in achieving USAID's objectives in Legal Sector? Will the objectives in the Legal Profession Development/Rule of Law sector be met by this activity alone? If not, what additional activities should be done to achieve the objectives and intended results?
3. **EFFICIENCY:** Are the results being obtained by ABA-ROLI being produced at an acceptable cost compared with alternative approaches to accomplishing the same objectives? Indicate cases where ABA-ROLI was able to leverage other resources or link with non-USAID programs to maximize results and improve efficiency.
4. **SUSTAINABILITY:** What has ABA-ROLI done to promote sustainability of introduced faculty courses and KCA related institutional reforms? As currently implemented, are ABA-ROLI activities likely to have a sustainable development impact after USAID funding has stopped?

Subordinate Questions:

1. Has Kosovo independence created new opportunities in the legal sector that should be addressed?
2. Is there potential for greater ABA-ROLI collaboration with other USAID and/or other donor projects?
3. What has been learned from other USAID legal profession development projects in other countries? Are any of these lessons applicable to Kosovo?

ANNEX 2: BIBLIOGRAPHY

A Workbook and Proposal for Developing a Mandatory Continuing Legal Education (MCLE) System in Kosovo, ABA-ROLI/Kosovo, Spring 2009

ABA Activities in Kosovo, First Year Work Plan, 2008 – 2009

ABA Activities in Kosovo, Second Year Work Plan, 2009 – 2010

Associate Cooperative Agreement No. 167-A-00-04-00103-00, Modification of Assistance dated February 29, 2008

Draft Action Plan, Women's Law Society of Kosovo, ABA-ROLI/Kosovo, May 7, 2008

KCA Five Year Strategic Plan

KCA Organizational Assessment 2007, Kathy Ladun, ABA-ROLI/Kosovo January 15, 2008

Legal Ethics and Professional Responsibility Handbook, University of Pristina Law Faculty, April 2008

Memorandum, KCA ABA Suggested Changes for the Law on the Bar 2008

Quarterly Report for January – March 2008

Quarterly Report for April – June 2008

Quarterly Report for July – September 2008

Quarter Report for October – December 2008

Quarterly Report for January – March 2009

Quarterly Report for April – June 2009

Quarterly Report for July – September 2009

Legal Education Reform Index, Kosovo, May 2008

Legal Profession Reform Index, Kosovo, May 2009

Legal Representation in Civil Cases, OSCE Department of Human Rights, Decentralization and Communities, Legal System Monitoring, June 2007

The Next Steps: Kosovo's Achievement of a Full Regulatory Bar, Professor Burnele Venable Powell, February 8, 2009

ANNEX 3: INTERVIEWEES

Organization	Name	Title/Affiliation
American Bar Association	Megan Niedermeyer	Program Officer
	Irina Parshikova	Program Manager
ABA-ROLI/Kosovo	Tim Hazen	Legal Specialist
	Arben Isufi	Staff Attorney
	Fatmir Kutllovci	Senior Staff Attorney
	Fadil Sadiku	Office Manager
	Gina Schaar	Country Director
	Kushtrim Tolaj	Staff Attorney
Center for Policy Advocacy	Shqipe Pantina	Director
Constitutional Court, Kosovo	Gjylieta Mushkolaj	Judge
European Commission	Delphine Freymann	Task Manage, Rule of Law/Operations Section
KIPRED	Krenar Gashi	Research Director
Kosovo Chamber of Advocates ⁴	Nora Bllaca	Secretary
	Rame Gashi	Former President
	Shpresa Rama	Chairperson, KCA Gender and Minorities Committee
	Florin Vërtopi	Chairperson, KCA Ethics Committee
	Adem Vokshi	Chairperson, KCA Legislative Committee and Former President
	Yll Zekaj	Coordinator
Kosovo Judicial Council	Lirije Osmani	Chairperson
Kosovo Public Prosecutors Association	Ruhan Salihu	Administrator
Kosovo Ministry of Justice	Arsim Janova	Deputy Minister of Justice
National Institute for Trial Advocacy	Robert Vaughn	Curriculum Developer/Trainer
	Matthew Williams	Curriculum Developer/Trainer
University of Pristina, Law Faculty	Hava Ismajli Bujupi	Former Dean
	Sadik Buliqi Agim Haxhijaj Vlora Hyseni Filloreta Lekiq Fatlum Mjeku Besim Parduzi	Student Roundtable

⁴ Despite repeated attempts, the Evaluation Team was unsuccessful in meeting with KCA President Musa Dragusha.

Organization	Name	Title/Affiliation
	Fatos Sejdiqaj	
	Bajram Ukaj	Dean
US Department of Justice	Kimberly Moore	OPDAT Prosecutor
USAID	John Allelo	Senior Rule of Law Advisor
	Gresa Caka	Contracting Officer's Technical Representative
	Luljete Gjonbalaj	Contracting Officer's Technical Representative
USAID Kosovo Justice Support Program	John Cipperly	Program Officer

ANNEX 4:

RECOMMENDATIONS

PROJECT A: IMPROVE LEGAL EDUCATION

- Maintain short-term financial support to the simulation legal clinics at the University of Pristina Law Faculty, if necessary to ensure that courses are offered;
- Investigate ways to ensure that more students at the Law Faculty are able to attend ABA-ROLI-developed courses. Maintaining useful levels of student participation is certainly an important goal, but by keeping class size small, the overall student population is not served by such restrictions and ABA-ROLI must become inventive in striking a balance between course impact and availability to students. There are various options including the possibility to allow auditing the courses without credit, or posting taped classes on the internet. It will be up to ABA-ROLI to determine how to most effectively reach a wider audience, but it is recommended that they do so;
- At present classes are not videotaped and should be. This will allow the Law Faculty to develop its own course library which can later be used to provide some exposure for those students not enrolled in these courses, and can as well serve as a tool in training future practical course instructors;
- NITA has expressed a strong interest in participating in course development and teaching. ABA-ROLI should confirm its relationship with NITA, whose instructors are often in Kosovo with other programs, and which can provide important support in practical course development and training of trainers;
- For curriculum development, ABA-ROLI should focus on building strong foundational studies for the Law Faculty that have a broader impact and depend on specialists from SEAD or the European Commission Higher Legal Education Program to address more advanced studies in areas such as EU Court of Human Rights Procedures and commercial law. ABA-ROLI is one of the few organizations in the donor community willing and able to focus on practical course work and should devote its resources to support these efforts; and
- Students expressed a strong desire to see more in the way of hands on/practical instruction. To this end ABA-ROLI should investigate and facilitate relationships between students and professional organizations to create interest in particular practice areas and develop internship programs. For example, the KJC could create an internship program whereby students worked one month over the summer in a court, providing enhanced understanding of the justice sector to students, and to the KJC a group of students interested in pursuing careers as judges upon graduation. There are a variety of institutions and organizations with whom such partnerships could work and benefit. For example, it is well understood that Kosovo suffers from a shortage of prosecutors, thus creating interest among students in pursuing a career as prosecutors serves KPPA's interest. ABA-ROLI, working with their counterparts at USDOJ, should see whether KPPA and the Law Faculty could develop a "Student Prosecutors Association" which creates internships and perhaps course development geared to professional development.

PROJECT B: STRENGTHENING THE KCA AND DETERMINING NEEDS FOR REGULATION OF THE LEGAL PROFESSION

- An MOU should be negotiated between the KCA and BA-ROLI with USAID approval which will outline what is expected of each. An MOU would assure full cooperation of the KCA and all of its committee chairs and staff. It should be written with a view toward daily activities between the Project and/or its consultants and specialists (including short-term consultants) and the staff and all committee chairs of the KCA;
- The position of executive director should be filled immediately in accordance with hiring laws and posting requirements;
- In addition to the planned installation of “QuickBooks” ABA-ROLI should provide technical assistance to the KCA in soliciting a vendor to install an integrated software package for the major areas of the KCA’s mandate—MCLE, disciplinary proceedings, membership registration, committee management, membership correspondence, etc. Care should be taken if “off -the-shelf” software is purchased. It should be designed to produce the various reports needed to properly manage the core functions of the organization;
- The Project should assist the KCA in developing the means of communicating with its members electronically. Although there are relatively few members with the equipment (or the will) to use automation, if started, the process will spread exponentially. A dual system of written and electronic communication should exist for the short-term using the regional offices to distribute communications where possible;
- Staffing the regional offices with volunteer attorney members from the regions should be explored. These offices need not be open on a full time basis. Rewarding volunteers should be explored (such as dues reduction);
- The regional offices should be equipped to be a “communication center” where members have access to e-mail and where they could receive newsletters or notices from the KCA;
- A member of the KCA staff should receive training in communication skills, electronic newsletter preparation, and media relations;
- All committees should be encouraged to become active. Non-participating committee members should be replaced. Intensive interaction should take place between the Project, the staff, committee chairs, and committees for discussing options and ideas. The ABA should assist each committee in preparing a budget, protocol for requesting funds, annual schedule of meetings, and annual activities with timelines. The mission and goals of each committee should be crystallized. The committee system should encourage “structure” instead of individual action;
- A “Leadership and Management” seminar/workshop should be delivered using expert consultants as well as local ABA-ROLI senior personnel. The curriculum should include a segment on “Change” and “Managing Change.” Participants should include all of the KCA officers, key staff, and all committee chairs;
- Training for selected staff to include:
 - Budget and Finance Management,
 - Human Resource Management,
 - Facilities Management (for regional offices),

- Time Management, and
- Information and Communication Technology;
- The KCA should with ABA-ROLI support form a short-term task force to be tasked with creating a “Legislative Package” to be submitted the KCA Assembly to contain the laws which should be lobbied for or against including new laws to be proposed by the KCA. The task force should be multi-discipline including members from all committees, staff, and offices of KCA. The task force should consider among other things:
 - Revisions to the Law on Bar,
 - Develop institutional position on Unregistered Practice of Law,
 - Further harmonization of statute (by-laws) of the KCA with current law and with proposed amendments, if needed and develop a methodology for promulgating the statute,
 - Develop institutional strategy for lobbying the results with appropriate ministries and National Assembly, and
 - Explore Alternative fundraising potentials which may need legislation;
- ABA-ROLI should secure an international expert to present a program to the task force and the Legislative Committee on “Developing and Lobbying for Legislation;”
- A Membership Committee, in collaboration with the Women and Minorities Committee, with support from ABA, should explore a strategy for a membership drive, which should include, but not be limited to, recruiting women and minorities and providing incentives for new membership;
- A Membership Committee (or other appropriate committee) should develop and propose to the Executive Board a multi-tier system of membership that might include student membership and, if incorporated in a new law, those licensed only to practice in a restricted way (as the unregistered lawyers do presently) and possibly registration of foreign lawyers. ABA-ROLI should support this effort and provide examples from US and other countries. This committee should work in collaboration with the committee tasked with recruiting new members and incorporate introductory reduced dues for new members;
- The KCA staff should explore potential member services as suggested in the Strategic Plan including contracts with vendors for discounted services for members such as Internet, insurance, auto rental, legal research materials, etc.;
- The Director of ABA-ROLI and the Legal Specialist should establish regular coordination meetings with the president and executive director of the KCA. These coordination meetings should take place regularly at least once a month and as needed at other times. This should be a major item in the proposed MOU;
- The Project and KCA should propose to the Ministry of Justice that a representative of the KCA designated by the president or executive director serve on any working group considering laws affecting the legal profession or legal system;
- The Bench Bar roundtables conducted by ABA-ROLI around the Country in 2005 to 2008 should be institutionalized. The ABA should initiate contact with the KJA and assist in the establishment of a framework for regular meetings of representatives from each group. A Bench/Bar Association could be a medium-term goal. This could be a joint project with whatever NGO is working with the KJA;

- The KCA assisted by ABA should establish a forum to assist practitioners in establishing and maintaining an office or a small firm of two or more lawyers. This should include necessary topics such as registration, taxes, bookkeeping, accounting, confidentiality, liability issues, specialization, insurance (professional and otherwise, if appropriate) etc.;
- Since there are other donors assisting the KCA, from time to time the ABA-ROLI should take the lead in proposing, at least quarterly, donor coordination meetings;
- ABA-ROLI should become intensely involved in coordinating the upcoming (and first) MCLE Program. It should monitor the delivery and critique and evaluate the results. It is suggested that this start with regular coordination meetings with the staff responsible for delivering the program. The meetings do not need to be long but, as the event gets closer, often. ABA expertise in CLE is legendary and that experience should be used as needed including outside consultants, if indicated
- The disciplinary process needs to be reviewed. The number of complaints filed has increased possibly showing an increased awareness by the public and by judges of their rights to file such complaints. The Project should now engage in a qualitative analysis. The entire system should be reviewed and assessed as to its fairness, accessibility, and transparency. A protocol should be urged which would make all decisions resulting in some sanction available in hard copy and on-line;
- The Project should audit trainings on ethics and evaluate the process. The Ethics Committee should be supplied with a number of options, if revisions are indicated. The ABA can supply various options, alternative, and models from the US as well as the region. The successful parts of the Kosovo model should be exploited;
- Brochures and multi-media sources (such as CDs and DVDs) as a follow-up to the brochures published and delivered by ABA-ROLI should be prepared and distributed to inform the public as well as judges of their rights and obligation regarding the unethical conduct of attorneys; and
- Funding sources should be explored to finance a public media campaign to inform the public of its rights regarding the unethical practices of lawyers. TV and radio spots should be professionally designed to present a positive picture of the overwhelming number of good and ethical lawyers but, at the same time, advise the public of its rights if victimized by the few exceptions.

PROJECT C: SMALL GRANTS PROGRAM

- Align requests for grant proposals with the Project's specific areas of implementation. While rule of law-associated grant awards are clearly within ABA-ROLI's program, the Project should more carefully consider the scope of grants that it supports and focus its requests so that awards are linked to Project activities. A more focused approach could ask, for example, for proposals related to monitoring the quality of criminal defense counsel. Such programs could provide important information on the impact of ABA-ROLI's own programming, and identify subjects for future curriculum development for the law school and KCA.

PROJECT D: ASSESSMENTS

- ABA-ROLI should be proactive in addressing the areas within its mandate which have been rated negative. It should propose to USAID, as necessary, initiatives to address those subjects to the extent the subject comes under the province of the Cooperative Agreement; and

- To the extent resources allow, the Evaluation Team believes that a User Survey should supplement the Assessment Tool, a positive aspect of the ABA culture. Such a periodic review could target actual users of the system who have had the most recent experience with the courts, judges and lawyers. If another donor is conducting this activity it should be picked up by ABA/ROLI if the other donor discontinues such activity.

PROJECT E: PUBLIC AWARENESS OF THE RULE OF LAW AND THE JUSTICE SYSTEM

- The Project should maintain focus on greater public awareness of the rule of law throughout the year, and not simply limit it to an annual Law Day without taking advantage of the momentum created by it. ABA-ROLI does have staff dedicated to public outreach and this has been a successful position in the areas in which the position has been brought into specific programming. ABA-ROLI should expand this position to guarantee that each element of its programming contains a public awareness or information dissemination component. Where materials are developed for a specific audience, such as the client of a potentially wronged client, ABA-ROLI must ensure that these important materials reach their audience in an effective manner. This means controlling how they are displayed and following up with recipients to determine if the materials were clear, helpful, and easily accessible. In essence, ABA-ROLI should monitor the performance of its own public awareness initiatives;
- ABA-ROLI is currently without its own website. The Team understands that it is ABA policy that its projects not have their own websites and the Team thinks ABA should reconsider this policy. The Internet is among the most effective and efficient tools for outreach and is a resource the ABA should encourage. To so limit ABA-ROLI in Kosovo in its ability to disseminate its work and its message is to limit the program's overall effectiveness; and
- The Project did support an essay contest for Law Faculty students, but the reach was minimal; only 17 students submitted essays, which may demonstrate a lack of outreach in encouraging participation. Essay contests are an effective means of reaching youth, and the Project should consider expanding this notion beyond students at the Law Faculty, who by their presence at the school have already demonstrated an interest in the rule of law. Similar programs could be established for primary and secondary school students. The Project should consider working with the Ministry of Education to increase reach, and determine if there are corporate sponsors willing to provide financial or other support in providing awards.

CROSSCUTTING ISSUES

- **Donor Coordination.** Donor coordination in Kosovo has always been difficult, but ABA-ROLI must make greater efforts to coordinate with other USG-funded projects, including on curriculum development, with USDOJ and SEAD and coordinate with these already existing resources to support their program;
- **Performance Monitoring.** ABA-ROLI's performance monitoring can be seen as overly quantitative and not providing a means for assessing Project activities. For example, counting how many beneficiaries attended a particular training is not as useful as an assessment of whether those who attended were better prepared in a court proceeding than those who did not. Where quantitative information is required by USAID it obviously must be provided, but it should not entirely supplant qualitative analysis; and

- ***ABA Institutional Support.*** There are some areas where it appears more home office support is necessary and critical among those is in the area of human resources. Recruitment for international staff is something that is generally centered in the US and yet ABA has yet to fill one of its most critical positions, that of the Legal Education Specialist, for about one year. ABA must devote immediate resources to supporting its Kosovo program to fill this critical post. ABA home office should as well take a proactive role in identifying program needs. A clear understanding of what the ABA can provide its programs is something best understood by the home office that supports not just this program in Kosovo, but similar projects worldwide. Thus, ABA's home office should engage with its program in Kosovo, for example, as it considers recommendations it will make to the KCA on the type of services it could provide its members

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