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## Remarks of Andrew S. Natsios, Administrator, United States Agency for International Development

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## Remarks of Andrew S. Natsios, Administrator, United States Agency for International Development November 9, 2005

Thank you for that introduction. It is an honor to take part in this Symposium.

In his Second Inaugural Address, President Bush announced the Freedom Agenda. I have to say, I have heard many inaugural addresses since I was in college as I was a student in history and American Jurisprudence. Some inaugural addresses become historic and this Second Inaugural Address will be remembered for its clear call for democracy and a democracy revolution in the world. Which in fact has been occurring whether or not people have been noticing. There has been a profound shift going on. The question of course is how far it will go, how permanent it is. Our job in AID is to assist people who have made a decision in the developing world or transition countries to make that change themselves. We do not build democracies. We help people at the local level build democracies. Ensuring the rule of law and safeguarding human rights are key aspects of the President's Freedom Agenda.

USAID is working closely with Secretary Rice, who I report to, and the Department of State to advance the Freedom Agenda. USAID is the lead implementer of U.S. democracy programs worldwide, implementing \$1.2 billion of democracy programs in FY 2004. We have more than 400 Democracy and governance specialists working in AID missions in over eighty countries. With this vast field presence, we can move quickly to support incipient democratic movements.

Rule of law as you know has always been at the heart of the USAID democracy promotion program. This year, USAID celebrates twenty years since the initiation of our first major rule of law program. We now have rule of law programs in more than fifty countries. In all regions, there are significant achievements.

In Latin America and the Caribbean, our programs have maintained a strong focus on criminal justice reform and human rights protection. Many Latin American countries have adopted some form of modern accusatory trial process;

thereby, ending the abuses of the former criminal systems. Human and institutional capacity has been improved, and access to justice for marginalized groups and the poor is improving. USAID is working to improve commercial dispute resolution in the CAFTA countries - which will be a major factor in attracting foreign and domestic investment.

In 1989, when the Berlin Wall came down, USAID's rule of law programs expanded to former "captive nations," with the ABA as a vanguard of our reform work in Eastern Europe. We supported judicial reform, trained judges and lawyers, modernized legal education, created bar associations, and improved access to justice. We worked to restore justice to the war-torn countries of the former Yugoslavia. Increasing judicial independence was a central theme. Now, across the region, previously unknown concepts of constitutionalism, separation of powers, and judicial independence are part of the legal culture.

I just came back from a four day trip to Russia. I had lunch in the hometown of the great Russian poet Pushkin outside of St. Petersburg. I had lunch with two Russian women judges- and this was one of the most fascinating lunches I have had. And I have been to sixty countries around the world in the last five years now. The two of them had been judges for more than thirty years. And I asked what are the biggest changes between before the Soviet Union collapsed and now? And they said there have been many changes. So I asked what are the changes and what role did USAID play in that? USAID is a technical assistance agency along with doing infrastructure and humanitarian relief and other things. But technical assistance is one of our strongest contributions to the development process.

They responded that we have not adopted the common law Anglo-Saxon tradition of your system, nor have we adopted the Napoleonic Code tradition of Continental Europe. We have adopted parts of both and accommodated them to the history of Russia and its institutions. They went through an hour long lecture – without notes, listing all of the changes which they have transferred from the American judicial system to their judicial system in precise detail. It was absolutely fascinating. So then I asked, "Are you a branch of the executive?" And you know President Putin has a particular view of what democracy is and this is not how we would necessarily view it in the United States. And they said "No, we are an independent branch." No one in the Soviet Union who was a judge or any member of the judicial system, would have said that they were independent of the executive branch. In fact, there was no executive branch, there was simply the Communist Party which was of course a parallel to the government of Russia, which was actually subservient to the Communist Party. So I asked, "What pressures are you under?" It was very interesting to listen to what they had to deal with on a daily basis. But they said that the "system is holding. We do have an independent judiciary, and you helped over the last fifteen years in your judicial exchange programs." They mentioned the tours they had taken of the United States and the problems they

had technically with their old systems and how we would work together on fashioning a correction to a problem they had and then implementing that change.

In Ukraine, USAID supported a CEELI [Central European and Eurasian Law Initiative] program to train judges on election law and adjudication of election disputes. In December 2004, as the Orange Revolution appeared to falter, the Ukrainian Supreme Court ruled that the November presidential elections had been stolen and ordered new elections, (now in the Soviet system that would never had happened) paving the way for victory of the pro-democracy Yushchenko government. The courageous and historic decision of the Ukrainian Supreme Court in Yushchenko versus the Central Election Commission was testament to the success of CEELI's program, which provided legal materials (a judicial bench-book and legal commentary), and training for several of the Supreme Court judges.

USAID's rule of law programs in Africa also commenced in the post-1989 period. In Rwanda, we helped rebuild the judiciary after the genocide. We supported legal advocacy NGOs as they mounted challenges to apartheid in South Africa. We are now working to re-establish basic judicial institutions in southern Sudan. Sudan is very close to my heart, I have been involved with the Sudan for the past sixteen years. I was in Rumbek before the peace agreement was signed between the North and the South, which of course the United States played a central role in negotiating. I was outside one evening in what was the Supreme Court of the South. And I said, "This is the Supreme Court?" And they said, "There are eight judges, there is no building, but there are eight judges." And they showed me the law book. And I said, "What is this?" They said "This is the legal code of the Southern Sudan. You helped us design it. We are all lawyers and we are judges in our Southern Court." This is a new court. We helped them set it up technically. They still need a building- it's a next project of ours when Rumbek is transferred to the capital of the South to Juba which is the historic capital. But the fact that they had a text, and they began to develop a body of law by which they could make decisions was a big shift. Because they had not had that in the past- ever.

In Afghanistan, we constructed twenty judicial facilities, trained 550 judges, and we printed Afghanistan's basic laws in Dari and Pashto. We provided funding, security and logistics for two Loya Jirgas. [The Loya Jirga] by the way, is the *shurah* tradition of Afghanistan which is a non-western form of democracy on the village level in which the elders of the community get together and make decisions. They have extended that on the national level. This is why democracy building must have its own local roots. I think the *shurah* tradition of Afghanistan is the basis for a modern democratic state but it is going through a transition now. We help with the logistics and the background and just setting things up. This helps to facilitate the Afghans owning their own system and constitution.

In Asia and the Near East Region, beginning in the 1990s, we helped rule of law programs in Bangladesh, Mongolia, Nepal, Egypt, Philippines, Cambodia, and Indonesia. We established peace-building programs in East Timor and court administration programs in West Bank/Gaza.

To go back to Iraq, we supported drafting of the constitution and the training of judges and lawyers. We are now working in both countries to improve the legal framework and judicial system, train judges and legal professionals, and increase access by the common person to justice. We are also working with the State Department and the ABA on the Middle East Legal Initiative, aimed at strengthening judicial independence and legal training, and improving the status of women legal professionals throughout the region.

USAID undertakes rule of law programs as part of democracy promotion and to promote economic growth. But we also see rule of law as a broad and cross-cutting challenge. We know that our development goals—whether addressing poverty, economic growth, health, trade-capacity building, environment, or democracy – cannot be realized in the absence of the rule of law. (Before I took this job as AID Administrator, I was speaking as at my alma mater, the Kennedy School . . . One of my old friends on the faculty is a policy expert in domestic policy, but also has a fascination in international development. He said, “We all know on the faculty that the most serious problem facing Africa is HIV/AIDS. That’s right isn’t it?” I said “No, actually, that’s not right. If you eliminated, completely eliminated HIV/AIDS tomorrow, do you think Africa’s problems are going to go away? What percentage of Africa’s population is infected with HIV/AIDS?” There are 800 million Sub-Saharan Africans. Most people think it’s like fifty or eighty percent by the news media. It is five percent. And that is still terrible. We have to deal with that and the President has proposed and is implementing with Health and Human Services a \$33 Billion per year program to deal with that terrible crisis- forty million people are a lot of people to have HIV/ AIDS.

The principal problem in the developing world generally is not infrastructure, although that is important, it is not health programs, not education— it is governance. Why is that? Because it affects every single sector. And the rule of law affects every single sector. It effects economic growth because business people will not invest in a country in which they have no alternative to arbitrary and capricious officials in the government using bribery or corrupt means, or just arbitrary imposition of their own opinions on business people who are investing money. They have to have a redress of grievances, they have to have some organized, predictable system of law. And so it affects economic growth, affects every regulatory function of the government, affects obviously the police, the judicial system, affects order in the streets, affects the control the central government exercises in society in general. We can also see the rule of law as a broad challenge that affects other areas.

I am grateful for our partnership with our host, the ABA. This public-

private partnership began in 1990, when USAID established the first program with CEELI in Bulgaria. Since then, we have supported CEELI programs in twenty-five countries in Europe and Eurasia.

USAID has also established programs or relationships with the newer ABA Councils —with ABA-Africa, ABA-Asia, and ABA- Latin America-Caribbean. We look forward to the same productive partnership with the new ABA Councils as we have enjoyed with CEELI.

Development requires hope and a long-term commitment. People who think countries develop overnight are living in a fantasy. They do not know how the process works. I tell this story often, but since I have not spoken for you before, I will tell this repeated story. My staff has heard it a couple dozen times. I traveled with my parents, who were born in the United States, in 1963, when I was thirteen years old, to my grandparents' village in Thessaloniki. (My grandparents were born in the old country in Greece.) The village was extremely poor. People were stunted in growth, they had eye infections, child mortality rates were high- it was a Third World Country. My father said that he was never going to return because it was to depressing. In 1995, which would have been thirty years later, I took my wife and kids to the same village. This is the same village thirty years later. There were no donkeys, only tractors. They had restaurants and cafes (this is a remote village in the Thessaloniki plains in Greece). They had a new church, a new school, everyone was prosperous. Most people were taller than I was. There was no malnutrition, no illness and child mortality rates were similar to those of the United States. So I asked "What happened?" "We developed." We went from a Third World country to a First World Country in thirty years. "How did this happen?" Trade, a functioning judicial system and infrastructure. And we saw this transition in thirty years. Thirty years is not two years, but it is not a century either. So, Americans have to learn a little patience. Countries develop at their own pace. They have their own challenges and we have to respect that and their own traditions when we do our work.

In her book, *The Majesty of the Law*, Justice O'Connor identifies the pillars on which lasting democratic reform is built. She writes, "Rest a political system on an unstable foundation, and it will crumble under pressure and fall away like sand. But build that system on solid stones, and it will hold up and withstand the tests of time."

Building those foundational pillars of democracy has been USAID's mission for more than two decades. It is a mission that we have embarked on together with many of you. In the President's words, it is the "calling of our time." It is a mission that must succeed because the human costs of failure - grinding poverty, conflict, extremism, and lives devoid of human dignity - are too great to bear.

Thank you very much for inviting me and I would be glad to answer any of your questions.