



## Afghan Independent Bar Association

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### **Afghan Independent Bar Association:**

#### **Progress Report**

**September 2008 to March 2009**

This report is to inform the justice sector community on progress made in the establishment of the Afghan Independent Bar Association over the period from September 2008 to the present. The aim of this report is to familiarize stakeholders with the AIBA's impact to date and priorities for the coming months, as well as to create more awareness about the AIBA's activities and encourage increased collaboration in the future.

In late July 2008, the inaugural session of the Afghan Independent Bar Association's General Assembly resulted in the adoption of the AIBA By-Laws and the election of leadership (including the President, Vice Presidents (1 male, one female), Treasurer, Executive Director, Leadership Council and Monitoring Board members. The AIBA, in consultation with the International Bar Association, developed goals for the first six months of operations which include: 1) establishing and equipping an office premises, 2) capacity building of AIBA leadership and staff, and 3) development of necessary operating procedures.

### **1. Establishment of an Office Premises**

#### **1.1. Premises**

The AIBA central office has been operational since October 2008. With the assistance of the international community, the AIBA premises is fully equipped with necessary furnishings, stationary items and a full range of IT equipment, including wireless internet.

Library books and valuable legal reference materials have been procured with the assistance of various partners, while plans are in place to establish a functional library that will include a pleasant space for AIBA members to meet and use library resources.

## **1.2. Staffing**

Recruitment of staff began during the month of September, following consultation between the AIBA leadership and the IBA as to necessary staffing requirements for initial phases of operation. Recruitment procedures are based on standard international practice to ensure transparency and merit-based hiring. The office is currently staffed by two license clerks, finance assistant, cook, cleaner and four guards. The Executive Director and President are present in the office daily to manage operations and advance program priorities through advocacy and coordination with national and international stakeholders.

Most recently, AIBA leadership has agreed to add a database clerk to the organizational structure, which will allow for the implementation of the AIBA's UNODC-designed advocate database. The database clerk will be responsible for maintaining accurate files on registered advocates, and for collection and entry of vital demographic data. The AIBA Database will serve as a tremendous resource to the AIBA and will be available for use by other justice sector institutions.

## **1.3. Licensing and Eligibility**

One of the AIBA's essential functions is ensuring that defense attorneys are qualified to practice law and are committed to upholding the AIBA's Code of Conduct. Almost 300 lawyers have been registered with the AIBA to date, including approximately 100 newly qualified advocates and 200 existing advocates (formerly registered with the Ministry of Justice). Currently, an oral bar examination is in place for new graduates of Law and Shariah Faculty that wishes to practice law and a comprehensive examination mechanism is developed. Progress on this front has been made: AIBA has signed an MoU accrediting the INLTC stage for purposes of AIBA eligibility requirements, an Education Committee

within the AIBA has been activated, and discussions regarding the development of a continuing legal education and examination program are underway.

Photo ID cards are now being issued by the AIBA to registered attorneys. Applicants who request a photo ID list will be issued a wallet-sized ID card and will be included on a photo registration list to be submitted to detention facilities. This arrangement is based on an agreement with the MoJ to increase access and improve treatment of defense attorneys at detention centers across the country.

## **2. Capacity Building of AIBA Leadership, Staff and Members**

### **2.1. Strategic Plan**

In consultation with the IBA Legal Specialist, the AIBA has drafted a strategic plan to establish program objectives and coordinate program activities for 2009/2010. The strategic plan includes five components: infrastructure (physical and legal), administrative support, outreach and regional expansion, advocacy and continuing legal education. Individual activity plans have also been drafted for each sub-component. The President and Executive Director have agreed to initial priorities and have begun implementation of several components. Ongoing discussions will focus on implementing the strategic plan and best practices to delegate tasks and monitor performance.

### **2.2. Code of Conduct Workshops**

In November 2008 and January 2009, workshops were held involving all 15 Leadership Council members (including the 5 Executive Board members) for the discussion and approval of the AIBA Code of Conduct (CoC). During this workshop, Leadership Council members deliberated over CoC provisions; comments mainly focused on reaching more precise terminology within the CoC, while some debate occurred relative to substance. By the end of the second workshop, a final draft was adopted by unanimous vote of the Leadership Council.

The Code has now been updated and translations in English, Dari and Pashto have all been cross-checked for accuracy. The Advocates' Law, final AIBA By-Laws and Code of Conduct will be printed by the beginning of May 2009. Training materials on the Code of Conduct and issues of legal ethics will also be developed in the coming months, in coordination with international partners. Wide dissemination will take place as part of a national registration drive and public awareness campaign.

### **2.3. Coordination with Partners**

#### **2.3.1. INLTC Board**

The AIBA President sits on the Board of Afghanistan's first Independent National Legal Training Center (INLTC). Established in June 2007, the INLTC is a new institution with the mandate of establishing a high-quality legal stage and continuing legal education program. With such overlapping mandates the opportunities for collaboration between the AIBA and INLTC are vast. The INLTC will host its first stage program in May 2009, which will include three months of core legal curriculum and six months of specialized "streams" for future defense attorneys and prosecutors. AIBA and INLTC collaboration has resulted in the AIBA's accreditation of the stage program; the INLTC program is the only program to date which meets the AIBA's eligibility requirements according to Article 6 of the Advocates Law. The AIBA President and Education Committee will continue to work closely with the INLTC Board on curriculum and the development of a continuing legal education program.

Through his role as INLTC Board Member, the President will be participating in a study tour to legal training centers and bar associations in Egypt and Qatar in late April 2009.

#### **2.3.2. Council of Detention Centers**

The President has recently received permanent membership of Council of Detention Centers and Council of Juvenile Rehabilitation and Education Centre by the majority vote to sit on the Council of Detention and Juvenile Centers to represent the interest of the defense attorney community. Given the extent of problems faced by defense attorneys in

accessing and defending their incarcerated clients across the country, the President's involvement in this committee is essential to ensure that these rights are maintained and infringements addressed immediately. The Council meets quarterly and includes representatives from the Ministries of Justice, Interior, Public Health, Women's Affairs, Education, Work and Social Affairs, the Supreme Court, the police, the Afghan Independent Human Rights Commission and a representative of civil society.

### **2.3.3. Legal Aid Board**

The creation of the Legal Aid Department within the Ministry of Justice coincided with the establishment of the AIBA. The Legal Aid Department has the mandate of providing and coordinating legal aid to the indigent across the country. The AIBA has a seat on the Board of Directors, which also includes representatives from the law and Sharia faculties, the Department of Women's Affairs, the Afghan Human Rights Commission, and representatives from the NGO community. This involvement will allow the AIBA to shape how the government provides legal aid across the country and to maximize opportunities for close collaboration.

### **2.3.4. AIHRC**

Created in 2002, the Afghan Independent Human Rights Commission (AIHRC) has the mandate of protecting, promoting, monitoring and investigating human rights issues throughout Afghanistan. The AIBA President has had a series of meetings with the AIHRC to discuss opportunities for cooperation and coordination. Presently, AIHRC materials on human rights, specifically addressing issues faced by women, children, the disabled and the indigent, are available in the AIBA library and will be circulated to AIBA member attorneys. The AIHRC has offered assistance to the AIBA in the form of developing publications, designing public awareness campaigns, hosting trainings, creating an advocacy strategy and engaging in advocacy work. AIHRC has also offered to post AIBA materials on their website.

### **2.3.5. Regional Registration and Public Awareness**

To date, AIBA licensing services have only been available in Kabul city. The logistical and financial challenges inherent in travel from many parts of Afghanistan today make registration difficult for advocates in the provinces; likewise, it is difficult for the AIBA to get information about the association to the rest of the country. For this reason, a regional registration drive and public awareness campaign has been made a priority for the coming months. This activity will hopefully establish the foundation for regional expansion in the coming year. In the coming months, AIBA will be working with interested stakeholders from the national and international community to design and implement the registration drive and awareness campaign.

#### **2.3.6. Database**

The AIBA database (designed by UNODC) will greatly improve data collection on defense attorneys for the benefit of the entire justice sector. Collected data will include demographic, educational, employment, and licensing information on each registered advocate. The database also includes data on fees collected, which will create a means of ensuring accountability by cross checking financial records with database reports on fee collection. Additionally, the database includes several templates for generating various reports, which will be highly valuable asset to the AIBA and stakeholders in the national and international community.

A data collection questionnaire has been incorporated into the licensing procedures to ensure that each advocate provides all required data. A database clerk has now been recruited and fully trained. Data has been collected from approximately 45 advocates and is now being entered into the system. Future activities will include placing the data collection form online for those located in the provinces, and conducting telephone or in person interviews with advocates who registered before data collection had begun.

### **3. Development and Implementation of Procedures**

Procedures are now in place to ensure that transparency and accountability can be maintained within the AIBA to the highest extent possible in the current context. An

Office Manual has been drafted and is waiting for final approval; draft procedures are being followed in the interim. The Office Manual includes procedures on: finance, recruitment and human resources, logistics, correspondence, meeting procedures for the Leadership Council, Executive Board and Monitoring Board, licensing, and the bar examination.

All AIBA procedures have been drafted according to relevant national and international standards, including bar association models from other jurisdictions.

### **3. Challenges**

Like other projects focused on improving rule of law and justice sector performance in Afghanistan, the Afghan Independent Bar Association faces extensive challenges in accomplishing program objectives. Rule of law remains weak in Afghanistan after over thirty years of conflict, capacity levels throughout the justice sector are low, and the institution of an independent bar association is itself a new concept in the country. As a result, challenges range from financial, to logistical, managerial, and substantive. Some of the most significant challenges facing the AIBA are continuing to improve capacity within the organization, how to improve delivery of services and coordination with stakeholders and how to manage expectations within the national and international communities such that goals and progress are considered in a realistic light given the operating context.

### **4. Priorities for upcoming period**

Priorities over the coming period are as follows:

- (i) Approval of work plan and activity plans, assigning tasks to key staff and personnel to achieve program objectives;
- (ii) Finalization of reporting requirements and capacity building to meet those requirements;

- (iii) Registration drive in the provinces, including public awareness campaign;
- (iv) Development of a website and newsletter;
- (v) Publication and wide dissemination of Code of Conduct, By-Laws and Advocates' Law;
- (vi) Development of training materials on Code of Conduct, legal ethics;
- (vii) Development of a Continuing Legal Education program framework;
- (viii) Development of pro bono case mechanism;
- (ix) Implementation of database, increased information sharing with relevant stakeholders;
- (x) Appointment of sub-committees focused on substantive issues, such as gender violence, legal services for women, child protection, etc;
- (xi) Development and implementation of a filing and archive system for advocate records;
- (xii) Continue to liaise with national and international stakeholders to best coordinate justice sector development.