

Florida State University Law Review

Volume 47
Issue 1 *In Tribute to Talbot "Sandy" D'Alemberte*

Article 3

Fall 2019

Talbot ("Sandy") D'Alemberte's Remarkable Impact on the World Stage

Mark S. Ellis
ABA

Follow this and additional works at: <https://ir.law.fsu.edu/lr>



Part of the Law Commons

Recommended Citation

Mark S. Ellis, *Talbot ("Sandy") D'Alemberte's Remarkable Impact on the World Stage*, 47 Fla. St. U. L. Rev. 5 (2019).
<https://ir.law.fsu.edu/lr/vol47/iss1/3>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Florida State University Law Review by an authorized editor of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

TALBOT (“SANDY”) D’ALEMBERTE’S REMARKABLE IMPACT ON THE WORLD STAGE

MARK S. ELLIS
WITH THE LEADERSHIP OF THE ABA*

INTRODUCTION

Exactly thirty years ago, on November 9, 1989, the Berlin Wall came down, marking a titanic shift in world affairs. As East Berliners wept with joy for their liberation, a human tide swelled towards West Berlin, and the world celebrated. A door to freedom had opened. With the spread of political reform throughout the region, it followed naturally that there was also a need for legal reform. Talbot (“Sandy”) D’Alemberte took the pulse of change, and he had an idea.

Sandy believed the U.S. legal community could play an active role in reform efforts. Reminiscing about that period, he said, “[t]he point I wanted to make was when the fall of the Berlin Wall occurred in 1989, it seemed to me pretty preposterous that we were going to go out and merely talk about the rule of law again. Instead we could actually provide technical assistance and start doing something to help move toward the implementation of the rule of law.”¹

Sandy had an irrepressible instinct for responding to major events, and the ability to mobilize just the right people. He was set to become the President of the American Bar Association (ABA). Sandy’s idea—which was audacious in every respect—was to rally the U.S. legal profession to assist the former Eastern Bloc countries, and later countries of the former Soviet Union, as they transformed themselves into free-market democracies.

Sandy (with his close friend Homer E. Moyer Jr.) conceived of the ABA’s Central and East European Law Initiative, known widely by its acronym—CEELI. Through various innovative programs, CEELI was to make available *pro bono* U.S. legal expertise and assistance to emerging democracies in the process of modifying or restructuring their laws or legal systems. CEELI became *the* international public service project of the ABA, often referred to as the “Legal Peace

* Mark Ellis is Executive Director of the Intentional Bar Association and former Director of CEELI (1989–2000). A list of past ABA Presidents who endorsed this article is provided at the end.

1. Symposium, *The History of CEELI, the ABA’s Rule of Law Initiative, and the Rule of Law Movement Going Forward*, 18 MINN. J. INT’L L. 304, 307 (2009) [Hereinafter, “Minn. Symposium”].

Corps.”² CEELI evolved from a project in Eastern Europe to an organization encompassing all of the New Independent States (NIS) of the former Soviet Union, and eventually morphed into the ABA’s Rule of Law Initiative (ROLI), spreading to all corners of the world.

Sandy D’Alemberte was central in defining the parameters of CEELI’s work. His own experience advocating for civil rights in the United States, and working on law reform in the Caribbean, became the guiding voice behind CEELI’s mission. CEELI was both altruistic and practical. The project incorporated the views of European experts, and U.S. volunteer lawyers were required to adhere to strict conflict of interest guidelines. In so many ways, CEELI personified the very essence of Sandy. David Tolbert, one of CEELI’s former Executive Directors, perhaps said it best:

Sandy was a Southerner coming from a progressive social and political point of view, which was often a lonely position. Having faced issues in his own background regarding discrimination and a patchy approach to the rule of law in his own society, Sandy was instrumental in helping CEELI carry out its mission without the hubris that other American organizations suffered from. I often witnessed Sandy gently pushing back against approaches that did not take into account the local context. This aspect of his leadership made CEELI a much more effective organization on the ground. I found great solace in his approach.

What follows is an all too short insight into Sandy D’Alemberte’s role in the creation of CEELI and its continuing impact today. CEELI was a product of the optimistic 1990s, but it was an enduring success, and Sandy’s vision was timeless.³ Over the years, thousands of lawyers, judges, and academics have volunteered their time in reform efforts throughout the world.⁴ The ABA’s former Executive Director, Robert (“Bob”) Stein, called CEELI “the most formidable rule of law program in the world.” Then U.S. Attorney General Janet Reno described CEELI as “the worthiest pro bono project that American lawyers have ever undertaken.” Former U.S. Secretary of State, Madeline Albright remarked that “in my judgment, CEELI is the most effective voluntary legal assistance initiative in history.” This is Sandy’s legacy on the world stage.

2. *Id.* at 305; James Hagerty, *Sandy D’Alemberte Founded a ‘Peace Corps’ for U.S. Lawyers*, WALL STREET J. (May 30, 2019), <https://www.wsj.com/articles/sandy-dalemberte-founded-a-peace-corps-for-u-s-lawyers-1155924553>.

3. See Minn. Symposium, *supra* note 1, at 321–22. Highlighting the impact CEELI had on so many countries, Bob Stein remarked that “a number of heads of state of those countries have graciously remarked that, but for CEELI, their countries could not have made the progress they have made.” CENTRAL EUROPEAN AND EURASIAN LAW INSTITUTE, *infra* note 17.

4. Hagerty, *supra* note 2.

CENTRAL AND EAST EUROPEAN LAW INITIATIVE

CEELI's founding in 1990 required a huge leap of faith on the part of the ABA. Despite the general enthusiasm for legal reform, there was initial opposition, both within and without the ABA. But Sandy D'Alemberte was tenacious and exceedingly skilled at overcoming the challenges. He worked with co-founder Homer E. Moyer, Jr., and the two became CEELI's chief intellectual drivers. Sandy brought experience with Florida State University's Caribbean law project,⁵ and Homer brought experience with the ABA Section of International Law, spearheading a major international conference in Moscow. Together Sandy and Homer recruited a blue-ribbon group of scholars, lawyers, and judges to serve on the CEELI board.⁶ CEELI received seed funding from the ABA's Section of International Law and Practice and the U.S. Agency for International Development (USAID) to undertake a series of scoping missions to Eastern Europe.⁷ CEELI was ready to chart new territory. The new organization would encourage development of the rule of law by offering on-the-ground technical assistance where needed.⁸ As Secretary of State Albright predicted "the CEELI experiment [would be] part of a new stage in an old tradition. That tradition was grounded both in our ideals and interest."

In the early days, CEELI was staffed by Executive Director Mark Ellis and a rolodex. Within the first year, however, the congressionally-mandated National Endowment for Democracy provided CEELI with a \$400,000 grant. For Sandy, Homer, and

5. M. Margaret McKeown, *The ABA Rule of Law Initiative: Celebrating 25 Years of Global Initiatives*, 39 MICH. J. INT'L L. 117, 121 (2018); *Caribbean Law Institute*, FLORIDA STATE UNIVERSITY COLLEGE OF LAW (Feb. 15, 2009), <https://web.archive.org/web/20090215045521/http://www.law.fsu.edu:80/centers/cli/index.html>. *Professor Elwin Griffith Retires*, FLORIDA STATE LAW: ALUMNI MAGAZINE (2015), at 15 ("The [Caribbean Law Institute], a joint project between FSU and the University of the West Indies, was established in 1988 to promote activities that would further clarify the laws affecting trade, commerce and investment in the Caribbean, while at the same time respecting the unique needs of local jurisdictions.").

6. The board included Supreme Court Justice Sandra Day O'Connor, L. Stanley Chauvin, White House Counsel Lloyd Cutler, Ambassador Max Kampelman, Judge Abner Mikva, Congressman Matt McHugh, and Senator Nancy Kassebaum. Other luminaires would later join the Board, including judges Charles Renfrew, Patricia Wald and Gabriella Kirk McDonald. Mark Ellis, *Central and Eastern European Law Initiative*, 25 INT'L L. 300 (1991) (a report detailing the CEELI and the various associated functions, organizational details, and logistical plans). See Hagerty, *supra* note 2; see also Stuart Taylor, *Lloyd Cutler: The Last Superlawyer*, ATLANTIC (May, 2005), <https://www.theatlantic.com/magazine/archive/2005/05/lloyd-cutler-the-last-superlawyer/304031/> (a personal take on Lloyd Cutler and his significant accomplishments and genuine professionalism); *In Memoriam—Max M. Kampelman*, FRIED FRANK (Jan. 28, 2013), <https://www.friedfrank.com/index.cfm?pageID=81&itemID=3829>, (honouring Max Kampelman's life and accomplishments and providing an overview of his many accolades).

7. See Minn. Symposium, *supra* note 1, at 304, 341.

8. McKeown, *supra* note 5,

Mark the money was a small miracle that allowed CEELI to take its first major programmatic step. During these early days and the rapid growth of CEELI that ensued, the world saw first-hand the remarkable vision and creativity that Sandy brought to all that he did.

For the U.S. Government, support for CEELI was premised on the assumption that the law reform process would take no more than two or three years. Sandy was diplomatic when suggesting that the process might actually take a bit longer.

For the ABA, promoting the rule of law abroad was radical. The ABA wanted to tread carefully so as not to be seen as overly involved in extraterritorial initiatives. Even though CEELI was deliberately formed to send American legal professionals abroad, extending the hand of the American legal profession to other legal communities,⁹ the ABA was cautious about this new frontier. However, at its core, CEELI was designed to promote the rule of law and, consequently, the ABA ultimately saw CEELI as an extension of the ABA's own ethos.

Almost overnight, CEELI was inundated with requests for support. CEELI was solicited to help draft constitutions and build legal institutions. At the time, critics suggested that international assistance programs generally lacked appreciation of the countries in which they worked and created ill-fitting or one-size-fits-all models.¹⁰ CEELI took care to avoid this and instituted a number of unusual practices in its mission.

For example, CEELI pledged neutrality. Host countries could rely on CEELI resources and expertise but were in charge of drafts and construction of their own laws.¹¹ This practice was meant to ensure that CEELI volunteers operated in a consultancy rather than an authoritative role. Instead of pushing American or Western solutions, CEELI took a back seat and allowed host-country partners to shape their own programs, turning to CEELI only for advice or as a sounding board.¹² CEELI shared best practices and informed host countries of options available to them, knowing that democratic reform is ultimately an evolutionary process rooted in the countries themselves. This empowered new governments to chart their own courses in structuring laws and programs. CEELI insisted on including European legal experts on its team, a practice that seemed radical to U.S. funders but brought credibility to the process. Local personnel,

9. *Id.*

10. See THOMAS CAROTHERS, AIDING DEMOCRACY ABROAD: THE LEARNING CURVE, 10-12, 255-80 (1999).

11. McKeown, *supra* note 5, at 122.

12. *Id.*

often the best and brightest attorneys in each country, paired with CEELI volunteers and worked in concert to promote the rule of law.¹³

CEELI developed strict conflict of interest guidelines to ensure that volunteers were neutral in their technical advice and that any conflict of interest, or even the appearance of such, would be avoided.¹⁴ These guidelines were a unique and critical feature, helping to build relationships and protect CEELI's legitimacy. Robust conflict of interest guidelines became an effective means of guaranteeing longevity and success. Without them, CEELI risked becoming just another "beltway" consulting firm.

In 1990, CEELI's first program was in the former Czechoslovakia. Focusing on criminal law reform was the avenue suggested by the new Czechoslovakian Chief Justice, Otakar Moteji and acceptance of the process already underway underscored CEELI's mantra of being an aid to reform rather than a driver.¹⁵ Soon after, CEELI began operating in six Eastern European countries. It opened its first office in Bulgaria the following year. CEELI prioritized legal and institutional reform and built upon the "supply side" of the rule of law assistance¹⁶

In its first five years, CEELI provided experience and insight in constitutional law drafting, judicial restructuring, and criminal law. Assistance soon expanded to areas such as media law, non-profit law, civil codes, property law, and land use law. CEELI played a crucial role in the development of new election laws.

During its second five years, CEELI entered into an expanded phase of technical assistance. Despite its early success in promoting

13. James R. Silkenat, *The American Bar Association and the Rule of Law*, 67 SMU L. REV. 745, 751 (2014).

14. The conflict of interest guidelines had six main requirements: 1) Program participants will not seek, receive, accept, or agree to receive any compensation for legal services in connection with any CEELI programs; 2) Requests for additional legal assistance made to CEELI participants will be referred to CEELI; 3) No private promotional activities may be undertaken during, or in conjunction with, any CEELI activity or on any visit to Central or Eastern Europe or the NIS funded by CEELI; 4) No more than one program participant from any single law firm may participate in any single CEELI program; 5) Program participants in any CEELI project must complete and submit CEELI Disclosure Form; 6) and other questions relating to possible conflicts of interest, actual or apparent, or questions relating to any interests that program participants know, or have reason to believe, may reflect unfavourably upon, or cause embarrassment to, CEELI shall be referred to the Executive Director of CEELI. *Id.* at 750. There were even stronger proscriptions for those participants serving as CEELI liaisons, such as the requirement that liaisons may not provide services to any person or entity before a court, parliamentary committee, government agency, arbitrational tribunal, or any other governmental proceeding in the liaison's host country within one year after the conclusion of their stay in the host country. *Id.*

15. *See id.* at 751; *see also* Minn. Symposium, *supra* note 1, at 318.

16. *See* McKeown, *supra* note 5, at 124.

legislative and constitutional change, it became apparent that to sustain reform, CEELI would need to address the institutional capacity of the region's legal profession. CEELI would need to adapt so as to accommodate the fact that rule of law development is not linear. It was critical to build long-term relationships and strategies to strengthen the capacity of local partners such as bar associations, lawyers' associations, judges' associations, training initiatives, law schools and special interest groups to advance law reform. There was also demand for more nuanced technical assistance in areas such as anti-corruption, accountability for atrocities, ethnic and gender equality, environmental protections, transparency in government, judicial reform index, open market economies, a free and critical press, and a culture of attitudes and expectations that create public confidence in democratic processes.

At each programmatic stage, volunteers formed the heart of CEELI's work—senior lawyers, young lawyers, public defence lawyers, corporate lawyers, law professors, and judges. Supreme Court Justice Sandra Day O'Connor, an original CEELI board member, described CEELI volunteers as “splendid, dedicated, talented, and selfless lawyers who have interrupted their lives and careers to make a difference in the world in which we live. As a result of their efforts, every American should stand a little bit taller”¹⁷

More than 500 American attorneys and judges answered the CEELI call in its first three years. By 1993, volunteers had come from every state in the U.S. CEELI had assessed more than 120 draft laws and led nearly 30 workshops across Eastern Europe and the NIS. By 2000, just ten years after its founding, CEELI had attracted over 5,000 volunteers and provided technical legal assistance in twenty-six countries. In 2001, Bob Stein, Executive Director of the ABA, declared CEELI “one of the most far-reaching, visionary programs in [ABA] history, a program that has literally changed the landscapes of governments and societies in the region.”

CEELI's impact is evidenced by the sheer number and diversity of initiatives launched within its first ten years of operation. Naming just a few, CEELI helped in the establishment of a constitutional court in Bosnia-Herzegovina, initiated the Coalition for International Justice that supported the Criminal Tribunals for the Former Yugoslavia and Rwanda and became an “indispensable resource valued by justices, prosecutors and defence attorneys alike.”¹⁸ CEELI trained law enforcement personnel to build methods of curbing the growth of crime

17. CENTRAL EUROPEAN AND EURASIAN LAW INSTITUTE, AM. BAR ASS'N, 1990–2000 SPECIAL ANNIVERSARY ANNUAL REPORT 5 (2000).

18. Remarks by U.S. Secretary of State Madeline Albright, at the CEELI Luncheon, Aug. 2010.

and corruption within their borders, and created Environmental Public Advocacy Centers (EPACs) in Ukraine, Armenia and Moldova.

Another innovative CEELI project was the Sister Law School Program, created to assist in reforming legal education across the region. Sandy was the former chair of the ABA Section of Legal Education and Admissions to the Bar and was determined that American law schools had a role to play in partnering with existing and newly forming law schools in Eastern Europe. Working with James White, then ABA Consultant on Legal Education, over 250 American and European law schools participated. As Jim White noted, “even today, over 30 years after the beginning of the program, there is still an ongoing relationship between American and Eastern European law schools. This is the result of Sandy’s vision and determination.”

After the first ten years, Homer Moyer took care to acknowledge that, despite all of CEELI’s work and advancement, much remained to be done. Sandy too expressed concern that reforms were by no means cemented. They both noted how fragile many reforms remained and how deep the necessary cultural change must be for a country to transform itself from a communist system to a market-oriented democracy. This is why CEELI’s work continued to be so important. Looking ahead, Homer highlighted a new mission for CEELI, one that would be accomplished through the CEELI Institute in Prague and be dedicated to long-term training of lawyers and judges committed to law reform.¹⁹ Today, the Institute is flourishing, continuing the CEELI tradition by having provided training and assistance to lawyers, judges, law reformers, and civil society from more than 45 different countries.

The overwhelming success of CEELI prompted the ABA to expand to other parts of the world. Replicating the “CEELI model,” the ABA created similar projects in Asia, Africa, Latin America, and the Middle East.

RULE OF LAW INITIATIVE

In 2007, the ABA established the Rule of Law Initiative (ROLI)²⁰ to consolidate its five overseas rule of law programs, including CEELI. ROLI continued to build on CEELI’s longstanding relationships with lawyers, judges, and courts to focus on the justice sector and its connection with civil society. As current ABA Executive Director Jack Rives notes, “ROLI became key in continuing to advance the ABA’s mission.” In turn, strengthening governance and justice

19. CEELI INSTITUTE PRAGUE, 2005 ANNUAL REPORT, 1 (2005).

20. Jennifer Rasmussen, *A Short History of the American Bar Association Rule of Law Initiative’s Technical Assistance Approach*, 31 WIS. INT’L L.J. 776, 778–79 (2013).

systems; human rights and access to justice; inclusive and sustainable development; and conflict mitigation became central to ROLI's mission.

Following the CEELI approach, ROLI has partnered with ministries of justice, local courts, law schools, national training centres, and bar associations. ROLI programs focus on seven areas: access to justice and human rights, anti-corruption and public integrity, criminal law reform and anti-human trafficking, judicial reform, legal education reform and civic education, legal profession reform, and women's rights. Today, ROLI operates in more than fifty countries.²¹

Again, following CEELI, ROLI's goal is to make the rule of law a reality, with a particular focus on marginalized populations. Because ROLI is both local and global in its efforts, it works to promote international standards and create strategies to help implement rule of law standards at the local level. Like CEELI, the emphasis is on strengthening local efforts to cement global rule of law principles.

ROLI's efforts in Mali are illustrative. After the 2012 coup d'état, ROLI organized both community and international conversations about the crisis.²² With financial and technical support from ROLI, Malians were able to bring suits in local courts speaking against the massive human rights abuses they suffered as a result of the coup.²³ The local courts were flooded with cases. Over three years, ROLI offered strategic litigation courses, established victim support funds, and independently engaged in advocacy to help return speedy recourse for victims.²⁴ These efforts helped ensure progress on the halted cases and ensure justice was held to international standards.

More recently, ROLI has focused its efforts on addressing and preventing violence based on sex, gender, and sexual orientation.²⁵ In El Salvador, for example, the LGBT community has been disproportionately affected by violence and discrimination.²⁶ In response, ROLI worked in El Salvador to increase awareness and promote LGBT advocacy.²⁷

21. See generally, *Where We Work*, AM. B. ASS'N (last visited Oct. 14, 2019), https://www.americanbar.org/advocacy/rule_of_law/where_we_work/.

22. AM. BAR ASS'N, ABA RULE OF LAW INITIATIVE PROGRAM BOOK 36–37 (2016) [hereinafter "Program Book 2016"].

23. *Id.*

24. *Id.* at 37.

25. See McKeown, *supra* note 5, at 136.

26. See *Program Book 2016 supra* note 221, at 90–92.

27. *Id.*

ROLI's approach is expertly crafted, thanks in part to Sandy D'Alemberte's experience and forethought. Because ROLI staff and volunteers do their work as a public service, they have no agenda when advocating to protect the rule of law. ROLI is continually adapting to the world's changing political landscape. As cultures and governments change, moving forward and sometimes back, the rule of law will always need proponents and expertise that protect against closing space. Sandy D'Alemberte knew this when he first conceived of CEELI.

CONCLUSION

Sandy D'Alemberte was a perpetual optimist and dreamer. Patsy Palmer, Sandy's wife and indispensable partner, reflected that Sandy always smiled in his sleep - "he was a man of such boundless joy, optimism and goodwill that the glow that surrounded him during the day rarely went away." Among Sandy's many gifts were his grace and facility in dealing with others. As David Tolbert reminds us, Sandy interacted with people "with a great sense of humor, wonderful manners, a gentle if sometimes restless spirit showcasing an open and inquisitive mind." In his quiet, understated way, Sandy inspired and energized so many others with his vision. They experienced—as we all did—the absolute joy of Sandy's presence, and the strength of his inspiration.

Alberto Mora, former General Counsel of the U.S. Navy and current Director of ROLI, was a cherished friend and spoke about Sandy thus:

I was first introduced to Sandy in Miami in 1982, the year I entered the legal profession, by associates in his law firm. They revered him. In my first year of practice, it became very clear to me that Sandy D'Alemberte was the *beau ideal*, the lawyer one aspired to be if you were good enough and worked hard enough and had the right values, as he did, and if you lived a life devoted to the law, to public service, to citizenship, to human dignity, and to excellence, as he had.

Sandy's ability to inspire so many people came from his fountain of ideas, and his passion for promoting innovative solutions to some of the most entrenched challenges in the human rights field. Tolbert refers to this as Sandy "dancing with ideas, with mirth and with justice." I suspect this "dance" was a product of how Sandy viewed life—as a gift, but one that had to be given back to others. Sandy believed that you should be part of a story greater than your own.

Sandy believed in the values and ideals of liberal democracy. He promoted these on the international stage through CEELI, and later ROLI, and the CEELI Institute. Through these programs, Sandy had a lasting impact on the rule of law as we know it today.

Sandy understood that international law was imperfect, and he knew that the world was imperfect. He believed that the intrinsic value of international law stemmed from its universal support, and that protecting the human dignity of all citizens was central to the struggle for justice. If one person's liberty is curtailed, the abridgement of another's will surely follow.

Sandy constantly championed the importance of living in a society that upholds values of enlightenment and principles of tolerance. He was particularly focused on ensuring the rights of the least advantaged. He responded to injustice with compassion, boldness, and innovation. He led his life through deeds that made a difference. Undoubtedly influenced by his regard for Thomas Jefferson, Sandy saw the betterment of civil society as connected to a common interest in serving the public good. "Less polarizing rhetoric and more humanity" is what Sandy would have said. Today we, current and past leaders of the American Bar Association, remember Sandy's willingness to speak out for what is just and right; and the way he brought compassion, wit, unfailing loyalty, and conviction to the issues and people he advocated for, nationally and internationally. These principles, and so many more, are what defined Sandy. The profession and, indeed, the world has lost a giant, but how blessed we all are to have called him a friend.

Judy Perry Martinez
Robert M. Carlson
Hilarie Bass
Linda A. Klein
Paulette Brown
William C. Hubbard
James R. Silkenat
Laurel G. Bellows
Stephen N. Zack
Carolyn B. Lamm
H. Thomas Wells, Jr.
William H. Neukom
Karen J. Mathis

Michael S. Greco
Robert J. Grey Jr.
Dennis W. Archer
Robert E. Hirshon
Martha W. Barnett
William G. Paul
Philip S. Anderson
N. Lee Cooper
Roberta Cooper Ramo
R. William Ide III
J. Michael McWilliams
L. Stanley Chauvin Jr.