LAW REFORM ON
American Lawyers and

Clockwise from top right: The CEELI office with translator Svetlana Pinchook; presiding judge of the Samarkand region and his secretary outside the court building; the author (left), liaison Kathleen McGowan (2nd right), Kosim Mamurov (right), with chairwoman and officers of the new National Judges Association; meeting of the executive committee of the National Advocates Organization—first a lamb feast, then sleeping out under the stars.
As the plane circled over the lights of Tashkent, I thought about the footlockers of clothing, toilet paper, law books and trinkets stored beneath me. Like the ancient travelers of the Silk Road, I was entering a strange territory, laden with goods, prepared with rumors and scraps of advice, almost ready to deal with unknown and perhaps even hostile surroundings. Thanks to the American Bar Association’s Central and Eastern European Law Initiative (CEELI), my family and I were about to embark on a year-long journey into Uzbekistan, heartland of Central Asia, 3,000-year-old crossroad of civilization, passageway of the ancient Silk Road and unrepentant member of the former Soviet Union.

From its beginnings in the Czech Republic in 1990, the CEELI program has spread to 22 countries and has become one of the most widely recognized and heralded programs for international legal assistance. About 2,200 attorneys, judges and legal educators have been involved in the program both in the United States and overseas and have donated more than $35 million in pro bono time. From my first response to an advertisement in a journal to my stepping on the plane to return to the United States 16 months later, I walked a path that many capable and adventurous lawyers had traveled before me.

The first few days in the capital city of Tashkent were a whirl of jet lag recovery. Empty footlockers cluttered the apartment, and finding basic foodstuffs became a linguistic adventure. Fortunately, the Uzbek sidewalk vendors and market sellers were friendly, accepting and easygoing. Our faltering Russian, hand gestures and a lot of dictionary pointing produced laughter and a great willingness to offer us anything. “Sestra, sestra, paprovitzeh!” (“Sister, sister, try it!”) insisted the laughing young Uzbek vendors, thrusting pieces of cheese, sausage, fruit, dried fish and unidentified edibles at my wife and daughter.

The other American lawyer, Michael Maya, and I were CEELI “liaisons,” acting as American legal advisers to the national government, committed to a year of legal work and promotion of a more open society in the host country, often with the assistance of short-term CEELI legal specialists sent to work on a specific program. All the liaisons and specialists were volunteers, and many of them had taken a break from lucrative practices for the opportunity to work in and around the former Soviet Union.

Within a few days, I was ready to go to work. The CEELI office was located in a once elegant and now decrepit apartment building known as “Dom Specializoff,” where many of the top writers and intellectuals of the Soviet Union had lived and worked. Now it was inhabited by impoverished pensioners, newly rising “biznezmens” making a quick fortune in the illicit market economy, working families and CEELI. There was no sign on the solid iron door, for a sign would have attracted the tax authorities, an army of inspectors, as well as thieves and robbers. The office had been open for only a few months, and we two lawyers, our Uzbek–Tajik–Russian–English translator Kosim Mamurov and our third-year law student Lena Kim constituted the whole operation. Kosim was Tajik and had a doctorate in English philology. Lena was ethnic Korean, a member of the fourth-largest ethnic group in Uzbekistan. In addition to having excellent English, Lena was a graduate of the Computer Technological Institute, which proved to be a lifesaver on many occasions.

Running the office was a daily challenge. What telephone service there was would suddenly quit for a week. We usually had good e-mail connections to the United States, but only rarely could we make a telephone call across the street. For days, the water or electricity would simply stop. Our bank account was seized each November by the government to cover temporary cash shortages, which forced us to fly to the CEELI office in Kazakhstan to bring back bags of cash to meet our payroll.

For the first few months, much of our time was spent meeting people around Tashkent and other major cities, going to conferences to present the “American point of view” and letting the Uzbek government officials decide what it was that they wanted us to do. We were like aluminum siding salesmen working a new territory—we thought we had a good product, but the locals weren’t quite sure what it was and if they were ready to buy.

The Silk Road
Democracy’s World Tour
By Victor Aronow

March 2001 Arizona Attorney
Gradually, as we talked to officials in the executive offices, the Oliy Majlis (the national legislature) and the courts, we began to receive more calls for assistance in drafting legislation and writing commentaries on proposed laws. The first big project was Michael’s review of the national health law.

The task was arduous. Proposed legislation was sent to us in Russian and had to be translated into English. Our commentaries and critiques were then translated back into Russian and sent to the various requesting bodies. Translations led to many philological-linguistic arguments and discussions in the office. The legislation was highly technical, often couched in terms that had obscure historical referents but no clear meaning, and usually reflected the Communist Party training of the drafters.

Much later I learned that the Cabinet of Ministers actually had a five-year legislative production plan and that the laws were being proposed according to a fixed schedule, which explained why, for example, we were asked to comment on a law against monopolies in a country in which the government owned practically everything. Because we were presenting analyses that sprang from the common law tradition, and the Uzbeks were using the Napoleonic civil code via the Soviet Union, they found much of what we presented new, different and somewhat puzzling. The Uzbeks were eager to have the imprimatur of the American lawyers even as they disregarded much of what we said. It was at times very frustrating to work hard on drafts and commentary of proposed legislation, go to the sessions of the Oliy Majlis, hear yourself praised for your “great fraternal and international contributions” and then have most of your suggestions ignored.

It was soon clear that our main efforts had to be directed in other areas. Within a month of my arrival, we were contacted by a number of lawyers about rumors of proposed legislation establishing an independent advocacy. The advocacy in Uzbekistan is considered to be a branch of the government and the organization could determine fitness to practice law and would be able to institute a lawyer disciplinary system. It is difficult for us, standing on centuries-old traditions of independent lawyering, to comprehend the electrifying effect the draft legislation had on the advocacy.

As news of the proposed law spread, delegations of lawyers began to arrive at our office from all parts of the country. The word began to circulate that the Americans were going to help push this legislation through and assist in the formation of a lawyers association. Over many cups of tea and more than one bottle of vodka, Michael and I explained again and again how the American attorney system was organized and what the proposed law could potentially mean. These office seminars proved to be too inefficient, and invitations began to come in from all around the country for us to meet with the colleges and present the American experience. For several weeks, we traveled around the country by car, bus and the old YAK-14, the twin-engine workhorse of the Soviet passenger air fleet. It was an adventure of bad gasoline, blown-out tires, magnificent hospitality and an almost insatiable eagerness to learn about the American lawyering tradition. The demand for information about the privatization of law practice only increased as we traveled, so CEELI sent an expert to present seminars on law office organization and the economics of private practice. Although the seminars might have been two years too early, they were packed. Lawyers, judges and administrators traveled from every region to Samarkand, Tashkent, Namangan and Chimgent. The newspaper coverage in the regions was tremendous, and the Law on Advocacy became a topic of popular discussion.

Back at the office, legislative work was piling up. We had to hire another translator and another law student. The U.S. Embassy and the Agency for International Development asked us to review a proposed Law on Political Parties, which ostensibly provided for the formation of independent political parties, but the petition requirements made it almost impossible for a party to form. My detailed analysis was virtually ignored by the Uzbeks. The Chairman of the Legislation Committee of the Oliy Majlis asked us to comment on the Law on Notaries, a revision of the laws governing the 70-year-old notarial system. Under the civil law system, notaries are state employees and are a combination of lawyer, notary public, county recorder, probate court and sheriff. The proposed law permitted privatization of the notary practice, standardized some notarial practices and expanded the jurisdiction of rural notaries so that country folk did not have to spend days in Tashkent waiting for a signature only to find they had brought the wrong piece of paper.

Because I was unfamiliar with the notary practice, I felt I could not write a meaningful commentary without first talking to Uzbek businesspeople, notaries and citizens as well as foreign
contractors to determine how the system actually worked. As a result of these interviews, I wrote a report to the Chairman that was highly critical of the system, concluding that it was corrupt, totally inefficient and a major impediment to economic development. The report created quite a stir, and I was asked to make presentations to a number of government departments. In the end, our efforts resulted in a major statutory change in the notary system, although regulations implementing the new law had not been issued by the time I left.

Meanwhile, another storm was brewing. The Ministry of Justice had a well-organized and intensive continuing legal education program for judges and advocates, and our office was often requested to make presentations about the American legal system, the court structure and the role of judges. The third most common question we were asked after our presentations (the first two were “Are you married?” and “How many children do you have?”) was “Who punishes the judges in the United States if they make a wrong decision, and how are they punished?” After hearing this question three or four times, we began to look into the matter and discovered that under the Uzbek Constitution, the Office of the Prosecutor has plenary supervisory authority over government administrative agencies and can make recommendations concerning discipline of government employees, including the judiciary. We found that if a judge in a criminal case made a decision that was highly unpopular with the prosecutors, the judge could be fined, transferred or even removed. In our lectures, we began to emphasize the independence of the judiciary, the role of the courts of appeal and the formation of judicial associations.

Because talk of the advocates association was in the air, a few judges began to show up at our office asking about forming a judges association. The few turned into a few more, and, fairly soon, we once again were traveling around the country, conducting seminars on judicial independence and judges organizations in the United States. Despite strenuous objections and interference from the Ministry of Justice, Michael arranged to send an almost hand-picked group of 10 judges and translators to the United States for training on judicial associations and judicial ethics. They were astounded by what they saw and learned. Upon returning, they published newspaper and journal articles about their experiences, and, gradually, the idea of a judicial association began to take real form. At an accelerating pace, the advocates association and the judicial association were springing into being. Just before his year was up, Michael was able to oversee the founding convention of the Advocates Association, and, shortly thereafter, with the guidance of his replacement liaison, Kathleen McGowan, the Judges Association was formalized as well.

In our work with the advocates, and in our own research, we found it almost impossible to obtain information about current or proposed laws. Most advocates had an Uzbek criminal code, a book of commentaries on Soviet law and a few other items. Ordinary people had no access to the laws at all, and businesspeople were constantly being confronted with new laws and regulations that were implemented without notice. Sometimes executive decrees were published in the newspaper with provisions marked “secret” because they pertained to a single company or individual. At other times, new rules and regulations were not published at all.

One time, I went to the Office for Approval of Official Seals to obtain approval of a seal for a new organization. I had researched the formality of the seal very carefully. The organization was aimed at Russian speakers, so the seal was in Uzbek, Russian and English. I showed our design to the Approver of Seals, who was Uzbek, not Russian. “Impossible,” he said. “This seal is completely illegal. I can’t approve it.” I pointed out that it was almost exactly like a seal that had been approved the year before. “Of course,” he said. “But that was last year and this is this year.” I was perplexed and asked what the difference was. A triumphant look crossed his face. “This seal,” he said, jabbing at the paper, “is in Russian, and the use of Russian is prohibited on official seals.” He told me that a new regulation prohibiting the use of Russian had been issued about three weeks ago. I asked if I could see the regulation. He said I could not. “Why not?” I asked. He replied, “There isn’t any written regulation. The Ministry of the Interior informed me by telephone of the new regulation.” When will it be published, I wanted to know. “Why should it be published?” he said. “I’m the official who approves seals, and I know what the regulation says, so why should the government waste paper publishing it?” The logic was irrefutable.

As an American who believes that public access to the law is fundamental to our civil society, I found the belief that the law should be hidden difficult to understand. At the suggestion of the CEELI Washington office, I took a survey to see if there was any demand for a public law library in Uzbekistan. The response was overwhelming, and soon it became clear that not only lawyers and judges but journalists, students and ordinary citizens wanted to have a place where they could study the law. Within a few months of my arrival, my proposal for a public access law library was ready, several international organizations had expressed interest in providing funding and the Rector of the Law Institute had committed to providing a facility.

"WE WERE LIKE ALUMINUM SIDING SALESMEN WORKING A NEW TERRITORY—WE THOUGHT WE HAD A GOOD PRODUCT, BUT THE LOCALS WEREN'T QUITE SURE WHAT IT WAS AND IF THEY WERE READY TO BUY."
The notion of a public law library may be accepted in the United States, but in 1997 Uzbekistan, it was a thoroughly foreign idea. As the author discusses in his story, the Open Library for Legal Information was established as a nonprofit, nongovernmental law library. According to the library’s Web site, readers have access to laws through 3,000 books, 150 journals and newspapers, 20 databases and the Internet. Electronic catalogs—and the Web site—can be used in Russian, English and Uzbek.

To see the library and its holdings, go to www.lawlib.uz.
day someone dropped off a telephone. Boxes of books from the Soros Foundation, the United States Information Agency and foreign embassies began to arrive. Each Saturday, our translators canvassed the sidewalk bookstalls, knowing that a book available today might never be seen again. We recruited a librarian from the National Library. We printed a brochure in the principal languages of the collection (English, Russian, Uzbek and German), and, before long, 100 people a week were showing up at the unofficial (and technically illegal) repository.

At that time, Hillary Clinton was touring Central Asia, and the emerging library was one of her proposed stops, which put the Ministry of Justice in an embarrassing position. The Minister of Justice himself (the equivalent of the United States Attorney), subministers, representatives from the Oliy Majlis and high officials from the Office of the President made a grand tour, thumbed through the collection, tried out the computer, ran the photocopier and pronounced it good. On orders of the Ministry, the old furniture and bookcases were taken out overnight and new ones brought in. A new air conditioner was installed. The Minister himself personally guaranteed that our charter would be approved, and announcements about the library appeared in the newspapers. Although Mrs. Clinton never came by, the aura of her presence carried the day.

The library has been operating for almost three years and is attracting 300 users a month, despite security police checking identification cards. The judges and advocates associations are functioning, and the idea of an independent legal and judicial system is no longer revolutionary. The experience I had in Uzbekistan was one of the most rewarding of my legal career and brought home the necessity for both the rule of law and citizen participation in a viable democracy. I felt that I had contributed in a small way to a much wider concept of law than we are usually exposed to in the confines of our practice.

I would urge every attorney with a sense of adventure and a desire to make a difference to consider volunteering for the CEELI program.

Victor Aronow practiced civil and criminal law in the Phoenix area for 25 years. He teaches adult education in the Mesa school district.

TO RUSSIA, WITH LAW
The Central and Eastern European Law Initiative program is expanding into many more specialized areas and is moving into other developing countries. Liaisons and specialists are needed for many programs. If you have an interest in finding out more about the CEELI program, contact the office at 1-800-98CEELI. If you have any questions, contact the author directly at jefjiaf@aol.com.