

Policy Comment

American Prosecutors as Democracy Promoters: Prosecuting Corrupt Foreign Officials in U.S. Courts

On June 3, 2004, a jury in a San Francisco federal court convicted former Ukrainian Prime Minister Pavel Lazarenko of twenty-nine counts of money laundering, wire fraud, interstate transportation of stolen property (ITSP), and conspiracy.¹ The jury found that Lazarenko stole tens of millions of dollars from the Ukrainian people, which he then concealed in U.S. banks. For only the second time in history, a foreign head of government had been successfully prosecuted in the United States.²

Yet it was the first time that a former leader of a foreign country was convicted in a U.S. court in part for breaking his own country's laws. The U.S. offenses with which Lazarenko was charged criminalize transactions involving money obtained from an underlying illegal act.³ While these underlying criminal activities typically occur within the United States, Lazarenko stole property and committed extortion within Ukraine. Nevertheless, the district court instructed the jury that it could find him guilty of violating U.S. laws against money laundering, wire fraud, ITSP, and conspiracy if it found that his activities in Ukraine violated Ukrainian law.⁴

1. Bob Egelko, *Former Ukraine Prime Minister Convicted in S.F.*, S.F. CHRON., June 4, 2004, at A3.

2. The first was the conviction of the former president of Panama, Manuel Noriega, for violating U.S. racketeering and drug laws. *See* *United States v. Noriega*, 117 F.3d 1206 (11th Cir. 1997) (upholding conviction).

3. 18 U.S.C. §§ 1343, 1346 (2000) (wire fraud); *id.* § 1956(a)(1)(B), (a)(2), (h) (money laundering); *id.* § 2314 (ITSP).

4. U.S. prosecutors argued that the actual crimes for which Lazarenko was charged under U.S. law—the phone calls and wire transfers—took place within the United States, not Ukraine. The district court held that transferring funds into the United States was not illegal unless the jury found that Lazarenko obtained them by violating Ukrainian laws on extortion, fraud, and bribery. *See* Jury Instructions at 50-53, 55-58, 67-69, 72-73, 76, *United States v. Lazarenko*, No. CR00-

In effect, the U.S. government helped Ukraine enforce its own laws where Ukrainian courts had failed.⁵ Although Lazarenko's corruption was well known in Ukraine, at the time his own country's courts and prosecutors lacked the independence to convict such a powerful political figure.⁶ The story is familiar across the developing world: Good laws on the books are not enforced, corruption and lawlessness deepen, and consequently public disillusionment with the promise of democratic reforms grows.

Although U.S. prosecutors claimed no such foreign policy designs,⁷ this Comment argues that *Lazarenko* suggests a potentially powerful new tool to promote the rule of law abroad: U.S. prosecutors indirectly punishing violations of foreign laws in U.S. courts by using such violations to prove elements of U.S. crimes. Helping countries in transition enforce their own laws and eliminate corruption at home until their own legal systems become stronger is a heretofore unrecognized collateral benefit of such prosecutions. In considering whether to prosecute foreign officials in the future, the U.S. government should take into account this goal of promoting democracy.

I

While there is an emerging literature about promoting the rule of law abroad and eliminating corruption,⁸ it has not considered this Comment's strategy of using criminal prosecutions in the courts of one country to enforce another country's law. As shown in Table 1, efforts to promote the rule of law through courts can be categorized along two dimensions: the substantive law used as a rule of decision (i.e., a country's own domestic laws, foreign laws, or international norms) and the choice of forum used to enforce this substantive law (i.e., domestic courts or foreign courts).

0284 MJJ (N.D. Cal. May 26, 2004).

5. In two key respects, however, the United States was not directly enforcing Ukraine's laws: A violation of U.S. law was a prerequisite for prosecution, and U.S. penalties differ from those specified under Ukrainian law.

6. See 1B DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2003, at 175 (Comm. Print 2004) (describing the lack of independence and weakness of the Ukrainian judiciary).

7. U.S. prosecutors said their primary purpose in charging Lazarenko was to prevent the United States from becoming a haven for funds obtained through criminal activity. See Josh Richman, *Ukraine's Ex-Leader Convicted in S.F.; Jury Finds Former Prime Minister Guilty of Fraud, Money Laundering*, OAKLAND (Cal.) TRIB., June 4, 2004, at 8.

8. This literature is found primarily in political science work but seldom in legal scholarship. See, e.g., THE SELF-RESTRAINING STATE: POWER AND ACCOUNTABILITY IN NEW DEMOCRACIES (Andreas Schedler et al. eds., 1999); Susan Rose-Ackerman, *Governance and Corruption*, in GLOBAL CRISES, GLOBAL SOLUTIONS 301 (Bjørn Lomborg ed., 2004); Thomas Carothers, *The Rule of Law Revival*, FOREIGN AFF., Mar./Apr. 1998, at 95. Intergovernmental efforts have increasingly focused on corruption. For example, an OECD agreement dealing with bribery of foreign officials took effect in 1999 and has been adopted by more than thirty countries. OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Dec. 17, 1997, 37 I.L.M. 1 (making it a crime to offer, promise, or give a bribe to a foreign public official in order to obtain or retain international business deals).

TABLE 1: LEGAL STRATEGIES TO PROMOTE THE RULE OF LAW⁹

| | | Substantive rule applied to domestic act | |
|-----------------------------|------------------------|--|--|
| | | <i>Domestic law</i> | <i>Foreign law</i> |
| Forum of enforcement | <i>Domestic courts</i> | A Ukrainian court finds that acts in Ukraine violate Ukrainian law. | A Ukrainian court finds that acts in Ukraine violate international law. |
| | <i>Foreign courts</i> | <i>The Lazarenko Strategy:</i> A U.S. court finds that acts in Ukraine violate Ukrainian law. | A U.S. court finds that acts in Ukraine violate U.S. or international law. |

There are currently three common strategies to promote the rule of law. The most familiar is for a domestic (e.g., Ukrainian) court to enforce its own country's laws. The bulk of Western rule-of-law assistance goes to training and funding the courts of developing nations to do this, but immediate results have proven elusive.¹⁰ A second strategy entails a domestic court enforcing either international or foreign law, which may be incorporated into a country's domestic law by means of a treaty. Western governments encourage developing countries to sign international agreements, such as the Geneva Convention or the U.N. Convention Against Corruption, and exert some diplomatic pressure when their courts do not enforce these norms at home. A third strategy involves a foreign court (e.g., in the United States) or an international tribunal finding that an act in another country violated international or foreign law.¹¹ This Comment identifies and explores a fourth, currently underused strategy: using foreign courts to indirectly enforce a developing country's *own* laws.

II

Prosecuting a foreign official in a U.S. court helps strengthen the rule of law abroad by avoiding several key obstacles to fighting corruption in

9. In this Table, "domestic" refers to the country in which the underlying allegedly criminal act has occurred (e.g., theft in Ukraine), and "foreign" refers to another country (e.g., a criminal prosecution in the United States).

10. The very title of a GAO report evaluating a decade of U.S. rule-of-law assistance is telling. GAO, NO. GAO-01-354, FORMER SOVIET UNION: U.S. RULE OF LAW ASSISTANCE HAS HAD LIMITED IMPACT 10 (2001); *see also* THOMAS CAROTHERS, AIDING DEMOCRACY ABROAD: THE LEARNING CURVE 163-77 (1999). *See generally* BEYOND COMMON KNOWLEDGE: EMPIRICAL APPROACHES TO THE RULE OF LAW (Erik G. Jensen & Thomas C. Heller eds., 2004) (describing the mixed effectiveness of rule-of-law assistance programs in Europe, Asia, and Latin America).

11. One example is litigation in U.S. courts under the Alien Tort Statute, 28 U.S.C. § 1350 (2000). *See, e.g.,* *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980) (finding a former Paraguayan official liable for torture occurring in Paraguay, in violation of the law of nations).

developing countries. In Ukraine, as in other transition countries, the chief impediment to prosecuting corrupt officials is not the absence of good laws on the books¹² but their poor enforcement. This is due to three familiar factors. First, Ukraine inherited a weak legal culture from seventy years of Soviet communism, during which time laws were not enforced and government corruption spread.¹³ Second, well after the collapse of the Soviet Union in 1991, judges and prosecutors had little job security or independence from political pressure and thus had few incentives and limited ability to prosecute high-level corruption.¹⁴ Finally, current officials are disinclined to prosecute former senior government officials because public trials threaten to uncover their own ongoing corruption.

Using U.S. courts to indirectly enforce a developing country's own laws would not supplant local enforcement¹⁵ but would instead ensure that prominent officials do not escape punishment while the local judiciary develops.¹⁶ For the same reason, war crimes tribunals, such as the International Criminal Tribunal for the Former Yugoslavia, have initiated prosecutions outside of the transition country where the crime occurred without requiring that country's consent.

Although U.S. prosecutions can only reach a handful of the most notorious corruption cases in transition countries, such high-profile crimes are some of the most damaging to the rule of law because they reinforce the low costs of flouting the law. In 2003, for example, eighty-three percent of Ukrainians felt that public officials took public funds for their personal benefit.¹⁷ Only twenty-nine percent of Ukrainians felt that corruption could

12. See, e.g., CRIMINAL CODE arts. 86, 165, 168-2 (Ukr.) (criminalizing theft of state property, abuse of office, and extortion of a bribe, respectively).

13. See KATHRYN HENDLEY, TRYING TO MAKE LAW MATTER: LEGAL REFORM AND LABOR LAW IN THE SOVIET UNION 11-45, 113-39 (1996) (describing how the legal inheritance of communism handicapped the former Soviet states).

14. See HENDLEY, *supra* note 13; cf. PETER H. SOLOMON, JR. & TODD S. FOGELSONG, COURTS AND TRANSITION IN RUSSIA: THE CHALLENGE OF JUDICIAL REFORM 29-46, 80-84 (2000) (detailing similar problems in post-Soviet Russia).

15. Because foreign assistance to strengthen local courts, police forces, and prosecutors would continue and local courts would still be responsible for prosecuting most crimes, it is unlikely that successful prosecutions in the United States would create a disincentive for a country to enforce its own laws. Moreover, U.S. prosecutors should take into account improvements in a country's legal system when deciding to pursue these cases. For example, six months after Lazarenko's conviction, the Supreme Court of Ukraine showed unexpected independence in ruling against then-Prime Minister Viktor Yanukovich's attempt to assume the presidency through a corrupt election. See Steven Lee Myers, *Ukrainian Court Orders New Vote for Presidency*, N.Y. TIMES, Dec. 3, 2004, at A1.

16. By requiring a showing in U.S. courts that the conduct in a foreign country violated that country's own laws, another benefit of this strategy is that it is not as susceptible to the same charges of American legal imperialism as other methods of democracy promotion or the extraterritorial application of U.S. law. See, e.g., *Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 817-18 (1993) (Scalia, J., dissenting) (noting the international comity concerns raised by the extraterritorial jurisdiction of U.S. law).

17. RAKESH SHARMA & NATHAN VAN DUSEN, INT'L FOUND. FOR ELECTION SYS., ATTITUDES AND EXPECTATIONS: PUBLIC OPINION IN UKRAINE 2003, at 17 (2004), available at

likely be countered at all.¹⁸ As high-level corruption spread unchecked, so did an acceptance and a culture of corruption in local governments and businesses. In 2004, Transparency International ranked Ukraine one of the most corrupt countries in the world.¹⁹

In the face of these roadblocks to successful domestic prosecutions, U.S. courts can be both a temporary solution and a spark plug for future reform. Symbolically, the prosecution of a high-ranking former government official signals to the foreign public that corruption does not go unpunished. As a practical deterrent, foreign officials—who may seek to travel to or store the proceeds of their corruption in the United States—may face arrest or the seizure of their assets.²⁰ The threat of future prosecution may thus increase the cost of flagrant corruption while in office.²¹

III

Implementing this new democracy promotion strategy requires several changes in legislation and more guidance for U.S. prosecutors and courts. Previously, U.S. statutes criminalizing foreign corruption have not extended to foreign officials for acts committed in their own countries.²² Furthermore, courts have been divided about whether the wire fraud or ITSP statutes cover underlying offenses occurring entirely in a foreign country.²³

Congress began to provide a stronger statutory basis for *Lazarenko*-type

http://www.ifes.org/research_comm/surveys/Ukraine_Survey_2003_English.pdf. Seventy-four percent of Ukrainians felt corruption was a serious problem in the courts. *Id.* at 4.

18. *Id.*

19. Ukraine tied with Sudan and Niger, among others, as the 122d-most-corrupt country. TRANSPARENCY INT'L, CORRUPTION PERCEPTIONS INDEX 2004, at 5 tbl. (2004), available at http://www.transparency.org/cpi/2004/dnld/media_pack_en.pdf.

20. Asset seizure is authorized under 18 U.S.C. § 983 (civil forfeiture) and 28 U.S.C. § 2461(c) (criminal forfeiture).

21. This deterrent is real. For example, a Belgian court's indictment of Israeli Prime Minister Ariel Sharon for war crimes deterred Sharon from traveling to Belgium, and the threat of Belgian indictment of U.S. government officials led NATO to threaten to withdraw financing for its new headquarters in Brussels. Under American pressure, the Belgian government subsequently amended the law authorizing these prosecutions. Tobias Buck, *Belgium Decides To Repeal Controversial War Crimes Law*, FIN. TIMES, July 14, 2003, at 6; Peter Ford, *Belgium Makes Justice Less Global*, CHRISTIAN SCI. MONITOR, June 24, 2003, at 6.

22. For example, the Foreign Corrupt Practices Act only applies to activities abroad committed by U.S. businesses and nationals. See Foreign Corrupt Practices Act (FCPA) of 1977, Pub. L. No. 95-213, 1977 U.S.C.C.A.N. (91 Stat.) 1494 (codified as amended at 15 U.S.C. §§ 78dd-1 to -3 (2000)); *United States v. Castle*, 925 F.2d 831 (5th Cir. 1991) (holding that foreign officials cannot be prosecuted for either violating or conspiring to violate the FCPA).

23. The Supreme Court heard oral argument in November 2004 in a case about the foreign reach of the current wire fraud statute. See *United States v. Pasquantino*, 336 F.3d 321 (4th Cir. 2003), cert. granted, 124 S. Ct. 1875 (2004) (addressing whether a scheme to defraud Canada of tax revenue is covered by the wire fraud statute). The Court's interpretation of the wire fraud statute may determine whether Congress must amend the statute to explicitly authorize prosecutions involving schemes to defraud in foreign countries.

prosecutions with the passage of the USA PATRIOT Act of 2001. The PATRIOT Act explicitly gave prosecutors the tools to charge foreign officials by broadening the “specified unlawful activity” that constitutes predicate offenses for money laundering. Predicate offenses now include a range of foreign corruption activities: “bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official.”²⁴ Moreover, any time U.S. dollars are transferred from one account to another—even if both accounts are held abroad—the funds travel over U.S. wires, however briefly. Thus, any foreign official who wishes to transfer U.S. dollars between bank accounts could fall within U.S. criminal jurisdiction.

U.S. legislators, prosecutors, and courts should take three steps to implement and to address potential objections to the strategy of using U.S. courts to fight foreign corruption. First, Congress should amend the wire fraud and ITSP statutes, as it did the money-laundering statute, to explicitly criminalize the transportation of funds obtained from underlying illegal activities that occur entirely outside the United States. Congress should do so not to project American values abroad but to combat foreign corruption that affects American interests in concrete ways. As much as one trillion dollars in criminal proceeds is laundered through banks worldwide each year; about half of that moves through U.S. banks.²⁵ Corruption undermines U.S. economic interests by, for example, increasing the costs to U.S. companies of doing business abroad and facilitating the theft of U.S. foreign aid.²⁶ More broadly, corruption in foreign countries contributes to state weakness, which gives rise to problems—such as crime, environmental degradation, and terrorism—that can quickly spill across borders.²⁷ The U.S. government already adopts a range of assistance programs to combat corruption in other countries.²⁸ Using American courts

24. Uniting and Strengthening America by Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56, tit. III, § 315, 2001 U.S.C.C.A.N. (115 Stat.) 272, 308 (to be codified at 18 U.S.C. § 1956(c)(7)(B)(iv)) (dealing with the “inclusion of foreign corruption offenses as money laundering crimes” (capitalization altered)).

25. Riva D. Atlas, *Report Says Money Launderers Exploit Banks*, N.Y. TIMES, Feb. 5, 2001, at C4. In Nigeria, for example, from 1993 to 1998, a corrupt leadership stole an estimated three billion dollars. Marc Lacey, *Kenya Joins Nations Pursuing Funds Stolen by Ex-Leaders*, N.Y. TIMES, Dec. 21, 2003, at 34.

26. The U.S. government estimates that between May 1994 and April 2002, bribery of foreign public officials may have affected some 474 U.S.-related contracts worth \$237 billion. Don Evans, Secretary of Commerce, Remarks to the Third Annual Forum on Fighting Corruption and Safeguarding Integrity (May 31, 2003), available at <http://www.state.gov/g/inl/rls/rm/21848.htm>.

27. See SUSAN ROSE-ACKERMAN, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM 9-38 (1999); Robert I. Rotberg, *The Failure and Collapse of Nation-States: Breakdown, Prevention, and Repair*, in WHEN STATES FAIL: CAUSES AND CONSEQUENCES 1, 8 (Robert I. Rotberg ed., 2004).

28. Fact Sheet, Bureau for Int’l Narcotics & Law Enforcement Affairs, Dep’t of State, U.S. Government Initiatives To Fight Corruption (Sept. 20, 2002), available at <http://www.state.gov/g/inl/rls/fs/13594.htm>.

to fight lawlessness abroad is a critical but underused tool in this effort.

Second, prosecutors should employ similar safeguards currently used to ensure that a prosecution does not adversely affect U.S. foreign relations.²⁹ One such provision would be to require approval before charging a foreign official: for example, either by the State Department, as is required for extradition requests for foreign officials,³⁰ or by the Attorney General, as is required to indict in cases involving classified information, immigration, or other national security concerns.³¹ Furthermore, to ensure that U.S. courts can reach foreign leaders living abroad, U.S. prosecutors should exercise discretion in bringing such cases only when a foreign official has additional ties to the United States, such as maintaining assets in or traveling to the United States.³² Finally, head of state immunity would prevent the prosecution of sitting foreign leaders and reduce the threat that the U.S. government would initiate a prosecution as a guise to remove a disfavored foreign official from power.³³

Third, to address the concern that the U.S. government is preempting local prosecutions, which might be more legitimate than foreign trials, U.S. courts should require the unavailability of adequate remedies in an official's own country before the action may proceed in the United States.³⁴ Although

29. Whereas allowing private parties to sue foreign officials in U.S. courts might unleash a flood of litigation or raise separation-of-powers concerns that the judiciary was impermissibly intruding into foreign affairs, this Comment's strategy addresses these concerns by requiring the executive branch to initiate these cases against foreign officials. To the extent that a federal prosecution would create a private right of action, such as under some state civil RICO statutes, these statutes should be amended to explicitly preclude such private suits.

30. 18 U.S.C. §§ 3181, 3184 (2000); DEP'T OF JUSTICE, UNITED STATES ATTORNEYS' MANUAL §§ 9-14.210, 9-15.100, .200, .210 (1997).

31. DEP'T OF JUSTICE, *supra* note 30, §§ 9-90.010, .020, .200.

32. For example, Lazarenko was detained by U.S. officials at Kennedy Airport and charged with attempting to enter the United States on an invalid visa; he subsequently claimed asylum in New York in 1999 and owned a mansion outside San Francisco worth about seven million dollars. *See* Timothy L. O'Brien, *A Palace Fit for a Fugitive and Ukraine's Ex-Premier*, N.Y. TIMES, Sept. 1, 1999, at A1.

33. *See* Lafontant v. Aristide, 844 F. Supp. 128 (E.D.N.Y. 1994); RESTATEMENT (SECOND) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 66 (1962) (defining "head of state" as either the head of state or head of government). Neither is the act of state doctrine implicated in concerns about comity. Although this doctrine prohibits U.S. courts from passing judgment on the validity of acts of a foreign government, *see* Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964), U.S. courts can distinguish between the official acts of a foreign official and those taken for his personal profit, such as theft or embezzlement, *see* Republic of the Philippines v. Marcos, 862 F.2d 1355 (9th Cir. 1988) (rejecting the claim of former President Ferdinand Marcos that his corruption while in office was an official activity and thus insulated from suit under RICO statutes).

34. Courts should find domestic remedies unavailable even if a foreign nation has already tried and acquitted a foreign official, if that prosecution was a sham. This would raise no Fifth Amendment double jeopardy problem. *See, e.g.,* Heath v. Alabama, 474 U.S. 82 (1985) (permitting a second prosecution by a separate and distinct sovereign); United States v. Richardson, 580 F.2d 946, 947 (9th Cir. 1978) ("[P]rosecution by a foreign sovereign does not preclude the United States from bringing criminal charges."). Regardless, the Fifth Amendment need not prevent a subsequent prosecution if corruption led to the prior acquittal. *See* People v. Aleman, 667 N.E.2d 615 (Ill. App. Ct. 1996) (allowing a defendant to be retried for murder

asking U.S. judges to pronounce upon the adequacy of another country's legal system may appear to suggest a bold new role for U.S. courts, determining the adequacy of a foreign court to adjudicate a particular case has become a more frequent inquiry in forum non conveniens analysis and in the recognition of foreign judgments.³⁵ The expert testimony considered in those inquiries could also be applied here.³⁶

Promoting democracy and the rule of law abroad has become a guiding principle of American foreign policy: In the 1990s alone, the U.S. government spent more than three billion dollars in this enterprise.³⁷ The complexity of these challenges abroad call for a novel American strategy. To that end, the American legal system can serve not just as a model but also as an important player helping to strengthen legal systems abroad.

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because the judge in a bench trial had accepted a bribe).

35. See *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 254 n.22 (1981) (inquiring into the availability of an adequate remedy in a foreign court as part of its multifactor forum non conveniens analysis); RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 482 cmt. b (1987) (“Evidence that the judiciary was dominated by the political branches of government . . . would support a conclusion that the legal system was one whose judgments are not entitled to recognition.”); cf. Ryan T. Bergsieker, Case Comment, *International Tribunals and Forum Non Conveniens Analysis*, 114 YALE L.J. 443 (2004). Admittedly, U.S. courts have been understandably reluctant to declare foreign legal systems wholly inadequate, but more recently U.S. courts have found local remedies insufficient to redress particular acts of corruption by foreign government officials. See, e.g., *Films by Jove v. Berov*, 250 F. Supp. 2d 156, 211 (E.D.N.Y. 2003) (refusing to recognize the judgment of a Russian court in a copyright case because Russian executive branch officials improperly influenced the court's decision). In contrast, *Lazarenko*-type prosecutions require less taxing inquiries into the fine distinctions of transition countries' legal systems because foreign government officials are rarely prosecuted at all in their own countries.

36. See, e.g., *Berov*, 250 F. Supp. 2d at 196-216 (using expert testimony to assess the adequacy of a remedy in a Russian court). Similar expert testimony is used to determine the content of foreign law. See FED. R. CRIM. P. 26.1 (“Issues of foreign law are questions of law, but in deciding such issues a court may consider any relevant material or source—including testimony—without regard to the Federal Rules of Evidence.”). At least four U.S. statutes already explicitly require proof of violation of a foreign law. 16 U.S.C. § 1372(c)(1)(B) (2000); *id.* § 3372(a)(2)(A); 18 U.S.C. § 1956(c)(1) (2000); *id.* § 2313(a). U.S. courts have increasingly been called on to examine foreign laws as rules of decision in U.S. cases. See, e.g., *United States v. McNab*, 331 F.3d 1228 (11th Cir. 2003) (holding that a foreign government's postconviction repudiation of its own law, which formed the basis of a defendant's conviction in the United States under the Lacey Act, did not invalidate that conviction), *cert. denied*, 124 S. Ct. 1406 (2004).

37. CAROTHERS, *supra* note 10, at 49 tbl.1. This is a conservative estimate, which includes only the funds spent by the U.S. Agency for International Development from 1991 to 1999 that were explicitly designated as democracy assistance. *Id.* From 1992 to 2000, the U.S. government spent some \$216 million seeking to build the rule of law in the former Soviet Union. GAO, *supra* note 10, at 6-7.