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July 15, 2005

The Honorable John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Sentencing of Lynne Stewart

Dear Judge Koeltl:

The mission of the Society of American Law Teachers is to promote justice, diversity, and excellence in the legal academy and in the profession. With more than 900 members at over 160 law schools, it is the largest membership organization of law professors in the United States. We write to express our sincere hope that you will consider some of the factors we find to be of particular concern with respect to the sentencing of Lynne Stewart.

As lawyers we take very seriously our obligations to uphold the rule of law and to function as officers of the court, and as law professors we make every attempt to convey these responsibilities to our students. We also impress upon them the centrality of the constitutional right to counsel of every defendant, no matter how unpopular, and the role that zealous representation plays in maintaining our adversarial legal system.

Lynne Stewart has been convicted of overstepping the bounds of such representation by violating her oath to abide by the Special Administrative Measures imposed upon her client, Sheik Omar Abdel Rahman, and of providing material support to terrorist organizations. According to the evidence produced at trial, she did so by publicly releasing a press statement on behalf of her client in June 2000 as well as by presenting certain letters to him. We are aware that the events of September 11, 2001, have heightened concerns about security issues. We believe it important to remember that Ms. Stewart was not involved in or responsible for the other crimes for which her co-defendant, Ahmed Abdel Sattar, was convicted. She was not involved with the attacks of September 11.

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We also believe it worthy of note that Ms. Stewart's co-counsel, Ramsey Clark, under different circumstances, had also, in 1997, released a statement from their client to the press. He and Ms. Stewart were jointly engaged in a legal strategy that required the client to be kept in the public eye, and both made efforts to do so. At the trial before you, evidence was introduced that Ms. Stewart released her client's statement to the press as part of an overall attempt to have her client transferred to Egyptian custody because of his health concerns.

We realize that Ms. Stewart was tried and convicted under criminal statutes which address terrorist activity. It is significant that she did not subscribe to the political beliefs of her client, does not personally advocate terrorism, and did not engage in any action which resulted in violence. The crimes for which she has been convicted occurred only within the context of her legal representation of her client. As she will be disbarred from the practice of law, there is no possibility that she will engage in any such actions in the future, and there is no evidence that she poses any threat to society. Indeed, there is every indication that Ms. Stewart will devote her energies to furthering peace and justice in this country.

We write you to urge justice for Lynne Stewart as a person, but not only for that reason. We are moved also by our belief that fundamental principles of democracy and the rule of law are implicated in her sentencing.

The government has been given dramatically expanded powers to fight the current war on terror and there has been much national debate on their potential for eviscerating constitutional rights. The possibility that Lynne Stewart will receive a lengthy prison sentence increases our concern that public reaction to the current climate will be to tolerate the weakening of constitutional protections. Your sentencing decision will have enormous impact beyond this case.

Today's anti-terrorism initiatives are broadly framed and give enforcement officials and prosecutors wide discretion, presumably in order to prevent those who pose serious threats to the national security from evading prosecution on mere technicalities. We are concerned that if anti-terrorism laws are used – or are perceived as being used – not to combat actual threats to national security, but to discourage lawyers from representing politically unpopular clients, long-term damage may be done to the criminal justice system.

The democracy we all hope to protect relies on fundamental principles which include the presumption of innocence and the right to counsel. As law professors, we are uniquely aware of the central role that defense lawyers play in ensuring justice, especially for those accused of heinous crimes, and in maintaining the actual and perceived legitimacy of the criminal justice system. Recent changes to the rules governing attorney-client privilege, the nature of the prosecution of Ms. Stewart, and the lengthy sentence she faces threaten to chill lawyers from representing clients charged with terrorism-related offenses. Without lawyers willing to represent those clients, our ability to distinguish those who pose actual threats to the national security from those wrongfully charged will be greatly diminished.

With these concerns in mind, we hope that you will consider Lynne Stewart's long history of work within the legal system, the fact that she has never advocated terrorism, and her many contributions to social justice as you decide her sentence. The jury having found that Ms. Stewart's actions did violate her oath to abide by certain restrictions, we hope you will impose a sentence in keeping with the disciplinary expectations for such a violation when it occurred. Of course, it would be manifestly unjust for her sentence to be enhanced by political developments occurring after the violation, of which she had no knowledge and over which she had no control.

Sincerely yours,

José Roberto Juárez, Jr., and Holly Maguigan
Co-Presidents
and
The Board of Governors of the Society of American Law Teachers