

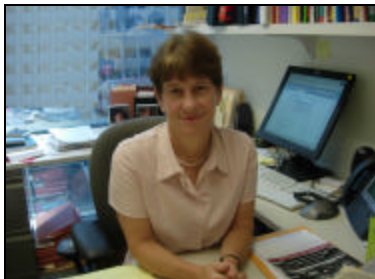


The ISLP News

The Newsletter of the
International Senior Lawyers Project

Volume 3 Issue 1

October 2006



Dear Friends,

We were very disappointed that we failed to put out an issue of The ISLP News in the spring of 2006, and we want to apologize for that. The reason for this failure is that we have been extraordinarily busy.

Our project portfolio has grown from 12 in 2002, with no long-term on site assignments for our volunteers, to nearly 30 projects so far this year, with 8 lawyers going abroad for periods of 3 weeks to 7 months and 19 going abroad for shorter periods of time, and work being done by about 15 law firms either in support of our volunteers or on other projects. Our growing success has now put us in a position of anticipating significant staff growth in the coming year.

In this issue we highlight our work over the past year in Eastern Europe and Russia and the work of one of our volunteers, Dick Spencer, with the Mongolian Centre for Human Rights and Development.

Our articles are longer than usual and will, we hope, give you a real sense of what ISLP volunteers can accomplish. As always, we welcome your feedback and ideas.

Sincerely,

Jean C. Berman
Executive Director

STAFF

Jean C. Berman
Executive Director
Tseday Alehegn
Program Assistant

OFFICERS

Anthony F. Essaye
Co-President
Robert H. Kapp
Co-President
Joseph C. Bell
Secretary
Richard N. Winfield
Treasurer
William C. Kelly, Jr.
Executive Committee
Robert L. Wald
Executive Committee

BOARD OF DIRECTORS

Joseph C. Bell
Ruth Greenspan Bell
David E. Birenbaum
Nancy Zucker Boswell
Anthony F. Essaye
James Fitzpatrick
Donald G. Glascoff
Holly J. Gregory
Herbert J. Hansell
Robert E. Herzstein
Robert H. Kapp
William Kelly
Jerome Kurtz
Zbigniew Lasocik
Natasha C. Lisman
Matthew McHugh
David McQuoid-Mason
Daniel K. Mayers
Joel P. Mellis
Ramon Mullerat
Joseph N. Onek
Roberts B. Owen
Robert Pitofsky
Lois Schiffer
Robert L. Wald
Richard N. Winfield

From Maine to Mongolia: An Interview with Dick Spencer

This past March, ISLP volunteer Richard Spencer went to Mongolia for three months to work with the Centre for Human Rights and Development ("CHRD") to help build its environmental advocacy program. ISLP partnered with Global Rights, a premiere international human rights organization, on this assignment, which produced numerous and important results. Given Dick's impressive environmental law credentials, as well as his experience as a legislator and problem-

solver, this was not at all surprising.

After graduating from Columbia Law School in 1969, Dick and his wife moved to Maine, where he worked with local non-profits on issues ranging from the environmental impact of Maine's paper industry, to its timber taxation scheme, to the water regulatory system. Among other achievements, Dick drafted the state's Saco River Corridor law, which protects rivers that flow through southern Maine, and which became the

basis for the state's Shoreland Zoning law.

Dick is a shareholder in the Maine law firm Drummond, Woodsum, and MacMahon, where he specializes in effective advocacy in the public sector at the local and state levels and before administrative agencies, the state courts and the legislature. He is among the state's experts in such diverse areas as public finance, milk pricing, land conservation, land use, and municipal law. (*Continued on page 2.*)

From Maine to Mongolia: An Interview with Dick Spencer *continued..*



ISLP volunteer Dick Spencer in Mongolia

(continued from page 1) Dick is also a past president of the Maine Audubon Society and is currently Vice Chair of Maine Coast Heritage Trust. He is a former member of the Maine Legislature, where he served as House Chair of the Judiciary Committee, and has been a candidate for U.S. Senate.

This interview was conducted in July by summer intern Bianca Nicoletti, to whom ISLP is very grateful for her valuable assistance.

Q: How did you learn about ISLP and why did you offer to volunteer?

About 5 years ago, my wife and I went to Mongolia. We went hoping to fly fish and we were going way up into the mountains between Russia and Mongolia to see some people who were the last nomadic reindeer herders in that part of the world. We got totally rained out and ended up with a group of Mongolian nomads. They basically took us in to dry us out. We were telling stories back and forth.

Because I represented all the dairy farmers in Maine, and they were animal herders, we had something we could talk about. At the end of that, they said “you should come here and help us,” and that sort of planted a seed in the back of my mind, and I thought it would be really interesting to do something that used my legal skills on an international setting. Then Maine lawyer Linda McGill, who spent five months in India as an ISLP volunteer, told me about ISLP, and I contacted Jean Berman.

Q: What was the nature of the project and the purpose of your work in Mongolia?

The assignment was to work with CHRD to help them with their efforts to address the environmental problems being created by mining. Mongolia has a very significant set of environmental problems that are being caused by gold mining and other kinds of mining. Because the mining affects the rivers, which are very fragile, it is significantly interfering with the ability of the nomadic people, who depend on the water, to be able to survive. So, the environmental issues in Mongolia become human rights issues because they have such a direct impact not just on other species but on people directly.

Q: Can you tell us about some of your successes in this assignment?

I worked on 11 or 12 different projects and, from my point of view, essentially all of them were successful. They ranged the full gamut of everything I’ve ever done in my career. Frankly, it was the most extraordinary experience I’ve ever had. [For example.] I worked with CHRD to help them win a case against a mining company where the judge declared that the companies mining license was illegally issued.... [This was] the first case that anyone had ever won against a mining company [in Mongolia]. Then I worked with CHRD to help write a national discussion paper on mining and the environment for the United Nations Development Program. As a result, I was asked to participate as one of two non-Mongolian presenters in a national forum, called by the President of Mongolia, on mining and the environment. I also gave a workshop for 40 Mongolian lawyers and judges on strategic environmental litigation. [I presented a similar] workshop for the leaders of all of Mongolia’s river movements, which are like grassroots environmental movements.

Q: Can you tell me a little about your work on the Gobi Dessert?

I found a provision in the Mongolian law that says that if a local administrative district creates a protected area, you can cancel a mining license, if you pay compensation to the person who owns the

From Maine to Mongolia: An Interview with Dick Spencer continued..

mining license. When we explored that, we found that the law was there but no one had ever [utilized it]. So, we found a 10,000-acre protected area that had been established in the Gobi desert where a mining license had been granted, and we wrote an agreement between CHRD and the local administrative district (the “SOUM”) [providing that] CHRD would negotiate with the holder of the mining license to compensate them for giving up the license in the protected area. That agreement was signed between CHRD and the SOUM, [and the] project is, I think, going to be completed this summer.

Q: Can you tell us about the recent victory in Parliament for CHRD?

CHRD drafted a whole set of amendments to Mongolia’s mining laws. As part of the proposed amendments, I drafted a freedom of information law and a law on public participation in mining licensing decisions. I heard from CHRD that my amendments were adopted, in a somewhat revised form, by the Mongolian parliament about 10 days ago!

Q: I understand that you even recruited others to work for CHRD

Yes, we recruited [a young Fulbright Scholar working in Mongolia in the area of water chemistry] and got him to change his program. So he is now working with CHRD and doing testing for mercury and cyanide pollution around mining sites. [This work will] greatly strengthen their position on these environmental cases because they will actually have some scientific data. Which was one of their big problems, they had no real way of doing any science on this whole mining and environment issue.

Q: Given how much you achieved, what were the highlights? Which were most significant?

I would say it’s pretty hard to tell, but I guess Number One would be creating the protected area in the Gobi Dessert. Two would be drafting and getting some form of a freedom of information law adopted by the Parliament. The third would be helping CHRD win the first case that anyone had ever won against a mining company. There’s one other major thing - there were all these people that were working on this issue but none of them seemed to be cooperating with each other. I got CHRD to meet with the local World Wildlife Fund (WWF) group and we drafted a cooperation agreement among CHRD, WWF, and the 14 river movements that they would all work together in something that we called the Coalition for Responsible Mining. They all agreed to sign that agreement and then they all worked together. That was how we got the changes adopted by the parliament.

Q: Did your time abroad affect you on a personal level?



I think probably the most amazing thing was [the realization] that you could go to the other side of the world, and have your experience be relevant to them. And then go to a place that was about the same size as where I work here, and be able to accomplish the same kinds of things that I’ve been able to do here. That was just mind boggling to me. I didn’t expect to be able to do anything. I figured I’d go over there, have some ideas, and everyone would say right and that would be the end of it. [We achieved] a huge number of things, in less than three months. There were these 10 projects that were all pretty much accomplished. The other thing was I caught the largest fish I have ever caught in my life. They have these fish called taimen, and I caught one that was 47 inches long!

Spotlight on Central and Eastern Europe *By Diana Hortsch*



ISLP's commitment to human rights, access to justice and the rule of law is exemplified by the many projects we have undertaken in Central and Eastern Europe (CEE) over the past year. In the last issue of the *ISLP News*, we highlighted Cynthia Rollings' work with the European Roma Rights Center in Budapest. In this issue, we look at highlights from our other projects in the region during the past year. We are very grateful to the **Ernst C. Stiefel Foundation**, whose generous support has made much of this work possible.

Assisting the Deputy High Representative of Brcko, Bosnia. In the Spring of 2005, ISLP was approached by the Deputy High Representative of the District of Brcko with a request for sophisticated legal counsel on constitutional and other issues in connection with proposed changes to the governing structure of Bosnia i Herzegovina ("BiH"). *Bill Krisel*, at the time of the request a partner (and now Counsel) in the Paris office of *Proskauer Rose*, volunteered for this assignment. Bill served, and continues to serve, as principal legal counsel for the Brcko District Government before the Brcko International Arbitral Tribunal and as advisor to the District in its discussions with the other sectors in BiH.

Training Human Rights Lawyers in the Czech Republic. Last summer, the Czech League of Human Rights ("LIGA"), one of only a handful of public interest legal organizations in the country, approached ISLP for help in building its skills and reaching out to Czech firms for *pro bono* assistance. ISLP recruited *Mike Haroz*, a senior partner at Boston's *Goulston & Storrs* and former supervising attorney at Greater Boston Legal Services, and *Arline Pacht*, a retired judge and founder of the International Association of Women Judges. Together, they spent three months working with LIGA in Prague and Brno. Mike and Arline worked with LIGA on policy and practices, and provided strategic training and advice to staff. Mike also helped LIGA negotiate the terms of an agreement for *pro bono* assistance from a major European firm. Arline organized a program at the Ombudsman's headquarters in Brno at which three panelists, including a Supreme Court judge, explained facets of an important new domestic violence law.

Enforcing Sexual Harassment Laws in Hungary. In response to a request from Hungary's Equal Treatment Authority (ETA), a newly formed agency that enforces Hungary's anti-discrimination laws, ISLP volunteers presented a training program on the enforcement of laws prohibiting sexual harassment in the workplace. *Clifford Chance US* senior partner *Blair Soyster* and associate *Marye Cherry* prepared a comprehensive manual addressing definitional, applicability and evidentiary issues, which Clifford Chance generously translated into Hungarian. Blair and Marye conducted a 2-day training in April 2006 that was attended by all of the ETA staff.

Fostering a Pro Bono Culture in Central Europe. The Public Interest Law Initiative (PILI), based in Hungary, recently established the Central European Pro Bono Initiative to encourage private law firms in Hungary, Slovakia, Poland and the Czech Republic to establish organized programs for *pro bono* legal work. PILI approached ISLP for help in implementing this initiative, and ISLP selected *Michael Cheroutes*, a retired partner from *Hogan & Hartson* with a deep commitment to *pro bono*. Mike's nearly three months with PILI were extremely productive. When he left, with his considerable assistance (i) a dozen law firms had committed to support the project; (ii) a Declaration of Pro Bono Principles had been endorsed by these firms; (iii) the concept of a Pro Bono Clearinghouse had been approved; (iv) PILI was initiating a related outreach and educational program for Hungarian-based NGOs; (v) the Hungarian Ombudsman's office was on board; and (vi) regional efforts had begun in the Czech Republic and Poland.

Freedom of the Press in Russia. During the past year, ISLP volunteers *David Schulz* of the New York firm *Levine Sullivan Koch & Schulz*, *Natasha Lisman*, a partner at *Sugarman, Rogers, Barshak & Cohen* in Boston,

Spotlight on Central and Eastern Europe continued..

and *Dick Winfield*, a retired partner of *Clifford Chance US*, assisted the Open Society Justice Initiative (OSJI) and two Russian NGOs, the Moscow Media Law and Policy Institute and Jurists for Constitutional Rights and Freedoms (JURIX), in their efforts to score victories for freedom of the press and freedom and expression in Russia. ISLP volunteers assisted on three cases, *Romanenko v. Russia*, *Dyuldin and Kislov v. Russia* and *Filatenko v. Russia*, and all were held admissible under Article 10 of the European Convention on Human Rights. In deciding admissibility in *Romanenko*, the Court specifically cited arguments developed by our volunteers.

Freedom of Information in Romania. In June 2005, OSJI requested ISLP's assistance with the reform and harmonization of Romania's freedom of information laws. The limitations of Romania's 2003 Law on Free Access to Information of Public Interest had led to serious problems, and a move for reform was under way. ISLP recruited *Dave Schulz* and *Mark Stephens* of the British firm *Finer Stephens Innocent* to undertake this work. Dave and Mark analyzed the proposed amendments to the legislation in detail and went to Romania to meet with and advise key NGOs and parliamentarians. They made recommendations to clarify and improve the proposed amendments, and the resulting amendments stand a good chance of being passed in the next year.

Assisting the First Public Defenders Offices in Ukraine. In June, veteran public defender and criminal defense lawyer *Ed Rucker* went to Ukraine for seven months with his wife, Susan, to help establish the first public defender offices in that country. This project was undertaken by ISLP at the request of OSJI, which has been working to establish public defender offices in Eastern Europe for several years. ISLP previously sent volunteers to Bulgaria, Lithuania and Mongolia on similar projects. Ed was highly qualified for this assignment: he was a public defender for 15 years, including Head Deputy in charge of indigent representation in a district of Los Angeles County. He spent the first three months in Kharkiv helping the head of the new office secure space, hire staff and work out arrangements with local police, prosecutors and government officials. He also worked on developing a uniform system of case intake and distribution, preparing forms for motions and other proceedings and providing strategic advice to the Director of the office. Ed and Susan will be in Kiev by the time this newsletter is received.

Committing to the Region. ISLP's work in Central and Eastern Europe serves as a model for how we seek to work around the world. By utilizing top rate volunteer attorneys and partnering with leading NGOs, ISLP is able to better ensure the services it provides have a real impact in the places we work and serve a wide variety of interests.

A Brief Look at Some Recent Economic Development Projects

As noted in the letter from the Executive Director, 2006 has been an extraordinarily busy year for ISLP, with a growing number of projects of increasing sophistication. Following are short descriptions of some of the projects we have recently undertaken in the area of economic development.

Liberia Review of Contracts: *Robert Hillman*, Fair Business Practices Distinguished Professor of Law at the *University of California at Davis Law School*, *Joe Bell*, ISLP Board member and a partner at *Hogan & Hartson*, and *Joel Herold*, a partner at *Cravath, Swaine & Moore*, are leading the review and negotiation of major concession agreements for the new government of Liberia.

United Nations Millennium Cities Initiative: *Katherine Forrest*, a partner at *Cravath, Swaine & Moore*, is, with colleagues, assisting the *Millenium Cities Initiative* in reviewing the foreign investment regulatory structure of seven cities in Africa and advising on the impact of their structures on foreign direct investment ("FDI"), with a goal of promoting increased FDI in these cities. (*Article continued on last page.*)

31 W. 52nd Street, 9th Floor
New York, NY 10019

Tel: 212-880-5714
Fax: 212-878-8375
www.islp.org

Mission

The International Senior Lawyers Project provides volunteer legal services by skilled and experienced attorneys to advance democracy and the rule of law, protect human rights and promote equitable economic development worldwide. Through the *pro bono* work of retired and active practitioners, ISLP helps governments and citizens develop and implement legal reforms, assists programs that advance the social and economic well-being of people in developing countries, and builds the capacity of local organizations and professionals to meet the needs of their communities.

PLEASE SUPPORT ISLP

ISLP depends largely on the support of the legal community and other individuals who understand the importance of the rule of law and sound legal institutions in addressing poverty, repression, corruption and despair. Please include ISLP in your year-end giving plans so we can sustain our work and provide more opportunities for you to serve the world community. Please be as generous as possible and send your donations to Jean Berman, International Senior Lawyers Project, 31 W. 52nd St, 9th Fl., New York, N.Y. 10019.

(continued from page 5)

Botswana Trade Negotiation Training Program: In partnership with the *African Centre for the Constructive Resolution of Disputes*, ISLP developed a week-long training in trade negotiation skills for the Botswana Ministry of Trade and Finance. The training was prepared by *Chip Roh, Joanne Osendarp* and *Jean Anderson*, partners at *Weil Gotshal & Manges*, and retired trade lawyer *Patrick Macrory*, and conducted by Chip and Patrick with ACCORD Executive Director *Vasu Gounden* and trade expert *Richard Kamidze*. Chip, Joanne and Patrick are continuing to help ISLP with planning for future trade negotiation training programs in Africa and elsewhere.



Participants of the Botswana Trade Negotiation Training Program