

FOR IMMEDIATE RELEASE:

August 4, 2009

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The Case for Plea Bargaining: Former Justice Department Official Brings Legal Insights to India as ISLP Volunteer

NEW YORK, NY, August 4, 2009 –

In July, William Gardner, a former prosecutor with the United States Department of Justice and Founder and Chair of the White Collar Crime Practice Group at law firm Morgan Lewis & Bockius LLP, traveled to India as a volunteer for the International Senior Lawyers Project (ISLP), a New York based NGO. Gardner's trip came at the request of a Justice of the High Court in New Delhi, who asked ISLP for a senior level attorney to contribute to training efforts related to India's introduction of plea bargaining into their legal system.

For years, Indian magistrates have struggled with excessive case loads that have overwhelmed the justice system. In response, the Criminal Law (Amendment) Act, 2005 was passed by the Indian Parliament, allowing plea bargaining in certain situations in an effort to speed up caseload disposition. Passing the law was just the start, however. In India's new system, the accused must file an application for plea bargaining. Procedures needed to be created for this process and the pilot project magistrates, prosecutors and defense attorneys of the Tis Hazari court in Delhi, where it is first being introduced, needed to be educated on the unfamiliar concepts involved in plea bargaining.

Enter Bill Gardner and ISLP. In support of its mission to provide pro bono legal assistance and capacity building to advance the rule of law, human rights and economic development, ISLP worked closely with the Justice and High Court to identify a volunteer with the high level of knowledge and expertise necessary to contribute to the court's pilot project. Notwithstanding the differences in applications and regulations of the new Indian law from those in the United States legal system, Gardner was able to provide an overview of the new plea bargaining policy to groups of Delhi lawyers, judges, and even prisoners. "I spent one day at the Tihar jail, addressing four different groups of inmates," said Gardner, "Two of the groups included English speaking prisoners; the other two were Hindi speakers whom I addressed via an interpreter. All in all, I think I spoke to over 400 prisoners."

Addressing as many stakeholders in the process as possible - and their questions and issues - during his two-week stay, Gardner felt significant headway was made: "We did what we could to create awareness of the possibility of plea bargaining at Tis Hazari, and we had a set of documents that we thought would make the process run smoothly." His new colleagues at the High Court agreed: "All these discussions helped us form a clear idea about the interpretation of the plea bargain law as enacted in India, its benefits and what to watch out for" wrote Justice Madan Lokur to ISLP Executive Director Jean Berman, "...and the good news is that we received a plea bargain application and the matter was successfully disposed of today itself (mutually satisfactory disposition)."

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The International Senior Lawyers Project (www.islp.org) is an international non-profit organization founded in 2000 to recruit highly experienced lawyers for international pro bono projects related to human rights, economic development and the rule of law. For more information, visit www.ISLP.org.