

Top-Notch Lawyers Create a Sort of Attorneys Sans Frontières

Attorneys who put the 'pro' in pro bono start girdling the globe to offer free help for countries struggling to implement the rule of law.

By: [Ken Stier](#) | May 25, 2009 | 06:00 AM (PDT)

They call themselves the Peace Corps for lawyers. Not newbies, these are senior lawyers, many already retired, most partners, with comfortable nest eggs that allow them to work abroad for weeks, or even months, with no pay.

They are the [International Senior Lawyers Project](#), which has taken one of the legal profession's best traditions — pro bono work, usually on behalf of the poor — on the road, globally.

It helps that many are from politically well-connected major firms, where pro bono is still a calling card to attract — and retain — the best students. It also appeals to the public spiritedness that attracted many to the profession in the first place, idealism that may have been sidetracked during busy careers spent representing the powerful and well-heeled.

Now these seasoned legal guns (a quarter are retired) have a chance to indulge that idealism — and a troubled world, where the rule of law is often more aspirational than actual, is their beneficiary.

"The need is huge," says Jean Berman, ISLP's executive director, who on a recent exploratory trip to Haiti identified a dozen worthy projects in short order.

This past year, 57 volunteers worked on 76 different projects in 22 countries from Zambia to Afghanistan. That's a 50 percent increase from the previous year, reflecting strong supply-side interest from lawyers and growing demand from around world as word spreads that some of the best legal advice money can buy can be had for free.

Altogether, ISLP volunteers and their law firms last year devoted 38,000 hours pro bono, calculated as being worth \$12.4 million.

The organization recently expanded into Europe with a satellite office in Paris. That move helps staff work in Spanish-speaking and Francophone countries — such as Mali, where 500,000 live in legal trans-generational slavery.

Idealistic and Antsy

While pro bono is an Anglo-Saxon legal tradition (in France, the state assumed more complete responsibility for legal representation), Berman sees ISLP as part of a growing global pro bono movement fueled in part by demographics, including the swelling ranks of retiring baby boomer lawyers who came of age in the idealistic '60s, and the increasing reach of many law firms with offices around the globe.

Those trends came together for two wizened Washington, D.C.-based international lawyers with activist track records during a 1999 lunch where they contemplated retirement but yearned to stay active. The pair — Anthony Essaye (who spent three years with the Peace Corps soon after its 1961 debut) and Robert Kapp — was sure many others felt the same. And so ISLP was conceived.

Two years later — on Sept. 10, 2001 — Essaye and Kapp opened a rent-free office above New York's Grand Central Station at Clifford Chance, Essaye's former employer.

ISLP is already much larger than either co-founder had imagined. Now, the challenge is more managing growth without sacrificing quality, Essaye explained.

The variety of ISLP's projects for this past year alone is stunning:

- The group created a [blog](#), staffed by volunteer James Manahan, to monitor the recently concluded trial of former Peruvian President Alberto Fujimori. The goal is to ensure fairness and transparency in the proceedings while training other monitors.
- A similar effort, courtesy of Clifford Chance, is under way for another international-justice-in-the-making trial, that of former Liberian President (and warlord) [Charles Taylor](#). He faces crimes against humanity charges filed by the Special Court for Sierra Leone, although for security reasons, the trial itself was moved to The Hague, Netherlands. "This site will provide news and expert analysis — updated regularly when the Court is in session — throughout the trial of Charles Taylor," says an introductory note on the blog at www.charlestaylortrial.org. "It is intended as the primary resource for all those interested in the trial, with a particular emphasis on reaching West African audiences."
- They work with the Institute for [Human Rights and Development in Africa](#), a pan-African nongovernmental organization devoted to advancing respect for human rights on that continent.
- An ISLP volunteer worked on improving China's juvenile justice system with [International Bridges to Justice](#), which in the last six years has helped train more than 10,000 lawyers in China, Vietnam and Cambodia. In India, ISLP has worked with public defenders and prosecutors about the proper way to collect evidence and build a case, so authorities don't resort to beating confessions out of suspects.
- In Egypt, a criminal copyright infringement case against a free speech advocate — for Web-posting a brief of a lawyer who is suing them for libel in another case — was dismissed in part because of ISLP's legal support. And in Yemen, Baker & McKenzie lawyers assisted Yemeni Parliamentarians Against Corruption in drafting a freedom of information law.

Creating an Infrastructure

In most cases, the work plants seeds that take years to blossom.

In 2003, Robert Kinney, a public defender in Idaho for 15 years, went to Bulgaria to start the country's first public-defense training project. Bulgarian prosecutors enjoyed a 90 percent-plus conviction rate because the defense system was so lax. (While that figure on its surface looks similar to estimates of the total [U.S. rate](#), that U.S. figure is mostly due to plea bargains and not courtroom diligence.)

To counter that ingrained culture, Kinney started with six recent law graduates and after training in investigations, interviewing and cross-examinations, as well as how to file motions, set them loose. "They were sponges of information and their computer literacy and understanding of more modern systems of thinking of a law helped in getting them motivated," recalls Kinney. "These guys took this to heart so much that they would take trains out to the villages and investigate cases; the villagers were shocked that anyone would come out and talk to them about the facts of a case."

Late last year, Evan Rosen, a public defender in Minnesota, laid groundwork at Vietnam National University in Hanoi for the country's first law school clinic. "They need retired law professors or lawyers to come help ... advance concepts like the 'rule of law,' and lawyers as instruments of social justice and as advocates of human rights," Rosen said, adding, "It seems to me there can't be too many places more worthy of help and more ready for change than Vietnam."

ISLP includes more conventional support for the legal profession, such as building a commercial-law training program for black South African lawyers. That program has so far served 350 lawyers, half of them women, in an effort the local bar association is expected eventually to assume.

More immediate impacts can be expected from training government officials how to craft intellectual property laws and negotiate better trade deals with international partners, as has been done in Liberia, Malawi, Rwanda, Sierra Leone, Tanzania and Zambia.

Somewhat similar programs have been available through international bodies, such as the World Bank and the U.S. Agency for International Development, which is generally implemented in-country by the American Bar Association.

But the ISLP can be more flexible with the projects it undertakes and how quickly it can move — almost as soon as a law firm's executive committee OKs the work, releasing the staff lawyer.

Plus, projects are often chosen by the particular passion and expertise of their volunteers.

For example, Natasha Lisman, a Russian-born litigator in practice in Boston, works closely with Karinna Moskalenko, a prominent Moscow lawyer who founded the International Protection Centre. That organization specializes in bringing cases — nearly 200 of them so far, many by families of victims in the war in Chechnya — against Russia in the [European Court of Human Rights](#).

Moral Complexities

Although most of ISLP's work centers on 'rule of law,' a growing share aims at more equitable economic development.

Much of this work has supported the social entrepreneurial undertakings launched by [Ashoka](#), including a new micro-insurance business for low-income people. But sometimes the economic help takes place at a national level.

Joseph Bell, partner in the D.C. office of Hogan & Hartson, has helped Liberia review and negotiate multibillion-dollar contracts in natural resources agreements, expertise he developed in the past representing corporate clients. He got involved because of a friendship with someone close to President Ellen Johnson-Sirleaf.

Liberia has been the biggest single beneficiary of ISLP's pro bono work, receiving 13 volunteers last year from seven different firms who advised and represented the government on six new natural-resource agreements. Liberia's poverty certainly qualifies it for ISLP support, but it is also a tribute to Johnson-Sirleaf's sterling reputation as an anti-corruption advocate.

In one case, Bell sat next to the Liberian minister of agriculture while renegotiating a 25-year agreement with Firestone, the iconic American rubber and tire firm that is now part of Japan's [Bridgestone](#). Over several months, that work — backed up by his firm's logistical support — could have been billed at \$500,000, he estimated.

Berman, ISLP's executive director, concedes that good governance can be "tricky criteria" for pitching in since there are typically different factions — some less ethical than others — in any single government.

The ISLP is poised to wade deeper in this moral complexity as it mulls aid requests from other African countries. It is already reviewing a diamond concession in neighboring Sierra Leone.

Other neat distinctions are also easily blurred, as that between human rights and economic development.

ISLP's first emissary to Mongolia, Maine environmental lawyer Richard Spencer, arrived in Ulan Bator for a summer's work with a local human rights groups just as environmental degradation was emerging as the country's most pressing human rights issue.

Rampant uncontrolled mining (triggered by the collapse of the economy along with the disappearance of the Soviet Union) was polluting rivers and aquifers, undermining traditional herding and causing crushing urbanization in the capital, where more than half the country now lives.

It helped that Spencer had cut his professional teeth in the 1970s as the environmental movement took hold in the U.S. (his focus was in Maine); in Mongolia it was telescoped into months.

He helped win a court case to force that environmental impact studies be made public — a critical condition so communities can challenge them — and for the right of affected communities to negotiate to share in the benefits of the mine.

That paved the way for a third ISLP volunteer (a second was a former New York judge who worked on human trafficking), Robert Mansell, a Canadian environmental and mining lawyer, to come in to help develop a model template for this "community benefits agreement," which is now a standard part of agreements in developed countries.

He also helped negotiate its first application in what may become the world's biggest (\$2 billion-plus) copper and gold mine. He also helped — through coaching in a mock trial — to win the first case to force a mining company to clean up after itself.

"The experience has been completely life changing and wonderful," said Mansell, who has signed up to return. "I'm so fortunate to have had the opportunity to do something like this in my career; it renewed my pride in being a lawyer. There's so much more work that needs to be done and I would love to continue doing it."