In his first speech to the IBA delegation as President, Horacio Bernardes Neto offered delegates a warm welcome to Seoul, signifying that the IBA remains committed to Seoul as its preferred location to demonstrate its commitment to the reestablishment of the rule of law across the Korean peninsula.

“We hope very soon the whole peninsula can be in a state of peace and under the rule of law. That is the hope of the IBA, and we came to Seoul to express that,” he said.

Bernardes Neto spoke of the crucial role that lawyers play on the world scene in ensuring that crucial constructs of society such as human rights and democracy are upheld, especially as countries once so enshrined in peace and stability show signs of weakness.

Addressing a challenge many attendees will be acutely aware of – keeping people in meeting rooms – Bernardes Neto urged delegates to attend the week’s panels. “Although there is a large opportunity for us to visit clients and colleagues, and you should do that – go to cocktail parties – the best place to network is the sessions. In the sessions you are going to find people who have the same interest as you, and one day may send you a client,” he said.

The cornerstone of functioning democracy

Imagine a world without the rule of law: no independent media, no freedom to assemble and peaceful protest, no freedom to think individual ideas or articulate opinions, no independent judiciary or legal profession.” These were the words of former Secretary-General of the United Nations, Ban Ki-moon, who rounded off the ceremony with a video address.

“We live in an increasingly interconnected world, where what happens on one half of our planet is immediately and occasionally felt in another part,” said Ki-moon, adding that against this backdrop, the rule of law has been eroded in a relatively short period.

Ki-moon went on to echo sentiments by suggesting present members of the legal market were in fact the cornerstone of functioning democracies and societies, and that members of the IBA have a key responsibility to safeguard areas like human rights as much as possible.

Before that, Park Won-soon – the Mayor of Seoul – also extended a warm welcome to the delegates and expressed his excitement at the prospect of sharing his city with so many lawyers from across the globe. Quoting a passage from the Magna Carta, he too spoke of the importance of the legal industry: “As a lawyer, first and foremost your goal and responsibility is to promote human rights and justice. Without lawyers, democracy would not have happened in Korea,” he said.

He was preceded by the Honourable Song Sang-Hyun, chair of the IBA Seoul Annual Conference Host Committee and former President of the International Criminal Court, who has been instrumental in ensuring this week’s event will be one to remember for years to come.

“We attach great importance to the IBA holding its annual conference in Seoul. It is an unparalleled opportunity for all of those attending to help promote human rights, the rule of law, the future of democracy, peace, justice, sustainable development, good governance, the impact of modern technology, and climate change,” he said.
QUESTION
What are your best tips for jetlag?

Dr. Dagmar Waldzus
Buse Heberer Fromm
Germany

It took me more than 10 hours to get to Seoul. I think getting more sleep works well. I find going from west to east is worse than the other way around.

Himanshu Deora
ZeusIP
India

The moderate temperature in South Korea makes it easier to adjust. Because I come from India, it's actually quite refreshing here.

Lim Kean Bon
Singapore Tourism Board
Singapore

Finding a good bar and getting a good massage work well.

Giuseppe De Palo
United Nations
USA

My tips are: not to drink on the plane, not to crash before 7pm local time, drink plenty of water, and stop thinking what the time it is in your home country.

Segun Meleki
LawPavilion
Nigeria

Reading myself to sleep usually helps.

Natalia Prisekina
Pepeliaev Group
Russia

It's actually closer for me to come to Seoul than to go to Moscow from Vladivostok. I try to get to the evening by drinking lots of coffee.

Laurent Henneresse
Bonn & Schmitt Avocats
Luxembourg

I've been very busy at work the week before and I found that taking herbal pills really helps.

In Hee Cho
Lobo De Rizzo
Brazil

The best thing is to get sleep on the plane so that when I arrive, I can adjust to the sleeping hours, otherwise it is very hard.

Gustavo Tamayo
Lloreda Camacho
Colombia

Sleep well before getting on the plane so you're not tired when you arrive and can adapt to the local time.

FILM: The Long Haul

“I never really went into this work expecting to have overnight results, I think anybody who does so ought to be disabused. Certainly I don’t encourage my own students to think in those terms; I guess they hang in there because they do know that it is something for the long term, because you can’t expect instant results.”

These are the words of the late Professor Sir Nigel Rodley, esteemed human rights lawyer and advocate. This week a film dedicated to his life will be airing at the conference; a moving piece honouring his fight for human rights, law, politics and global development.

As Amnesty International’s first legal officer back in the 1970s, Rodley’s career spanned six decades. During this time he developed the charity’s work in the field of torture prevention, and was involved in the drafting of the UN Convention Against Torture.

A career-long crusade with torture followed, as a member of the human rights committee, a commissioner of the International Commission of Jurists, a trustee of Freedom from Torture, along with various other positions. He was also a member of the Academic Panel at Doughty Street Chambers.

Kirsty Brimelow, QC at Doughty Street Chambers, says that the film should interest anyone concerned with human rights, law, politics and
go
global development. “Basically, anyone who is living and breathing and is interested as to what will happen to the planet will enjoy the film. It is going to be rolled out globally and developed as part of a human rights outreach, and so there might also be opportunities to get involved in a future project,” she says.

Reporting for duty

Four new IBA reports will be launched this week during the conference in corresponding sessions. These are: Legal Expenses Insurance and Access to Justice (Monday); The Future of Work (Wednesday); a New Anti-Corruption Paradigm: Sextortion (Wednesday); and a joint IBA and World Bank report: A Tool for Justice: Cost-Benefit Analysis of Legal Aid (Thursday).

More information on these reports will be made available in the IBA Daily News throughout the week.
A tough conversation

This morning’s showcase session will discuss the IBA’s landmark survey of 7,000 legal professionals across 135 countries

In 2019, the IBA released its landmark research on bullying and sexual harassment in the legal profession. The global survey of approximately 7,000 legal professionals across 135 countries – the largest of its kind – returned reports of bullying and sexual harassment, chronic underreporting of incidents, and inadequate responses from workplaces.

Panellists in the Monday morning showcase session will discuss the research findings and how the legal profession can more effectively address bullying and sexual harassment. They will also be sharing how lawyers should work to overcome the barriers to more diversity and inclusion.

A number of prominent speakers will be sharing their insights for this session. These include Julia Gillard, the 27th prime minister of Australia, Baroness Helena Kennedy, the IBA’s Human Rights Institute, and as well as Simon Davis, president of the Law Society of England and Wales.

As a hierarchical profession where those in senior roles remain disproportionately men and opportunities for advancement are offered more to those with similar backgrounds as those in senior roles, the work that needs to be done for the legal profession is especially challenging.

Without a lack of diversity in senior leadership roles, change is difficult. “The legal profession remains very hierarchical, with leadership still dominated by men,” says Kieran Pender, senior legal adviser in the IBA’s legal policy & research unit, who led the report.

According to the survey results, bullying is rife in legal workplaces, affecting one in two female respondents and one in three male respondents. Sexual harassment is also common, with one in three female respondents and one in 14 male respondents having been sexually harassed in a work context. Incidents range from sexual assault and physical violence to sexist slurs and overbearing supervision – which everyone can agree is simply unacceptable in the modern workplace. The report provides empirical validation that incidents of bullying and sexual harassment in legal workplaces have gone on for far too long and more needs to be done, quickly.

In addition to the compelling moral, ethical and legal reasons to address the disturbing conduct of bullying and sexual harassment, there is a strong business case: legal professionals are leaving their workplaces and the profession entirely due to incidents of bullying and sexual harassment. The IBA survey indicates that 65% of respondents who have been bullied and 37% of respondents who have been sexually harassed left or are considering leaving their workplaces.

While the #metoo movement has encouraged and emboldened victims to report incidents, the IBA survey found that the 57% of bullying cases and 75% of sexual harassment cases do not get reported. The survey respondents indicated that they do not report their cases due to a number of reasons, including the status of the perpetrator within the firm, fear of repercussions, and a belief that this type of incident is endemic to the workplace.

Interestingly, the report highlights a perception paradox. This is where countries such as Australia, the UK and US, in which workplace bullying and sexual harassment are top issues, report high rates of bullying and sexual harassment. “This could be because there is more willingness for victims to report on these issues,” says Pender.

There remains a lack of concrete policies in place in the legal profession targeting bullying and sexual harassment issues. “Only one in two law firms have such policies in place, while only one in five has a training programme specifically addressing these issues,” he adds.

Even with policies in place, firms need to go beyond a tick-box mentality. “Policies are not doing enough when they are not tailored to the company, and when they are not led by top management,” says Pender.

The panelists of this highly anticipated showcase session will aim to make a number of recommendations for effective policies and tools to implement within firms. The most important thing is to raise awareness, as it is the first step towards achieving change. Policies to address bullying and sexual harassment need to be in place and, most importantly, implemented effectively. These can include regular and customised training, best practice sharing, improving transparency, and introducing more flexible reporting channels.

Engaging the younger generation is especially important, as they play a major role in developing and implementing solutions and shaping workplace culture. Workplace bullying and sexual harassment is a problem that everyone needs to take ownership of. From senior leaders to new graduates entering the profession, it takes a collective effort to address the issue.

More concrete actions are needed to stop this unacceptable conduct, and this means bar associations, law societies, law firms, legal workplaces and individuals must work together to ensure the workplace is a safe space for all.

Through awareness-raising and breaking down the stigma around having the conversation, the IBA will be creating a resource hub and conducting global roadshows to target the chronic issues of bullying and sexual harassment. It needs to lead by example.

“There is no silver bullet, and law societies and bar associations have an important role to play in raising difficult conversations and creating dialogue on bullying and sexual harassment,” says Pender. “For the IBA, we want to make sure that we are walking the talk and not just talking the talk.”

Monday, 23rd September 2019
www.ifl.com
The IBA’s leading figures

A who’s who of the Association’s leadership

Horacio Bernardes Neto
President

A member of the IBA for 27 years, Horacio Bernardes Neto was elected as President on January 1, 2019. In addition to being a member of the IBA Management Board since 2009, his posts have included: IBA Vice-President, IBA Secretary-General and Chair of the IBA Bar Issues Commission.

Mr Bernardes is a senior partner of Motta Fernandes Advogados, which is continually recognised as a leading law firm in Brazil by specialised vehicles. He was a founding partner of Xavier, Bernardes, Bragança – Sociedade de Advogados (1995–2011).

As IBA President, Mr Bernardes’ key themes of focus will be addressing bullying, sexual harassment and other barriers to diversity in the legal profession; examining the tragedy of women and children as refugees in the modern world and the adoption of legal alternatives to assist them; and examining open and closed legal markets and how the presence of foreign law firms can have an impact on a local market. Information on the IBA Presidential Task Forces is available on the IBA website.

James M Klotz
Vice-President

James Klotz is Vice-President of the IBA and former Secretary-General. He has been a member of the IBA for more than 30 years and represented the Canadian Bar Association on the IBA Council from 1994 to 2016.

In addition to being a member of the IBA’s Management Board since 2010, Mr Klotz is also a former chair of the IBA’s Bar Issues Commission, the International Sales Committee, and the Task Force on the Future of Legal Services. Presently, he chairs the IBA Audit Committee, the Special Projects Fund, and the Strategy Working Group.

Mr Klotz is a partner at Canadian law firm Miller Thomson, where he is co-chair of its International Business Transactions Group and leads its Anti-Corruption and International Governance practice.

Almudena Arpón de Mendívil
Secretary-General

Almudena Arpón de Mendívil is Secretary-General of the IBA. She has been a member of the IBA for more than 20 years. Additionally, Ms Arpón de Mendívil has held a number of IBA senior leadership roles, such as IBA Treasurer in 2011–2012 and LPD Chair for 2015–2016 term.

Ms Arpón de Mendívil contributed to revitalising the Legal Practice Division focusing on quality of every activity, increased the IBA’s visibility in the Middle East and China and significantly encouraged collaboration between the various parts of the IBA constituencies.

Ms Arpón de Mendívil is a partner with the Spanish law firm Gómez Acebo & Pombo, where she leads the technology, media and telecommunication (TMT) group within the corporate area. Her practice is diverse with an emphasis on complex international transactions related to corporate, M&A and commercial law involving said industries.

Mark Ellis
Executive director

Mark Ellis has been the executive director of the IBA for 18 years. Before joining the IBA, he spent 10 years as the first executive director of the ABA’s Central European and Eurasian Law Initiative providing technical legal assistance to 28 countries in Central Europe and the former Soviet Union, and to the International Criminal Tribunal for the Former Yugoslavia in The Hague.

Mr Ellis has served as legal advisor to the Independent International Commission on Kosovo and as consultant to the World Bank, and was appointed by the Organization for Security and Cooperation in Europe to advise on the creation of Serbia’s War Crimes Tribunal.

Jon Grouf
Chair, Legal Practice Division

Jon Grouf has been a member of the IBA for over 30 years and is chair of its Legal Practice Division (LPD) and a member of the Management Board. Mr Grouf has also held the positions of treasurer of the IBA; vice chair and treasurer of the LPD; co-chair of the Corporate and M&A Law Committee; chair of the North American Regional Forum; deputy secretary general for North America; member of the Nominations Committee; and member of the IBA Diversity and Inclusion Council. He is a partner at Duane Morris.

Sarah Hutchinson
Chair, Section on Public and Professional Interest

Sarah Hutchinson is the Chair of the Section on Public and Professional Interest (SPPI) and member of the IBA’s Management Board and the IBA Council. Ms Hutchinson was the founding Co-Chair of the IBA Diversity & Inclusion Council, and a former chair of the Academic and Professional Development Committee.

Ms Hutchinson practiced as a real estate solicitor in England & Wales, before joining the University of Law where she became the Vice-President (Business Development). She is the Managing Director International at BARBRI and specialises in international legal qualifications and training for lawyers. Ms Hutchinson is a past chair of the International Committee of the Law Society of England & Wales.

Peter Köves
Chair, Bar Issues Commission

Peter Köves is Chair of the Bar Issues Commission (BIC). He has been an IBA Council member since 2004 and he became an Officer of the BIC in 2012. He also served as a Chair of the BIC’s Policy Committee in 2017-2018.

Dr Köves, founding partner of Lakatos, Köves and Partners, is a respected lawyer both in Hungary and across Europe. He is a formidable trial lawyer, a champion of litigation cases and a judge at the arbitration court of Hungary.

As a legal advisor Dr Köves had a key role in introducing modern financial solutions into the Hungarian market. He was a pioneer of complex and structured finance legal technologies in Hungary, mainly in PPP and project finance.

The Hon. Michael Kirby
AC CMG
Co-chair, Human Rights Institute

Michael Kirby was Australia’s longest serving judge (1975-2009) when he retired from office as a Justice of the High Court, the nation’s highest judicial and constitutional court.

He was elected as commissioner of the international Commission of Jurists and served as chair of the Executive Committee and eventually as president (1995-8). He has been engaged in a number of United Nations and other international activities. These have included member of the inaugural WHO Global Commission on AIDS (1988-92); special UN representative for human rights in Cambodia (1993-6); chair of the UN HRC Commission of Inquiry on human rights in DPRK (North Korea) (2013-14); and member of the secretary general’s High Level Panel On Access to Essential Medicines (2015-16).

Anne Ramberg
Co-Chair, Human Rights Institute

Anne Ramberg is the former Secretary General of the Swedish Bar Association, representing the Swedish Bar at the IBA council for 20 years. She has been Co-Chair of the IBA Rule of Law Action Group, and is a member of the IBA Management Board and IBA Nomination Committee, and Trustee of the IBAHRI Trust.

Dr Ramberg serves as ad hoc judge at the European Court of Human Rights, and as conciliator to the Court of Conciliation and Arbitration within the Organization for Security and Cooperation (OSCE). She is the Chair of the Stockholm Center for the Rights of the Child, member of the Swedish Judicial Appointments Council, Civil Right Defenders, Southern Africa Litigation Center, the International Legal Assistance Consortium (ILAC) and the Swedish section of the Nordic Conference of Jurists. She has been a delegate to the Council of Bars and Law Societies of Europe (CCBE), Chair of Chief Executives of European Bar Associations, (CEEBA) and served on the board of the Central and Eastern European Law Initiative (CEELI).
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Stealing the show

The full lineup of all Showcase sessions this week, from how to tackle bullying and sexual harassment to the economics of justice

**TODAY**

D&I SHOWCASE: Addressing bullying, sexual harassment and other barriers to diversity in the legal profession

DATE/TIME: Today, 9.30 – 12.30

VENUE: Room 301, Floor 3

COMMITTEE: IBA’s Human Rights Institute, Presidential Task Force on Bullying and Harassment in the Legal Profession, Diversity & Inclusion Council, Legal Policy and Research Unit

In 2019, the IBA conducted a survey of approximately 7,000 legal professionals across 135 countries and found high rates of bullying and sexual harassment, chronic underreporting, and inadequate responses from workplaces. Essentially, lawyers are leaving their workplaces – in some cases the profession entirely – due to bullying and sexual harassment. Urgent change is needed. In the first half of this session a high-profile panel will discuss the research, and the second half features a broader discussion about how the profession can overcome the numerous barriers to better diversity and inclusivity with the global legal profession.

HRI SHOWCASE: Are human rights in retreat?

DATE/TIME: Today, 14.30 – 17.30

VENUE: Room 301, Floor 3

COMMITTEE: IBA’s Human Rights Institute (Lead)

The rise of populism and acts of authoritarian nationalism from influential actors has led to international legal obligations being ignored, and the rule of law and fundamental human rights being undermined. Globally, we have witnessed crucial examples of this, from Donald Trump to Hungary’s immigration controls under Orban’s leadership. This session will discuss the responsibility of states, the relevance of organisations like the UN, and the role of lawyers in maintaining international order and respecting human rights as the fundamental foundation of the globalised world we live in.

**TUESDAY**

LPD SHOWCASE: The role of the general counsel in a fast-moving world – how to deal with complexities, challenges and change

DATE/TIME: Tuesday, 9.30 – 12.30

VENUE: Room 301, Floor 3

COMMITTEE: Legal Practice Division, Corporate Counsel Forum

The unstable, fast-changing global environment and the challenges and complexities impacting the way we work and live have a deep impact on the corporate agenda.

In addition to having become an integrated part of the business, the GC’s tasks are increasingly shifting towards external relations, sustainability and environmental protection, changing risk patterns and meeting the expectations of the next generations.

This session will examine the effect of these changes on GCs and external counsel, as well as the skillset necessary for the GCs of today and the relationship between the in-house legal department and external counsel.

IBA SHOWCASE: The creation of an international refugee visa and a model of protection for refugee and migrant children

DATE/TIME: Tuesday, 14.30 – 17.30

VENUE: Room 301, Floor 3

COMMITTEE: Family Law Committee, Immigration and Nationality Law Committee, Presidential Task Force on the Refugee Crisis Initiative

As many parts of the world become an unsafe place to live due to armed conflicts, wars and general political instability, an unprecedented number of migrants and refugees arriving elsewhere are children. People living in regions of conflict and upheaval have no choice but to seek refuge in safer areas, whether permanently or temporarily. Such areas of refuge are often in a country which the refugee may not enter legally without an authorised visa.

In this session the IBA President Task Force hopes to highlight the difficulties faced by refugee and migrant unaccompanied children; to understand best practices globally and agree upon a global protocol.

**WEDNESDAY**

BIC SHOWCASE: Collapse of the middle: the different impacts of modern populism in and within bars and the legal profession

DATE/TIME: Wednesday, 14.30 – 17.30

VENUE: Room 301, Floor 3

COMMITTEE: Closely Held and Growing Business Enterprises Committee, Professional Ethics Committee, Bar Issues Commission

Populism today poses challenges not only in terms of attacks on the judiciary, but in terms of what is acceptable speech; it is no longer a matter of right or left. For many, it seems to be the political cancer of the 21st century. This showcase session will review recent efforts by governments and political parties around the world to tighten control of the judiciary, not give credence to the rule of law, and use the courts as a delaying tactic, as well as to manage lawyers and prosecutors under different slogans.

Economists, lawyers and statisticians have analysed more than 80 cost-benefit analyses from a wide range of jurisdictions, both small and large, common and civil law. The report found that legal aid is not only a fundamental principle of a fair society, but can also be a good economic decision, including by saving government expenditure in other areas and bringing a range of benefits to the economy. The project is already attracting widespread interest among international and national bodies. During this session high-profile speakers from IBA bodies, the World Bank and other institutions will present the report and discuss its implications.

**THURSDAY**

SPPI SHOWCASE: The economics of justice: using cost-benefit analysis to demonstrate the economic returns of legal aid programmes

DATE/TIME: Thursday, 9.30 – 12.30

VENUE: Room 301, Floor 3

COMMITTEE: Access to Justice and Legal Aid Committee, Section on Public and Professional Interest

As many parts of the world become an unsafe place to live due to armed conflicts, wars and general political instability, an unprecedented number of migrants and refugees arriving elsewhere are children. People living in regions of conflict and upheaval have no choice but to seek refuge in safer areas, whether permanently or temporarily. Such areas of refuge are often in a country which the refugee may not enter legally without an authorised visa.

In this session the IBA President Task Force hopes to highlight the difficulties faced by refugee and migrant unaccompanied children; to understand best practices globally and agree upon a global protocol.

**“Lawyers are leaving their workplaces – in some cases the profession entirely – due to bullying and sexual harassment”**
The IBA’s popular lunchtime conversation series returns in Seoul for another year. Here’s what’s on the agenda

**TODAY**

**A former senior official from North Korea**

Hosted by IBA executive director Mark Ellis, these thought-provoking interviews give the audience the opportunity to hear perspectives from incredibly high profile, interesting guests. Be sure not to miss this first conversation.

- **TIME:** 13.15 – 14.15
- **VENUE:** Room 401, Floor 4

**TUESDAY**

**Hyeonseo Lee**

Hyeonseo Lee is a North Korean defector living in Seoul, South Korea. During this lunchtime session she will discuss her experiences of survival and resilience, the broader issues facing refugees and defectors around the world, and human rights violations being committed in North Korea.

In 2014, Lee gave testimony about North Korean human rights in front of a special panel of the United Nations Security Council. She has also discussed the issues with various officials, including US president Donald Trump and former US Ambassador to the UN, Samantha Power.

Lee’s 2013 TED Talk about her life in North Korea, her escape to China and struggle to bring her family to freedom has been viewed by many millions of people, with Oprah Winfrey reported to have described it as ‘the most riveting TED Talk ever’. Lee published her memoir in 2015, *The Girl with Seven Names – A North Korean Defector’s Story*. The following year, it made The New York Times bestsellers’ list. It is now available in 24 languages in 33 countries. Lee has also written articles for The New York Times and Wall Street Journal, and has been interviewed by numerous international media outlets about her experiences, including: TIME, BBC, CNN, Reuters, AP, AFP, NYT, FOX News, CBS and MSNBC.

- **TIME:** 13.15 – 14.15
- **VENUE:** Room 401, Floor 4

**WEDNESDAY**

**O-Gon Kwon**

O-Gon Kwon is President of the Assembly of States Parties (ASP) of the International Criminal Court (ICC), the ICC’s management oversight and legislative body, composed of representatives of the states that ratified or acceded to the Rome Statute, which led to the formation of the ICC.

He is also the president of the Korean Society of Law and the Chair of the Judicial Policy Research Institute of the Supreme Court of Korea. President Kwon is an attorney-at-law at Kim & Chang and serves as the President of the firm’s International Law Institute.

Before joining the firm in May 2016, he worked as one of the permanent judges of the United Nations International Criminal Tribunal for the former Yugoslavia (ICTY) and as Vice-President of the ICTY. During his mandate at the ICTY he presided over the trials of the former Bosnian Serb leader, Radovan Karadžić, and the former President of the Republic of Serbia and of the Federal Republic of Yugoslavia, Slobodan Milošević. Be sure not to miss this.

- **TIME:** 13.15 – 14.15
- **VENUE:** Room 401, Floor 4
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The power of the IBA

IBA President Horacio Bernardes Neto talks to John Crabb about his priorities, the importance of the rule of law, and the power of the Association

This is your first year as President of the IBA. How has that first year been, and what achievements are you proudest of since taking over at the beginning of the year? It has been very good. I have worked a lot with the international task forces that we created. There will be showcases this week in Seoul about some very interesting and important issues. One of them is the migration crisis; we are proposing an emergency visa for refugees.

We are also going to have a very interesting showcase on open and closed legal markets. This is a problem that concerns many countries – including my own – where the fabric of the foreign law firm is forbidden. This also concerns South Korea, where they have the same problem, so they have asked us to touch on this during the conference.

It was a very good year in terms of getting done what I intended to do, which was to work with the IBA in Asia and Africa. I visited many Asian countries, especially China, which is a very important market with some very interesting professionals. We have more than 60 lawyers from developing countries who were invited to the conference. My role as a Brazilian and non-European President of the IBA really seems to be to broaden the outreach of the association, and that is what is what I am trying to do.

We are planting some seeds in Cuba, and I wish I had invited North Korea too, but it was not possible. The South Korean Bar has been trying to get them here, but with all the problems it has been a little bit complicated. Either way, we are going to have more than 60 lawyers from developing countries who were invited to the conference. My role as a Brazilian and non-European President of the IBA really seems to be to broaden the outreach of the association, and that is what is what I am trying to do.

The interesting thing about the IBA is the BIC showcase will deal with the rule of law. Primarily the showcases about the rule of law will be lawyers – without it there would not be lawyers. There are threats in countries like the US, Brazil, Poland, Hungary, and others like Singapore and China. The most traditional ones we always knew; certain African countries for example. Corruption, for instance, which we have been dealing with in Brazil for the last few years, is very present in many countries in Africa and South America. Countries like Hungary and Poland are having very hard moments. They should be more protective of the rule of law than their governments are at the moment.

Last year the IBA released its Rule of Law video project. How has that gone? I think it was a very big success. Everywhere I go I see people using it; lawyers are always very impressed and interested to know how to get it and show it at their own bar associations.

As ever, there is a lot going on this week in Seoul. Do any sessions or workshops in particular stand out for you? Primarily the showcases about the new divisions – they are all very interesting. The BIC showcase will deal with populism, which is always interesting. The opening ceremony will, as ever, be good.

We are going to have more than 200 sessions in various specialties. The interesting thing about the IBA is that we have repeated this week for several years now. The amount of events that happen around our conference is really amazing: the amount of not only cocktails and parties, but meetings and seminars, is incredible.
Everybody who is interested in international law, the international practice of law, or international network of bars, feels compelled to come to the IBA. This is a very powerful tool for the profession, which makes me very proud. I think the amount of diversity in terms of subject matter is going to be very impressive.

The only challenge we have is to keep people in the meeting rooms, because there are so many things going on. I hope that delegates will be present and take advantage of the opportunities of networking that arise in the conference centre and in the sessions. They are as good as – or even better than – the cocktail parties. The people here do what you do, practise what you do. It is a very profitable network.

“Secrecy, professional secrecy and our prerogatives are under attack. This is very concerning”

Your home country has had its fair share of legal and political issues in recent years. What is your view on how Brazil is looking to overcome these to become a major player in the global arena?

Brazil is, unfortunately, after many years of bad administration, in a very, very deep crisis politically. Economically, I don’t think Brazil is doing that bad. Unemployment is not too high, and the economy is on the verge of getting better. The approval of the pension reform was very important; the economic realm is doing quite well, and there are some visitors who are doing excellent work: foreign institutions in Brazil have an excellent role to play, as well as the Senate and Congress.

Because of the elections it is very important to point out that there are many positive things going on in Brazil nowadays. Of course, the role the president plays is the worst possible, although until now nothing that he has said or done has really been a threat to the rule of law or to human rights. It says much more than that, but it hasn’t until now provoked any kinds of crises in terms of the rule of law.

Of course, it is unacceptable, and I only hope that the country has enough defence in its institutions, its courts, and its judiciary and in its power to stop the president – or anybody else – from doing anything that goes against human rights or the rule of law. The president is not a good advertisement for the country, and the crisis in the Amazon, for instance, means that in terms of public image, Brazil is in a bad place. But, economically, it is not doing that bad.

“The IBA has been a very big part of my career development”

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This has been a lukewarm year for M&A the world over, with Brexit uncertainty and the trade war between China and the US seen as key drivers.

There is a silver lining: M&A deals are leading to heightened environmental standards for companies across the board, according to new research from Cass Business School. However, a lack of concrete guidelines – except for voluntary schemes – is leaving companies unsure about where they stand.

“What we have noticed on the buy-side is that ESG [environmental, social and governance] is increasingly being considered as part of marketing,” says Eleanor Reeves, counsel at Ashurst, who adds that this is intended to attract investors and purchasers in the anticipation that they will be looking at and assessing ESG performance.

Reeves’ thoughts are echoed by in-house lawyers.

“It is taking a more and more important role in due diligence,” says one in-house counsel at a multinational company based in Europe. They pointed out that funders are becoming more and more concerned about this, and going through the process of ticking the boxes to ensure that they are up to scratch.

“This topic has become more and more of an elevated topic in the boardroom and at executive level,” they summarise.

In addition, these moves are no longer seen simply as a public relations point for companies looking to cash in on a general trend towards ESG and ethical standards among the general public.

“If we had been having this conversation five years ago, the cynic in me would say that this was a purely reputational exercise,” says Matt Townsend, partner and global head of the international trade and regulatory group at Allen & Overy. “However, times have changed, and the ESG focus now has much greater substance to it.”

He continued that there is also a lot of pressure from central banks or other regulators, which is now starting to trickle down. This includes a recent open letter by Bank of England governor, Mark Carney; governor of Banque de France, François Villeroy de Galhau; and chair of the Network for Greening the Financial Services, Frank Elderson which called on the financial market to ensure they take into account financial risks of climate change. This, and other statements from bodies including the European Central Bank are driving investors in a much more serious way.

This is echoed by Dr Zhenyi Huang, research fellow at Cass Business School, who worked on the report.

“The ESG performance of a company is often perceived as a reflection of its corporate social responsibility standard, which projects an image of the firm’s trustworthiness to outside investors,” she says, adding that firms planning acquisitions are now more likely to look into the ESG aspect of the business when doing an initial evaluation of their potential target.

Fifty shades of green?

According to Reeves, environmental issues are now playing a key role in the due diligence process.

“‘For example, the UN Principles of Responsible Investment (PRI) are now widely adopted. ESG factors are therefore more likely to be included as part of assessing how attractive a target is,” she says.

The PRI is a voluntary set of guidelines established by investors on behalf of the UN in 2006. Headquartered in London, the network has over 1,000 signatories who all agree to certain standards, such as incorporating ESG values into investment analysis, and improving reporting standards on key environmental metrics.

Separately, the European Commission is working on an EU-wide taxonomy for sustainable finance. The market consultation closed on September 16.

Unlike ventures such as the PRI and the International Capital Markets Association’s (ICMA) Green Bond Principles, the EU taxonomy would be a regulation creating concrete ESG principles, which companies operating in the region would be forced to comply with.
Mark Ellis: Liberal democracy is under attack

The rule of law is being sorely tested around the world as populism grows. The world order of the last 70 years may be in jeopardy – can this trend be reversed?

What are the main threats to the rule of law in western democracies?

Born of unfulfilled expectation, perceived loss of cultural identity and a rise in xenophobia, populism is certainly one of the main threats to democracies. Driven by those who see themselves as aggrieved victims of political elitism, the struggle against the rise of globalisation, crumbling local economies and dramatic increase in income disparity, populism is a balm on an open wound. The consequences have been devastating.

The values and ideas associated with liberal democracy, the foundation of international order in the post-World War II period, are disappearing. So is the importance of living in societies that uphold open-minded, tolerant principles. This is the risk we are facing.

In a 1945 seminal publication, The Open Society and its Enemies, the philosopher Karl Popper defended liberal democracy and warned of the dangers of totalitarian ideology in the post-World War II period. Those dangers are now manifest and require close review and an innovative response by the legal community.

Of course, it is important to separate the issues and avoid homogenising the different tensions of our century, or falling into the misconception that the populist movement is solely caused by peoples’ ignorance. We need to recognise that the broader societal malaise is the result of real concerns voiced by many. For example, income disparity is a very harsh reality. Currently in the United States, 1% of people account for over 20% of the wealth. Thus, the populist movement has roots and causes not always narrated by the media and pundits.

Does the rise of populism create a new threat to the rule of law?

Yes, without question. Embedded deep within the populist movement is also a remarkable degree of misconception about, and disregard for, the rule of law. When the rule of law begins to crumble, nationalism and antidemocratic forces become the new normal. The most basic benchmarks of the rule of law – an independent judiciary, free press, and civil society – are attacked. Mainstream media and international institutions are seen as the enemy and the judicial system part of the corrupt elite.

Populism has a dangerous and dark side. In many countries, it is predicated on racism and has a strong affinity, although not always apparent, with authoritarianism. It rejects multiculturalism and instigates antagonism against immigrants. The inverse relation between populism and respect for the rule of law is shown by countless examples in Europe and the United States. In our century, the average vote share for populist parties has more than tripled, from 9.2% in 2000 to 31.6% in 2017. This is a trend which scholars have repeatedly underlined in the past two decades.

Do you see a link between certain types of corporate behaviour, respect for the rule of law and a rise in populism?

Corporate corruption is surely part of the narrative proposed by the populist agenda. Corruption hampers economic development, erodes public confidence, and obstructs legitimacy and transparency, all of which underscore arguments for those leaders who present themselves as a corrective force to this malignancy. Of course, this is a false dichotomy, as these same leaders simply erode the democratic mechanism, undermining the rule of law. As a result, corruption is fostered rather than reduced; the populist figures are merely substituted for the political personality on whom they initially declared war. The Hungarian Prime Minister Viktor Orban’s political evolution is a perfect example of this narrative.

Does more need to be done to ensure that the public at large, and especially young people, fully appreciate the importance of the rule of law in a democracy?

It would be a mistake to dismiss the current populist movement as a short-term, benign, innocuous phenomenon. The movement is based on a pernicious belief that government should be based on isolationism, nationalism, racism and a profound disrespect for the rule of law. Liberal democracy is under attack. If this holds, then the international world order that has been a stabilising force for over 70 years will be in jeopardy. The burning question is whether we can counteract this destruction before it is too late. We need to shift the paradigm. There needs to be greater emphasis on education.

Schools should be the battleground to counteract the populist movement. Civic education for youth is essential, and will require greater investment in primary and secondary education. The focus will need to include experiential learning, civic simulations, dedicated civics courses, and leadership development.

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Civic studies aim to push back against right-wing ideologies. Providing citizens, particularly young people, with information about the importance of the rule of law can counter anti-establishment appeals to the masses. Thus, to increase positive political participation and civic proficiency, there needs to be a dramatic increase in the number of educational organisations, NGOs, associations, unions, networks and individuals who are engaged in civic education.

The IBA has allocated time, staff and other resources to focus on education regarding the rule of law. One of the more innovative activities is a recently launched social media and video campaign that aims to help people understand the rule of law concept.

In what circumstances, if any, does it make sense to hold a referendum in a representative democracy?

The issue with referenda is that they tend to overly simplify the questions at hand. The hidden consequences of the vote are rarely known. The Brexit vote in the UK is a perfect example. The current crisis is based on the fact that no one considered what impact a ‘hard’ Brexit would have on the country. This was one of the unforeseen consequences of a spartan, wistful-worded referendum. There are countries that refuse to hold a referendum on crucial issues. For instance, in 2018, the Netherlands repealed legislation that allowed for referenda. The insightful argument was that a referendum can easily undermine democracy due to party manipulation and misinformation. I do not support this stricter policy, although I understand its reasoning. In a representative democracy, I believe there is a role for direct referenda voting. However, there needs to be a more stringent, objective process so as to protect this type of democratic mechanism from the perils of populism.

Does the world need a stronger mechanism for bringing into line state leaders who are willing to undermine basic human rights?

One of the egregious aspects of populism is that it has caused a number of politicians to pivot more radically to the right to win elections. In the same manner, the populist mood has pushed mainstream parties in a more firmly nationalist direction—in particular on the issue of immigration. Today’s populist movement is unique in its particular focus on immigration. It has successfully capitalised on the fears associated with the refugee crisis. Again, Hungary is a prime example. The Hungarian Prime Minister Viktor Orban, elected in 2010, has continually employed inflamed rhetoric against migrants and refugees. He has suggested that illegal immigrants be ‘rounded up and shipped out’. His authoritarian tendencies work. Orban won a landslide victory in his third consecutive term in April 2018. US President Donald Trump successfully followed the same playbook in the 2016 elections, flagrantly characterising immigrants as a scourge inflicted on the country.

The best mechanism to counter these rogue leaders is a more robust voice from the international community expressing its indignation for the blatant disregard for democratic principles. The international community of lawyers needs to play its part in these efforts.

“We need to recognise that the broader societal malaise is the result of real concerns voiced by many”

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L&E GLOBAL is the worldwide leader for cross-border labour and employment law services. Spanning 6 continents, L&E GLOBAL's member firms and our contacts with more than 1,700 employment law specialists in 38+ countries worldwide, counsel clients on labour law issues affecting businesses across the globe.
Compared to just a few years ago, the world we live in looks very, very different. Once upon a time people spoke to each other in person, and bars and cafés were melting pots. Nowadays in certain places, it can be unusual to see one person not glued to their device. With 5G technology about to hit the world with unprecedented speed and connectivity, this is about to be ramped up to the fifth gear. With that in mind, today’s session on the internet of things (IoT) has never been more pertinent.

Chung Nian Lam of WongPartnership in Singapore, today’s session co-chair and member of the Communications Law Committee, tells the IBA Daily News why this topic is so important. “It represents what we see as a big focus for many corporates who are jumping on the tech bandwagon of delivering the dream of our connected devices and the day-to-day conveniences that will bring,” he says.

“The issue of the IoT really cuts across a very wide spectrum. From smart vehicles to medical devices to things like your toaster or refrigerator ordering groceries when you are low on supplies – it’s all here. “There is tremendous potential. People are excited about the prospect of this kind of connectivity.”

Chung Nian Lam

Anna Dabrowska

Things are about to change, again

“Things are about to change, again”

Monday, 23rd September 2019

The Internet of Things

DATE/TIME: Today, 16.15 – 17.30
VENUE: Room 307 BC, Floor 3
COMMITTEE: Regional Fora (Lead), Communications Law Committee, Intellectual Property and Entertainment Law Committee, Leisure Industries Section, Asia Pacific Regional Forum, Arab Regional Forum, European Regional Forum, Latin American Regional Forum, African Regional Forum, North American Regional Forum

The session itself draws from a wide gamut of the industry. Philippe Vogeleer from Vodafone in London, Justin Blaze George of Infocomm Media Development Authority & Personal Data Protection Commission in Singapore, Gonzalo Ruiz from Fortinet in San Francisco, Professor Beomsoo Kim from Yonsei University in Seoul, and Anneliese Reinhold, Emirates Integrated Telecommunications in Dubai round up what is bound to be a very interesting panel.

“There is tremendous potential. People are excited about the prospect of this kind of connectivity. The amount of data that is going to be collected will pose all sorts of regulatory and public interest concerns. Commercial organisations are looking to build products around the new paradigm that this offers,” says Lam.

The IoT is basically something you cannot live without today. “The IoT is becoming so intertwined with our activities that we are not even noticing it anymore,” says co-chair Anna Dabrowska of Wardyński & Partners in Warsaw. “It is a good thing to stop and think about what is behind all these things. What are the difficulties that the legislatures are dealing with, and what problems are these people dealing with on a daily basis?” she says.

With all the trade wars, issues with Huawei and 5G tech, this is going to be a huge issue for businesses in the next five to 10 years. And since the IBA is set on dealing with current trends and bringing these issues to wider knowledge, it is a perfect topic,” she adds.

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“There with all these discussions around 5G and how the IoT really works, it’s a very hot topic. We decided we didn’t want your standard session where lawyers from large law firms are sitting on the panel – we wanted to make an effort to invite people from the industry that works with the IoT on a daily basis,” says Dabrowska.

Because it is such a huge topic, the co-chairs have identified a number of core areas to cover which are represented by each of the panelists. Vodafone is a major player in the technology, providing cards to power autonomous self-driving smart car-type applications that you might see from some of the German cars like Daimler.

“Of the two regulatory speakers, one from the Data Protection Commission, Justin George, will discuss data privacy-type issues and also the artificial intelligence (AI) governance model that the Singapore government is proposing,” adds Lam. “He put this to the World Economic Forum in Davos in January to try to also open things up on the challenges of AI, and the issues of AI and transparency.”

Anneliese represents some of the regulatory authorities in the Middle East, and is promoting standards in infrastructure and platforms. “One of the issues we are going to talk about is the regulatory fragmentation if you have a multitude of different regulatory approaches to connect,” he says.
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