Ensuring access to justice for the forgotten middle

In yesterday morning’s session Legal expense insurance schemes and access to justice, panelists discussed the barriers and opportunities to the usage of legal expense insurance (LEI) schemes. Lack of awareness and information to consumers, gaps in indemnity and perceptions of conflicting interest are identified as major barriers to LEI.

LEI is a product through which individuals can get legal assistance from a private provider with some or all of the expenses covered by an insurer. The idea is that parts of society get access and affordability to legal services when they need to – especially the “forgotten middle”. The forgotten middle are those who lack the disposable income to spend on legal assistance from a private provider at will, but do not qualify for legal aid or pro bono assistance.

According to Anna McNee, commercial lawyer legal policy & research unit at the IBA and primary author of the Association’s Legal Expenses Insurance and Access to Justice report, there are a number of reasons why LEI lags behind. Firstly, there is poor availability of information and promotion of LEI as a purchasable product to individuals. In Germany, Sweden and Japan, where LEI uptake is high, consumers are much more aware of LEI products. For instance, over half of Germans hold LEI, and 43% would contact their insurer when a legal issue arises.

Another issue is that the automatic inclusion of LEI in an insurance bundle results in policyholders being unaware of its existence. “The long terms and conditions in insurance policies means that policyholders often do not even know that LEI is included,” said McNee.

Furthermore, coverage is primarily provided for representation in litigation. Areas such as family and criminal law are almost always excluded. “The greater indemnity coverage through increased premiums means it is hard for consumers to get wide protection, and the forgotten middle is left with very limited coverage,” said McNee.

Finally, the lack of a free choice of lawyer is an issue that plagues LEI. LEI policies often contain terms allowing an individual’s free choice of lawyer for a higher premium. While more progressive jurisdictions such as Japan and the EU have statutory protection of the right for free choice of lawyer, these provisions are few and far between in most countries.

Sarah Ramsey, chairman at The Bar of Northern Ireland, said that in addition to the lack of awareness among the public and practitioners of LEI, in Northern Ireland, legal aid is seen as the sole source of assistance. “There is a lack of willingness to consider other forms of funding, and the high level of dependency on legal aid relates directly to the prevalence of social deprivation across society,” said Ramsey.

According to Paul Tamburro, lawyer at King & Wood Mallesons in Australia, certain professions – such as medicine and accountancy which tend to be on the higher end of the economic scale – use LEI more.

However, this doesn’t solve the problem of the community’s access to justice. He added that there is a public perception that LEI is not necessary, so the obstacles to commercial viability are too high. “Even if they are viable, limited coverage or high premiums mean that LEI does not actually address access to justice problems,” said Tamburro.

How Tamburro sees LEI working best is complementing other improvements that have been made in the Australian legal system, such as mandatory conciliation processes and the use of ombudsmen. Improved technology and more sophisticated data can also help make LEI more accessible in the future.

In addition to improving access to information and awareness-raising, an important step that bars can take is to establish and maintain panels of legal practitioners who meet predetermined qualifications and are prepared to act based on a set scale of fees.
QUESTION

What sessions are you attending?

Johane Murray
Brodies
Scotland

Cross-border real estate transactions: seismic shift through AI and blockchain. I work closely with many international law firms and it will be good to see how others are dealing with and using AI.

Oldaipo O Osinowo
Rickey Tarfa & Co
Nigeria

The session on the enforcement of judgments in Asia-Pacific. This is a big issue in Nigeria and it will be useful to see how other countries and systems deal with it.

Chris Bickley
Conyers Dill & Pearman
Hong Kong SAR

I will go to the Hong Kong Law Society breakfast on Thursday. It is great to network with fellow professionals from Hong Kong who we don’t get to see as the city is very busy.

Peter Pang
IPO Pang Xingpu
China

I am very business-focused. I will go to sessions on cross-border investments as the increase in outbound and inbound investments in China is a big part of my work.

Jennifer Wang (Qing Hua Wang)
AllBright Law Firm
China

I am attending sessions looking at the Belt and Road Initiative, as well as the Asia-Pacific Forum lunch tomorrow as our firm is a sponsor.

Neil Swift
Peters & Peters
England

Apart from our law firm party (which is a session!) I will be attending the session on cryptocurrencies hosted by the Anti-Money Laundering Committee. This is a developing issue for all of us practising in this area.

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most looking forward to this week?

Charles Whiddington  
Steptoe & Johnson  
Belgium

The IP session on the EU Digital Single Market. I have a particular interest in digital platforms in regards to privacy and consumer protection.

Peter Murray  
Hall & Wilcox  
Australia

The Thursday session on tax implications for cryptocurrencies. It is a focus for our firm and it is interesting to see how traditional principles adapt to the new form of asset.

Duha Al-Mulla  
Qatar International Court and Dispute Resolution Chamber  
Qatar

I have a packed schedule! I want to attend everything useful for the court.

Zoya Todorova  
Dimitrov Petrov & Co  
Bulgaria

Hot topics for small and medium-sized firms, which is presented by the Law Firm Management Committee. I have been managing the firm for 18 months now so this is a new challenge for me.

Eric Paulsen  
Lawyers for Liberty  
Malaysia

I am excited about speaking on Tuesday at the session on public interest litigation. Us lawyers are in a privileged position and can really make a positive difference.

Regina Lynch  
Motta Fernandes Advogados  
Brazil

I work in international sales a lot and will go to the International Sales Committee session on Tuesday. As a former chair of the Aviation Law Committee I will attend their sessions as well.

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Legal 500 2019
In yesterday’s session Asian Values and Legal Systems, panellists from the LGBTI Law Committee, the Diversity and Equality Law Committee and the Immigration and Nationality Law Committee found that LGBTI laws and attitudes are still lagging behind other parts of the world such as Europe and the US.

Session chair Lloyd Nicholas Vergara said that there is an idea among Asian communities that “certain LGBTI ideas are western”, with colonial mentalities infringing on regional cultures.

Same-sex relations are outlawed in at least 20 countries, with states such as Afghanistan and Iran threatening the death penalty. Though at least eight countries have enacted protections for LGBTI people, only Taiwan, the British Overseas Territories of Akrotiri and Dhekelia, and the British Indian Ocean Territory have legalised same-sex marriage.

Carol Zhu, partner at Zhong Lun in Shanghai, spoke about how China’s constitution deploys equal rights for every individual, but that LGBTI people may still face some forms of discrimination and are lacking specific clauses in law to protect their identity. She summarised that a majority of the time, the most severe rebuttals can come from family members – which is “very painful”.

She also mentioned a recent case whereby a female employee was dismissed after a week, due to the fact that their clothing was masculine. The employer was eventually found guilty of wrongful dismissal, but the LGBTI element in this was not touched upon, which Vergara pointed out can often be the case in Asian countries, noting that, “as much as possible, we will not address LGBTI issues”.

Members of the panel from Taiwan, Thailand and Singapore were more positive.

Peter Dernbach, an American-born lawyer based in Taiwan, hailed the country as a success story for LGBTI rights, with established legal protections and progressive attitudes among the public. Dernbach pointed to the Gender Equity Education Act in particular. Enacted in 2004, it is viewed as a “means to actually foster gender diversity and equality” in the country, with the legislation intending to eliminate gender discrimination and improve and establish educational resources.

Remy Choo, education officer for the IBA’s LGBTI committee, indicated that in some states it can be the case of “bad legislation, but liberal attitudes”, noting that Singapore is open to business and cosmopolitan, yet still grappling with the prohibitive anti-LGBTI 377A law, which is used as a model for many laws in other former British colonies such as Malaysia, Pakistan, and Bangladesh.

While legislation has so far proved a setback, Vergara still struck an optimistic tone: “the laws haven’t changed, but the people have”.

KEY TAKEAWAYS
- Asian communities can be sceptical of LGBTI rights due to the idea that it is “western”;
- Many countries still have some form of the homophobic 377 clause, which descends from colonial-era Britain;
- Taiwan leads the way on LGBTI rights in the region.
The invisible tea lady is your lawyer

High level studies have repeatedly linked an organisation’s diversity to its ability to succeed in a global market. Unconscious bias is increasingly being identified as a key impediment to diversity.

In this morning’s session, Unconscious bias: the unseen barriers, panellists will put forward their perspectives on the concept of unconscious bias, primarily in relation to the question of gender parity.

Unconscious bias is the next battle line in dismantling roadblocks to diversity and parity, whether in law firms, corporates or other organisations. It is a key question for gender parity, but also for diversity in whatever shape or colour it comes in.

The concept describes the negative or positive associations that people hold about others without being aware of them. They are not rational nor conscious attitudes but rather “inherent learnt stereotypes about people that everyone forms without realising it,” says session co-moderator Corina Bove of Guyer & Regules in Uruguay.

“A key aspect is that these attitudes are not often aligned with conscious principles and values.”

Such stereotyping has a use. Our brain does not have the time to rationally evaluate every aspect of every decision every day, so it cuts corners, categorising people and making short-hand links between observed characteristics and other attributes. These assumptions save brain time for other, bigger decisions.

Observed (or protected) characteristics include age, gender, colour and weight. However, people also categorise according to educational background, sexuality, social status, accent and job title, among other things. This discrimination, invisible to the recruiter or employer and even contrary to his or her values, can impact every step of a career path.

Unconscious bias could explain why, despite years of diversity and equal treatment initiatives, gender parity has barely moved. The US National Association of Women Lawyers’ (NAWL) 2018 Survey on Retention and Promotion of Women in Law Firms noted that in partnership and leadership roles: “in the 11 years that NAWL has tracked the data, there has been relatively little progress made in the representation of women”.

NAWL described progress as “sluggish”.

In 2018, while over half of US law graduates and 47% of associates in US firms were women, they only represented 20% of equity partners. Add in another observed characteristic, skin colour; and only eight percent of equity partners were women of colour. NAWL also found that billing rates for men and women start at associate level essentially equal but develop a five percent gap by the time lawyers reach non-equity partnership, and stay that way, despite billing hours being the same.

Why would that be?

Unpacking unconscious bias seems like a tricky business, but many bar associations, such as the American Bar Association (ABA) and Law Society of England and Wales, have produced detailed reports.

In March 2019, The Law Society’s publication Influencing for Impact: The need for gender equality in the legal profession noted that: “women lawyers still do not uniformly occupy leadership roles commensurate with their qualifications and experience.”

Over half of respondents in a 2017-18 survey cited perceived unconscious bias as the most common reason why so few women reached senior positions in law firms.

The report picked out issues such as associating leadership with male characteristics, notions of acceptable behaviour varying depending on a person’s gender, and recruiters preferring people that resemble themselves. The report found that bias can impact every stage of a career, from recruitment and work allocation, to assessment, promotion and support. The result is a “perpetual narrowing of opportunities for those who do not fit the model”.

Real and common instances of unconscious associations included women being mistaken for notetakers, assistants or tea ladies rather than lead lawyers, when men were present. It can even come from positive assumptions: this person has a family, and would therefore not want to apply for a new opportunity that involves travelling.

In 2016, the ABA, Minority Corporate Counsel Association (MCCA) and Center for WorkLife Law conducted research to understand law firms’ and in-house lawyers’ experiences of bias in the workplace. It found that traditional diversity tools have been ineffective. It published its report You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession, detailing an armoury of tools to tackle implicit bias.

The report describes prove-it-again bias (having to do more to prove yourself); tightrope bias (different standards of behaviour); maternal wall bias (against mothers and even fathers who take paternal leave) and tug of war bias (conflicts between disadvantaged groups).

The good news is that unconscious bias can be tackled with a wide range of policies and practices. They begin with raising awareness, encouraging humility and leading by example. They move to rigorous recruitment evaluation practices (carefully detailed in the abovementioned reports), to work schemes to support flexible working, transparency in renumeration and work allocation, and other initiatives.

The first step, however, is basic awareness of the topic – and acceptance that it is real.

Step one: think again

“Why do we need to talk about implicit bias? Because it is implicit,” says session co-moderator Claudia Barrero of Philippi Prietocarrizosa Ferrero DU & Uria in Colombia. “We have been working on these issues for 20 years, but the numbers now compared to 20 years ago are not that different.”

“You don’t know you are doing it – that’s the problem. You need to talk about it and repeat it and repeat it so that it becomes conscious,” says Bove.

The panel will hear voices from the US, South Korea, Denmark and Brazil; from law firms, corporations and law associations. The speakers will tackle what works and what does not work.

The rewards for law firms and companies that can take this on board are multiple, with diversity and success having been correlated in multiple reports. One such report published by Forbes, Fostering Innovation Through a Diverse Workforce, found that a diverse and inclusive workforce fostered innovation, fared better in retaining and attracting top talent and put organisations on a stronger footing for success.

However, true diversity and equality is not achieved simply by the passing of time. It will take a conscious effort to make sure lawyers are not confused with tea ladies.
We live in a period of extraordinary complexity. The global landscape is unstable: from fundamental economic changes to crumbling trust of civil societies in authorities, institutions and business. From growing inequality to an apparent weakening of concepts that have become the norm such as globalisation and multilateralism, which are being overhauled in favour of protectionism and nationalism. The list is long, and as a result, the challenges faced by those in the legal sector are monumental.

“It’s important for general counsel (GCs) to be guardians of stability and predictability, of company reputation and of high quality, but at the same time provide for thought leadership, pragmatic legal work and common sense,” says Felix Ehrat, panel chair.

The Showcase of the Corporate Counsel Forum examines the effect of these changes on GCs and external counsel, the skillset necessary for the GCs of today, and the relationship between the in-house legal department and external counsel.

For Ehrat, specific legal and business priorities relate to the use and integration of technology into daily work patterns – and that’s without mentioning external issues that now plague companies such as the fundamental threat of cyber warfare, and the growing importance of climate change in maintaining reputation and ensuring the ability to attract new talent.

“It’s important for GCs to be guardians of stability and predictability”

“...potentially existential threat, has been growing,” adds Ehrat, further pointing out that society now expects a positive impact from companies on the globe’s future.

In addition, there is an expectation that technology will be a driver for legal departments in the future. The ethical issues surrounding dealing with personal data and burdensome reforms such as Europe’s General Data Protection Regulation, plus laws introduced in other jurisdictions such as Brazil and California, can only mean an increased workload for GCs.

Despite increasing changes in scope, Ehrat does believe that change and change management will be a top priority on the agenda of GCs – but that much of the day-to-day work remains the same. The necessity of the legal function to provide for quality in the strategic and tactical assistance to the line functions and the company leadership team is considered non-negotiable, providing easy to understand and pragmatic advice to business leaders when necessary.

Overall, the ability and courage to identify developments and trends which might have an impact on legal matters – and to draw the appropriate conclusions – is needed more now than ever before.
Planetary in scale

The onus is on the legal industry to help drive the necessary change that will stop climate change in its tracks and protect our world for future generations.

Increasingly, governments are ignoring international climate law and shunning accepted science, and must be held to account. UN frameworks and international treaties like the Paris Agreement have made little headway; climate litigation is an increasingly important measure in the lawyer’s toolkit.

“Climate measures, regardless if government-led, are increasingly seen as a societal responsibility. The vacuum of government inaction has seen significant climate litigation emerge over the past decade,” said Professor Lee Godden of Melbourne Law School during yesterday’s session Climate change law in an increasingly(bi)polarised world.

“If mainstream science is increasingly certain, why is the concept of climate change polarising? It is a complex situation, but in short, the phenomenon is planetary in scale and due to its long-term and potentially irreversible consequences, each generation will feel its impact,” she said.

“It requires complex collective action that necessitates lifestyle shifts in energy and economic systems. Climate change requires action to address long-term threats in a world of short-term political cycles.”

The IPCC assessment report concluded that human input on the climate system is significant, and the more we disrupt our climate the more we risk severe, pervasive, and irrefutable impacts. We have the means to limit climate change and build a more prosperous and sustainable future. Litigation measures are therefore designed to keep climate change below dangerous levels.

In 2014 the IBA released a groundbreaking report, Achieving Justice and Human Rights in an Era of Climate Disruption. The first and most substantive report of its kind, it sought to promote legal frameworks to do more than be frustrated. In these situations actors often will go to court, and in almost all of these cases, the courts have opted to hold the government accountable. The report looks at whether the government and regulators need to take further action. There are a number of landmark cases, such as Massachusetts v EPA in the US, as well as similar cases in the Netherlands and Pakistan that consider failures to act against governments.

“The IBA model statute ratifies that pattern. It creates the cause of action and the framework by which any person in any country – if the model statute were adopted – can bring these types of cases for failure to act,” said Martella.

Sleepless in the C-suite

Lawyers must have a deep understanding of the company, strong communication lines and a robust network with others throughout the business to be able to provide effective advice to the C-suite.

That was the message from yesterday’s morning’s session, Sleepless in Seoul, in which senior in-house lawyers spoke frankly of their experiences of corporate crises and challenges – and how to deal with them.

“Until around 10 years ago there was no connection between legal divisions in the various subsidiaries of the company,” said Takeo Kitanaka, general manager of the legal and IP division at Yamaha in Shizuoka, Japan. “We generally understood each other, but there just wasn’t communication between the legal functions of the different parts of the business. We now have annual reporting and periodic conferences, which has helped. As the network develops, you get more and more information.”

And it’s difficult to know when that information is going to be required.

“In times of crisis, I look to how much information I have, and how it runs throughout the organisation. Having a network throughout the company that spans legal and business has really assisted us in recent years,” added Kitanaka. “Times of crisis are still challenging, but there is a need for that type of network.”

It’s also important to recognise the legal department’s role within the wider company and, if possible, provide advice that goes beyond the law.

“I try to advise the CEO not just on the legal matters, which can be quite limited,” said Brian JK Koo of AB-InBev East Asia in Seoul. “I give as much advice as I can, then sales and finance and other parts of the business do the same. I always make time to meet with sales, production, logistics, and so on. You need to know who your people are.”

Speaking of a recent corporate crisis, Deborah Morshead, group chief compliance officer at George Weston in Toronto, added: “There was no preparation for this type of issue, so it’s important to know ahead who to pull together in times of crisis. Relationship-building with outside counsel is crucial. And for outside counsel, it’s so important for them to develop the relationship with companies and to understand the corporate culture.”
Asian investment into LatAm has boomed in recent years

China and the rest of the Asian seaboard has been looking overseas for investment opportunities for centuries. The most recent hotspot has been Sub-Saharan Africa, where you would be hard pushed to find a piece of recently-built infrastructure that hadn’t seen some form of Asian investment. With massive projects like the Belt and Road Initiative, Chinese investors have been particularly active on this scene.

In the last 15 years, investment flows into Latin American markets have been increasing steadily, as Asian countries growing in wealth look to grab hold of one of the last remaining markets available to them. Lending by the China Development Bank and China’s Eximbank was fairly recently aimed at only the energy and infrastructure sector. Recently, however, China’s lending to Latin America and the Caribbean has been greater than that from the World Bank, the Inter-American Development Bank and the CAF Development Bank of Latin America, put together.

With that in mind, today’s session, Asian investments in Latin America: challenges and opportunities, is an important one to be discussing, especially at an IBA annual conference held on the Asian continent. Led by the Latin American Regional Forum, the session will follow great turnouts in Sydney and Rome, where the forum hosted the same roundtable workshop. Each of the panelists will discuss the different issues that they believe should be considered by practitioners when dealing in Asian investments in Latin America.

A large number of developed countries have been increasing the level of scrutiny over the acquisition of strategic national assets by foreign companies, and while similar restrictions exist in Latin American countries, they generally do not tend to be well-regulated, and are certainly not uniformly applied. By holding face-to-face discussions seated in a roundtable with the public at today’s session, the panelists will discuss the challenges and opportunities for Asian investment in Latin America in the face of enhanced restrictions in the global market.

The panel will be chaired by Carlos del Rio of Creel Garcia-Cuellar Aiza y Enriquez in Mexico City, Mexico; Luis Enrique Palacios of Rodrigo Elias & Medrano Abogados in Lima, Sandra Reed Serrano of Perez Bustamante & Mendoza in Quito and Miguel Tornovsky from Pinheiro Neto in São Paulo.

The list of speakers includes a wealth of talent from Asia, too. Nina Hyun Kyung Kim of Yulchon in Seoul, Omar Puertas from the Shanghai branch of Spanish firm Cuatrecasas, Masako Takahata from Eurus Energy Holdings and Hideaki Roy Uematsu from Mori Hamada & Matsumoto from Tokyo, Japan, and Xu (Jennifer) Zhang from DeHeng Law Offices in Beijing.

Rodrigo Jacobina of Motta Fernandes Advogados, Rio de Janeiro, Brazil, will make up the list of speakers at what should be an interesting roundtable on an ever-growing sector of international finance.
Seoul food: where to find it

Food is a huge part of Korean culture, and many Koreans are incredibly proud when it comes to the matter. For those of us lucky to have tried local dishes before, it is hard not to see why. From the historical to the downright tasty, from expensive to budget-friendly, Seoul has enough culinary delights on offer to make the food one of the most memorable parts of your trip to the IBA conference this year.

Feast on gomtang
Be sure to visit a real Seoul institution by heading straight to Hadongkwan. The restaurant has been running for over 70 years and its owner, Mrs H Y Kim, has been making gomtang for more than 40 years.

The question you’re most likely asking is, what is gomtang? It is one of Korea’s most cherished dishes: a traditional slow-simmered beef soup. Using various parts of the cow, the soup is then often served with sliced meat and rice. Traditionally, Seoul locals will have this delicacy with minced green onions. Many Koreans will happily eat soup for breakfast, lunch and dinner.

Though the menu is somewhat limited, the sheer heritage of Hadongkwan makes it an ideal place to help you discover the modern history of South Korea.

Korean fried chicken
Should you fancy something a little more hipster, then the place to go is Hanchu. Located in Sinsa-Dong, the hip neighbourhood of Seoul, Hanchu is cool yet simple, and a great place to refuel after investigating the huge range of local shops in the surrounding area. Expect draft beers and fried chicken as the main offering. However, the fried pepper option is also said to be utterly worth the time of those looking for a meal to tuck into with a bit of kick.

Now open for over two decades, Hanchu’s ability to set off a buzz among tourists has yet to subside.

BBQ delight in Insa-dong
Insa-dong is one of Seoul’s key areas for overseas visitors. It is crammed with teahouses and restaurants that sum up the best of what the city has to offer when it comes to satisfying the stomach. One of the best restaurants to try out is 853, which has a stunning mix of barbequed meats and vegetables on offer.

As with Hadongkwan, you do have to be prepared for minimalism. There are only two meat choices on the menu: pork shoulder and pork belly. Both are unmarinated and brought out as whole cuts to demonstrate the quality. It is said that staffs will cook the meal in front of you – adding a bit of theatre to the experience, and ensuring you can trust that you’re spending your money wisely. With a modern Korean style, 853 is the place to go after a long day at the conference.

Enjoy prestige in Bukchon Hanok Village
Tosokchon Samgyetang is a restaurant that was enjoyed by the respected former President of South Korea, and though you may have to queue for entry, it is more than worth the time invested in doing this. The restaurant is located in the renowned heritage site of Bukchon Hanok Village. This is a traditional village in Seoul with an exceptionally long history. It is intended to preserve a 600-year-old environment, and is located between the tourist favourites Gyeongbok Palace, Changdeok Palace and Jongmyo Royal Shrine.

Visitors to Tosokchon Samgyetang are able to feast on Samgyetang (ginseng chicken soup), tongdak (roast chicken), and Haemul Pajeon: green onion pancakes served with seafood.

Or... avoid the restaurants and go street food wild
Korea’s street food phenomenon is perhaps even better known than its restaurants. In Seoul, you’ll never be far from it, so embedded in the local culture it is. Perhaps the most famed Korean delicacy is kimchi, a traditional dish of salted and fermented vegetables including cabbage and radish with seasonings such as chili and ginger. There are a variety of different flavours on offer when it comes to kimchi – so there’s no excuses for fussy eaters here.

Should you be a spice fan, you can also tuck into tteokbokki, a rice cake delicacy in the country. While it might not be to everyone’s taste, tteokbokki has certainly set off a wave of rave reviews from tourists in Seoul and can be conveniently eaten on skewers, as with the ever moreish and filling chicken skewers found frequently on the streets of Seoul. While it may make for messy eating, flavours varying from pear to onion make the food utterly delectable.
It is rare to get a clear glimpse of the inner workings of North Korea and what defection from such an environment means.

Hyeonseo Lee grew up in the hermit kingdom close to the Chinese border. She grew up believing that North Korean leader Kim Il Sung was a god. In a widely-watched TED talk in 2015, Lee explained that Kim Il Sung was capable of miracles: “He made bombs from pine cones and turned sand into rice, and crossed a river on tree leaves. He even crossed a rainbow”.

Lee eloquently describes the pressures at work in North Korea, where three generations of a family can be sent to labour camps – where an estimated 200,000 citizens are held “for the most ridiculous offences”. She has spoken about the insanity of the system, the fear, the destruction of trust, ignorance as a means of self-preservation, and the senseless disappearances, where the paranoia of the state is such that many people do not even know why they are sent to prison camps.

“In using elaborate deceptions as well as coercive tools of control, the North Korean leaders were able to indoctrinate and brainwash the vast majority of the citizens, depriving them of their natural right to learn the truth about the outside world,” she told an audience at Harvard University in 2015.

Lee has described key moments that shattered the carefully controlled fiction peddled by the state. The death of Kim Il Sung told her that the North Korean leader was human. Devastating levels of starvation jarred with the picture of North Korea’s ‘utopia’. The bright lights across the river in China contrasted with the power shortages at home.

Lee told the Harvard audience that this “life of fear, hunger and oppression is a crime against the North Korean people”.

**A refugee’s struggle**

One of the most enlightening things about Lee’s story is just how difficult it was to escape North Korea even after having made it across the border.

In China, Lee was terrified “since the Chinese government will capture and repatriate North Koreans to a horrible fate in North Korea”. Laos does the same.

In a perverse twist of logic, Lee was almost arrested in Laos for people trafficking (a human rights offence) while helping her family to reach South Korea. Even once in South Korea, North Korean refugees can continue to face all sorts of barriers: some external, as in discrimination, to internal, in the sense of adjusting to the outside world.

Lee’s talk will offer a sharp perspective on the concept of human rights, the mechanics of oppression and the pitiless obstacles that prevent escape.
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What to do in Seoul

From the traditional tourist hotspots of art galleries and museums to underground shopping malls and K-pop, Seoul has it all.

Seoul is a stunning metropolis, brimming with cultural attractions, stunning views, and dining opportunities aplenty. While you’re at the IBA conference, there’s no shortage of opportunities to explore this iconic jewel nestled between the North Asian powerhouses of China and Japan.

Here are some of the best choices – provided you can tear yourself away from the many sessions, meetings and parties, that is.

**Experience Gyeongbokgung Palace**

Built in 1395, Gyeongbokgung Palace was the main royal residency of Joseon dynasty which lasted five centuries, spanning from 1392 to 1897. It is one of five grand palaces in the city, all of which are still accessible today. Having undergone renovation work relatively recently, Gyeongbokgung is a great opportunity to experience the cultural heritage of the city and step back in time.

When visiting, make sure not to miss out on the changing of the guard ceremony or the Gwanghwamun Gate guard-on-duty performance. Both happen every hour between 10am to 4pm at the Gyeongbokgung Palace throughout the week, except for Tuesdays.

**Visit Mount Namsan**

A 2011 survey by the Seoul Development Institute found the most scenic location in Seoul – according to 62.8% of residents and 70.9% of experts – to be Mount Namsan, or Nam Mountain. If that wasn’t enough, it’s also mentioned in the South Korean national anthem, Aegukga.

With a peak of 262 metres, it offers some hiking, picnic areas and views of Seoul’s skyline. Should you not wish to climb the whole mountain, fear not – it offers a cable car to shuttle you there. For an individual return ticket, this will cost you 9,500 won (around $8).

The mountain and its surrounding area is Namsan Park, a public park ebbing with natural beauty. It is also the location of the famous N Seoul tower.

**Shop, then shop some more**

While you’re in Seoul, you certainly won’t struggle when it comes to finding the right place to shop – whether you want souvenirs for family and friends or to do some personal high-end retail therapy, the city has it all. Visit the quirky Common Ground, a shopping centre built in disused shipping containers, or explore Seoul’s extensive underground shopping malls, which have garnered a global reputation particularly due to the fact they aren’t common in the likes of Europe and the US. Some of the best spots in Seoul include the Express Terminal Underground Centre, Gangnam Underground Shopping Centre, and Yeongdeungpo Underground Mall.

**Get to the heart of Seoul’s thriving art scene**

Art galleries are relatively new to Seoul. Unlike Tokyo, where the country’s oldest art gallery has been in operation since 1872, Seoul’s oldest gallery opened its doors in 1970. This is the Gallery Hyundai, which is located just off of Samcheong-ro, an area that has been nicknamed Gallery Street. At Gallery Hyundai, you’ll find the work of established Korean artists such as Park Soo Keun, and also be able to view the work of up-and-coming artists as part of the gallery’s Window Gallery scheme, which showcases the work of local and international artists.

Also on Samcheong-ro is PKM Gallery. PKM Gallery was founded by Korean artist Park Kyung Mee 18 years ago and boasts an international collection of art. In the past, this has included exhibitions from the British artist Darren Almond and American minimalist Dan Flavin.

Should you travel further afield than Samcheong-ro, make sure you visit Gallery FACTORY, located in the historical area of Hyoja-dong. Thoroughly avant-garde, it’s the ideal place to discover up-and-coming artists in South Korea.

**Drop into a museum**

Seoul’s stunning architecture is improved even more by its selection of museums. With both the traditional and modern on offer within their walls, there will be plenty of chance to spend your time stepping into Korean history in between attending the conference. The most prominent of these is the National Museum of Korea, opened in 1945 at the time the country became independent of neighbouring Japan. Here you’ll find stunning archaeological collections, unique art and eye-catching relics, many dating back to Korea’s civilization beginnings.

In addition, situated right in the heart of Seoul is the Seoul Alive Illusion Museum. There are over 100 exhibits that visitors can witness and experience first-hand. For something a bit different – established by one of South Korea’s most famous exports – try Leeum, Samsung Museum of Art, which was established by the Samsung Foundation of Culture. Leeum preservers national treasures, contemporary sculptures and photography.

**Embrace K-pop mania**

When in Seoul, investigate Korea’s answer to Cool Britannia, which is host to twice as many big egos and memorable tunes. A subculture that has taken the world by storm, K-pop came to fruition in the 1990s and has continued to dominate Korean pop culture since, having gone global through the success of bands such as BTS. As the genre’s centre of interest, there’s plenty of entertainment for tourists in Seoul.

Make sure that you visit the futuristic KLive venue. Expect hologram concerts, K-pop merchandise and various virtual reality games. These vary from the bizarre to the sublime, so whether you want realism or horror, it is certainly worth your time.

K-pop is everywhere, from restaurants to shopping destinations. One particular recommendation is to visit Hongdae Street, which is home to Seoul’s independent music scene and host to plenty of night clubs and music venues where you can discover up-and-coming acts.
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FDI in the spotlight in Asia

A number of Asian countries are working to ensure that foreign direct investment (FDI) continues to flow into the region, while ensuring that important trade secrets and technological advancements are protected, and that companies do not relinquish too much control to foreign owners.

Representatives from a host of countries including China, South Korea, Malaysia, India and the Philippines told delegates at the M&A in Asia’s high-growth economies: pitfalls to be avoided session yesterday afternoon that the region is open for business.

Yoon Kyung Chang of Kim & Chang in Seoul discussed an amendment to an existing law in the country that will likely have an impact on FDI. Although it is currently not difficult for foreign investors to buy a company in South Korea – all business areas are open except highly-regulated industries such as defence and aviation – the new regulation will prevent the leakage of industrial technology.

“Once it goes into effect it will require the foreign investor to make a government filing akin to a Committee on Foreign Investment in the United States (Cfius) filing in the US,” she said.

Known as the Act on Prevention of Leakage and Protection of Industrial Technology, or the ITA, the act was enacted to protect and regulate the export of the so-called national core technology (NCT) and M&A transactions involving NCTs.

“Last month, in line with global concerns about the unlawful leak of trade secrets and strong demands for a tighter technology protection system, the Korean government promulgated an amendment to the ITA,” said Chang. “It provides expanded protection for NCTs, but in addition, it also strengthens regulations and restrictions on M&A transactions involving NCTs.”

After the amendment the reporting requirement will be strengthened, meaning that if an NCT was developed using public money, prior approval – rather than just a notification – will be required.

Digital driving the Arab world

In yesterday’s afternoon session, panellists from Arab states such as the UAE were optimistic about the region’s opportunities for technology and innovation. The Gulf Cooperation Council has shown increased interest in technological advancement.

General counsel at the Emirates Integrated Communications Company, Anneliese Reinhold, pointed out that cybersecurity in the Arab region is setting the scene. “Technological developments are bubbling up organically,” Reinhold said, as governments within the region establish the necessary building blocks.

Reinhold said tech was seen as a method of shifting away from reliance on oil. For example, Dubai’s car-hailing app, Careem, was acquired by Uber for $3.1 billion earlier this year, offering optimism to the city following the slowdown of other areas of its economy.

With all the excitement, Reinhold warned that as interest spikes, so do the risks.

“If you’re serious about digital technology, be sure to invest in cybersecurity,” she warned.

Middle Eastern areas such as the UAE have low levels of crime, which has the flipside of a lack of awareness when approaching potential crime risks.

Her fellow panellist, Dubai-based Nasser Khasawneh, also highlighted the risks of cybercrime.

“The whole world is grappling with cybersecurity, and there is no north/south divide on that,” he added.

The panel also touched upon the issues of the EU’s General Data Protection Regulation (GDPR), artificial intelligence and blockchain. In a debate that included members of the audience as well as the panel, it was clear that an overwhelming majority are aware of the importance of GDPR.

KEY TAKEAWAYS
- There is increased attention on the Middle East’s tech revolution;
- Spectators fear this could result in heightened cybercrime risks;
- Panellists touched on other areas such as blockchain and GDPR.

“It has the ability to touch everyone around the world,” said Khasawneh.

While cybersecurity remains a risk for the Arab region, it’s clear that the technology sector is booming, offering hope to states whose wealth has previously depended heavily on natural resources.

Pinning hopes on the millennials

At yesterday’s lunchtime Conversation with Yong-ho Thae, Mark Ellis, executive director of the IBA, interviewed the former North Korean diplomat who served as deputy ambassador to the UK and defected with his family to South Korea in 2016. The highest-ranking North Korean to have defected in this century shared his compelling journey with the audience and explained why hopes for a reunited Korea are dependent on the millennial generation.

As a diplomat who had been posted in Europe and a member of the core class – the highest of the three classification systems of North Korean citizens based on their political, social, economic and ancestral backgrounds – Thae had the privilege of seeing a whole different world outside the country. While he and his family tried to go on with their lives back in North Korea, it was too much to bear.

Following the defection of 13 North Koreans from China in March 2016, Kim Jong-un demanded that university students returned to North Korea by July 2016. Thae was angry that his son couldn’t finish his education. “We had an open and honest family discussion and when I thought about the future, I thought: how can I ask my children to go back to North Korea when they know about human rights and democracy?” said Thae.

This sentiment appears to be building with the millennial generation of North Korean students. With a growing market of grey goods, the next generation of North Koreans know a better world exists beyond their borders. While they may be loyal to Kim’s system during the day, by night many are consuming American and South Korean TV dramas. “The system will begin to falter in the next 10 to 20 years,” said Thae. “The next generation is growing up in a conflicted society, and will take to the streets.”

Unlike the current core class, many of whom are children of victims of the Korean War, “don’t have strong hatred for Americans and South Koreans”, said Thae. “They have disbelief of the system, and will push against it when they come into power.”
The Uber way to do law

As the legal sector turns a new page, innovation has led to an emerging gig economy. Today’s panel asks what benefits this could bring to the industry and consumers.

The gig economy has been a fast-growing phenomenon the world over for around a decade now. It began with the success of transportation company, Uber, which has successfully disrupted the taxi industry and presented a major challenge to the incumbents. Then there was Deliveroo, the UK-based online food delivery company that began in 2013 and has since become a successful venture in countries ranging from Ireland to Kuwait.

In 2018, US authorities reported that an estimated 55 million US workers were part of the gig economy: around 35%. The UK’s gig economy has also doubled in size in the three years to 2019, with the Trade Union Congress recently claiming that one in 10 working age adults now find gig economy work through apps or websites, compared with an estimated one in 20 in 2016.

It seems only inevitable that this kind of work would spread through to other sectors: enter the legal industry. In traditional legal models, it’s hard to estimate how much a case is going to cost you, and for Albrecht, this is a positive of the gig economy reaching legal services. “The so-called Uberisation helps remediate that as there are not as many cost pressures, or they are fixed,” he says.

Albrecht’s session co-chair, Derya Durlu Gürzumar of the Istanbul Bar Association, also feels that the gig economy has positive prospects for both sides of legal services. She believes that it will benefit lawyers who opt to go freelance, as they will have the potential to earn a higher income in proportion to the freelance/gig work they conduct, as well as increased flexibility in determining their own schedule and workplace.

“Arbitration of legal services, and may seek to outsource their tasks to achieve efficiency gains,” she continues.

With the legal sector notorious for long hours and high costs, the flexibility of a gig economy structure certainly has its attractions.

**Is the grass always greener?**

The legal sector is far from perfect as is, and the gig economy clearly has its perks. However, that’s not to say that this change in the market doesn’t come with risks.

“As with any new model, clients face the risk of being harmed from receiving poor-quality advice,” adds Durlu Gürzumar, pointing to similarities to the potential for malpractice in the traditional law firm setting.

“Traditional law firms may be squeezed out of the legal market given the new methods of delivering legal services, and may seek to outsource their tasks to achieve efficiency gains,” she continues.

She also predicts that the ethical implications of rendering legal advice in novel and unregulated methods will most likely force regulators and courts to revamp the rules. For instance, Albrecht is sceptical about the prospect of online reviews.

“It is one thing to rate an Airbnb in terms of cleanliness or location, but it is another thing to rate a lawyer or legal service.”

The delivery of legal services and the future of professional practice is still uncertain. For Albrecht, this is not something that should be feared.

“Lawyers are able to showcase their subject matter or industry expertise. The word freelancing comes to mind,” he says. “Overall this model benefits consumers, and can benefit big business customers as well because of cost certainty.”

The leader in this emerging market is currently the online platform, Avvo (an abbreviation of the Italian word for lawyer, avvocat). Avvo provides a marketplace for legal services, with the provision of lawyer referrals as well as access to a database of legal information. Lawyer profiles on the platform can include client reviews (similar to Uber), as well as peer endorsements, and lawyer-submitted legal guides, akin to LinkedIn. Avvo makes it easy for lawyers to reach potential clients.

“A huge issue that faces potential consumers in the legal sector is access to justice,” says Albrecht.

Often, the costs incurred with a large firm can mean that consumers, particularly individuals or small businesses, lose access to legal services as they cannot afford to invest in them.

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“Arbitration of legal services, and may seek to outsource their tasks to achieve efficiency gains,” she continues.
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