

IBA President's Report on 2020 Activities

In my final year as President of the International Bar Association (**IBA**), I am pleased to share with you our progress and some highlights for our plans in 2020.

Our Annual Conference this year will be hosted in Miami, USA, taking place from 1-6 November 2020. As always, the conference will be a platform for discussions on topics relevant to bars across the world, including several exciting sessions planned by the IBA's Bar Issues Commission (**BIC**).

I will continue to emphasise to our members, and to the legal profession worldwide, that lawyers must explain the importance of maintaining the rule of law and human rights to the public. It is vital that these valuable principles are upheld and defended, particularly in these times of increasing divisiveness, and the growth of populist movements that we are witnessing around the world. The IBA will be active in these debates, and in the creation of solutions, always championing the cause of justice and the rule of law at their heart.

My Presidential Task Forces and priorities which form the focus of my tenure as President are as follows:

- **Attorney Wellness: What Bar Associations Must Do to Address the Growing Crisis:** this Task Force, chaired by the BIC Vice-Chair and a BIC Officer, with support from the North America Forum, was established to address the negative working atmosphere found in many law firms and legal practice more broadly. In general, the legal working environment is leading to lawyer burn out, significant mental health issues, and in worst cases, even suicide. This panel will focus on what bar associations can and should be doing to address what has become an international issue. The program will address underlying causes, lawyer assistance programs, and the ability of bar associations to provide best practice guidelines, programming, and other macro-level efforts. Bar leaders from diverse associations around the world will address not only their jurisdictions but also global efforts to address the problem.
- **Global Trade Wars: Attack on the Rule of Law - What is the Impact on the Future of the WTO and Global Business Strategy?:** this Task Force will focus on two main points, one setting out the issues and urgency from an international trade law perspective, and the other a discussion by the business panel and "a view from the trenches". The task force expects to deliver its final report/recommendations during the second part of 2020.
- **The Role of Lawyers from a Business Outlook:** this Task Force is relevant to the business community and their clients. The deliverables will be practical guidelines on a mid-to-long-term timescale. It will be based on the common scenario that all private practitioners face of a client coming for advice in order to be eligible for investors seeking impact investments. There will be three working groups: 'Going Big', 'Smart Governance', and 'Your Footprint'. Professional conduct standards and practice guidance from business lawyers to clients, to corporate counsel and CEOs, are also planned to be developed.
- **Global Legal Education:** the IBA will continue to educate lawyers regarding the importance of the Rule of Law. There are two projects being undertaken by the Task Force, one on AI and Ethics, and the other on the development of a blueprint for the global legal profession. Two working groups are responsible for the execution of these two projects.

The Strategic Planning Working Group, chaired by the IBA Vice-President, has completed a consultation process, aiming to finalise the document by the end of the year.

I also want to bring to your attention some key projects undertaken by IBA entities that I believe will be of interest to your organisations:

- The BIC will be hosting its annual Bar Leaders' Conference in Vilnius from 20-21 May 2020. This key event will bring together delegates from around the globe to discuss the latest developments and issues affecting the legal profession today.
- Responsibility of capacity building for developing bars has shifted from the IBA Human Rights Institute (**IBAHRI**) to the BIC. Capacity building includes governance and leadership structure, strategic planning, financial responsibility, membership services, regulations, professional ethics, disciplinary procedures, risks and compliance, and access to legal aid.
- The United Nations Environment Programme (**UNEP**) and the IBA are developing a model curriculum for a continuing legal education programme on environmental law, designed to be built into national professional development programmes. UNEP and the IBA are planning to introduce the curriculum in pilot countries. The three regions selected are Africa, Asia-Pacific, and Latin

America. In Africa and in Asia, bar associations have already volunteered, and now UNEP and the IBA are looking for a bar associations from Latin America to pilot the curriculum. The curriculum will be presented during the closed session of the 5th Annual IBA Latin American Bar Leaders' Summit.

- In April and September, the BIC International Trade in Legal Services Committee (**BIC ITLS**) organised a two one-day conferences on globalisation, the first in Costa Rica (in collaboration with the Costa Rica Bar Association), and the other in Fiji (in collaboration with the Law Society of Fiji, and at which the South Pacific Lawyers' Association was relaunched with the assistance of the IBA). The success of this engagement is underlined by the demand from bar associations and regional lawyers' associations for similar conferences, which continues to exceed our capacity to organise such events. In March 2020, a conference will be held in Indonesia, and later in the year further iterations will be held in East or Southern Africa, and possibly in Cuba. The conference series continues to develop, and the fact that other parts of the IBA (such as those engaged with issues surrounding professional ethics) are aligning areas of their work to the BIC ITLS seminar series is testament to its success. As a result of this success, the BIC ITLS has decided to offer a new combined seminar series on globalisation *and* professional ethics in Jakarta, Indonesia, on 9-10 March 2020. The venue will be Mandarin Oriental Hotel. In December 2019, BIC representatives, including BIC Officer Kimitoshi Yabuki and BIC Project Lawyer George Artley, visited Jakarta to meet with the representatives of PERADI, one of the national bar associations in Indonesia, and an IBA member organisation. PERADI will organise the new seminar jointly with the IBA, with the topics planned to be covered being (i) globalisation of legal services, including regulations on foreign lawyers, training of young lawyers, and joint ventures with foreign firms, and (ii) international legal ethics, including IBA principles, ethics in Indonesia and other jurisdictions, as well as the impact of technology on the legal profession.
- With its Section on Public and Professional Interest (SPPI), the IBA continues to recognise and support outstanding work and achievements in the field of pro bono work, amongst young lawyers and women in the legal profession, as well as contribution by a legal practitioner to human rights, through the presentation of awards and special training courses annually.
- In Seoul, the SPPI's Access to Justice and Legal Aid Committee launched its report "A tool for justice – the cost benefit analysis of legal aid", which was produced and funded jointly with the World Bank. The report offers a practical guide on how to implement a cost benefit analysis of different policy alternatives. The guide offers governments and other policy-makers the tools to gather the relevant data needed to conduct their own cost benefit analyses of legal aid programmes in their jurisdictions. The ultimate aim is to support governments in allocating their resources more efficiently and effectively to close the justice gap. The report is available for download from the IBA website.
- Two SPPI Committees will be organising parallel events at the 2020 UNCSW (Commission on the Status of Women) event: the Women Lawyers' Interest Group and the Access to Justice and Legal Aid Committee.
- The IBA's Legal Practice Division (LPD) continues to be most active within Europe and already for 2020; there are over 25 specialist conferences and events planned covering a diverse range of legal matters. The LPD has contributed to the following reports, which have recently been published by LPD Committees as a result of projects that were undertaken within these constituents:
 - IBA Report on the Future of Work - The IBA contribution to the International Labour Organization debate about the future of work ([file:///C:/Users/ronnie/Downloads/GEI-Future-of-Work-report-2019%20\(1\).pdf](file:///C:/Users/ronnie/Downloads/GEI-Future-of-Work-report-2019%20(1).pdf))
 - The IBA-GEI launched its Eighth Annual Global Report – National regulatory trends in human resources law (<file:///C:/Users/ronnie/Downloads/IBA-GEI-National-regulatory-trends-in-human-resources-law-report-2019.pdf>)
 - Anti-Corruption Committee together with the OECD published the Report of the Task Force on the Role of Lawyers and International Commercial Structures ([file:///C:/Users/ronnie/Downloads/IBA-OECD-Task-Force-on-the-Role-of-Lawyers-report-2019%20\(1\).pdf](file:///C:/Users/ronnie/Downloads/IBA-OECD-Task-Force-on-the-Role-of-Lawyers-report-2019%20(1).pdf))
- The Anti-Corruption Committee is in the preliminary stages of developing a project with the OECD providing guidance on non-trial resolutions. The purpose of the project is to shape the content and

participate in the implementation of forthcoming rules in settling international bribery cases. Normative guidelines on NTRs are coming, and the IBA can play a critical role in their content and implementation as a partner to the committee of national Justice Departments and prosecutors that will issue the guidelines. The LPD has reached out to the Bar Issues Commission to have input in this initiative.

- The Litigation Committee was approached recently by the University of Milan in relation to a project (the EFFORTS project) that a number of eminent European institutions wish to form relating to the improvement of the enforcement of judicial decisions around the EU. In particular the project would assess current practices of the relevant EU Regulations governing debt collection procedures, provide practical guidance to potential users and identify weaknesses and gaps of the current rules and provide both EU and national lawmakers, as well as national courts with guidelines to improve the functionality of those rules and enhance their operation in practice. This is an exciting opportunity in which an LPD Committee can be engaged.
- A project has been launched under the leadership of the IBA GEI to produce a best practice guide on conducting internal investigations. The project envisages the production of a best practices guide for conducting internal investigations, being specified that the drafting of this Guide would allow various and numerous Committees of the LPD and PPID to work closely together and share best practices. The Guide will include legal requirements, interface with regulatory investigations and reporting obligations, professional ethics, privacy and data protection, and best practices and protocols.
- The IBA GEI has most recently started work on Part II of its report on Digitalization (Artificial Intelligence and Robotics) and its impact on the World of Work.

The aim of the report is to provide as uniformly as possible a response to global HR challenges regarding AI and robotics, particularly those relating to labor and employment law.

- Confidentiality and Legal Professional Privilege This project will seek to produce a Register setting out the position in each country - when documents are protected by LPP, where can exceptions be made, where can the courts/governments gain access, when corporate counsel protected by LPP. The BIC and SPPI are also contributing to this project and are represented in the Working Group.
- IBA – European Parliament (EU). This is a new project for the LPD working with the EU Research Unit in authoring a study on 'building competence on commercial law in the EU Member States.'
- 2020 marks 25 years of the IBA's Human Rights Institute, promoting and protecting the rule of law and human rights across the world, with projects completed in over 80 countries since the Institute was established under the honorary presidency of Nelson Mandela in 1995.
- The IBAHRI's UN Programme, based in Geneva, Switzerland, continues to grow. The IBAHRI, in partnership with several international organisations, has been working on a Toolkit for Lawyers at Risk. The project will be launched in January 2020 on the occasion of the Day of the Endangered Lawyer. The event will also kick off the commemoration year of the *30th Anniversary of the UN Basic Principles on the Role of Lawyers* and *IBA Standards for the Independence of the Legal Profession* and be the opportunity to discuss the challenges encountered by lawyers worldwide. The IBAHRI have been active at the UN Human Rights Council Sessions, making oral statements and side events on the use of the death penalty, the criminalisation of dissent in China, and on accountability for Syria. In November 2019, the UN Human Rights Council adopted a Universal Periodic Review report on Kazakhstan reviewing country's human rights progress in the last 5 years. The IBAHRI advocated for reforms to strengthen the independence of legal profession in Kazakhstan and were pleased with the adopted recommendations regarding the independence of the legal profession.
- The IBAHRI participated at the OSCE's Supplementary Human Dimension Meeting on the Right to Freedom of Peaceful Assembly, to engage in the regional discussions on the freedom, and challenges when it comes to its fulfilment. The IBAHRI team led a private expert consultation with the UN Special Rapporteur on Freedom of Assembly to discuss the role of lawyers in defending human rights in peaceful protest, with lawyers present from 12 countries who discussed common obstacles encountered in providing legal assistance for victims of protest-related violence, arrest or detention. At Geneva Peace Week, the IBAHRI, in partnership with the UN Special Rapporteur on the Rights of Freedom to Peaceful Assembly held a side-event entitled '*Human rights in peaceful protest. Lawyers at the forefront. A European perspective*' in Geneva. The IBAHRI hopes to continue this aspect of its work through its UN Programme in 2020 and to promote international human rights standards amongst the legal profession and support lawyers at risk.
- In 2019, the IBAHRI trained delegations of lawyers from a number of jurisdictions in international human rights and relevant UN mechanisms, and facilitated the attendance of human rights lawyers

from across the world, including in Zambia, Syria, Brazil and Central Asia and participated in several international meetings, conferences, and UPR sessions in order to discuss the difficulties the legal profession deals with in their jurisdictions.

- In September 2019, the IBAHRI was officially appointed as the Secretariat to the High Level Panel of Legal Experts on Media Freedom, an independent body convened at the request of the UK and Canadian governments. The Panel brings together leading international experts on media freedom, including judges, lawyers and academics, from all over the world, assembled at the request of Chair, Lord Neuberger of Abbotsbury. The Deputy Chair is Amal Clooney, the UK's Special Envoy on Media Freedom. The panel will propose initiatives that can be taken by governments to ensure existing international obligations relating to media freedom are upheld, disseminate elements for model legislation to promote and protect a vibrant free press, and report on means of raising the cost to those who target journalists for their work. In 2020, the Panel are working on 5 enforcement projects:
 - assessing best practices regarding **1) targeted sanctions regimes**
 - considering best practices for states to provide safe refuge for journalists with recommendations on **2) Asylum and Visas**
 - considering best practices for states to provide **3) consular assistance** to their nationals who are journalists
 - is considering a model for an **4) international investigative team** that can be deployed to gather evidence and report on abuses of media freedom where the territorial state is unwilling or unable to do so effectively.
 - assessing current reporting platforms and considering a new initiative that encourages states to make a **5) 'transparency pledge'**.
 - The reports for these five projects will take place in the first half of 2020. The Panel are also working with 11 leading academic institutions around the world to **provide six international standards reports** which will provide advice on model elements for the drafting and interpretation of legislation in line with International human rights standards. The IBAHRI are thrilled to be working with the Panel on these important initiatives.
- In summer 2019, the IBAHRI launched a Law Essay Competition and Mentorship Programme in Zambia. The Mentorship Programme aimed at providing students/junior lawyers to work alongside the guidance of senior lawyers in Zambia. Young lawyers engaged in the programme were selected from a law essay competition which was aimed to encourage new ideas, approaches and discussions among the Zambian students and youth community in the field of human rights and legal profession. The IBAHRI aims to continue its work to increase the capacity of human rights lawyers in Zambia and the involvement of young lawyers in human rights litigation in the country in 2020.
- In December 2019, the IBAHRI released its final report in the case of Venezuelan Judge Afiuni after more than nine years of trial observation. Afiuni was arrested without a warrant in 2009 in connection with her decision to release an alleged political prisoner. Proceedings against her have lacked proper safeguards, violating her fundamental rights. The Spanish-language report, **Legal Guarantees and Due Process: 10 Years of the Afiuni Case**, outlines the conclusions of the IBAHRI's observations.
- The IBAHRI continued work on its longstanding torture prevention programme with defence lawyers, public prosecutors and judges in Latin America. The IBAHRI provided technical legal support to the Public Defender's Office in Rio de Janeiro regarding the Sala Vermelha ('Red Room') case. In August 2018, seven young adults were captured by the military for allegedly carrying drugs and weapons in a favela. Video and photos taken by residents portray military abuses that could amount to torture. The IBAHRI spent time working with doctors and forensic psychologists on the case working to produce medical reports uniquely applying the Istanbul Protocol, testament to the work of the programme. The reports were considered 'highly consistent' with torture by the judge, who found that the pain and suffering could have only been caused in the way described.
- The IBAHRI will continue its work on Torture prevention in 2020, as well as its training programme for Syrian lawyers on international and national human rights and accountability mechanisms and on its global project on increasing knowledge on importance of gender parity across justice related institutions.

The IBA remains unwavering in its dedication to championing the cause of justice and the rule of law. I look forward to continuing to strive towards these goals with you in our joint spirit of cooperation.

Horacio Bernardes-Neto
President, International Bar Association