

IBA President's report on 2021 activities European Presidents' Conference

As I enter my first year in office as President of the International Bar Association (IBA), it gives me pleasure, notwithstanding constraints imposed upon us by the Covid-19 pandemic, to share with you plans which I consider achievable in the difficult circumstances in which we shall be operating.

In common with other organisations, the IBA has had to revise its communication with its members and although challenges will continue in this regard, in particular the inability to organise popular face-to-face events, I am confident that the IBA will continue to rise to the occasion. It has so far provided the legal community with superior digital content in the form of webinars, guidelines, papers, podcasts and online conferences, among other offerings. This digitalisation has the capacity to assist more lawyers in developing jurisdictions, and those at entry levels in developed jurisdictions, in their effort to access the excellent content produced by our association, which will be central to all our strategies.

During my term as IBA President, along with the continuation of longer-term projects that were established during my predecessor's term, I will be focussing on the following priorities:

- **Cybersecurity**

Cybersecurity is an ever-evolving issue and is one that impacts the entire legal profession. Work in this regard will seek to enhance international regulation and providing guidelines for our members' clients on how and where cybersecurity should fit within their overall approach to risk management. I plan to encourage the active involvement of not only bar associations but all IBA entities.

- **Capacity building for bar associations**

Bar associations have enormous potential to assist us in achieving the objectives of our great association. In order to enhance their aptitude in this regard, capacity building for bar associations, one of the many objectives of the formation of our association, will receive serious attention during my presidency. We shall review and update the current version of the 'Benchmarks for Bar Associations' and will promote the use of this work within developing bars.

- **Creating and strengthening positive relationships/exchanges among lawyers, law societies and bar associations**

Creating and strengthening positive relationships within the IBA is a central priority during my term as President. The IBA is committed to working with lawyers, law societies, bar associations and group members to strengthen our capacity as a profession to promote and protect the rule of law, human rights and an effective administration of justice.

- **Rule of law programmes**

The IBA will strive to work with all its entities to promote, implement and maintain active and extensive programmes that will highlight the importance of the rule of law and capacitate national bars, particularly developing bars, to respond appropriately to challenges as they arise. The current health emergency has disclosed an inability by governments to implement public emergencies within the framework of the rule of law. The major weakness has been an inability to observe proportionality. The IBA will work to ensure that it is appreciated by all that there is no alternative to the rule of law.

- **Discrimination and inequality**

Diversity, in all its forms, is a value that the IBA will continue to pursue vigorously and remains at the forefront of the IBA's plans and activities. Law is based on a philosophy of even handedness. There should be no room for discrimination and inequality in bar activities, the practice of law and the administration of justice.

- **Digital hub**

The IBA will continue to help equip and empower those who cannot attend in-person events to participate online. At the same time, the IBA will carry on expanding its offering of multimedia content, serving both its membership and the legal profession around the world.

- **Project output**

The IBA will work towards strengthening project output from constituents to provide 'role model' material to improve the practical exercise of law. This would include updating guidance and recommendations regarding the extractive industries so that current strategies meet investor protection and developmental rights of the communities where the investment takes place.

- **Anti-corruption work**

Work to strengthen strategies against corruption will continue to receive attention from the IBA.

The Strategy Plan Working Group, in consultation with external resources, has created the IBA's Strategic Plan, which has recently been accepted by the IBA Council. The Working Group did an exceptional job and now the IBA is focussed on ensuring that the strategic plan is implemented.

In addition to the abovementioned priorities, I also want to bring to your attention some key projects undertaken by IBA committees that I believe will be of interest to your organisations:

- The Bar Issues Commission (BIC) is excited to be offering the first ever BIC webinar series, which will take place throughout the year. The BIC leadership is working closely with the London office to plan the logistics of these virtual events and to offer high quality webinar sessions relevant to bar leaders joining us from around the world.
- In June 2020, the BIC launched a global survey to assess the impact that Covid-19 had on its member organisations. Over 30 law societies and bar associations responded to the survey. Further results were added after cooperation with the CCBE (Le Conseil des Barreaux Européens), which allowed the BIC to add the responses of a further 16 European bars where relevant. This means that in total, the survey includes insights from 50 organisations across the world (the largest number of global responses yet gathered on the subject). Following an analysis of the responses, a report was prepared summarising the headline results and conclusions of the survey, as well as specific examples of how bars have been impacted by, and responded to, the effects of the pandemic. The report, 'Bar Issues Commission: Covid-19 Survey Report' is now available on the [IBA website](#).
- The BIC International Trade in Legal Services Committee (BIC ITLS) offered virtual follow-up/taster events to bars that had previously co-hosted a 'Globalising Your Practice' conference series. The first of these took place in conjunction with the Law Society of Fiji on 8-9 January 2021, and it was a hybrid event that had over 200 participants, with most participants and speakers attending in person at a hotel in Fiji, and some 50 participants and the international speakers participating online.

- The IBA Asia Pacific Regional Forum recently published its 800-page guidebook on 'Doing Business in Asia Pacific'. The report presents a comprehensive, innovative guide to doing business in the Asia Pacific region and covers 11 jurisdictions. The report can be downloaded from the [IBA website](#).
- The Legal Practice Division's Task Force looking at Government Access to IT Systems has now published its report on the [IBA website](#). This report details the Task Force's assessment based on the considerations of this topic in different jurisdictions and offers a set of working principles for balancing government access to IT systems and fundamental rights.
- 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 practice guide for conducting internal investigations. The drafting of this guide would allow numerous LPD and PPID committees to work closely together and share best practice. The guide will include legal requirements, reporting obligations, professional ethics, privacy and data protection, best practices and protocols.
- The IBA Environment Health and Safety Committee have launched, and are collating responses to, a survey dealing with challenges faced in reactivating economies across the globe following the pandemic. According to the information provided by the United Nations Environment Program (UNEP), within the next six to 18 months, around US\$20tn will be required to recover the rhythm of the global economy. The decisions made on the matter will have important consequences on our societies, including the ability to respond more efficiently to the environmental and social challenges of the future.
- In December 2020, the Art, Cultural and Heritage Law Committee updated its handbook entitled 'Art Law: Restrictions on the Export of Cultural Property and Artwork' which is now published and available on the [IBA website](#). There are 14 countries that have contributed to this informative report from the Committee, which will continue to be expanded.
- The IBA Arbitration Committee has recently updated the '2010 IBA Rules on Taking of Evidence in International Arbitration', which is used and referred to by a great number of arbitration centres across the globe. In 2019, the IBA Guidelines and Rules Subcommittee established a Task Force comprising of more than 30 international arbitration practitioners from both civil-

and common-law backgrounds. The Task Force studied the need for any revisions to the IBA Rules of Evidence. Given the general satisfaction with the 2010 version of the Rules, the Task Force proposed a limited number of changes. In spring 2020, these proposed changes were submitted for comment and feedback to over 160 arbitration institutions worldwide, as well as the IBA Arbitration Committee, and the drafters of the 1999 and 2010 Rules. The Task Force considered the public comments received, refined proposed changes and made additional revisions – including, most significantly, the incorporation of a provision on remote hearings. Other proposed changes include a provision permitting an arbitral tribunal to exclude evidence that has been obtained illegally. This notation suggests that the tribunal's initial consultation with the parties on evidentiary issues includes discussion of cybersecurity and data protection issues and clarifies changes on a number of points where experience with the existing Rules suggested some ambiguity. In some cases, the Task Force also abandoned proposed changes where there appeared to be insufficient consensus on the revision. In parallel, the Task Force revised the 'Commentary on the Rules'. The Commentary provides helpful guidance on the Rules. It will be available for download from the IBA website. The draft revised Rules were approved by the IBA Council in December and will be available on the IBA website.

- 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 among young lawyers and women in the legal profession, as well as an outstanding contribution by a legal practitioner to human rights. This is done through the annual presentation of industry awards and special training courses throughout the year.
- The IBA's Future of Legal Services Commission presented the findings of its joint research with the Law Schools Global League (LSGL), looking at global legal education and the trends that are shaping the future of legal services, with a particular focus on the impacts of globalisation and technological disruption. As part of this project, a blueprint was produced, which aims to inspire the necessary reform of legal education at a global level to respond to the challenges of the legal profession.
- Under leadership of the SPPI, the Commission will continue its work with a focus on four key developments affecting the legal profession: changing client demand; new entrants into legal industry; digitisation and technology; and regulatory changes.

- The Law Firm Management Committee will focus on supporting medium-size law firms through an online training programme for current and aspiring law firm managers and leaders (both lawyers and non-lawyers). The particular focus is on lawyers and law firms in developing countries and emerging markets.
- The IBAHRI's UN Programme, based in Geneva, Switzerland, continues to grow in 2021. The IBAHRI, in partnership with several international organisations, produced a 'Toolkit for Lawyers at Risk'. The Toolkit was launched in January 2020 in Geneva on the Day of the Endangered Lawyer, and since its launch the IBAHRI has delivered a programme of training for lawyers in Central Asia. Owing to the Covid-19 pandemic, these have been delivered virtually and will continue to be rolled out for Kyrgyz lawyers in collaboration with the American Bar Association.
- 2020 marked the 30th anniversary of the UN Basic Principles on the Role of Lawyers, and the IBA Standards for the Independence of the Legal Profession. The IBAHRI advocated strongly for greater protection for lawyers worldwide. A call to action in support of the Principles was signed by 50 bar associations, law societies and national and international lawyers' organisations from around the world. The IBAHRI advocated strongly at the UN in support of lawyers at risk globally, as well as making 166 interventions on behalf of lawyers, both publicly and to heads of states, throughout 2020. In 2021, this pace of work will continue to defend lawyers facing risk for their professional duties. The IBAHRI is planning further events, including one in conjunction with the International Commission of Jurists on the Day of the Endangered Lawyer, and later one at the UN Congress.
- In 2020, the IBAHRI began working with the UN Special Rapporteur on a joint research and consultation project looking into the rights, guarantees and challenges that lawyers face when providing legal assistance before, during and after mass protests. This collaboration continues into 2021 with the Hong Kong Bar Association and the New York City Bar. The IBAHRI is to lead the online survey, and the interviewing of lawyers, as part of the project. The IBAHRI has undertaken research and interviews with lawyers around the world to discuss the development of a report that will then go on to inform the report presented by the Special Rapporteur to the UN Human Rights Council later in 2021.
- 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 and is assembled at the request of the Chair, Lord Neuberger of Abbotsbury. The Deputy Chair is Amal Clooney, the UK's Special Envoy on Media Freedom. In 2020, the Panel published four enforcement reports on: assessing best practice regarding targeted sanctions regimes; considering best practices for states to provide safe refuge for journalists with recommendations on asylum and visas; providing best practice for consular assistance; and considering a model for an international investigative team to gather evidence and report on abuses of media freedom. In 2021, the Panel are working on:

- The final enforcement report assessing current reporting platforms and considering a new initiative that encourages states to make a 'transparency pledge'.
 - Following on from the launch of the Panel's four enforcement reports in 2020, the IBAHRI Secretariat are developing strategies for international advocacy to engage states to take on the recommendations raised in the reports. The Panel and IBAHRI Secretariat will continue to meet with relevant stakeholders, including with the states who are members of the Media Freedom Coalition, to lobby them to implement the recommendations.
 - The Panel are also working with 11 leading academic institutions and several law firms 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, which will be launched at events held virtually.
 - The IBAHRI will continue to provide legal technical assistance to states and international organisations, including an opinion on the Pakistan Press Foundation, Safety of Journalists Bill and developing an amicus brief in a criminal defamation case at the Inter-American Court of Human Rights.
- In 2020, the IBAHRI developed a training manual for Judges and Prosecutors on addressing sexual and gender-based violence. The IBAHRI secured funding, in collaboration with Sheffield Hallam University's Helena Kennedy Centre, from the British High Commission in India to run a virtual training programme in March for Indian Judges based on the manual, bringing together expertise from British and Indian Judges on how such cases can be better addressed. The IBAHRI also developed a 'Manual on Gender Perspective in the Administration of Justice', which they are planning to use in a virtual training programme for the Judiciary in Central Asia.

- The IBAHRI continued work on its longstanding torture prevention programme with defence lawyers, public prosecutors and judges in Latin America. From 18–20 January, the IBAHRI, together with a team of experts, held a series of online workshops as part of a torture prevention programme in Peru. A total of 17 members of the National Preventative Mechanism and colleagues from the Ombudsperson's Office in Lima and the Lambayeque region participated in the expert workshops. Topics included the Istanbul Protocol, the concept of torture under international law and gender-sensitive approaches to responding to alleged cases of torture and ill-treatment.
- The IBAHRI will continue its work on torture prevention in 2021, as well as completing the submission of an amicus curiae brief to the Brazilian Supreme Court on international and regional human rights law and arguing for the prohibition of military jurisdiction over gross human rights violations.

As exhibited by these aims and activities, the IBA is dedicated to enabling an exchange of information and views among bar associations and individual members covering all practice areas and professional interests. I look forward to working with you all towards these goals.

Sternford Moyo
President, International Bar Association