

A call to action



The legal profession has some serious work to do when it comes to the diversity of its workforce

Each and every individual is a unique combination of attributes including gender, ethnicity, physical abilities, economic status, skills and beliefs.

A workplace that is able to embrace this diversity can only become stronger as a result, says today's session co-chair Karine Audouze, partner at Ogletree Deakins and secretary of the IBA's Diversity and Equality Law Committee. But the legal world is in some respects less advanced than others when it comes to the heterogeneity of its workforce.

While the representation of women in private practice and in-house has improved, the gender gap is still very much present as lawyers progress through their careers. Women have only officially been able to practice law since the mid 19th century, when the first ever female legal practitioner was admitted to the bar in the US state of Iowa in 1869.

The conclusions are just as bleak when it comes to the numbers of

black, Asian and ethnic minority (BAME) or LGBTI legal practitioners. Earlier this year, UK Member of Parliament David Lammy hit back at claims from former justice secretary, David Lidington, that the lack of BAME judges was largely due to a lack of suitable candidates. "I know lots of senior ethnic minority lawyers who qualified before I did," he said. "There are plenty of people who are senior enough to be senior judges. Many of them apply, they just don't get through."

But even if women and minority lawyers are increasingly visible in the legal world, figures from the US-based National Association for Law Placement put the situation in perspective: over 90% of partners are white and about three-quarters are men. There is a huge loss of women across the life of firms, and limited career progression and visibility for lawyers from under-represented backgrounds.

"Though progress is being made every day, the legal world is still very white male oriented at partner-level," says Audouze. "Corporates have a stronger culture than law firms, image is very important to them so they put more effort in hiring a diverse workforce. But we still

aren't there yet in the legal industry as a whole."

Practice makes perfect

A lack of representation and diversity isn't a sustainable situation, for the people or the business concerned.

"Recruiting from a varied pool of candidates means, in essence, a more qualified workforce," session co-chair Olufunmi Oluyede, co-founding principal of TRLPLAW and Legal

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SESSION: Gender parity and a diverse workforce: the positive impact for a business from having recognised and motivated, diverse professionals – traits that lead to success

TIME: Today (1115 – 1230)

VENUE: Session Room P, Level -1

COMMITTEES: Diversity and Equality Law Committee, Senior Lawyers' Committee, Women Lawyers' Interest Group (Lead), Young Lawyers' Committee, and Lesbian, Gay, Bisexual, Transgender and Intersex Law Committee



VOX POPS

Why do you come to the IBA Annual Conference?

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Insights from the UK Parliament's longest standing member

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SESSION PREVIEW

The future of the Universal Declaration of Human Rights is under threat

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QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

QUESTION Why do you come to the IBA Annual Conference?



Nina Tiberg
Advokatfirman Tiberg & Co
Sweden

It's my first time here and I'd like to meet different people. My focus is family and criminal law.



Michael Okyere
Karikari-Yeboah Amarteifio & Co
Ghana

I'm here under the auspices of the IBA and I hope to develop the bar association standards in my country.



Dominik Ziegenhahn
Raschke von Knobelsdorff Heiser
Germany

I'm here to meet people from all over the world and to exchange experiences. I focus on corporate/M&A.



Laurel Vaurasi
Fiji Law Society
Fiji

The IBA Annual Conference brings together lawyers from all over the world. There are lots of ideas and I hope to take some of what I've learnt back home.



Stephen Komie
Komie & Associates
US

I'm here every year to meet with friends I've been seeing since the 1990s. I'm a trial lawyer and focus on cross-border injury cases and compliance with environmental regulations.



Hajime Kanagawa
Kanagawa International Law Office
Japan

We want to expand our network and the IBA is perfect for meeting new people.



Gautam Bhat
Platinum Partners
India

The IBA serves as a good place to meet people, and is a particularly good place to meet people from across the world who are interested in Indian businesses.



Guilherme Henrique Traub
Motta Fernandes
Brazil

This is my very first IBA. I have come to understand more about different legal systems in different areas of the world.



Paolo Consales
Pirola Pennuto Zei & Associati
Italy

I'm here to network. I'm a corporate/M&A lawyer and look forward to the sessions on securities and post-closing issues.

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Practice Division council member tells IBA Daily News. "At the very least, diversity would help businesses avoid employee turnover costs – beyond that, there are some obvious advantages when it comes to a firm's capacity to innovate and stay competitive."

A commitment to hiring a diverse workforce requires both a change of mindset as well as strategic, practical action. This is when diversity becomes inclusion.

A number of initiatives that are spreading across the legal sector show progress has indeed been made. Some major law firms have committed to a so-called

CV blind policy when recruiting aspiring lawyers, meaning the interviewer doesn't know the applicant's academic and personal background when considering their application. Others show support

by providing work experience or workshops specifically for under-represented groups.

For more senior positions, firms have pledged to recruit lawyers from a more diverse pool of sources, with some hiring dedicated staff in charge of diversity who can help make this an integral part of the law firm or company's activities. Mentoring and career planning programmes, work/life balance policies and skills

development are also initiatives which are in place in a number of firms.

A February 2018 report from the IBA's Women Lawyers Interest Group said: 'Law firms need to be able to offer an attractive proposition in terms of both professional and personal development, where lawyers (especially female lawyers) can see themselves having both a successful career and a reasonable work-life balance. Those will be the firms that will win the recruitment battle...but then they also have to be prepared for the retention battle.'

Carrot and stick

But for many organisations, good intentions aside, diversity isn't treated as a strategic asset. This is in part because there are no official industry-wide sanctions in place to ensure diversity is given the attention it deserves. But the pressure of preserving the public image, and of being seen as sensitive and respon-

A varied pool of candidates means a more qualified workforce

sive to diversity issues often acts as the proverbial carrot.

Indeed, it's increasingly common for clients to enquire about the makeup of the legal team that supports them, and in some cases to base a decision on this. "Clients are asking more if law firms are putting in place diversity policies or if they have BAME, LGBTI and female lawyers on the teams that support them," says Audouze.

Diversity by design is the only way forward to ensure female and minority lawyers get the focus and attention they deserve.



Karine Audouze

The IBA's leading figures

A who's who of the Association's leadership



Martin Šolc
President

A member of the IBA for 25 years, Martin Šolc has been its president since 2017. He began representing the Czech Bar on the IBA Council in 1990 and held the presidency of the Czech Bar Association in 1994. In addition to being a member of the IBA Management Board since 2003, posts have included: IBA secretary general, co-chair of the Human Rights Institute and chair of the Public & Professional Interest Division. He is a founding partner of Prague firm Kocián Šolc Balaščík.

As IBA president, his key themes of focus have been education on and public awareness of the importance of the rule of law, and the future of the legal profession in light of the impact of the technological revolution, through key projects of the IBA Task Force on the Future of Legal Services.



Stephen Denyer
Chair, Section on Public and Professional Interest

Stephen Denyer is chair of the IBA's Section on Public and Professional Interest, and a member of the IBA Management Board. He was a founding member and co-chair of what is now the IBA's European Regional Forum, a past chair of the Law Firm Management Committee, a former member of the Bar Issues Commission's International Trade in Legal Services Sub-

Mark Ellis
Executive director

Mark Ellis has been the executive director of the IBA for 17 years.

Before joining the IBA, Mr Ellis spent 10 years as the first executive director of the ABA's Central European and Eurasian Law Initiative provid-



ing technical legal assistance to 28 countries in Central Europe and the former Soviet Union, and to the International Criminal Tribunal for the Former



Horacio Bernardes Neto
Vice president

Horacio Bernardes Neto is vice president of the IBA and candidate for the office of IBA president (2019–2020). Mr Bernardes Neto is the IBA's previous secretary general, and the former chair of the

Bar Issues Commission.

After joining the IBA in 1992, he served in several LPD and PPID committees, and has held many officer positions, including deputy secretary general for Latin America. Presently, he chairs the IBA's Special Projects Fund and is a member of the Latin American Regional Forum's advisory board, having contributed to the creation of the Forum. He is a partner of the Brazilian law firm Motta Fernandes Rocha.



James M Klotz
Secretary general

James Klotz is secretary general of the IBA and a former chair of the Bar Issues Commission (BIC). 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 the former chair of the BIC Policy Committee and of the IBA's International Sales Committee. Presently, he chairs both the IBA Risk Committee and the Presidential Task Force on the Future of Legal Services.

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.

Committee and a member of the working group that established the IBA's Group Membership Scheme.

Although originally a corporate lawyer, more recently, Mr Denyer has been closely involved in a wide range of matters relating to cross-border legal practice. He is director of strategic relationships at the Law Society of England and Wales and sits on the Council of the Section of International Law of the American Bar Association.



Claudio Visco
Chair, Bar Issues Commission

Claudio Visco is chair of the Bar Issues Commission (BIC). He was senior vice-chair of the BIC from 2015 to 2016, during which time he also served as chair of the BIC's Policy Committee. In addition to rep-

resenting the Rome Bar Association on the IBA Council since 2012, he is a former co-chair of the IBA's Capital Markets Forum and the Securities Law Committee.

Mr Visco is managing partner at Italian firm Macchi di



Jaime Carey
Chair, Legal Practice Division

Jaime Carey joined the IBA in 1984, and is chair of its Legal Practice Division (LPD) and a member of the Management Board. Carey has also held the positions of vice chair and treasurer of the LPD; chair and founding member of the Advisory Board of the Latin American Regional Forum; co-chair of the Corporate and M&A Law Committee; member of the Advisory Board of the Law Firm Management Committee; deputy secretary general for Latin America; and member of the Nominations Committee. He has been a partner at Carey since 1982 and managing partner since 2003.



The Hon. Michael Kirby
AC CMG
Co-chair, IBA 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 in-

ternational 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).



Hans Corell
Co-chair, IBA Human Rights Institute

Hans Corell served as under-secretary general for legal affairs and United Nations legal counsel from March 1994 to March 2004. In this capacity, he was head of the office of legal affairs at the

UN, and ambassador and under-secretary for legal and consular affairs at the Swedish Ministry of Foreign Affairs from 1984 to 1994. Since his retirement from public service in 2004, Mr Corell has engaged in many different activities in the legal field, including with the IBA as co-chair of its Human Rights Institute, the International Center for Ethics, Justice and Public Life at Brandeis University and the Hague Institute for Innovation of Law.

representing the Rome Bar Association on the IBA Council since 2012, he is a former co-chair of the IBA's Capital Markets Forum and the Securities Law Committee.

Mr Visco is managing partner at Italian firm Macchi di

Cellere Gangemi, where he focuses on banking and finance and securities matters, project financing, asset-backed and structured finance, and energy and oil and gas law. He is a member of the board of auditors of numerous companies.

In the spotlight

This week's showcase sessions will take stock of some of the key developments of 2018, from the Universal Declaration of Human Rights' 70th birthday to cryptocurrencies

The past 12 months have been anything but quiet, and this week's showcase sessions reflect that. While technology's relationship with the rule of law is a big area of focus this year, human rights and cooperation between the management of law firms and bar associations feature prominently.



Ian McDougall,
Rule of Law Symposium

TODAY

HRI SHOWCASE:

the Universal Declaration of Human Rights at 70 - the responsibility of the legal profession

DATE: Today (1430 – 1730)

VENUE: Session Room E, Level -1

COMMITTEE: IBA's Human Rights Institute

The Universal Declaration of Human Rights has been the foundation on which human rights treaties and rules have been built since it was adopted in 1948. But movements associated with populist uprisings and cultural relativism, and a rise in authoritarian attitudes are chipping away at the universality of the rights it enshrines, threatening the Declaration's long-standing status, and raising questions as to its relevance and its usefulness.

Today's showcase panel will examine if the Declaration's purpose is changing, and if it can still play a role in the 21st century's increasingly fragmented cultural and regulatory environment. Key to the discussion is the role the legal profession can play in this regard.

TUESDAY

LPD SHOWCASE: initial coin offerings - technology meets finance

DATE: Tuesday 9 October (0930 – 1230)

VENUE: Session Room E, Level -1

COMMITTEES: Legal Practice Division (Lead), Financial Services Section (Lead) and Technology Law Committee (Lead)

Cryptocurrencies may be the latest financing tool in the spotlight but they are causing headaches for regulators worldwide. Recent figures suggest that while

initial coin offerings (ICOs) helped issuers raise close to \$12 billion in 2017 – and are on track to hit the \$20 billion mark this year – they more often than not operate in unregulated territory.

As such, they are creating some new challenges, in particular when it comes to compliance with dis-

closure, money laundering, payment systems and fraud prevention rules.

Tuesday's showcase will bring together financial sector and technology experts, as well as founders of companies who have succeeded in raising funds via token sales and regulators, to examine the brave new world of cryptocurrencies.

WEDNESDAY

IBA SHOWCASE: cybersecurity - launch of IBA guidelines

DATE: Wednesday 10 October (0930 – 1045)

VENUE: Session Room B, Level -1

COMMITTEES: Presidential Task Force on Cybersecurity

Data breaches don't discriminate when it comes to targets, and attacks can have devastating financial, legal and reputational consequences for any organisation, regardless of size. Law firms are certainly not immune, and all of them must have a cybersecurity strategy in place.

While much work has been done by some bar associations, no global guidance has yet been provided on cybersecurity. The IBA's Presidential

Task Force on Cybersecurity has produced guidelines focusing on technology, organisation and staff training. While the guidelines will have relevance for all law firms, they are particularly appropriate for smaller firms because most larger ones will already have a cybersecurity strategy in place. This session will focus on the risks of a data breach and what law firms can do to ensure these are minimised and managed.

BIC SHOWCASE: can law firms survive without bar associations?

DATE: Wednesday 10 October (1430 – 1730)

VENUE: Session Room E, Level -1

COMMITTEES: Bar Issues Commission

Law societies and bar associations have operated in close, but independent proximity. But the increasing cross-border nature of legal work has somewhat blurred this relationship, as have a growing number of regulatory regimes that oversee both legal practitioners and law firms. As such, a shift towards cooperation and synergy between the management of law

firms and bars is happening. This is not without its problems, as panelists will discuss in this showcase session, drawing upon their experience and good practices.

THURSDAY

SPPI SHOWCASE: the tech revolution - a threat to the core values of civil society and of the legal profession?

DATE: Thursday 11 October (0930 – 1230)

VENUE: Session Room E, Level -1

COMMITTEES: Section on Public and Professional Interest (Lead) and Senior Lawyers' Committee (Lead)

Technological progress can lead to legal complications, which undermine the consistency and validity of the rule



Berit Reiss-Andersen,
BIC Showcase

of law. While technologies such as machine learning, distributed ledger or facial recognition play an increasingly important role both in the legal profession and within legal systems, they are challenging regulatory frameworks and the values that underpin them.

Featuring keynotes from Microsoft's Jochen Engelhardt and UK High Court judge Sir Geoffrey Vos, this session will offer insights into how IBA members can approach the rule of law in the digital age.

FRIDAY

RULE OF LAW SYMPOSIUM: what is business for the rule of law?

DATE: Friday 12 October (0930 – 1045)

VENUE: Session Rooms D&E, Level -1

COMMITTEES: Rule of Law Forum - (Lead)

The rule of law is the most fundamental subject for civilisation, and demonstrating support for it is essential. But the role of a legal practitioner now goes beyond merely providing legal advice: the rise of corporate social responsibility is putting pressure on the profession as a whole to provide added value at all levels. In that sense, the rule of law is not only deeply connected to social and economic development but also to the world of business.

The session includes a keynote from LexisNexis executive vice president and general counsel for the legal & professional division of RELX Group Ian McDougall, who will delve deeper into the links between the world of business and the rule of law.



Hans Corell,
HRI Showcase

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Meet our IBA team

We are a firm of talented and diverse lawyers with in-depth knowledge and strength in the UAE.



Sadiq Jafar
Managing Partner



Richard Briggs
Executive Partner



Sameer Huda
Partner



Michael Lunjevich
Partner



Walid Azzam
Partner

Above and beyond

Everyone has a part to play in protecting and promoting the rule of law, and none more so than lawyers and businesses

“If I ask six lawyers what the rule of law is, I would probably get seven different answers,” says Ian McDougall, executive vice president and general counsel for LexisNexis and keynote speaker for Friday’s Rule of Law Symposium. “I really want to highlight the origins of the rule of law to start with because it’s easy to think that it’s a product of the West telling everyone what it is and how it should be approached.”

What’s becoming increasingly clear is that everyone everywhere has a role to play to promote, support and maintain the rule of law. Governments may be the most natural candidates for this job but there are other strong contenders too.

Lawyers and legal organisations have been involved for decades, if not centuries, in monitoring adherence to, deviation from, or abuse of, the rule of law. But their role is changing as legal frameworks become increasingly influenced by moral and socio-economic considerations.

Businesses are rising up to the challenge as well: they aren’t only the beneficiaries of a strong rule of law but also play an active part in promoting it.

“It’s clear that stable jurisdictions with a strong track record of adhering to the rule of law are attractive to and provide confidence for businesses to make long-term decisions,” says Stephen Macliver, co-chair of the IBA Rule of Law Forum. “The discussion is typically framed around legal or moral concepts but the business world also has to be there, alongside law societies, bar associations and their members.”

Business case

The rise of corporate and social responsibility (CSR) is putting pressure on lawyers to do more than just give legal advice. CSR frames the business world within a wider social, cultural, economic and environmental context, and aims to ensure that compa-

nies do business in the most ethical way possible. However, it has not only influenced how companies carry out their activities, but also made a significant impact on their partners and service providers, including legal counsel.

“Clients want to know the added value that you as a lawyer are bringing to the relationship,” says McDougall. “They want to know how they can improve their image and their compliance processes – this new approach is important because the legal profession is asked to do more than just read the letter of the law.”

What exactly can companies do to support the rule of law? “They can support the rule of law in many ways including through their core business,

strategic social investment, public policy engagement, and collective action,” says session moderator Carmen Pombo

Morales, chief executive of the Fernando Pombo Foundation and co-chair of the Rule of Law Forum.

She cites the United Nations Global Compact as an example, an initiative which supports businesses in implementing sus-

tainable and socially responsible policies.

The Global Compact lists actions including promoting equality, protecting human rights and ensuring accountability as policies that businesses can work to achieve, to play their part in the preservation of the rule of law. Within these, concrete actions include: acting to combat illicit financial and arms flows, strengthening the recovery and return of stolen assets, combating all forms of organised



Ian McDougall

crime, supporting the promotion of gender equality, and strengthening labour and environmental standards.

It’s law business

The rule of law is coming under threat everywhere: recent news reports have highlighted the rise of far-right parties, autocratic leaders and threats to the judiciary, including in Turkey, Hungary and Hong Kong. The US and several European states have also seen a rise in populist movements.

“Democracy is both a benefit and a threat,” says McDougall. “The absence of democracy

can lead to a situation where the rule of law is overridden, but the other extreme is that democracy can also lead to populism and a distortion of the democratic effect.”

What role do lawyers have to play in all this chaos and confusion? Just as there is a business case for companies to act as guardians of the rule of law, law firms have their own imperatives.

“All the panellists for this session are eminent in-house counsel, corporate lawyers, civil society experts and human rights lawyers who will be explaining the role of lawyers as trusted advisors of companies in connection with the advancement of the rule of law,” says Pombo Morales.

Again, the Global Compact presents a view of concrete actions that have been taken by legal advisors and companies operating in the legal sphere – such as LexisNexis, White & Case, DLA Piper, Microjustice4All or the International Commission of Jurists – to protect the rule of law. These include legally empowering marginalised groups, giving pro bono access to legal resources or developing a guide for general counsel to address corporate sustainability issues.

SESSION: Rule of Law Symposium: what is business for the rule of law

DATE: Friday 12 October (0930 – 1045)

VENUE: Session Rooms D&E, Level -1

COMMITTEES: Corporate Counsel Forum, Rule of Law Forum (Lead), Business Human Rights Committee



Carmen Pombo Morales



Stephen Macliver

Lunchtime interviews

This series of thought-provoking interviews is not to be missed

TODAY

Kenneth Clarke CH QC

The UK Parliament's longest standing member, Ken Clarke has been a key player in UK politics for the past 40 years. A vocal adversary of Brexit, he was the only member of the Conservative Party to vote against Prime Minister Theresa May's timeline for triggering article 50 in 2017. The current Father of the House of Commons started his professional career as a barrister but soon fell into politics in the mid-1960s. In the 40 years that have followed, he has held a number of roles within both government and as part of the opposition, including as Home Secretary, Lord Chancellor and Chancellor of the Exchequer.

TIME: Today (1315 – 1415)
VENUE: Auditorium



Dr Fatou Bensouda

TUESDAY

Dr Fatou Bensouda

A lawyer focused on international criminal law, and a former justice minister in Gambia, Fatou Bensouda was elected the International Criminal Court's (ICC) chief prosecutor in June 2012.

Under Bensouda's tenure, the Court has opened investigations into four new 'situations' concerning alleged crimes in Mali, the Central African Republic, Burundi and Georgia. The ICC is currently conducting nine live preliminary examinations, including those for alleged crimes in Afghanistan, Nigeria, Iraq/UK and Colombia.

TIME: Tuesday 9 October (1315 – 1415)
VENUE: Auditorium

WEDNESDAY

Mary Robinson

Mary Robinson's presidency of Ireland was defined by her support of human rights, promoting the country as a modern and progressive republic. She helped change the country's political conversation, leading Ireland onto a more progressive path. Robinson exited the role of president in 1997 to become UN commissioner on human rights.

In 2009, she received the Presidential Medal of Freedom from US President Barack Obama for her contribution to human rights.

TIME: Wednesday 10 October (1315 – 1415)
VENUE: Auditorium



Mary Robinson

THURSDAY

A panel of eminent legal professionals on rule of law issues

Recent populist surges have led to the dilution or abandonment of rule of law reforms and the values on which they were based. At this unique session, hear first-hand accounts from several distinguished legal professionals on the current state of affairs. The panel, moderated by Homer Moyer, member of the IBA Rule of Law Advisory Board, will welcome the following speakers: professor Metin Feyzioglu from the Union of Turkish Bar

Associations; Sternford Moyo, ex officio council member of the IBAHRI; the Hon Justice Rimvydas Norkus, Supreme Court of Lithuania; Jennifer Rubin of the Washington Post, and; Supreme Court of Poland Justice Wlodzimierz Wrobel.

TIME: Thursday 11 October (1315 – 1415)
VENUE: Auditorium

A conversation with Ken Clarke

The UK Parliament's longest standing member, Ken Clarke has been a key player in UK politics for the past 40 years

“Things seem to muddle through, but I've never seen anything as mad or chaotic as this,” Ken Clarke told *The Guardian* last year during an interview focused largely on the UK's exit from the EU. A vocal adversary of Brexit, Clarke was the only member of the Conservative Party to vote against Prime Minister Theresa May's timeline for triggering article 50 in 2017, so it won't come as much of a surprise to anyone if this conversation with Westminster's longest standing Member of Parliament dwells on this most burning of issues.

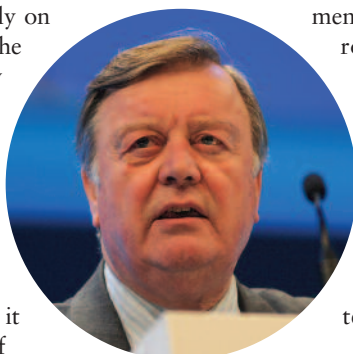
Clarke is speaking with IBA executive director Mark Ellis, where as a stalwart of the Heath, Thatcher,

Major and Cameron governments he will no doubt give a fascinating insight into his views on issues concerning both contemporary and past economy, law and order, not to mention his stance on Europe as one of the so-called Tory rebels.

The current Father of the House of Commons started his professional career as a barrister but soon fell into politics, entering the *mêlée* with heavy losses in the Labour stronghold of Mansfield in both 1964 and 1966.

Clarke was soon given the opportunity to contest a winnable seat in his hometown of Nottingham in 1970, a race he won and a constituency he has served ever since.

In the 40 years that have followed, Clarke has been in a number of roles within both government and opposition. His first position was under Margaret Thatcher, for whom he served firstly as a Minister in the Departments of Transport, Employment and Trade and Industry. He was then promoted to the Cabinet as Secretary of State for Health and Secretary of State for Education. It was under John Major that Clarke occupied his first major role in UK government, becoming Home Secretary in 1992 and then taking the number two spot the following year as Chancellor of the Exchequer. Following the landslide victory of Tony Blair's New Labour party in 1997, Clarke had a tilt at the Tory leadership on three occasions, losing first to William Hague, then to Iain Duncan Smith and finally to David Cameron. Following the return of the Conservatives to government in 2010, David Cameron appointed him



Kenneth Clarke

SESSION: A conversation with...
The Rt Hon Kenneth Clarke CH QC MP

DATE: Today (1315 – 1415)

VENUE: Auditorium

Lord Chancellor and Secretary of State for Justice.

With a political career spanning five decades it's hardly surprising that Clarke has been in the midst of more than his fair share of controversy, but throughout this time he has maintained a well-liked aura of respect from both colleagues and adversaries alike. During his time in politics, he has upheld liberal and pro-European views that are often in conflict with many in his own party. His close links to the business world have ensured that his views on industry and the economy have garnered headlines without fail, and today's conversation is sure to be a talking point in the days ahead.

Rising to the challenge

IBA president Martin Šolc discusses the Association's recent work to raise awareness about threats to the rule of law

What have you been working on since IBA Daily News caught up with you at last year's IBA?

Since commencing my tenure as IBA president, the two key themes I have focused on externally have been the rule of law and the impact of the technological revolution on legal issues.

The rule of law has been thrown into the spotlight by geopolitical trends around the world, both in developed Western nations as well as in new democracies and the developing world. The IBA has been responding to these threats with a number of projects and initiatives.

Internally, we have been specifically focusing on further development of the IBA Digital Hub, the IBA website and the rollout of our new business line, the IBA online services model. The fundamental goal here is to enhance relevant content and promote accessibility and participation, as not every lawyer has the opportunity to travel to IBA conferences around the world. It's also particularly important for us to encourage the younger generation of lawyers to get involved in IBA life: for them, online life and participation come naturally, so we need to ensure the IBA can be responsive to this demographic. But of course, it's not just generations Y and Z that we want to get online, we want IBA members everywhere to feel they have tangible value from their membership through high quality online access to content and debate.

As global events unfold, I have also been adding new priorities to my agenda as IBA president. One such example has been the dialogue with the OECD on guidelines regarding offshore structures and lawyers' roles in advising on these. This arose in the context of the Panama Papers.

Equally, as developments unfold within an organisation as large as the IBA, I also devote significant time as its president to the task of internal strategic review.

What achievements are you the proudest of since taking office in January 2017?

On an external level, I am proudest of the rule of law education projects that we have been developing. These have been launched so the public not only understands what the rule of law is,



but why it is crucial in everyday life. Dialogue with EU institutions particularly in respect of urgent rule of law situations arising within the EU itself, such as the situation concerning the Polish judiciary, is profoundly significant.

And on an internal level, the work that the management team has done in progression of the IBA Digital Hub and the rollout of the IBA digital business is something I'm very happy about.

These are not finite projects in themselves, with an expiry date, so rather than speak of achievements, I'd rather say that I am very satisfied that these projects have been well established and are set up to continue to evolve within the IBA.

Your background is as an M&A lawyer. What has your experience as IBA president taught you about the legal profession?

After almost 40 years in the legal profession and 30 years in the IBA, I didn't necessarily expect to receive any huge surprises or revelations about the legal profession upon becoming IBA president. Perhaps what has been more of an insight for me is learning further about human nature, particularly in the context of a large global organisation. Despite the fact that we are all lawyers, I was somewhat surprised by the vastly divergent views held by IBA members regarding the aims and objectives of the Association. One of my objectives as president was to ensure that the IBA is truly perceived as the global voice of the profession and not just a conference organiser. I believe that the IBA is succeeding in this but it's important to remember that an effective

global voice needs to take care to ultimately sing in harmony.

You joined the IBA's Human Rights Institute in calling for President Trump to respect judicial independence and support court decisions, after his administration imposed bans on travel to the US from a number of countries. Why is this important to you?

Issues of judicial independence and the support of the judiciary as an institution go to the very heart of the essence of the rule of law. Although the issue you mention has been highlighted most obviously by the press in the USA recently, judicial independence is in fact coming under attack around the world in a variety of different countries and in a variety of forms. And this is a threat to the rule of law.

The rule of law is what safeguards democracy in society. It is composed of multiple interconnected elements that form an invisible web/matrix crucial to the protection of democracy and civil liberties. When one element is removed or grossly restricted, the stability of the matrix is impaired and can, over time, particularly with the specific intent of populist or anti-democratic leaders, be further eroded and dismantled. The independence of the judiciary and independent media are often the first elements to come under attack.

The IBA is launching its rule of law video project in Rome. Can you tell attendees more about it?

This new project is aimed at the man or woman on the street, because the rule of law isn't merely some theoretic

cal academic discussion topic. The IBA is not just a closed talking shop for lawyers. In the present global climate of political unpredictability and erosion of human rights, it's more important than ever that the IBA develops tools that lawyers can take back to their communities to explain why the rule of law is so vital in everyday life – and to point out the implications when it is curtailed.

The rule of law video project came about precisely for these reasons. The tone of the videos is conversational, straight talking, friendly and informative, and highlights everyday scenarios. These scenarios show issues that are replicated around the world in different countries, regardless of political systems or cultures. To date, we have the videos in two languages, English and Polish, and we envisage more language versions to come.

The videos highlight the importance of the rule of law in all facets of the everyday life, and why people should be watchful of abuses and erosions. We also hope that the videos will become a talking point to promote discussion amongst people by sharing the content and the messages.

The takeaway message in the videos is the tagline 'Look after the Rule of Law and it will look after you'. In this way, we can get the point across that it is the only true guardian of fairness in society; nobody is above the law, not governments, big business, local authorities, the media, not anybody. When any element of the rule of law is denied, the whole system collapses.

What are some contemporary rule of law challenges faced by societies around the world?

Geopolitical trends appear to be supporting the rise of populist leaders (or the dominance of populist parties and voices in domestic political debates). This trend is not limited to a particular area of the world or developed or new democracies. It has emerged from the feelings of dissatisfaction and betrayal that certain parts of the population feel as a result of, for example, the impact of globalisation. Populist politicians respond to this dissatisfaction and in their policy manifestos, the rule of law, though not stated by name, is often seen as an obstacle to their creation of an efficient society with certainty and the protection of certain interests in so-

ciety over other weaker segments of society. This creates a scenario that is ripe for interference with the judiciary, denial of civil rights and liberties.

We have seen attacks on judicial independence in the US, Poland and Turkey for example. Additionally, we see the denial of human rights for refugees in countries such as Italy or Spain and in many others including, unfortunately, my own: the Czech Republic. These are just a very few examples. On a less visible but just as insidious level, rule of law challenges are occurring across big business and in the activities of politically connected individuals, who in certain societies are able to gain unfair advantages without due process or equal access to justice for the affected parties.

Cybersecurity and digital technologies feature prominently in this year's agenda. How do you think these themes are shaping the legal sector?

The advances in digital technology are very exciting and futuristic in all aspects of society, but as lawyers we need to be vigilant to understand the implications both for clients and for the legal profession, in particular concern-

ing as yet untested areas that are not presently clearly regulated.

The introduction of artificial intelligence into the working environment of lawyers is still in its rapidly evolving infancy but this has the potential to really revolutionise certain areas of law firm management and practice (for example, litigation tools, case management or due diligence investigations).

And there is also a major issue of cybersecurity, one key example being lawyers working outside of their office on mobile devices, but also in terms of general digital communication with clients and authorities. To date, the legal profession is not yet sufficiently equipped and educated, and we need to develop and enforce minimum standards. But all of this is taking place against a technology background that is dynamic in its development, so that creates an additional layer of challenge.

On a broader level, the technology advances are raising more conceptual issues for lawyers also. Questions that need to be raised (and to which there are no clear answers yet) include: will potential applications of, for example, blockchain truly liberate us from outmoded heavily governed systems of intermediaries or will we be subject to anonymous and rigid algorithms lack-

ing discretion or flexibility in application? How might algorithms be challenged if they are a trade secret? Does this deny due process? Who will be liable if software goes wrong?

It's certainly an exciting time to be a tech or cyber security lawyer!

The IBA is dedicating one entire day (Thursday 11 October) to the legal and regulatory challenges of artificial intelligence? How and why did this come about?

Artificial intelligence [AI] is a very exciting field that is already beginning to revolutionise many areas of our lives and will continue to do so exponentially. The legal profession is no exception and as I have stated previously, the ongoing 4.0 revolution may completely reshuffle legal services, both for clients and for practitioners.

The 4.0 revolution builds and extends the impact of digitisation in new and unanticipated ways. Few things will remain as they are, AI technology tools may replace work formerly done by some junior lawyers or paralegals. It's all very futuristic and opens up new potential legal frontiers, yet because the world of the 4.0 revolution really is a new frontier, as lawyers we need to curb

Nobody is above the law, not governments, big business, local authorities, the media, not anybody. When any element of the rule of law is denied, the whole system collapses

any overly exuberant enthusiasm and pause to consider the unencountered legal issues this brave new world presents. For lawyers, AI will be a mixture of opportunity and challenge.

The 4.0 revolution is without borders and needs comprehensive global solutions, so we feel that devoting a full day to this topic at the IBA, attended by lawyers from around the globe, was a perfect opportunity to discuss and debate this exciting topic.

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On a mission

IBA executive director Mark Ellis discusses the importance of the IBA's work in protecting the rule of law, and why it's a privilege to be involved in the Association

What does the IBA's annual event mean to you?

The IBA's annual conference is such an important event for legal practitioners, particularly if you consider the current state of affairs in the world. The rise of populism in many countries, the uncertainty of Brexit and its wider impact on the international scene, and the attack against the rule of law are issues that require vigilance and considerable focus by the legal profession.

Creating an opportunity for 6,000+ legal practitioners from over 120 countries to come together, not only to network but also to discuss and debate compelling legal issues is what the IBA's annual conference is all about. It's essential to have this kind of forum, given the widening rift in cohesiveness that is taking hold in many regions of the world.

The IBA's annual conference is the perfect venue to advance solutions to current threats to the rule of law.

You are passionate about human rights and the rule of law. How important are these issues for the IBA, as an association?

Extremely. All our members – and all IBA Divisions – play an important role in this through their work in ensuring the supremacy of the law and protecting the rights of their clients.

I would particularly highlight the role of the IBA's Human Rights Institute (IBAHRI). Its unwavering commitment to speaking out against injustices throughout the world is one of the Association's greatest assets. The IBAHRI shows the value and importance of speaking out on



these wider issues. As the *global voice of the legal profession*, we are much more than a trade association. We have a responsibility to look beyond our self-interests. Surely, when each of us took our oath to be part of this noble profession, we agreed to become custodians of the rule of law, and to ensure that everyone benefits from its underlying principles. We have a duty to speak out.

Looking back on the IBA's work this year: what are the achievements you're proudest of?

It's been an exciting and eventful year.

We have published a number of important reports on key topics that are not only critical to the legal profession but also to the wider public at large. Among the many reports are: *Women in Commercial Legal Practice*, *Whistleblowing* and *Artificial Intelligence (AI)*. All of these topics are incredibly timely. Some are controversial but all are making headlines because of their importance.

Our AI report, for example, gained significant media coverage worldwide. When the report was first published, I was impressed by the intense interest in the topic, not only from the legal community but from the wider public. It is a cutting-edge issue for the business community and I am proud that our association is a leader on this topic.

Also, under the leadership of Homer Moyer and the IBA's North

American Foundation, the IBA launched a new project – *Preserving a Free Society* – a six-part series of innovative discussion panels on current threats to the rule of law and the principles that underpin a democratic society. These discussions bring together thought-provoking leaders who talk about the importance of preserving these basic principles. One of these discussion events will actually take place during the conference on Thursday 11 October. [The session is the *Conversation with a panel of experts on the rule of law*, previewed on page 7.]

We have also created a Diversity Council. I have long held that the IBA has not done a great job when it comes to diversity in its leadership positions, particularly in comparison to some national bar associations, such as the American Bar Association for instance. However, the IBA's leadership is committed to changing this paradigm and is undertaking this new initiative to ensure we reflect the values and diversity of our membership. The late Laura Christa, who tragically died earlier this year, helped to place the IBA on a great path to achieve progress in the diversity area.

As mentioned earlier, a common thread woven in many of our current projects is finding innovative ways to combat the unprecedented attacks on the basic principles that make up the rule of law. Under the leadership of the IBA's President Martin Šolc, we are launching a so-

The IBAHRI's unwavering commitment to speaking out against injustices throughout the world is one of the Association's greatest assets

cial media campaign, with a series of videos all our members – individual and institutional – can help to distribute and support, so as to help educate citizens on the importance of protecting the rule of law. I believe this type of campaign is desperately needed.

Which sessions are you most looking forward to at the IBA and why?

I am fortunate to be able to continue with our *Conversation with* series that I started seven years ago. It's a privilege to interview some of the most thought-provoking personalities of the day.

I am also excited about the IBAHRI Showcase on Monday, *The Universal Declaration of Human Rights at 70* – and the UNIDROIT case study on Tuesday. These sessions align with two of my own interests, human rights and the harmonisation of law.

When it comes to the conference more generally, attendees can expect to find sessions on any conceivable area of their interest.

What will you be doing in Rome if you have a spare hour or two?

Sadly, I never have the time to visit the city hosting our annual conference. Like all of the IBA staff here in Rome, I spend 10 days of non-stop work so at the end of the conference I want to go home! Fortunately, I have been to Rome many times – it is one of my favourite cities.

Lawyers are custodians of the rule of law. We have a duty to speak out against injustices

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Recognising excellence

This year's winners of the IBA Human Rights, Pro Bono and Outstanding Young Lawyer awards have been revealed, as has the first recipient of the Association's new Group Member Award. Congratulations to the winners, who will receive their awards throughout the week



The 2018 Human Rights Award

Nigerian human rights lawyer Adeola Austin Oyinlade is this year's winner of the Human Rights Award because of his extensive human rights and pro bono work over the past 10 years. Adeola's *Know your Rights Nigeria* initiative provides basic legal rights information in local languages (spoken by over 100 million people) in app and web formats. His innovative approach to an access to justice situation, which included addressing a common lack of cultural integration due to language barriers,

had a significant impact on public interest in Nigeria. Mr Oyinlade is also a UN Young Peace Ambassador, leads a team of over 50 lawyers providing daily pro bono advice on human rights issues and runs a weekly human rights empowerment show on the local radio. He stood out for his commitment to informing the public about their rights, which the judging panel noted, together with representing clients, as a core aspect of the legal profession. The judging panel believe Mr Oyinlade will make a significant contribution to the IBA.

The Human Rights Award will be presented to Adeola Oyinlade by IBA president Martin Šolc and Ian McDougall of LexisNexis at the Rule of Law Symposium on Friday 12 October, 1230 – 1300.

The 2018 Pro Bono Lawyer of the Year Award

Mongolian lawyer Baasanjargal Khurelbaatar has been awarded this year's Pro Bono Lawyer of the Year Award. She has worked for many years on pro bono matters, in particular advising several non-governmental organisations in Mongolia on an initiative to prevent horse racing during the country's extreme winter conditions. Although such practices follow Mongolian traditions – which involve children as young as five riding horses during these races – the events in winter have caused significant danger to the children involved, in some cases



leading to severe injuries and death. Ms. Khurelbaatar led a legal effort on a pro bono basis to seek remedies through the Mongolian court system and government in a first-of-its-kind case in the country. Her persistence and tenacious efforts led to a reversal of the government's original position and an effective national ban on winter horse racing involving children.

The award will be presented by IBA president Martin Šolc and Ian McDougall of LexisNexis at the SPPI Awards Breakfast on Thursday 11 October, 0800 – 0915.

The 2018 Outstanding Young Lawyer of the Year Award

This year's recipient of the Outstanding Young Lawyer of the Year Award is Niusha Ghasemi. Due to Iranian regulations and as a consequence of his humanitarian and pro bono work, Niusha was unable to pursue his passion in life and therefore moved out of Iran, his country of origin. After starting a new life in the Netherlands, he was able to finish his law studies with specialisations in public international law, international humanitarian law and human rights law. His work in Iran included initiating and coordinating a group to stop the application of the death penalty to underage detainees. He held an internship position at the Trial Chambers of the International Criminal Court in The Hague, where he assisted the judges and the legal team in the Ntaganda case relating to alleged



crimes against humanity and war crimes in the Democratic Republic of the Congo. He is tremendously capable of coping with very difficult circumstances without losing sight of his goal of assisting people affected by human rights violations.

The 2018 Outstanding Young Lawyer of the Year Award will be presented by IBA president Martin Šolc and Ian McDougall of LexisNexis at the SPPI Awards Breakfast on Thursday 11 October, 0800 – 0915.

IBA Group Member Award

Debevoise & Plimpton, Hogan Lovells and Linklaters will receive the IBA Group Member Award, the first in the Association's history, for their outstanding pro bono contributions to the IBA. Each firm had a team of eight lawyers which participated in the eyeWitness project, a mobile application platform which allows human rights defenders, journalists and citizens to capture verifiable video and photos of human rights abuses. Hogan Lovells also co-authored the *Inquiry on Crimes Against Humanity in North Korean Political Prisons* report.

The presentation will be made today at the Group Members' Breakfast (an invitation only event) by Mark Ellis, IBA executive director and Martin Šolc, IBA president.



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Triumphing against adversity

The status of the Universal Declaration of Human Rights as both a reference point and a landmark of international law could be under threat



The Universal Declaration of Human Rights has been a constant source of inspiration for contemporary human rights legislation. But the universality of the values it is built on is increasingly being called into question. While some argue that the Universal Declaration is not relevant nor useful anymore, panellists on this afternoon's showcase session will argue why this isn't true and why it's still a document of fundamental importance 70 years after it was created.

Is it all relative?

One of the main criticisms levelled against the Universal Declaration is that it only reflects the beliefs and values of certain cultures.

"This isn't the case," says session chair Hans Corell, co-chair of the IBA's Human Rights Institute. "Eleanor Roosevelt, who chaired the United Nations commission that drafted the Universal Declaration, was fully aware of the need

for universality and relied on answers to a questionnaire sent out to experts all over the world."

These answers were provided from a range of experts from countries such as Chile, China, Egypt, India and Lebanon. Corell believes that the human rights discussion is not only Western in its origin as it also has roots in Asia, the Middle East and South America.

The General Assembly of the United Nations adopted the Universal Declaration on December 10 1948, as a reaffirmation of its member states' commitment to the protection of human rights. While at the time the text was symbolically relevant in light of some of the events that occurred during World War II, it has since become an integral part of international law and custom. It embodies a number of universal concepts including those of dignity, liberty, equality and brotherhood.

"We should also remember that the Universal Declaration was adopted by a generation that had experienced two world wars," says Corell. "It's therefore important that we all honour this heritage and defend the integrity and the universality of the Declaration."

Over the years, the Universal Declaration has served as the foundation for two binding UN human rights covenants – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights – and as a source of inspiration for more than 80

international human rights treaties and declarations, regional human rights conventions and constitutional provisions.

But some voices, bolstered by cultural relativism, authoritarian attitudes and a desire to return to traditional concepts and values are fuelling the belief that universality is neither a realistic nor an attainable concept. Some scholars argue that the Universal Declaration is biased towards Western beliefs due to its origin: for instance, some religions have different views when it comes to human rights. But Corell believes that these beliefs are held by a small minority in power which wants to maintain control over others and will try to disseminate these beliefs in order to assert its authority.

A global inspiration

The Universal Declaration continues to be a reference point when it comes to tackling injustice in times of conflict and in societies suffering repression. This is because at its core, it recognises that no matter an individual's nationality, gender, religion or ethnic origin, all human beings should have the same basic rights and fundamental freedoms.

Looking at the complex problems humanity faces, Corell stresses that embracing the Universal Declaration is all the more important for different countries to help find solutions to tackle global problems. Climate change, for instance, is a global issue that has displaced, and will continue to at an

increasing pace, people from their homes. How nations grapple with growing numbers of climate refugees is an issue that will require them to work collaboratively to resolve.

Corell emphasises that lawyers have a very important role to play in honouring and defending the integrity and the universality of the Universal Declaration.

"Irrespective of where we discharge our professional duties – be it the bar, the judiciary, national, regional or local government, or business – we have an obligation to engage in establishing the rule of law of which human rights is a core element," Corell says. "We must explain that the rule of law is indispensable to create a society where humans can live in peace and dignity with their human rights protected."

French human rights scholar and professor René Cassin, who helped draft the Universal Declaration, said the text's structure was similar to that of a Greek temple with a solid foundation, four supporting columns and a pediment at the top. But while cracks have started to appear in the foundation of the Universal Declaration, it is strong enough to continue being the bedrock of human rights for centuries to come.

This showcase session brings together a panel of leading human rights experts from around the world including Ove Bring, Stockholm University & Swedish National Defence University; Mona Rishmawi, United Nations Office of the High Commissioner for Human Rights (New York); Vtit Muntarbhorn, faculty of law, Chulalongkorn University (Thailand); Mervat Rishmawi, human rights consultant (London) and; Beatrice Mtetwa, Mtetwa & Nyambirai, Harare (Zimbabwe).

The Universal Declaration is still a document of fundamental importance as it enters its 70th year of existence

SESSION: HRI Showcase: the Universal Declaration of Human Rights at 70 - the responsibility of the legal profession

TIME: Today (1430 – 1730)

VENUE: Session Room E, Level -1

COMMITTEE: IBA's Human Rights Institute (lead)

DISPUTES. NO CONFLICTS.



Simon Twigden



Pietro Marino



George Maling



Timothy Elliss



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