

## Brandis: we must uphold the global order



The global order faces ominous challenges which threaten its stability and imperil the institutions of nation states. That was the message from Senator George Brandis, Attorney General for Australia, at yesterday's opening ceremony. Brandis added that it is the obligation of lawyers to ensure that these challenges do not compromise the very rule of law which we seek to defend.

Brandis referred to the ambitious forms of Islamist extremism, the willingness of some nations to defy international rule based order upon which personal stability is dependent and the development of aggressive populism – a reaction, he said, to the perceived arrogance of western political, economic and cultural elites.

“These phenomena are all problems of profound political, cultural and strategic importance, and we, as citizens and lawyers, must be careful to ensure that our governments’ reaction to them is both effective and appropriate,” he said.

The professional obligations of lawyers involve more than merely providing services to clients, he continued, more than simply representing them in legal matters. They extend to upholding and defending the principles of the legal system itself, and paramount among that is the rule of law and the values implicit within it.

“Upholding the rule of law may in-

volve words of controversy, it may extend up to the powerful, or to those thinking above the law, the marginalised or the despised. Lawyers who do so, serve the finest traditions of our profession,” he said.

### Crucial independence

Brandis's speech was preceded by Chief Justice of Australia Susan Kiefel AC, who addressed the importance of the independence of lawyers, outlining that those practicing it must be able to exercise independent judgement and have the ability to act free from external pressures.

That followed an initial address by IBA President Martin Šolc, who welcomed delegates to Sydney, thanking those who had travelled more than 10,000 miles to spend the week at the Annual Conference.

Referring to an ancient Chinese

curse, Šolc said that although we may not fully realise it, we are living through very difficult times. “We are experiencing the erosion of certain values we have long taken for granted – primarily core values related to the rule of law,” he said. [See page 8 for an extended interview with Šolc]

Šolc drew attention to France, where proposed anti-terrorist laws could allow the police to place suspects under house arrest, close places of worship and carry out ‘stop-and-search’ operations in designated areas. “It is quite obvious that such measures are compromising the rule of law,” he said.

He encouraged IBA members to talk openly. “As a new generation of populists enter the scene as saviours promising easy solutions to difficult issues, the legal profession must remember its responsibilities,” he said.

The Honourable George Brandis QC has been Australia's Attorney General since 2013. A fixture of the Abbott and Howard administrations, and now active under Malcolm Turnbull, Brandis acts as a member of the Senate for Queensland, is vice-president of the executive council and leader of the government in the Senate.

After prodigious spells at the University of Queensland and the

University of Oxford, Brandis took a position at one of Australia's largest private practice law firms before taking the bar in Brisbane in 1985, where he played an instrumental part in several successful cases.

First entering politics in 2000, and after a short spell as Minister for the Arts and Sport in 2007, his ministerial career gained credence in 2013 when he was named Minister of the Arts by Tony Abbott.



### LUNCHTIME WITH DR ROBERT GATES

Former US Secretary of Defence offers insight into national security

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### SESSION PREVIEW

Analysing the fallout from the Volkswagen emissions scandal

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### VOX POPS

How this year's delegates beat jet lag

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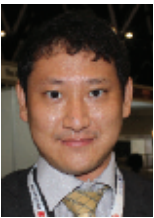
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# QUESTION What are your top tips for getting over jet lag?



**Kavita Pandaram**  
Barclays  
Australia

Sleep. You just need to power off. People are, generally speaking, quite sleep deprived so resting really helps. That's obviously easier said than done though!



**Shuhei Urano**  
Urano Law Office  
Japan

We all just need to get some sleep. It always helps. Personally speaking, drinking either green tea or even miso soup also helps.



**Daniela Duque Estrada**  
Castro Barros Sobral Gomes  
Brazil

Try to fit into Sydney's time. I came from Brazil, so I left Monday and arrived Wednesday and didn't live Tuesday. Try to stay awake to adapt to the time zone.



**Daniel Lucien Bühler**  
Lalive  
Switzerland

I arrived 10 days earlier with my family and stayed in Adelaide before coming. It's good to combine business time with family - and also to adapt as quickly as possible.



**Tony Wassaf**  
Jones Day  
Australia

Adjust to the local conditions. And have a few drinks, obviously. There's no point trying to be healthy!



**Rajiv Dutta**  
Supreme Court of India  
India

Yoga is the best. It lets the body react in a positive way and makes you feel good. Clapping also helps as it energises the mind and body.



**Larry Awosika**  
United Nations  
USA

I've been walking around Sydney. Walking really helps to keep the blood circulation going and lets the body stay active.



**Elinor Dautlich**  
HFW  
UK

Go swim in the sea. That's the best tip. Melatonin also helps, but not if combined with alcohol.



**Leonard Blazeby**  
International Committee of the Red Cross of Australia  
Australia

I usually take a herbal therapy the day before and every hour on the plane. It's good to watch the destination time and sleep at the time of the destination while on the plane.

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# The IBA's leading lights

A who's who of your association's key figures in 2017

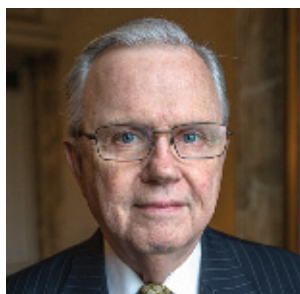


**Mark Ellis**  
Executive director

Mark Ellis has been the executive director of the foremost international organisation of bar associations, law firms and individual lawyers in the world for 15 years.

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

Ellis has served as legal advisor to the Independent International Commission on Kosovo, and was appointed by the Organization for Security and Co-operation in Europe to advise on the creation of Serbia's War Crimes Tribunal.



**Hans Corell**  
Co-chair, the Human Rights Institute

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

**Baroness Helena Kennedy**  
Co-chair, the Human Rights Institute

Baroness Helena Kennedy QC is co-chair of the IBA's Human Rights Institute, (IBAHRI) council member of the Public and Professional Interest Division (PPID) and sits on the IBA Council and Management Board. Baroness Kennedy is one of Britain's most distin-



guished lawyers and an expert in human rights law, civil liberties and constitutional issues. She has spent her professional



**Jaime Carey**  
Chair, Legal Practice Division

Jaime Carey joined the IBA in 1984 and is chair of its Legal Practice Division and a mem-

ber of the Management Board. Carey has also held the positions of vice chair and treasurer of the Legal Practice Division; chair and a founding member of the Advisory Board of the Latin American Regional Forum; co-chair of the Corporate and M&A Section; 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.



**James M Klotz**  
Secretary-general

James Klotz is secretary-general of the IBA and 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 1994–2016. In addition to being a member of the IBA's Management Board since 2010, Klotz is also former chair of the BIC Policy Committee and former chair of the IBA's International Sales Committee. Presently, he chairs the IBA Risk Committee as well as the Presidential Task Force on the Future of Legal Services.

Klotz is a partner in 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.

the UN, he was ambassador and under-secretary for legal and consular affairs in the Swedish Ministry of Foreign Affairs from 1984 to 1994.

Since his retirement from public service in 2004, Corell has engaged in many different

activities in the legal field. He's involved in the work of 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 the Internalisation of Law.

life giving voice to those who have least power within the system, championing civil liberties and promoting human rights.

Baroness Kennedy has used many public platforms – including the House of Lords, to which she was elevated in 1997 – to argue with passion, wit and humanity for social justice. She is a member of the House of Lords and chair of Justice, the British arm of the International Commission of Jurists.



**Stephen Denyer**  
Chair, Section on Public and Professional Interest

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

Although originally a corporate lawyer, more recently, Denyer has been closely involved in a wide range of matters relating to cross-border legal practice.

at Italian firm Macchi di Cellere Gangemi, where he concentrates on banking and finance and securities matters; project financing; asset-backed and structured finance; energy; and oil and gas law. He is a member of the Board of Auditors of numerous companies.



**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 2015–2016, during which time he also served as chair of the BIC's Policy Committee. In addition to 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.

Visco is managing partner



**Horácio Bernardes Neto**  
Secretary general

Horacio Bernardes-Neto is the secretary general of the IBA and a former chair of the BIC - Bar Issues Commission.

He joined the IBA in 1992, has 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 Risk Committee and is a member of the IBA Presidential Task Force on Challenges to the Independence of the Legal Profession. He is also a member of the Latin American Forum Advisory Board, having contributed to the creation of the Forum. He is a partner of the Brazilian law firm Motta Fernandes Rocha.

# Five of the best

The week's showcase sessions discuss the key issues of 2017, from cybersecurity to border security

This year's showcase sessions reflect the tumultuous past 12 months. Topics range from those with an eye on the future (cybercrime and digital innovation) to the more retrograde – but sadly relevant – themes of populism and the continuing struggle for women's rights. Here's a rundown of the week.

## TODAY

**SESSION:** IBAHRI Showcase: Women 'firsts' – how does international and domestic law help (or hinder) women to succeed in Australia and elsewhere?

**COMMITTEE:** IBA Human Rights Institute

**TIME:** Today, 14.30 – 17.30

**VENUE:** Room C3.3, Convention Centre, Level 3

Gender equality is a fundamental aspect of international human rights and Australian anti-discrimination legislation. But the precise meaning of equality is still debated and the means by which it is achieved are unclear. As more women attain prominent positions, what effect does this have on the meaning and application of concepts such as equality and affirmative action?

Today's showcase panel will comprise of eminent women who have broken the glass ceiling in their professions, including the legal profession. They will discuss women's rights and women's advancement in the context of their own histories, as well as in relation to domestic and international laws, and other factors, that helped or hindered them.

## TUESDAY

**SESSION:** LPD Showcase: cybercrime and the media – unexpected risks to your clients, your law firm and your government

**COMMITTEE:** Legal Practice Division – (Lead)

**TIME:** Tuesday, 09.30 – 12.30

**VENUE:** Room C3.3, Convention Centre, Level 3

From classified National Security Agency data to political party programmes, confidential corporate data, private emails and the tax returns of the rich and famous: no single type of information is immune from disclosure any longer.

Over the last year, there has been an ever-increasing focus on electronic and cybercrime affecting lawyers, governments and society more broadly.

WikiLeaks started the avalanche of information being disclosed to the public, which continues to this day, impacting events as significant as the US presidential election. The Panama Papers disclosed information about offshore tax structures

of the wealthy, famous and not so famous, resulting in the resignation of at least one prime minister.

Tuesday's showcase will examine what cybercrime is and how it is being addressed by politicians and regulators, what role investigative journalists play in exposing conduct by those exercising power and

influence and how lawyers can manage the risks that arise when confidential information is publicly disclosed?

## WEDNESDAY

**SESSION:** Keynote on data, disruptive innovation and the new digital world

**COMMITTEE:** Leisure Industries Section and Technology Law Committee

**TIME:** Wednesday, 09.30 – 10.30

**VENUE:** Parkside Ballroom 2, Convention Centre, Level 2

Wednesday's keynote session will try to get to grips with the world of machine learning and disruptive technologies in Australia. "One of the key questions will be what are some

of these innovations doing when they harness AI and apply them into areas where up until now we thought we would be relatively immune?", says session chair Martin Stewart-Weeks, who specialises in the cross-over of government, technology and innovation.

The panel will include speakers from a range of backgrounds, including Megan Brownlow, executive director of PwC; Kate Cooper, previously director of innovation services and former head of social media for the UK government who helped design the digital communication strategy for the London 2012 Olympic Games; and Adrian Turner, CEO of Data 61, part of the Federal Government's CSIRO entity that is the largest data innovation group in Australia.

**SESSION:** BIC Showcase: the balance between migration, international security, rule of law and terrorism – what bar associations can do to facilitate this conversation  
**COMMITTEE:** Bar Issues Commission (BIC)

**TIME:** Wednesday, 14.30 – 17.30

**VENUE:** Room C3.3, Convention Centre, Level 3

Wednesday afternoon's session will look at two things and how they relate. The first is the critical debate raging in many countries between welcoming refugees and migrants with open arms and reassuring citizens that the necessary steps are being taken to protect their security and safety. The second is the role that bar associations can have in this public debate.

When the session was first conceived a year ago, the organisers could not have predicted how the topic would escalate. Just around the corner was Trump's attempted Muslim travel ban and a spate of terrorist attacks, including the December 2016 attack in Berlin and 2017 attacks in London and Manchester, among others.

In Australia, which has suffered a series of attacks since the Bali bombings in 2002, it was as recently as

*There has been an ever-increasing focus on cybercrime affecting lawyers, governments and society*

July 2017 that security forces scuppered a plot at Sydney airport.

The bar associations cannot remain silent in these situations. On Wednesday they will find out why.

## THURSDAY

**SESSION:** SPPI Showcase: Given the rise of populist political movements across the world, what is the impact for global legal services and business lawyers?

**COMMITTEE:** Section on Public and Professional Interest

**TIME:** Thursday, 09.30 – 12.30

**VENUE:** Room C3.3, Convention Centre, Level 3

The key ingredients conducive to international trade are under attack as political populism sweeps through the US and Europe. Thursday's Public and Professional Interest showcase

will assess how this will impact the legal profession. Will geopolitical instability and the reversal of decades of liberalisation of trade and investment damage international legal services? And how much will business lawyers be able to rely on exist-

ing legal protections and institutions to protect and promote their clients' global trade interests?

Speakers will include Hon Bruce Billson MP, a former Member of the Australian House of Representatives, Canberra; Deborah Enix-Ross, a partner at Debevoise & Plimpton in the US, and vice-chair, Bar Issues Commission and Lord Richard Keen of Elie QC, HM Government, London, England



Women 'firsts' session chair, Baroness Helena Kennedy



BIC showcase, Deborah Enix-Ross

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Walid Azzam  
Partner



Constanze Doering  
Partner



Dina Mahdi  
Partner

# Up to the challenge

Corruption is having a striking effect on the rule of law, and Friday morning's showcase symposium will explain how, using real life case studies as exhibits.

One of the highest profile cases in recent years has been the Operation *Lava Jato* (Car Wash) in Brazil, the largest ever anti-corruption cross-border investigation. A number of the country's largest corporates have found themselves at the centre of an ever-developing scandal focusing on bribery at the highest levels of industry and government.

Each new development involving the likes of Petrobras, Odebrecht and Alstom is a new episode in the Latin American giant's fight against corruption. The three-year investigation – which is still ongoing – has led to the arrest of multiple politicians and senior executives, billions of dollars in fines, and a push for more transparency in business. The investigation has had repercussions well beyond the borders of Brazil as well.

"The impact of that case on corporations and on the public sector throughout Latin America has been



Homer Moyer Jr.

immense," says Miller & Chevalier member and co-chair of the Rule of Law Forum, Homer Moyer Jr. "It's had far-reaching ripple effects throughout the region when it comes to the fight against official corruption."

Following the revelations, Brazil moved to implement the Clean Company Act to encourage corporates to tackle corruption head-on and clean up business practices. According to a KPMG survey, three-quarters of companies had an ethics and compliance

programme in place in 2016, over double the levels seen in 2013.

Another topic of growing significance is the independence of judges, and how they can be controlled, influenced and manipulated. This is a common threat in Latin America but also in a number of other jurisdictions worldwide including Turkey, Pakistan and Poland.

"If judges are appointed for political or business reasons, they may be susceptible to corruption," says Moyer. "That threatens not only the

**SESSION:** Rule of Law Symposium: the anti-corruption revolution in Latin America and Rule of Law Symposium: the politics of judicial appointments

**COMMITTEE:** Rule of Law Forum and Anti-Corruption Committee

**TIME:** Friday, 09.30 – 10.45 and 11.15 – 12.30

**VENUE:** Room C4.5, Convention Centre, Level 4

integrity of the court system, but also undercuts the rule of law across the country." A separate session later in the morning will focus on the issue. As part of the session, Geoffrey Robertson QC, human rights and civil liberties specialist and founder of London, UK-based Doughty Street Chambers, will deliver a keynote speech discussing the politics of judicial appointments. A transparent and independent appointment process is a key to creating impartial and incorruptible judges.

## A decade of success

The IBA's Outstanding Young Lawyer Award celebrates its tenth anniversary this year. Here, some past winners explain its significance

Every year the IBA recognises the next generation's legal talent, with its annual Outstanding Young Lawyer Award. From acknowledging young human rights activists to junior lawyers that have overcome obstacles to succeed in a challenging profession, the award has grown in stature since it was created in 2007.

This year represents the award's tenth anniversary, and the chance to look back on some of the past recipients. "This award is a source of great pride and recognition for young lawyers who have an unparalleled commitment to excellence," says Martin Šolc, IBA president.

The award was created in partnership with LexisNexis in recognition of a great colleague and former IBA President, William Reece Smith Jr, who passed away in 2013. He was one of the most respected legal experts in a

### List of honourees

- 2008 Naeem Shazad, Pakistan
- 2009 Bruno Barata, Brazil
- 2010 Natalie Prescott, USA PICTURED
- 2011 Francisco Pérez Gordillo, Uruguay
- 2012 Kimathi Kuenyehia, Ghana
- 2013 Alberto Mata Rodriguez, Spain PICTURED
- 2014 Maria Espinera, Argentina
- 2015 Federica D'Alessandra, US
- 2016 Remy Choo Zheng Xi, Singapore PICTURED
- 2017 Malene C. Alleyne, US



career spanning more than 50 years, published scholar and lecturer, mentor and community servant who advanced charitable and civic causes.

Lawyers that have previously won the award all speak glowingly of the opportunities it has provided them in the years that followed.

"It has given me the opportunity to

serve as an officer of the IBA's Young Lawyers Committee, and support the training of young lawyers globally including in Zambia, Singapore, South Korea and Ghana," says Kimathi Kuenyehia, managing partner at Kimathi & Partners, and the only African legal practitioner to have won the award.

Harvard University fellow Federica D'Alessandra, winner in 2015, says: "The award has helped me raise awareness about my human rights work and what motivates it, both inside and outside of the IBA."

Brazil's Bruno Barata, partner at BCDM Advogados, who won in 2009, noted: "The award enhanced my legal career and shaped me into a better professional. But this award won't just hand you those possibilities – it just opens a door and you must step up and make a difference."

"LexisNexis is proud of its partnership with the IBA in creating the Outstanding Young Lawyer award and to celebrate this 10th anniversary," says Ian McDougall, EVP and general counsel, LexisNexis Legal & Professional. "We too have a higher purpose that encompasses our commercial work and actions as a responsible corporate citizen; that is to advance the rule of law around the world. This award continues to inspire young lawyers to pursue the same commitment to society."

# Lunchtime debates

The IBA is continuing its successful series of high-profile lunchtime interviews this year. Here's a rundown of the week

## TODAY

### Dr Robert Gates

In the history of the US, Robert Gates is the only secretary of defence to be asked to remain in office by a newly elected president. A Kansas native, he began his career in the US Air Force, but was quickly recruited by the Central Intelligence Agency (CIA) in 1966.

He spent 26 years at the helm of the CIA in various positions and was made director of central intelligence in 1991 – the youngest person ever in the role – making Gates the only officer in the agency's history to work their way up from entry-level employee to the position of director. Those 26 years included nearly nine at the National Security Council of the White House, during which time



he served four presidents, both Democrats and Republicans.

**TIME:** Today, 13.15 – 14.15

**VENUE:** Pymont Theatre, Convention Centre, Level 2

## TUESDAY

### The Hon John Winston Howard

Tuesday's lunchtime session is with Australia's second longest serving prime minister (1996-2007) and member of parliament for 33 years, John Howard. Treasurer to an earlier government and a Member of Parliament for more than three decades, Howard is described as having 'left a deep and lasting im-



pact on modern politics, government and the country'.

Howard led the country through the financial crisis. His greatest achievement is arguably in the economic and business spheres, where he oversaw widespread deregulation and other free market policies that significantly cut unemployment, raised wages and completely wiped out \$96 billion of government debt.

**TIME:** Tuesday, 13.15 – 14.15

**VENUE:** Pymont Theatre, Convention Centre, Level 2

## WEDNESDAY

### Julian Assange

Julian Assange will join us on

Wednesday via a video link up. Assange founded WikiLeaks in 2006, an organisation that made its first major series of leaks in 2010. When in the same year Swedish authorities opened a case against him for sexual assault, the debate about him as a character meshed with the WikiLeaks story. He has been living in the Ecuadoran embassy in London since 2012.

In 2017, the CIA labelled WikiLeaks a "non-state hostile intelligence service" and intensified its pursuit of Assange. This followed the leak of Democratic National Committee emails that helped undo Hillary Clinton's campaign. Investigators in the US argue that Russian intelligence used WikiLeaks as a tool to exert its influence on the result, a claim that Assange vehemently denies.

vehemently denies.

**TIME:** Wednesday, 13.15 – 14.15

**VENUE:** Pymont Theatre, Convention Centre, Level 2



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# A fresh start

IBA's new President Martin Šolc discusses his vision for the organisation, threats to globalisation and why the rule of law applies to everyone



**R**aised in the Czech Socialist Republic, the IBA's new President Martin Šolc is a natural born believer in the rule of law. The first central European to be elected to the post, he brings with him decades of experience as an M&A lawyer and defender of justice.

An IBA member since 1990, he's a founding partner of Prague firm Kocián Šolc Balaščík. Here he talks exclusively to the IBA Daily News about what he hopes to achieve during his tenure, upcoming concerns for the global legal profession, and what the IBA means to him.

## What have you been focusing on since taking office in January?

I had a nice clear plan for what I wanted to work on, but the reality is that sometimes surprises get in the way of plans. When I became vice president two years ago, I thought a lot about the rule of law topics I could focus on; for instance, the rule of law in old Soviet countries returning to democracy. But all of a sudden, we have found ourselves contemplating the rule of law in the developed world. So the focus is certainly changing.

I had also hoped that I would not have to spend much time on internal IBA matters, but again, due to a number of reasons we are now conducting an internal review. Right at the beginning of its life we might have been able to call the IBA a conference organiser, but it's become so much more than that: an important player in the human rights arena, and an online and traditional publisher, for instance. It's a good thing that will make the association stronger, but it of course takes time and distracts from other matters.

## What else do you hope to achieve during your time as President of the IBA?

A few years ago I began developing the IBA's online activities as a separate business line – and that doesn't mean just changes to the website. It's true that if you compare the content on the website today to what we were publishing five years ago, it's almost unrecognisable. We are doing so much more now.

But the idea goes further than that. I would like to make the IBA more available to those who, for whatever reason, cannot travel to our conferences. Some may be disabled, some of their firms may not have the budget, and some are just too busy. But there should be an alternative option that emulates IBA life online for all of those lawyers. I've thought about this for a long time so it's very exciting that it's now becoming a reality.

I have also established a taskforce on the future of legal services. Much has been written on the topic, but not too much looks into the practical implications for areas like regulation,

legal education, and office management. This taskforce will create a compendium of the material already produced by bars, law firms, and universities, to avoid duplicity. Then we'll identify where the IBA can add value. The future is going to be influenced firstly of course by technology, but also to some extent by globalisation, and the changing demands of clients.

I have established another taskforce on what I am calling minimum cyber security standards for lawyers – not law firms. We often see highly sophisticated firms investing millions of pounds in technology, meanwhile a lawyer walks down the street, phone in hand, discussing client matters and exchanging all sorts of confidential documents. We may have learnt not to leave documents in pubs, but have to understand that sending an email could be just as risky. There are minimum standards lawyers should be observing.

Finally, and this one is more controversial, together with the OECD, the IBA has set up a taskforce which we have abbreviated to the Panama papers taskforce. The OECD was behind some poorly received money laundering regulations in recent years, so some members may doubt this collaboration, but we feel that unless the global profession participates in the process, it may well end up facing an unacceptable regulation that contributes to the erosion of the rule of law.

## You are the first person from the Czech Republic to assume the role of President in the IBA's 70-year history. How important is the international nature of the IBA to you?

The IBA is sometimes seen as a

platform for lawyers who already have a very international mindset. But at the same time, the IBA makes its members think globally. When I joined almost 30 years ago, I had little to no knowledge about what was going on outside my country, and I knew very few foreign lawyers. And now, 30 years later, I feel very much part of the global legal profession – perhaps even more so than the Czech legal profession.

Most of my close friends come from the IBA family, so it has shifted me from thinking provincially or regionally to having a very different attitude. That is why I believe the international nature of the IBA is so important. We need to know about what is going on elsewhere in the world because sooner or later, something similar will happen to our client and that knowledge will be relevant. We no longer live in a world of isolated countries.

## How is the IBA tackling the recent rejection of globalisation and threats to the rule of law?

I worry that what we are seeing is slightly broader than a rejection of globalisation. That is no doubt part of it, but it is also true that a significant portion of society feels let down. By politicians who make promises while doing deals with other politicians, by the media, and by banks that say they will take care of people's money but do all sorts with it instead. That could even include the lawyers who have become merchants selling legal products rather than guiding their clients through difficulties.

That feeling of mistrust makes a portion of society very vulnerable to populism. At the IBA we are

*Most of my close friends come from the IBA family, so it has shifted me from thinking provincially*



concerned by threats to the rule of law that result from that, because the rule of law is not very high on populists' agenda.

Yet terrorism is, in a way, another baby of globalisation. That has opened up a whole discussion around what we value more: security, or freedom and the rule of law.

Populists supply what their electors demand, so we have to work together to generate demand for the rule of law, or one day, people will wake up to find that something important, something designed to protect them, is gone.

We encourage our members to explain the rule of law to their non-lawyer friends. And we are working to create a freely downloadable video that explains the importance of the rule of law, which we will encourage members to share with their community.

### What does the rule of law mean to you?

I was born and raised in a so-called

## Populists supply what their electors demand, so we have to work together to generate demand for the rule of law

socialist society, which tended to get the rule of law confused with 'rule by law'. That very naturally makes me a strong believer in the rule of law. It is a moving target and no country has reached the ideal. The US at the moment, for instance, shows that if the public does not believe in the system then it does not work.

I have been an M&A lawyer for the past 25 years, and it actually irritates me when I say something to a colleague about the rule of law or a related matter, and he or she makes it clear that they do not see the relevance to their business. That is like a fish not seeing the relevance of water. We are

meaningless where there is no rule of law.

I also don't think we should be divided into groups, such as the business lawyers who are here to make money and do deals, and the lunatics discussing things like human rights and the rule of law. We are all part of the same group, and all lawyers should have that in their focus. Only then can we say that we are part of the legal profession, and not merchants of products.

### What parts of this year's conference are you most looking forward to?

Unfortunately due to meetings I will

have very little time to go to sessions, but it's going to be a splendid conference. I am sad that I will not be able to see much, but if I can it will be on the topics we've touched upon today – for instance, the showcase session on the balance between security and the rule of law.

As I said, another of my priorities is cyber security, so I hope to see the showcase session on cybercrime and the media and the resulting dangers to clients, law firms and governments.

I'll also try to participate in the lunchtime conversations that have now become an IBA tradition. Mark Ellis will be interviewing some interesting people; we have Julian Assange participating over a video link. That's going to be a very interesting conversation.

And, of course, the social events. It's difficult to pick out just one, but the welcome party will be absolutely breath-taking. We will be transported by boat from the convention centre to Sydney's Luna Park, which we have to ourselves for the evening. I think people will love it.

# A conversation with... Dr Robert Gates

Today's lunchtime discussion is with one of the most decorated, longest-serving figures in American politics

In the history of the US, Robert Gates is the only secretary of defence to be asked to remain in office by a newly elected president.

A Kansas native, he began his career in the US Air Force, but was quickly recruited by the Central Intelligence Agency (CIA) in 1966. He spent 26 years at the helm of the CIA in various positions and was made director of central intelligence

in 1991 – the youngest person ever in the role – making Gates the only officer in the agency's history to work their way up from entry-level employee to the position of director. Those 26 years included nearly nine at the National Security Council of the White House, during which time he served four presidents, both Democrats and Republicans.

Among Gates' many awards and decorations are the National Security Medal, the Presidential Citizens medal, the National Intelligence Distinguished Service Medal (which he received twice) and the CIA's highest award, the Distinguished Intelligence Medal (which he won three times). In 2016 he was the first person to ever win the Zbigniew Brzezinski annual prize, which recognises his commitment to a geostrategic but moral way of thinking.

On Gates' last day in office be-



fore his retirement in 2011, President Obama presented him with the highest possible civilian honour a US person can be awarded: the Presidential Medal of Freedom.

Often referred to as the best defence secretary of the post-World War II era, Gates is also a bestselling author of several books, a board director of Starbucks and a partner at consultancy firm RHG, along with former Secretary of State Condoleezza Rice.

**SESSION:** A conversation with... Dr Robert Gates, 22nd secretary of defence of the US

**COMMITTEE:** General Interest

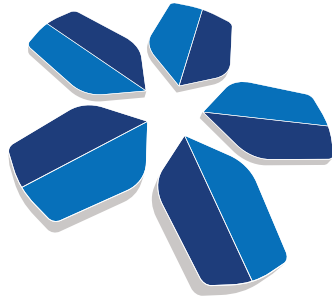
**TIME:** Today, 13.15 – 14.15

**VENUE:** Pyrmont Theatre, Convention Centre, Level 2

*Gates is referred to as the best defence secretary of the post-World War II era*

He's also on the national executive board of the Boy Scouts of America, has served on multiple other education committees, and held several senior positions at universities including Texas A&M.

Now retired from frontline politics, these days Gates is still in the public eye. Having served every leader from Lyndon Johnson through to Barack Obama, Gates has a unique worldview – and is not afraid to tell it how it is.



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# How to handle a crisis

Volkswagen's diesel emissions scandal offers salutary lessons for companies and their counsel. This morning's session will explain them

Nearly two years have passed since Volkswagen admitted to fudging diesel emissions tests on up to 11 million of its cars, but the long-term consequences will take much longer to transpire. It all began when the US' Environmental Protection Agency accused the German carmaker of violating the Clean Air Act, claiming it had rigged engines to only produce certain emissions during the test phase of production.

That set in motion a series of events resulting in legal challenges being brought against the firm from regulators and consumers across the globe, a hefty \$4.3 billion fine from the US alone, the imprisonment of some individuals, and even new fuel emissions legislation in the EU. VW's share price fell by a third in the space



Andrew Frei, Dale & Lessmann

of just a few days. But during this time, the legal team – and external advisors – were essential to the company's ability to weather the storm and come back from the crisis.

“When this all started unfolding, one of my first thoughts was that this is something the IBA has to

**The session will, for the first time, bring together some of the key players in this crisis**

talk about,” says Andrew Frei, partner at Dale & Lessmann in Toronto, who will be moderating the session alongside Yuto Matsumura, partner at Tokyo's Mori Hamada & Matsumoto. “VW is a huge company, but this is potentially life-altering for it.”

This morning's session will for the first time bring together some of the key players in this crisis: the lead US government investigator, former assistant attorney general John Cruden, the company's external advisors and the lawyer leading the Australian class action suit against VW. They will be joined by experts in corporate social responsibility and litigation, to consider the role of the legal department in such a crisis, and how the approach of both authorities and consumers differed around the world. They will consider, for instance, how the US reached a conclusion so fast while the EU, which is a far bigger market for

**SESSION:** The 'dieseltgate' crisis: actions and reactions from around the world to the Volkswagen emissions control case

**TIME:** Today, 09.30 – 12.30

**VENUE:** Today, C4.1, Convention Centre, Level 4

**COMMITTEE:** Corporate Law Section, Closely Held and Growing Business Enterprises Committee, Corporate and M&A Law Committee, Corporate Social Responsibility Committee

VW vehicles, took much longer.

And VW's woes are ongoing – Maurice Blackman lawyer Jason Geisker, speaking today, is in court for the first major hearing in the Australian class action against VW at the end of October.

Panellists hope for an interactive session to kick off the day, with plenty of audience engagement. “This session has everything the IBA is all about: it's a truly global, truly hot topic, with speakers from around the world, all who have slightly different experiences of the issue,” says Frei. “There's so much lawyers can take away from this.”



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# Stars in their fields

The winners of this year's IBA Human Rights, Pro Bono and Outstanding Young Lawyer awards have been revealed. Congratulations to the winners, who will receive their awards throughout the week



## The 2017 Human Rights Award

The winner of this year's Human Rights Award is Turkish human rights lawyer Ramazan Demir, who has been representing victims, journalists and lawyers in Turkey under extremely difficult conditions.

The members of the IBA judging panel were particularly impressed by Demir's significant personal endeavours and for his high impact on defence work in extremely challenging and threatening circumstances. Lawyers for Lawyers, which nominated him, praise him for his "outstanding contribution to the protection, advancement and promotion of human rights", in particular in the Kurdish south east of Turkey.

"He has shown great dedication, determination and courage," says a nominator, adding that at the age of only 33, he "stands out as a prominent and fearless defender of the rule of law".

Among his most notable work, Demir has defended journalists, academics, politicians and lawyers being

accused of terrorism. He has been one of a group of lawyers documenting human rights violations in southeast Turkey and has recently been defending 46 lawyers who have worked for PKK leader Abdullah Ocalan and are accused of belonging to a terrorist organisation.

In 2013, Demir advised on cases relating to police violence during the Gezi Park and May 1 demonstrations and in 2016 represented academics prosecuted for signing the Declaration of Peace. He has also been litigating on behalf of victims in the conflict between the PKK and Turkish forces and has brought cases before the European Court of Human Rights.

As a result, he has twice been charged by the state. He most recently spent seven months in pre-trial detention charged with terrorist related activities, because of his work for TUAD (an association for relatives of prisoners in Southeast Turkey). Despite the trial ongoing, Demir has taken up his work again.

Ramazan Demir will receive his awards at the Rule of Law Symposium on Friday, 12.30 – 13.00.



## The 2017 Pro Bono Award

The winner of this year's Pro Bono Award is Balazs Sahin-Tóth. Sahin-Tóth is a corporate commercial lawyer who currently heads the restructuring and litigation practice of Allen & Overy's Budapest office.

According to all his nominators, over the last decade Sahin-Tóth has worked tirelessly to promote and institution-

alise pro bono practices in Hungary. The IBA panel of judges cites his wide range of activities. These include being a trustee for PILnet and a regular lecturer on its professional ethics courses hosted by ELTE School of Law.

Most impressive has been his work for the Roma community, where he became the first lawyer in Hungary to take on a na-

## The 2017 Outstanding Young Lawyer of the Year Award

This year's Outstanding Young Lawyer of the Year Award goes to Malene Chagni Alleyne. According to a nominator, Alleyne stands out "for her academic and professional achievements, excellence and commitment in serving those in need and her future aspirations to bring positive change to people across the world".

Alleyne left her home country Jamaica in 2013 and spent three years as a human rights specialist at the Inter-American Commission on Human Rights in Washington DC, where she helped victims of human rights violations in countries across the Americas. She left the Commission in 2016 to pursue an LLM with a concentration in human rights at Harvard Law School.

At Harvard, she was involved in the Student Government, Black Law Students Association, International Human Rights Clinic and Harvard Immigration and Refugee Clinic and received the Dean's Award for Community Leadership, which recognises graduates who contribute time and energy to improving the school community.

Alleyne worked with the Harvard Immigration and Refugee Clinical Program, where she assisted on a request



to the Commission for a hearing on the impact of the travel ban on human rights. In April 2017, she helped a woman and her son fleeing gang-based persecution in El Salvador win asylum in the US. More recently, she has worked on an application for a Brazilian woman to obtain protection under the Violence Against Women's Act.

In recognition of William Reece Jr, the IBA Young Lawyers' Committee presents this award to a young lawyer who has shown excellence in their work and great achievements in their career to date, as well as that extra mile of commitment to professional and ethical standards.

The Outstanding Young Lawyer of the Year Award will be presented to Malene Alleyne by Martin Solc, IBA President and Ian McDougall of LexisNexis at the SPPI Awards breakfast today, 08.00 – 09.30.

tional pro bono case defending social inclusion of Roma children. After six years of litigation, the Supreme Court granted "moral damages" for a group of Roma children who had been segregated in a rural school. It is the first award of its kind in Hungary.

Sahin-Tóth is following this up with a similar case on behalf of 62 Roma children. The achievement is all the more impressive given the current environment for refugees in the name of security concerns.

In 2015, Sahin-Tóth also advised a number of NGOs in response to investigations by state authorities.

The Pro Bono Award, established in 2010 by the namesake committee, honours a lawyer who has shown an outstanding commitment to pro bono work throughout their legal career. The prize includes free registration for the conference and a contribution towards travel costs, and a year's free IBA membership.

The Pro Bono Award will be presented to Balazs Sahin-Tóth by Martin Solc, IBA President and Ian McDougall of LexisNexis at the SPPI Awards breakfast today at 08.00 – 09.30.

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# A global problem

This morning's session highlights the injustices suffered by Indigenous people in Australia and what lawyers can do about it

Despite making up just three percent of the general population, about a quarter of all incarcerated people in Australia are of Aboriginal or Torres Strait Islander descent – and the number is growing.

This morning's session will bring together some of the greatest legal minds in human rights law from across the world, to consider why this is and what lawyers and non-governmental organisations can do about it.

Chaired by the IBA's Human Rights Institute co-chair Ambassador Hans Corell, panellists from Europe and Australia will consider how, in the context of Indigenous communities, to balance the rights of individuals with the needs of the broader community.

In an informal session, the panel will also explore the usefulness of relevant legislation, and consider innovative new approaches and solutions to assist existing work in this area.

"I have followed these issues around the world for much of my career and I have to say, I was troubled to read of the situation in Australia," says Ambassador Corell. "Compare the statistics from 10 years ago to today, and the situation for Indigenous peoples is worsening. That is incredibly problematic."

And there are plenty of things lawyers can do to advance the rights of refugees and Indigenous people worldwide, from providing legal representation on a pro bono basis to communications with heads of state.

"The legal profession is really in a privileged position in that governments often listen to us, especially more senior members of the community," says Sheryn Omeri of Cloisters in London, who will be speaking on



IBA's HRI co-chair Hans Corell

the panel. "We have to deploy our skills of persuasion as lawyers to effect real change, and absolutely not let up until the situation does change."

The panel is made up of experts on both refugee and Aboriginal people and Torres Strait Islanders' issues, including Brendan Thomas, the first ever Indigenous CEO of Legal Aid New South Wales, which plays a key role in both representing Aboriginal and Torres Strait Islander Australians in the criminal courts, and government advisory on similar issues.

"Aboriginal and Torres Strait Islander Australians are so shockingly overrepresented in the criminal justice system of Australia that this session is so important," says Omeri.

Australia has been on the receiving end of some tough criticism from the UN as recently as this year. In April 2017 a UN official raised concerns over the 'disturbing' number of Aboriginal children incarcerated in the country, where Aboriginal and Torres Strait Islander young people are roughly 17 times more likely to be somehow involved in the justice system than their peers.

UN special rapporteur Victoria Tauli-Corpuz described her experience of meeting dozens of young people imprisoned in a Queensland youth detention centre, many of them for petty crimes, as "the most disturbing thing I saw".

Groups including the UN have called for the Australian federal government to establish targets that will help drive down imprisonment rates, and for more attention and funds to be diverted to crime prevention, reintegration and rehabilitation programmes.

"To me it's concerning that the

*We have to deploy our skills of persuasion as lawyers to effect real change*

Aboriginal and Torres Strait Islander experience has been amalgamated with the refugee experience," adds Omeri. "It's no question that both are extremely dire, but they have entirely different causes. The history of colonisation and mass incarceration should not be conflated with the refugee experience."

Omeri thinks the current situation for Indigenous people in Australia is of international concern as the federal government, as well as state and territory governments, have done too little to improve it, despite significant pressure from Australian lawyers.

"International pressure has the potential to be extremely useful here," she adds.

## Regional differences

Some territories are better than others – Victoria and South Australia have both moved to explore treaties with Aboriginal groups. But at international level, the country repeatedly misses key targets to improve life for Indigenous people, such as closing the child mortality and life expectancy gaps between Indigenous and non-Indigenous people. A recent study also found the healthcare and education divide to be widening, with Aboriginals and Torres Strait Islanders at the bottom of almost every economic and social indicator. According to research from the Charles Darwin University, nearly all – nine out of 10 – Indigenous adults living in the remote Northern Territory of Australia do not have sufficient literary skills to cope in the workplace.

The refugee situation in Australia has also come under international scrutiny in recent years. The country accepts between 12,000 and 13,000

**SESSION:** Race and refugee issues in Australia: are policies of detention and separation working?

**TIME:** Today, 09.30 – 12.30

**VENUE:** Room C2.1, Convention Centre, Level 2

**COMMITTEE:** Human Rights Institute, the Human Rights Law Committee and the Immigration and Nationality Law Committee

asylum applications per year, but has recently introduced tough new policies to stop refugees arriving by sea, often via people smugglers as is the case in mainland Europe. Operation Sovereign Borders, introduced in 2013, puts the military in control of asylum operations and often sees migrant boats intercepted and turned away.

The government's use of offshore processing centres has also caused concern among human rights lawyers. Papua New Guinea's Manus Island closed earlier this year after the Supreme Court ruled that restricting innocent asylum seekers' movements was unconstitutional, but another centre remains in use on the island of Nauru.

"The refugee question has only become more important worldwide, as a result of both conflict but also climate change, which is an issue I have focused on very closely," says Corell. "We will see millions of refugees in the future, with entire countries becoming inhabitable. It's time to show some statesmanship and work together to protect the globe."

This session is the first of a duo, with the second stage taking place at the same time on Tuesday – but while today's will focus solely on Australian race and refugee issues, tomorrow's will explore the subject of asylum seekers and their rights in a global context. They are both the product of a collaboration between the IBA's Human Rights Institute, Immigration and Nationality Law Committee and its Human Rights Law Committee.

Panellists hope that what is discussed during the sessions will form the basis for future government lobbying on these issues.

*Aboriginal and Torres Strait Islander Australians are so shockingly overrepresented in the criminal justice system of Australia*

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