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Varya Simpson
Chair of the IPBA Scholarship Committee

**REPORT - MY EXPERIENCES AT THE 23RD IPBA CONFERENCE
Seoul, South Korea, 17-21 April 2013**

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I am privileged to have been selected as an IPBA 2013 scholar and more particularly, the designated MS Lin Scholar of the Year. I am indebted to the IPBA for funding and the IPBA Scholarship Committee for having faith in me and what I do, making it possible for me to attend this prestigious conference. I also thank Rhonda Lundin, Yukiko Okazaki and the IPBA Secretariat for facilitating travel and accommodation bookings and other logistics.

The 2013 IPBA Conference was a significant learning experience for me; it introduced and reinforced realities in the corporate sphere in the bigger world outside of my island jurisdiction in the South Pacific Ocean. This report highlights only some of my experiences from the conference, drawing on some of the key issues offered at each of the sessions I attended.¹ The sessions ran parallel to each other; choosing from the many robust topics required some careful thought. My choices were out of interest, relevance to my jurisdiction, and area of expertise as a legislative drafter and advocate of appropriate law reform processes, in Samoa and the Pacific Islands. Before the formal programme commenced on April 18th, we (the IPBA scholars) were privileged to be given the opportunity to visit the High Court premises and one of the most prestigious law firms in Seoul.

Day 1 - April 17th 2013

Scholars' visits

a) High Court of Korea - We were fortunate to have as one of our IPBA 2013 scholars James Jung, a lawyer from New Zealand of Korean origin. It appears that it was through his network in Korea that we were able to visit the High Courts of Korea. We were privileged to have 2 Judges of the High Court give a power point presentation on the court system, structure, jurisdiction and other significant features. There are 6 types of courts in Korea: the Supreme Court, High Court, District Court, Patent Court, Family Court and Administrative Court. There are 3 tiers of courts, the district, high court and the Supreme Court. From this visit, I learnt a number of features significant to the Korean judiciary, one of which is as follows:

¹ The key issues are expressed in how I understood them, any misinterpretations are therefore mine.

"If it is deemed necessary to enact or revise related laws in connection with the organisation, personnel affairs, operation, judicial proceedings, registrations, family registration, and other court affairs, the Chief Justice may present in writing his/her opinion to the National Assembly."²

This is how the judiciary in Korea may influence reforms (laws) on court organisation and court affairs. Our group is indebted to the esteemed High Court Judges for taking time out of their busy schedule to present to us. Thank you also for the beautiful court souvenirs.

b) Yoon and Yang LLC - We were also blessed with the opportunity to visit this prestigious law firm of 320 lawyers. I am thankful to the partners and staff for giving us some of their precious time, for the Korean lunch served for us and the beautiful souvenirs. Yoon and Yang has 16 areas of practice, covering nearly all areas of law. Due to the high demand, there is a significantly large division on international law matters. Most relevant to me was that one of these areas of practice focuses on policy development, researching and advising on the law firm's position on government policies and proposed reforms. This is generally how this law firm may influence law reform in Korea.

c) Orientation and Welcome Reception - Our orientation with the Scholarship Committee was the first time to meet with the full Scholarship Committee and other scholars. At the IPBA Welcome Reception, we introduced ourselves and received certificates from the President of IPBA. We also expressed our sincere gratitude to IPBA for the scholarships which have made it possible for us to attend the 23rd IPBA Conference and the prestigious gathering of about 1,400 delegates, the biggest conference with the highest number of lawyers I had ever attended.

Day 2 - April 18th 2013

a) Opening ceremony

It was a golden opportunity to be part of an audience to distinguished speakers. There was much to absorb including the following. The business world needs an effective regulatory framework to grow, this is vital for economic growth. There are countries in which the legal frameworks and the rule of law are more effective as compared to others. For investors, where there is a risk, they must be made to feel they will be protected. Lawyers are problem solvers; they play significant roles in drawing up effective and fair agreements and preparation for arbitration in the event of a disagreement. The world is getting smaller and smaller with modern technology. As boundaries collapse there is a greater need for stronger collaborative efforts from all sectors including the legal corporate professions in the developed and developing regions. This is facilitated by forums like the IPBA Conferences.

b) Dispute Resolution and Arbitration/Maritime: "Risk management of Ship Building and oil Platform Contracts and Sub-Contracts by Arbitration Clauses"

This was a joint session with the Maritime committee looking at issues arising out of the ship building industry including enforcement of guarantees and other cross border issues. I learnt that contract clauses must be drafted with care, especially where there are many parties in different

² The Supreme Court of Korea (Supreme Court Guide received at the IPBA 2013 Scholars Visit, 17 April 2013)
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jurisdictions at different levels of a project (principals, contractors, sub-contractors). Each will have its own interests which must be measured against the other.

c) Banking Finance and Securities: “Challenges for Asian Exchanges: Competition and Structural Change”

This session addressed regional and international competition for debt and equity listings and structural challenges facing regional exchanges. We received an insight into China’s financial market and stock exchange features. It was said that Hong Kong offers the 6th biggest market in the world and second only to Tokyo in Asia.

Day 3 - April 19th 2013

a) Corporate Counsel/Women Business lawyers: “Lawyers on Board of Companies”

The discussions in this session focused on how having (women or men) lawyers on the boards of companies can create or become obstacles to business opportunities. In relation to gender diversity, the quota information indicates that Singapore and Hong Kong create equal opportunities by having nearly the same number of men and women as board members. It was generally agreed by very experienced speakers and audience members that if you are a board member, it is better not to be anything (e.g. a lawyer) other than a board member. As a lawyer who is a board member, at times you may use your legal expertise to explain a legal issue e.g. a technical contract matter to other board members but you are doing it only because you have that legal background, not as a board member. The lawyer for the Board will give the requisite legal advice.

b) Dispute Resolution and Arbitration: “Case Study – A Failed Construction Project”

This session highlighted jurisdictional issues, environmental claims and other potential claims in the event of a failed construction project. Some of the pointers I took away are as follows. A] Two of the biggest problems for a claimant in arbitration are (1) engaging an inexperienced arbitrator and (2) lack of knowledge of the laws and cultural nuances of the jurisdiction in which the arbitration is conducted. This does not allow for a level playing field. One must know their opposing party and jurisdiction well before the conduct of arbitration. B] Sometimes, mediation may be the better choice to resolve a dispute over arbitration. At times, all the other party may have wanted is an apology from the other party, putting an end to the matter. At the same time relationships are strengthened. Further, specific performance is largely guaranteed. C] Sometimes it may be realistic and beneficial to start off with mediation (for example on relevant but indirect matters) and identifying the main crux of the claims for arbitration at a later stage. There are no hard and fast rules. Parties engage what is most economically viable (time and money), speedy and effective given the circumstances. D] Finally, do not leave insurance parties out of the picture; you must involve them from the outset in any potential claims and arbitration procedures. In many cases, insurance issues are vital in reaching resolutions.

c) Women Business Lawyers: “What Women need to know about Social Media”

I learnt that the UAE courts have held that facebook and social media is a public space. One can be sued for defamation as if the statement/s was/were said face to face. Thus everyday laws in life are applicable to what is said online.

I also learnt that in China, all law firms are encouraged to have a website. This allows the government to check whether you are practising within the limits of your practising license. Chinese laws change on a regular basis, thus disclaimers are necessary. While China is more restrictive in the use of social media in the work force, India law firms may allow the use of social media with one server and an administrator who has access to passwords and internet access information, as part of the employee's contract. Employees are encouraged to join and be interactive in social media in line with office policies.

Social media is a useful tool e.g. for bringing in clients. It has its advantages. However, it is not free of harm. There are fraudsters, cyber bullies and hackers who can take your signature and post something online as if posted by you. These can create considerable problems for the work environment and especially to one's law practice and reputation. One must be cautious in what is posted online. Those who are not social media savvy are encouraged to join the modern world of technology and take advantage of its benefits.

d) Legal Practice: "Liberalisation of Legal Market in Asia"

I found in this session some of the answers to facilitate what was said by some of the speakers in the opening ceremony. This is that the collapse of jurisdictional boundaries calls for better collaboration of the corporate profession. The speakers spoke on the various laws in their respective jurisdictions that either restrict or liberalise the practise of the law by 'fly in' and 'fly out' lawyers. This session addressed the legal markets, the process and results of legal market opening in various countries and the challenges the legal profession should face and overcome.

Day 4 - April 20th 2013

a) Energy and Natural Resources: "Liquefied Natural Gas (LNG): Why has it become so popular?"

Natural resources are the life of the majority of the inhabitants of mother earth. There were informative presentations on the importance of liquefied natural gas from the perspective of producing countries, exporting countries and user countries. It appears that laws relating to LNG change fairly fast in many Asian countries. It is important that lawyers update themselves and be informed of possible and upcoming reforms in the preparation of advisory and legal work.

b) Scholarship: "A Cultural Exchange with our IPBA Scholars and Friends: Business Etiquette in a Dynamic World"

At this session, our group of IPBA Scholars of 2013 presented information we believed would be helpful for foreign legal counsel coming to our countries to conduct business and negotiations. We represented Philippines, China, Korea, Vietnam, Cambodia, Myanmar, Nepal, New Zealand, Samoa, Russia and Israel. One of the unique customs on which discussions with the audience took some time is the practise of 'tea money' in Myanmar. In some occasions; the administration officers at the lower tier of authorities (e.g. guards) expect tea money (ranging around \$5) from officials, after a deed is done for the official. In the western world this may be considered as bribery or a form of corruption, however, it is not so in other developing countries. As I indicated at the session, in Samoa, there is a practise similar but not the same as was presented by Myanmar. This practise does not apply to overseas visiting lawyers or overseas officials. As in many developing countries whose

traditional customs are heavily focused on creating good relationships, the (automatic or unconscious) practise of creating good relationships is translated into formal working environments. We create good relationships with the administrative officers of government authorities or any other authorities with which business dealings are processed. It does not necessarily involve money. It may be an offer of a ride to town (where sought) or similar actions. These actions are usually towards those at the lower tier of the organisation and receiving the least salaries. They are not expected nor are they obligatory. However creating good relationships with work officers gets work done faster as opposed to not creating such. This practice will most probably fade and be removed with the establishment of more modern working environments, where individualism becomes the way of life over communal and customary traditions.

c) Annual General Meeting

It was a great experience to have attended the AGM, the structure and flow of the agenda was impressive for such a huge conference and the significant membership of IPBA.

Social Events - There must be a mention of the social events as they allowed us to observe and take part in some cultural activities in Korea. The Welcoming Reception (day 1) allowed us to introduce ourselves, network and exchange business contacts with conference delegates. We experienced an Event Dinner at Dramia (day 2), a special site where numerous Korean historical TV dramas have been filmed. We observed local cultural experiences through traditional activities, filming sessions of acting out famous Korean dramas and a Hanbok Fashion Show. The K-Pop dinner was the highlight of the Conference with entertainment by popular -POP stars (day 3).

Immediately after the AGM I travelled to Korea's airport and returned to Brisbane, having fully enjoyed being enriched and constructively informed by the wealth of knowledge and experience presented at the 23rd IPBA Conference 2013. My network of lawyers and colleagues has grown significantly in only a few days.

I express my gratitude again to IPBA and the Scholarship Committee for this meaningful opportunity. I have relayed the IPBA information and website to my PhD colleagues in this and other universities. Some have indicated great interest in IPBA. I look forward to advocating further on IPBA issues on my return to my home country after studies.

Sincerely,



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