

IPBA Journal

June 2022

No **106**

NEWS & LEGAL UPDATE

Diversity and
Inclusion in the
Legal Profession



INTER-PACIFIC
BAR ASSOCIATION



One World: Law & the Environment Beyond Covid

IPBA Dubai 2023

March 7–10, 2023

Dubai, UAE

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IPBA Journal

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The President's Message

Richard Briggs
President



Plus ça change...

Dear Colleagues, Members, Friends,

It gives me great pleasure to give my first message as President of the IPBA.

My predecessor and friend, Jack Li, gave his last President's message on a theme of constant change. Indeed, changing times, changing technology, changing regime at the IPBA, all lead us to carefully consider the future of law, lawyers and law firms and how client service will adapt and thrive in the new world and its changing systems.

One theme for 2022, leading through to our next Annual Conference in Dubai from 7 to 10 March 2023, however, is the term '*plus ça change, plus c'est la même chose*' (the more that changes, the more it's the same thing). I say this with an understanding that most of the world, as well as more recently Asia, is now emerging from the times of Covid and it is evident that whilst Covid has emphatically changed the world, many of us are now looking forward to getting back to normal. Nothing shows such 'need for normality' more than the desire of the legal profession and individual lawyers in particular to return to the conference circuit, both in terms of listening and learning to try to find and access new ideas and direction and of course in meeting up with old friends.

My predecessor as Immediate Past President did a fantastic and difficult job in leading the way to keeping the IPBA alive and relevant during the Covid pandemic. In this he was supported by the IPBA Council, many of whom worked tirelessly in organising programmes in a new world of technology and online conferences, supported of course by the IPBA Secretariat.

Following on from the organisation's emergence from the pandemic, the priority of the President is to return the IPBA back to normal in terms of upping membership to pre-Covid levels and particularly to gain momentum towards a successful Annual Conference in Dubai from 7 to 10 March 2023.

The question then is how to obtain this momentum to March 2023 and to this extent my role as President is as ever enormously helped by the hard work of many others within the IPBA and the traction which is being obtained in setting up and handling the proposed autumn conferences to further build momentum through the summer and autumn periods.

For the next quarter and beyond, we have the following events scheduled; check the IPBA web site for updated information:

Date	Venue	Event
2 June 2022	Zoom	Navigating the New Economic Sanctions Era: Impact on Global Business/Sanctions Risk Management
7 June 2022	Zoom	The Great Return?
7 June 2022	Zoom	Investor-State Mediation—Introducing a Practitioners' Decision Tree
9 June 2022	Zoom	Launching in the US: What You Need to Know About Business Law
23 June 2022	Paris, France	The Summer Dinner in Paris
31 August 2022	Singapore	IPBA Arbitration Day 2022: International Arbitration in the Endemic Age

Date	Venue	Event
24–26 September 2022	Seoul, Korea	IPBA Mid-Year Council Meetings (24–25) and East Asia Forum (26)
7-10 March 2023	Dubai, UAE	31st Annual Meeting and Conference
1st Quarter 2024	Tokyo, Japan	32nd Annual Meeting and Conference

Having given a rundown of upcoming events, I can give you my personal assurance and commitment as the 31st President to drive the leadership of the IPBA through this coming period. While the goals of the IPBA as an organisation may not change, the world itself is of course changing very quickly, not only in the post-Covid age (assuming of course that we are in a post-Covid age, as not all Covid and current Covid restrictions have ceased), both in terms of other difficulties facing humanity and the legal profession.

Prime amongst these difficulties are the problems caused by the ongoing degradation of the world's environment, which is of course the subject matter of

our upcoming Annual Conference in 2023. Any solutions to the degradation of the environment are unlikely to be assisted by increased political tensions and the corresponding destabilisation of world trade. Inflationary pressures, either as a consequence or in their own right, cause further damage, particularly to the world's poor and in developing nations. It is the task of the legal profession to take a lead in setting a framework to develop solutions to the current issues. This requires a diplomatic and humane lead, something which the IPBA is, in my view, well set to provide.

I would reiterate Jack's words, 'We are together, IPBA', a phrase which has recently become the essence of who we are and how we would like to move forward.

Lastly, I would request the support of all of you in rebuilding and then further building the IPBA for a new age and a new generation.

Yours sincerely,

Richard Briggs
President

Join the Inter-Pacific Bar Association

Since its humble beginnings in 1991 at a conference that drew more than 500 lawyers from around the world to Tokyo, the IPBA has blossomed to become the foremost commercial lawyer association with a focus on the Asia-Pacific Region. Benefits of joining IPBA include the opportunity to publish articles in this IPBA Journal; access to online and printed membership directories; and valuable networking opportunities at our Annual Meeting and Conference as well as 10 regional conferences throughout the year. Members can join up to three of the 24 committees focused on various of commercial law practice areas, from banking and finance, to insurance, to employment and immigration law, and more. We welcome lawyers from law firms as well as in-house counsel. IPBA's spirit of camaraderie ensures that our members from over 65 jurisdictions become friends as well as colleagues who stay in close touch with each other through IPBA events, committee activities, and social network platforms. To find out more or to join us, visit the IPBA website at ipba@ipba.org.





The Secretary-General's Message

Yong-Jae Chang
Secretary-General



Dear IPBA Members,

In recent months, many countries have started to relax travel and quarantine restrictions. While it seems almost impossible to entirely avoid the risk of another pandemic wave in the (near) future, we learned difficult lessons through the past two years which have been extremely challenging in so many ways for all of us. It is now time for us to be cautiously positive for the remainder of 2022 and become more adaptive to the circumstances in order to proceed with our original plans.

There was a change of leadership within the IPBA and I would personally like to thank Jack Li, whose two-year term as IPBA President ended in late March 2022 at the (virtual) AGM, for his spirit of resilience to keep this special and important organization in a financially stable condition by holding a number of virtual and hybrid events, and for his tireless efforts to promote IPBA during this difficult pandemic period that provided no guidance on how to move in a right direction.

I also welcome and congratulate our new President, Richard Briggs, who clearly showed his exemplary vision and leadership and put Dubai on the map once again for our members and friends. I have no doubt that Richard (and his local team in Dubai) will do a fabulous job since this is the second time they are preparing for our annual conference! Richard will be working with new Officers and other Council members whose terms commenced at the AGM in March, including Committee Coordinator Eriko Hayashi, Membership Committee Chair Melva E. Valdez, Chief Technology Officer Riccardo Cajola and Publications Committee Chair James Jung, as well as numerous Membership Leaders and Committee Chairs, Co-Chairs and Vice-Chairs. With new leadership in place now, we are very excited that they will make the IPBA even better.

I sincerely hope that our next Annual Meeting and Conference in Dubai in 2023 will become a great success for the IPBA and thus request all our members to provide the necessary support by registering for this event in advance. The main theme is "One World: Law & the Environment Beyond Covid" and the planned dates are 7-10 March 2023. Registration is now open at the conference web site: www.ipba2023.org. This will be a long-awaited and momentous event for our IPBA members to meet in person for the first time since 2019, and we will definitely have many opportunities in Dubai to truly realize the importance of global friendship and social interaction during this annual conference. I encourage you to register as soon as you can and look forward to seeing all of you in Dubai!

I am also pleased to inform you that the Mid-Year Council Meeting and the East Asia Forum for 2022 will return to Seoul. These events are currently scheduled for 24-26 September 2022 and it is coincidental that they will be held in Seoul during my term as Secretary-General. I am very grateful for the support from our IPBA members in Korea who are excited to welcome all Officers and Council members to the meetings on 24 and 25 September, and all IPBA members to the East Asia Forum on 26 September.

I trust that you will enjoy reading this special June edition of the IPBA Journal (which is about 20 pages longer than usual) because of its timely and pertinent articles on the theme of 'Diversity and Inclusion in the Legal Profession' covering many different jurisdictions. Also, be sure to read the Q&A section, 'Meet the New IPBA Council Members' following the recent appointment of our new IPBA Council Members.

Please continue to stay healthy and safe until we can meet again.

Yong-Jae Chang
Secretary-General



Message to the Reader

Dear Reader,

It is with great pleasure that I welcome you to the June 2022 issue of the IPBA Journal.

I took over as Publications Committee Chair from the 2022 AGM and I would like to thank my predecessor, Priti Suri, for the pleasant and smooth working relationship that we enjoyed during the two years that I was Vice-Chair of the committee. Olivia Kung is the new Vice-Chair of the Publications Committee who has a wealth of knowledge and interest in writing and publishing, and we look forward to her great contribution.

The theme for this month's issue of the Journal is 'Diversity and Inclusion in the Legal Profession'. We will continue with our themed approach, but if need be, we will include important and newsworthy legal developments which may not be aligned with any theme. Hence, please feel free to enquire with us if you feel that you have something important to share, even if it does not align with the theme at that time.

In this edition, we chose the theme of diversity and inclusion ('D&I') in the legal profession as this has become an increasingly important and much talked about topic in all professions, including our legal profession. Generally, diversity refers to the differences between people and how they identify in relation to key areas including, but not limited to, gender, ethnicity, religion, sexuality, age and disability. Inclusion occurs when people feel valued and respected, with equitable access to opportunities and resources and where each individual has the opportunity to contribute meaningfully to their organisation. Inclusion is critical in realising the benefits of diversity. D&I together are practices that make sound economic sense for legal practices and

other organisations. It is often said that organisations that value diversity and have a culture of inclusion are more likely to recruit and retain high-performing staff, improve productivity and performance and increase organisational competitiveness and growth.

In this edition, we have received an overwhelming number of interesting articles from our members from multiple jurisdictions and we thank them greatly for their input. We have an interesting mix of topics and jurisdictional views of D&I in the legal profession – the first article, written by our Immediate Past President Jack Li, examines D&I in respect of the recent developments in the Chinese legal profession and explains how D&I has evolved (and been promoted) over the recent years. The second article by Martin Polaine and Arvinder Sambei examines the interesting issue of addressing D&I in the workplace through the practice of Economic, Social and Governance ('ESG'). The third article by Ajay Bhargava provides his views on the cause of D&I in the judiciary and the legal profession and suggests some ways to best address the issues surrounding the lack of D&I, including the roles that law schools and bar councils could play to champion the cause of D&I. The fourth article, written by Aaron Kamath, looks at some of the trends within the corporate legal workplace and suggests some ways of promoting D&I. The fifth article, by Elena Burova, examines the issue of diversity and intersectionality in international arbitration with a focus on gender diversity. The sixth article by Melva Valdez examines the issue of D&I in the Philippines legal profession with a focus on the gender gap. The seventh article by Joanna Bogdanska addresses the issue of gender diversity in the legal professional based on information from a Polish, European and global perspective. The eighth article by Alberto Du Luca discusses some of the challenges faced by law firms in dealing with D&I and offers some advice on how to overcome them. And lastly, Ngosong

Fonkem offers his views on D&I in the international trade-focused legal profession and explains the importance of promoting D&I in today's global trading environment.

The remainder of the Journal is comprised of short Q&A interviews with our newest IPBA Council Members, which provides some very interesting and fun facts about our members!

We are very grateful for the proactive response we have received so far and we are reassured that our enthusiastic members will continue with their

contributions. As the pandemic continues to keep us apart physically, we hope that this Journal will play a small part in helping us to stay connected.

I hope that you will enjoy reading the June issue of the Journal.

James Jung
Chair – Publications Committee, IPBA

IPBA Arbitration Diversity Pledge

The IPBA has always been an inclusive association that openly welcomes members from all jurisdictions. It is committed to ensuring diversity among its leadership by encouraging a proportionate gender and regional balance. In addition, the changing demographic of our member base has seen more young lawyers joining in recent years and a new committee was formed to provide opportunities for participation in IPBA events and activities.

Many of our members list arbitration as an area of interest or specialty. In order to promote a fair representation of female and young lawyers to be involved as arbitration and/or counsel in arbitration cases, the Women Business Lawyers Committee has created the 'IPBA Arbitration Diversity Pledge'.

There are three versions of the pledge, namely for individual lawyers, law firms and organisations to show their commitment to providing more opportunities to female and young arbitrators.

You can find the Pledge on the IPBA web site, available for download and use. Please print out, frame it and hang it in your office to let everyone know that you are also committed to promoting diversity. We hope you will join us in promoting diversity in arbitration.





 **IPBA ARBITRATION DIVERSITY PLEDGE**

Individuals signing the "IPBA Arbitration" Pledge agree to promote diversity in general in arbitration and in particular to:

- 1) Increase the profile and representation of women arbitration practitioners as counsels into their respective arbitration teams;
- 2) Increase the profile and representation of women arbitrators in arbitration; and
- 3) Improve the profile and representation of arbitration practitioners below 45 years old ("young practitioners") in arbitration.

THE PLEDGE

I am involved in the practice of domestic and/or international arbitration.

I am committed to diversity, inclusion and equal opportunities. We believe women and young practitioners should be included in the arbitration team and there should be appointment of women and young practitioners in arbitration on an equal opportunity basis.

As such, I endeavor to take the following steps to ensure that, wherever possible and practical to do so:

- Committees, governing bodies and conference panels in the field of arbitration to include a fair representation of women counsels and arbitrators and young practitioners;
- Nomination list of potential counsels and/or arbitrators or tribunal chairs provided to or considered by parties to include a fair representation of women and young practitioners;
- States, arbitral institutions and national committees to include a fair representation of women and young practitioners candidates on rosters and lists of potential arbitrator appointees;
- Where I have the power to do so, counsel, arbitrators, representatives of corporates, states and arbitral institutions appoint a fair representation of women and young practitioners; and
- I will support women and young practitioners to obtain appointments as arbitrators and enhance their profiles and practice in arbitration.

Name of signee: _____
(Name and Title)

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Diversity and Inclusive Development of the Legal Profession in China

On 19 April 2021, the 30th Annual Conference of Inter-Pacific Bar Association opened in Shanghai with the theme of ‘Rethinking Global Rules – Opportunities and Challenges for the Legal Industry’, attracting more than 600 lawyers and arbitrators from more than 30 countries and regions around the world. At this memorable event, China’s Minister of Justice, Tang Yijun, in his speech advocated that lawyers from all countries should work together with Chinese lawyers to promote the high-quality development of global legal services and economic globalisation in a more open, inclusive, commonly-beneficial, balanced and win-win direction. To accomplish such a development goal, a diverse and inclusive professional environment for lawyers themselves is also indispensable. In this regard, China has made various and useful explorations and attempts, the experience of which is worth sharing.



Inclusion and Support for the Development of Diversified Practice Paths in the Legal Industry

The Need for Diverse Practice Paths

When it comes to career inclusiveness, the first thought of many people is gender, race and other similar factors, but there is also another particularly important and fundamental question, which is whether the legal industry itself provides a rich and diverse career development direction for practitioners. If the available career paths throughout the industry are quite limited, then regardless of gender, race or religion, practitioners will fail to have access to a wide variety of options, making inclusiveness impossible. Recognising this, we can realise that respecting and supporting the development of diverse practice paths in the profession is an essential prerequisite.



Development of Public Lawyers and Company Lawyers to Supplement Practising Lawyers' Choices

These two types of lawyers are a direct reflection of the flexibility of the legal practice options in China. A company lawyer refers to employees who enter into labour contracts with enterprises, obtain the certificate of company lawyer issued by judicial and administrative organs according to the law and who engage in legal affairs in enterprises. A public lawyer refers to the public officials who work in party and government organs or people's organisations, obtain the certificate of public lawyer issued by judicial and administrative organs according to the law, and who engage in legal affairs for them. For those who wish to pursue a career as a lawyer, some choose to serve a wide range of clients, while others expect to become experts in legal practice issues related to enterprises and government organisations. For the latter, direct employment as in-house staff in business and government is the most direct and effective approach. However, this also makes it less likely that they will be members of law firms at the same time.

In order to fully protect this practical need, China's Ministry of Justice issued the 'Measures for the Administration of Public Lawyers' and 'Measures for the Administration of Company Lawyers' which clarify the conditions of employment, procedures, responsibilities, supervision and management measures for this career choice and provide a standardised career path for practitioners. With the joint attention and efforts of the relevant authorities and practitioners, this practice path is rapidly developing. As of January 2019, there are more than 31,000 public lawyers and 7,000 company lawyers in China; and by 2021, the total number of public and company lawyers will have reached 70,000. These lawyers have a deeper insight of the operation rules, concerns and rule of law needs in their organisations and by combining with external law firm lawyers, they can truly build strong problem-oriented solutions to problems. Based on their self-evident importance, company and public lawyers have now become an important part of the law industry in China.

Part-time Mechanism Guarantees Mutual Trust and Mutual Benefits Between Lawyers and Other Legal Professions

The diversity and inclusiveness of lawyers' career choices are not only reflected in the multiple choices of full-time practice direction, but also in the full inter-communication, reciprocity and mutual trust between

lawyers and other legal practices. For a long time, China has insisted on building and promoting a legal professional community, a concept that emphasises the unity and collaboration of the legal profession, driven by mutual understanding, mutual respect and common progress on the basis of common theoretical knowledge and professional ethics. To this end, China has established a part-time mechanism to enhance interaction and support between the lawyer profession and other legal professions by two aspects.

On the one hand, China guarantees the strengthening of legal researchers to carry out the practice of lawyers on a part-time basis, which helps to link their theory with practice. Article 12 of China's Lawyer Law stipulates that those who are engaged in legal education and research in institutions of higher education and scientific research institutions and meet the conditions stipulated in Article 5 of this Law may, with the consent of their units and in accordance with the procedures stipulated in Article 6 of this Law, apply to practice as part-time lawyers. By the end of 2018, there were more than 12,000 part-time lawyers nationwide and 24,876 in Shanghai. Among them, the main composition of part-time lawyers are university professors and scholars. These teachers and part-time lawyers have more direct experience in case practice and are able to see the similarities and differences between legal provisions and actual situations, which further improves their own teaching quality. At the same time, the scholar-lawyers can promote professional ability among lawyers with their solid legal knowledge and thus improve the overall practice levels.

On the other hand, China also assists lawyers to broaden their horizons by guaranteeing them the ability to undertake diverse legal functions. Article 13 of the Arbitration Law provides that the arbitration committee shall appoint arbitrators from among fair and decent persons and that such persons may be selected from among those who have been engaged in the work of lawyers for eight years. In practice, it has become common for arbitration institutions throughout China, including Shanghai, to work closely with bar associations. And through such mutual cooperation China has been able to select suitable candidates from among the pool of outstanding lawyers to serve as arbitrators. Among the IPBA members in China, there are also many lawyers with rich arbitration experience.

Improve the Pro Bono Lawyer Mechanism and Support Voluntary Choice to Practice in Social Service

Choosing to engage in pro bono practice is both a career orientation and a solemn commitment to social responsibility. However, it is undeniable that the revenue from pro bono cases is often difficult to compare with the common profit-making practice of lawyers. Thus, lawyers who are primarily engaged in pro bono work may therefore face financial dilemmas. As an essential and particularly noble part of the profession, pro bono lawyers are fully supported and encouraged in China.

In response to potential problems such as insufficient funding for legal aid, low subsidy standards and inadequate social support, China's newly promulgated Legal Aid Law explicitly includes legal aid-related funding in the government budget and rewards organisations and individuals who make contributions in legal aid with recognition and tax benefits as required.

In practice, various experiences have been summarised according to local conditions. Shanghai has issued the Rules of the Shanghai Bar Association for Promoting Members' Participation in Pro Bono Legal Services, which allows pro bono services lasting up to a certain standard to be counted as lawyers' annual training hours; incorporates pro bono services into the factors for selecting the city's outstanding law firms and lawyers; and also clearly provides room and board subsidies for pro bono lawyers to handle cases. The Guangdong and Guizhou governments have taken the initiative to match pro bono lawyers with villages and enterprises in need of legal services to facilitate the formation of a regular communication mechanism between the parties and the lawyers, thus improving the efficiency of public interest legal services.

Support for an Ethnically and Gender-Diverse Legal Profession Based on the Principle of Equality

Vigorous Support for the Progress and Development of Minority Lawyers

In 2020, there were 30,858 lawyers of Han nationality in the Shanghai lawyer group, accounting for 97.41 per cent, and 821 lawyers of minority nationality, accounting for 2.59 per cent. According to the results of the seventh national census of Shanghai, the minority population in the city accounts for 1.6 per cent, which shows that the percentage of minority lawyers in Shanghai's lawyer

industry is much higher than its average population percentage, reflecting the equal treatment and full encouragement for the development of minority lawyers within the industry.

Behind the flourishing development of minority lawyers, a series of continuous efforts are indispensable. The Ministry of Justice and the All China Lawyers Association insist on enhancing support for lawyers in ethnic minority areas and, through financial funding, have launched the 'Bilingual Lawyer Training Program' to provide comprehensive training for ethnic minority lawyers every year. Under this program, the Xinjiang Bilingual Lawyers Training Course and the Tibetan Bilingual Lawyers Training Course have been organised. During the former, senior legal experts from the Xinjiang University Law School, judges from the Higher People's Court of the Autonomous Region, prosecutors and senior lawyers were invited to give intensive lectures to the trainees. At the same time, it was arranged for the trainees to visit outstanding law firms for field exchanges and learning, and they were selected to participate in the debating competition for young lawyers of the Xinjiang Bar Association and to conduct outreach training. In the course of the latter, lawyer experts from different regions shared their advanced legal practice experience and knowledge with the trainees. The above measures have effectively promoted the advancement of minority lawyers' practising abilities. At present, China's ethnic minority lawyers are working to their unique advantage, further promoting the rule of law governance at the grassroots level in China.

Women Lawyers Have Become a Key Component of China's Legal Profession and Continue to Develop at a Rapid Pace

In 2020, the number of female lawyers in Shanghai was 12,260, an increase of 13.76 per cent compared to 2019. By 2021, the total number of lawyers in China exceeded 540,000, of which the number of female lawyers has reached 40 per cent. In order to effectively protect the rights and interests of women in the lawyer profession, China has established the All-China Women Lawyers Association, with a group of female legal practitioners of repute holding leadership positions, effectively promoting a good environment for women lawyers

to communicate and help each other and develop together with the profession.

On 22 June 2019, the China Women Lawyers Career Development Forum opened in Changsha, Hunan Province, with 500 representatives from Beijing, Shanghai, Heilongjiang and other provinces and cities. Since 2018, the Association of Women Lawyers of the National

Lawyers Association has been conducting a questionnaire on the work of women lawyers to investigate the survival and development of women lawyers in the western region. These measures have given women lawyers an effective way to protect their rights and interests in the profession and further promoted more women to join the profession.

It is no exaggeration to say that many Chinese women lawyers have made brilliant achievements in their own practice areas and have gained wide recognition in society.

In Shanghai, for example, the Women Lawyers Association of the Municipal Law Society has continued to provide various types of protection for its female members, with a particular focus on professional skills training. By inviting peers from the courts, procuratorates and other legal professions to share their experiences, Shanghai's female lawyers have deepened their understanding of their practice, which has strongly enhanced their competitiveness. It is no exaggeration to say that many Chinese women lawyers have made brilliant achievements in their own practice areas and have gained wide recognition in society. As of June 2018, 12 female lawyers have served as members of the 13th National People's Congress and the National Committee of the Chinese People's Political Consultative Conference ('CPPCC'). A number of female lawyers have been elected as provincial, municipal, county and delegate representatives and as members of the CPPCC at all levels, and there are numerous female lawyers serving as legal advisors to governments at all levels. At the IPBA's 30th Annual Meeting and Conference, many outstanding Chinese women lawyers took to the stage to share their experiences of growing up. One of them, Zhang Yunyan, made it clear that the good family and social status of Chinese women has enabled women lawyers to receive strong support from their families and equal opportunities to compete, combining women's hard work, kindness and bravery to become a group of people with unlimited possibilities. This is a true reflection of the role of women lawyers in building a diverse and inclusive legal profession in China.



supervisory boards and those serving as secretary-general of provincial bar associations with 360 people receiving training. For young lawyers, the 'Thousand Plan' training program held 23 training courses, during which the number of students reached more than 1200. Among them, especially worthy of attention is China's education guarantee work for county lawyers. China's county lawyers play an important role in dispute resolution in China by being rooted and serving at the grassroots

Provide Comprehensive and Balanced Educational Resources for Lawyers Everywhere

For lawyers, knowledge and skills are even more valuable assets than monetary income. However, there is a considerable gap in the prosperity of the legal market between different regions, especially between urban and rural areas, due to differences in economic development. Lawyers in large cities often have easier access to, and accumulate more, cutting-edge practice experience, which practitioners in less economically developed regions may lack. Therefore, accommodating regional differences and providing the same high quality educational resources for practitioners from all regions is also an integral part of building an equal and inclusive lawyer workforce.

Many bar associations in China currently provide various training courses for their members every year. Through the extensive use of the online classroom system, Chinese lawyers are able to freely choose the topics they are interested in from hundreds of courses in various fields of legal practice and research and practice at the same time. At the same time, these courses are not static, but are updated in real time according to industry developments and trends each year to ensure that lawyers keep their knowledge and skills up to date.

On this basis, China has conducted tiered training for various types of lawyers and related practitioners. In 2021, six training courses were held for the councils,

level all year round. The construction of China's rural economic and political development cannot be achieved without these groups of lawyers who have an in-depth and thorough understanding of rural conditions. However, county lawyers, especially those in less economically developed areas, often have less access to new legal practices and focus only on the practical learning of common legal issues in rural areas. In order to help them broaden their horizons and promote their professional abilities, the National Lawyers Association has started a training course based on various types of business, which has been well received by the majority of county lawyers based at the grassroots level.

Special Care and Support for Lawyers in Difficult Circumstances

In addition to gender and ethnic differences, a more general factor that distinguishes lawyers is the difference in their financial status. A large part of the reason for this is, as mentioned above, related to the individual lawyer's choice of practice.

In China, many lawyers choose to remain in economically disadvantaged areas, providing legal services to local residents at little or no cost. At the same time, the regions where these lawyers are based are themselves facing severe challenges, such as difficult transportation and long distances, further increasing the difficulty of their practice. In response, since 2018, China has organised four consecutive visits to condolence

events, with several teams comprising the presidents and vice-presidents of national law associations and others, to help groups of lawyers living in difficulty across the country, as well as lawyers who have made outstanding contributions by persistently providing pro bono legal services for a long time. Over the past four years, more than 1,000 districts and counties have been visited, involving more than 2,300 law firms and more than 4,000 lawyers and their families. At the same time, for lawyers who volunteered to serve economically disadvantaged areas but unfortunately passed away in the course of their practice, China has sent commissioners to handle their aftercare work and provide adequate compassion to their families.

In addition, unpredictable force majeure may also cause difficulties for some lawyers to practise, and how to ensure that lawyers affected by this are provided with a fair and good development environment like other lawyers is also a major focus for the inclusive development of the legal profession. In early 2020, the outbreak of the COVID-19 virus hit lawyers and law firms with increased costs and shrinking business. The development of the legal profession, especially in areas where the epidemic was severe, faced difficulties. In response, the National Lawyers Association, through various research tools, such as online questionnaires, formulated the 'Guidance on Actively Coping with the Impact of Covid-19 Virus, Supporting and Promoting the Development of the Lawyer Profession', seeking more support for lawyers and law firms to enjoy policies such as tax and social security fee reductions, deferral of housing fund payments, rent reductions and first loan and microfinance support. For young lawyers with weak earning capacity, lawyers associations supervise and guide law firms to effectively implement the minimum wage guarantee system for young lawyers and create conditions for the healthy growth of them.

At the same time, bar associations across the country have awakened to the function of mutual aid to provide direct help to the lawyer industry in areas seriously affected by the virus; carry out activities based on of the lawyer industry in epidemic areas, through financial support, business training, practice cooperation, etc.; and to help lawyers overcome practice difficulties. Through the mode of 'Big helps small' and 'Strong helps weak', large law firms are encouraged to provide peer-to-peer support to small and medium-sized law firms to promote business cooperation and exchange.

China's President Xi Jinping has pointed out with great foresight that the legal profession is an important force for the rule of law and has called for the effective strengthening of the work of lawyers and the building of the legal profession. The building of a diverse and inclusive lawyer profession is an important step in further enhancing the vitality of the development of the profession and is a direct manifestation of the spirit of equality in law. Let us join hands to help each other, to build a rich and colourful legal professional community together on the basis of mutual respect and understanding and to contribute to the global progress of the rule of law.



Jack Li (Li Zhiqiang)
Founding Partner of Jin Mao Partners
and 30th President of IPBA, Shanghai

Jack Li is the Founding Partner of Jin Mao Partners, the 30th President of Inter-Pacific Bar Association and is an Arbitrator of 32 international and domestic Arbitration Commissions. He has served as a legal consultant for more than 300 Chinese and foreign enterprises for restructuring and mergers and acquisitions, financing, IPO and for the Office Building project of the Shanghai Government.



Keanu Ou (Ou Long)
Partner of Jin Mao Partners, Shanghai

Keanu Ou is the Vice Chair of Legal Development and Training Committee of the Inter-Pacific Bar Association. Keanu has rich experience in Corporate Law, Investment, Banking and Finance, Capital Markets, Intellectual Property, Private Equity and Cross-Border Transactions. Keanu has published a series articles in different periodicals regarding outbound investment and risk protection for investment.



James Yang (Yang Zian)
Lawyer of Jin Mao Partners, Shanghai

James Yang has comprehensive experience in legal practice including IPO, bond issuance, commercial disputes and company consultation. James also assists in translation and analysis of various foreign law rules, transaction documents and articles.

Addressing Diversity and Inclusion in the Workplace through ESG

Businesses are recognising the importance of diversity and inclusion policies within their overall ESG response, with horizons beginning to stretch beyond gender and race.



Diversity and Inclusion, ESG and Asia-Pacific

Environmental, Social and Governance ('ESG') programmes are increasingly taking centre stage within commercial organisations across the globe. It is an initiative that has been largely driven by three main actors (investors and shareholders, regulators and the wider consumer or customer base) and is one that is also helping to bring diversity and inclusion into sharper relief at every level, from boardroom to shop and factory floor.

Given the critical importance of diversity and inclusion within the workplace, it is tempting to conclude that a distinct and separate approach is demanded, sitting outside the wider ESG effort. However, the view gaining much wider currency is that the obviously cross-cutting nature of diversity and inclusion means it should sit

within a business's ESG framework and that, just as the three integral components of ESG are inextricably linked, so issues such as board and employee diversity, workplace privacy, the creation of a positive workplace environment and building community relations will often engage 'environment' and 'governance' as much as they do 'society'.

At the same time, the society component of ESG has, for some, been the poor relation to environmental and governance concerns. However, particularly when considering workplace rights, it would be unwise of any business, whether the corporate client or the law firm advising it, to adopt a compartmentalised mindset, particularly as ESG as a construct both emphasises and is shaped by the inter-relationship between its constituent parts.



Even taking account of inevitable variations from region to region, two distinct approaches among those businesses actively taking workplace-related ESG steps may already be seen: those who are aiming at straightforward ESG compliance by having regard to what their specific domestic legal framework requires; and others who seek to go much further than meeting requirements and regard achieving ESG objectives as providing the opportunity for a corporate success story, a greater competitive edge and enhanced worker satisfaction levels.

However, across Asia, and in Southeast Asia especially, there are some discernibly strong and divergent views on the relevance of diversity and inclusion to the region and, as a consequence, their place within an ESG programme. Both within the legal profession and

among corporate clients, a familiar riposte is that Asia is fully conversant with diversity and inclusion, given its own wide cultural diversity, but it just addresses them differently from Europe and the United States.¹ Equally, it is not unusual to hear the explanation that diversity and inclusion is a 'Western concept, shaped by Western experiences and Western values ... [and] that the focus on 'individuals' and 'difference' inherent in diversity is at odds with Asian cultural and social values'.² On the other side, there are equally strident voices expressing the view that diversity and inclusion does not receive the attention it deserves in Southeast Asia where '... only 58 per cent of companies ... have some form of D&I program in place, compared with a global average of 96 per cent. Moreover, expectations are growing among employees in traditionally underrepresented groups: ethnic minorities, women, and LGBTQ people. These employees want

nothing more than a meritocratic environment, one that gives them a fair shot at hiring and promotion, and a workplace free of bias in which their voices are heard and their contributions are recognized'.³

What is 'Diversity and Inclusion' Within the Context of ESG?

In short, diversity is about 'what' the person (or group of persons) represents and includes, non-exhaustively, ethnicity, gender, sexual orientation, disability, age, religion, socio-economic background, cultural diversity, marriage and civil partnership, education and national origin. There is no single, agreed international or regional set of criteria for determining diversity; indeed, some suggest there are up to 39 different types of diversity⁴ in the workplace, while others point to a shorter list on the basis it applies only to specific groups of people who have experienced discrimination (for example, race or gender bias, disability). Equally, an individual may well represent more than one of the diversity factors described above (so-called 'intersectionality'), which may well put them at higher risk of being subject to discrimination.

In the absence of any definitive agreed factors, a commercial organisation will usually place its focus on domestic anti-discrimination law in order to determine the types of diversity present within its corporate structure and how those differences should be integrated. However, a practical problem immediately arises: What should happen where a business based in a jurisdiction that has anti-discrimination laws protecting, for instance, LGBTQ+ rights (such as Australia), operates in a number of jurisdictions and decides to enter new foreign markets? It may well propose to create a distinct senior management team for each country and recruit locally, internationally or both. But how, in such circumstances, should it address its internal policies and procedures for LGBTQ+ members of staff if they are not protected under domestic law in those new markets and its own domestic law (in the case of Australia, its federal anti-discrimination law) does not have extra-territorial effect? In truth, there is no easy and convenient answer.

Most States have legislation prohibiting discrimination in the workplace on specific grounds, such as, race, gender

and disability (based on personal characteristics), which are described as 'protected characteristics or attributes'. For example, the federal laws of Australia list the following as protected attributes: age, disability, race, sex, intersex status, gender identity and sexual orientation.⁵ Similarly, the UK Equality Act 2010⁶ protects age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sex and sexual orientation. Meanwhile, and in contrast, none of the ASEAN Member States have sexual orientation and gender identity protections as part of their constitution.⁷

As to what is understood by 'inclusion', it is generally recognised that it encompasses not only meeting minimum statutory or regulatory compliance for those with protected characteristics or attributes, but building a workplace that has regard to all members of staff and other workers and that enables everyone to feel valued. Inclusion, then is about 'how' an organisation, through its diversity and inclusion policies and procedures, actively encourages the promotion of diversity, creates a constructive work environment and culture in which each person feels they are able to contribute to the organisation's overall effort, values and harnesses differences, provides equal opportunity career progression, and has in place policies and procedures that proactively contribute to staff and worker wellbeing and engagement.

Specifically, within the governance component of ESG, it should also be had firmly in mind that inclusion should extend to the protection of staff and workers who are *bona fide* whistleblowers. Indeed, the most progressive businesses have formulated ESG programmes that address a wide range of employment issues, with diversity and inclusion cross-cutting each of them. The components of such programmes can usually be expected to include:⁸

- Diversity, equity and inclusion ('DEI')
- Pay transparency
- Whistleblowing
- Employee engagement
- Worker activism

Globally, regulators have been exploring ways of moving away from voluntary initiatives to an imposed regulatory approach to diversity and inclusion.

- Health and safety
- Human resources policies
- Remote work
- Mental health and well-being

Diversity and Inclusion: Gender and Race

The global effort within the workplace has focused on gender inequality and ethnic groups, particularly at the board level, rather than the wider diverse factors highlighted above, which should now fall to be considered within the societal and governance pillars of ESG. However, despite some inroads being made, workplace exclusion on the grounds of gender and race has a long history and, despite legislative measures and policy statements, representation of women and ethnic minority groups on boards and senior executive positions still remains low.

It is noteworthy that the financial sector, given its critical role in economies and the drive for it to support sustainable financing, is distinctive in having sought to promote diversity and inclusion through encouragement via governance codes of practice, with an apt example being the 2021 Revisions of Japan's Corporate Governance Code and Guidelines for Investor and Company Engagement, issued by Japan's Financial Services Agency,⁹ which addresses diversity in the following terms:

2. Promoting Diversity

Disclose a policy and voluntary measurable targets in respect of promoting diversity in senior management by appointing females, non-Japanese and mid-career professionals**.

Disclose human resource development policies ensuring diversity, including the status of implementation.

** With respect to board diversity, the current version of the Code already requires companies to ensure the diversity in terms of gender and internationality.

Globally, regulators have been exploring ways of moving away from voluntary initiatives to an imposed regulatory approach to diversity and inclusion, with,

for instance, the respective regulators in Australia, the UK and the US each adopting the 'comply or explain' approach for listed companies in specified sectors.

The ASX Corporate Governance Council issued its fourth edition of Corporate Governance Principles¹⁰ for companies listed on the Australian Securities Exchange, which came into effect in 2020. The Principles and Recommendations are not mandatory and do not prescribe corporate governance practices that a listed entity must adopt; instead, it is for each entity to decide which Recommendation applies to it on the basis of its size, complexity, history and corporate culture. However, if it chooses not to follow or adopt a particular Recommendation, it must explain why it has decided to opt out (the 'if not, why not' approach). Recommendation 1.5 addresses diversity and recommends that a listed entity should have a diversity policy and through its board, or a committee of the board, should set measurable objectives for achieving gender diversity in the composition of its board, senior executives and workforce generally. For its part, the company will, as part of its reporting obligations, set out the measurable objectives decided upon for that period to achieve gender diversity and detail its progress in achieving the objectives.

In the UK and US, efforts have been made to regulate diversity and inclusion by specific companies operating in their respective financial markets. The UK Financial Conduct Authority ('FCA') recently published its Policy Statement,¹¹ which introduces new Listing Rules (LR 9.8.6R(9) and 14.3.33R(1)) that require UK and overseas companies with equity shares or certificates representing equity shares, which are admitted to the premium or standard segments of the FCA's Official List (excluding open-ended investment companies and shell companies as defined in the Listing Rules) to publish in their annual financial report how they have met the diversity targets. Such listed companies must select a date within its accounting period (the 'reference date') as the point at which it must assess whether or not it has achieved the following targets and then publish its 'comply or explain statement':

- At least 40 per cent of the board are women.
- At least one of the senior board positions

(Chair, Chief Executive Officer ('CEO'), Senior Independent Director ('SID') or Chief Financial Officer ('CFO')) is a woman.

- At least one member of the board is from a minority ethnic background (which is defined by reference to categories recommended by the Office for National Statistics ('ONS')) excluding those listed, by the ONS, as coming from a white ethnic background).

The 'comply or explain' statement must be accompanied by numerical disclosures, set out in a standardised table format,¹² on the diversity (gender and ethnic) of a company's board and executive. During the consultation stage, the FCA had proposed that 'women' should include those who self-identify as a woman, rather than women defined by biological sex. However, based on feedback received, this proposal was removed. A company will therefore have to decide how to collect the data from its employees (either on the basis of sex or gender identity), explain the approach adopted and ensure it is applied consistently. Where members of the board or executive management are located abroad and local law prevents the collection or publication of relevant data, the company may explain the extent to which it is unable to make the requisite numerical disclosures and complete the tables accordingly.

The UK FCA approach is largely mirrored by that taken by US regulators. In November 2020, the Nasdaq Stock Market LLC filed a proposal¹³ with the Securities and Exchange Commission ('SEC') to adopt listing rules in relation to board diversity which would require a Nasdaq-listed company to have or explain why it does not have at least two members of its board of directors who are diverse. In August 2021, the proposal was adopted and it is now a requirement that each Nasdaq-listed company, subject to certain exceptions, must, *inter alia*:

- have, or explain why it does not have, at least one director who self-identifies as a female;
- have, or explain why it does not have, at least one director who self-identifies as Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander, two or more races or ethnicities, or as LGBTQ+; and

- provide statistical information in a proposed uniform format on the company's board of directors related to a director's self-identified gender, race, and self-identification as LGBTQ+.

Diversity and Inclusion and Governance: The Anti-Corruption Challenge

Internationally, a key recognised plank of anti-corruption prevention is ensuring that gifts and hospitality do not become cloaks for bribery. It has long been emphasised that genuine hospitality and promotional business expenditure that seeks to improve the image of a business or to establish friendly commercial relations is not intended to be criminalised, but, at the same time, those pieces of national anti-bribery that have long-arm reach, such as the UK's Bribery Act and the Foreign Corrupt Practices Act in the US, have created a level of concern among the business community that gift giving has, effectively, become outlawed. One of the most ringing criticisms in that regard is that received anti-corruption wisdom pays too much attention to western notions of the role of gifts in business and gives insufficient weight to eastern understanding of the importance of giving and receiving what many see as tokens of friendship and esteem.

Indeed, some might go further and argue that European and North American 'norms' have been foisted on the rest of the world and that there has been a consequent disregard of traditional approaches to 'oiling' business interaction as exemplified by, for instance, the Chinese concepts of *guanxi* (关系), which is perhaps best seen as 'friendship with implications of continued exchange of favours'¹⁴ and *renqing* (人情), which is human feelings and relationships, usually expressed by a token or gift.

However, despite the view taken by some that diversity is being disregarded on this score, the reality is that gifts and hospitality are vulnerable to misuse for the purposes of bribery or, at least, risk being seen as vulnerable to such misuse.

So, with cultural diversity in mind, what workplace principles should be adhered to? In short, all members of staff should remember that the more lavish the hospitality or expenditure, the greater the inference that it is intended to encourage or reward corrupt behaviour, such as the improper performance of a function, or, for instance, to influence an official. At the same time though, any court can be expected



Internationally, a key recognised plank of anti-corruption prevention is ensuring that gifts and hospitality do not become cloaks for bribery.

to consider the full factual circumstances and interpersonal dynamics in each case, including factors such as whether the hospitality or expenditure was connected with legitimate business activity.

On a practical note, consistent with both the governance limb of ESG and regard for societal norms, a business (whether a law firm or a corporate client) is likely to be assisted by applying the following tests in order to determine if gifts, hospitality or expenses are appropriate:¹⁵

- *Bona fide*: Is the gift made for the right reason?
- *No obligation*: Is any obligation or expectation on the recipient created?
- *No undue influence*: Will the gift be seen as intended for, or capable of, achieving undue influence in relation to a business transaction or public policy engagement?
- *Made openly*: Is the gift given or performed in secret and is it undocumented?
- *Legality*: Is it compliant with relevant laws?
- *Accords with stakeholder perception*: Would the gift be viewed unfavourably by stakeholders were it made known to them?
- *Proportionate*: Is the value and nature of the gift disproportionate to the occasion?
- *Conforms to the recipient's rules*: Does the gift meet the rules or code of conduct of the recipient's organisation?

- *Infrequent*: Is the giving or receiving of gifts particularly frequent between the giver and the recipient?
- *Documented*: Is the gift fully documented, including as to purpose, approvals given and value?
- *Reviewed*: Are the records of gifts, promotional expenses, etc., and the effectiveness of the relevant policy and procedures reviewed by management with a regular report to the board or a board committee?

It is apparent, then, that a business should have a clear policy relating to the gifts and hospitality it gives or receives, as well as in respect of expenses, in order to minimise the risk of it being alleged that any of those are used as conduit or pretext for bribery. At the same time, such a policy, and its accompanying procedures, should pay heed to issues of diversity and should not, for instance, impose an outright prohibition of gift giving and receiving or entertainment. Instead, it should be made clear that any gifts, hospitality or entertainment given or received by management or staff of a business must be reasonable in value, neither lavish nor extravagant, and must not be such as to pose a risk to the business's reputation. Moreover, experience from a range of jurisdictions indicates that having in place detailed rubrics along the following lines will provide clear understanding, but at the same time be culturally sensitive:

- Any gift should have a nominal value and be made or received solely for the purpose of legitimate business.
- A maximum acceptable value for gifts should be set and any gift exceeding that value should be required to be returned or surrendered.
- Gifts and hospitality should not be an unduly or inappropriately frequent occurrence.
- Cash or cash equivalents, such as gift cards, should never be given or accepted.
- There should be a requirement to obtain clearance for gift giving from the business's compliance officer/department.
- A register should be maintained of all gifts and hospitality offered or provided to, or requested by,

any business or other organisation, or an agent or intermediary thereof, in order to keep track of those gifts and hospitality.

- It should be ensured that policy include prohibitions on agents and intermediaries offering, giving, soliciting or receiving gifts or hospitality on behalf of the business.

Diversity and Inclusion and Investigating Staff Misconduct

Any internal investigation into staff misconduct will invariably engage the governance and society pillars of ESG, while often posing a challenge to the resilience of a business's diversity and inclusion policies and practices. With respect to the status of any staff member implicated in the conduct of the investigation, normally the most prudent approach is to suspend any employees concerned with immediate effect, pending the outcome of the investigation. However, an organisation should ensure individuals at the centre of such investigations are given a fair chance to respond to the allegations before the investigation is complete and, in so doing, regard must be had to inclusionary issues, including, of course, appropriate protection for the whistleblower.

A member of staff cannot be compelled to engage with an internal investigation and any business should be aware of the claims that may be brought against it in the event that an investigation results in the termination of their employment. Such claims may include instances in which the termination was 'unfair', or where a person was made to feel harassed and discriminated against by virtue of being the target of an investigation.

On a related note, whether through an investigation or through the normal course of employment, a business is likely to collect, retain, use and process personal data of applicants and staff (including temporary, casual or contract staff) who work, or have worked, for the business. From an ESG standpoint, both general governance and diversity and inclusion issues potentially arise, depending on the nature and extent of the information held. Personal data will be subject to data processing principles and protections, a particularly pertinent topic area currently, given the increasing importance of GDPR principles in the region, whether because of organisational links to the EU or presence in a jurisdiction, such as Hong Kong

or Singapore, where the regulator is encouraging adherence to GDPR standards.

Broadly speaking, a business should have in mind that it will most likely process personal data for the following purposes:

- recruitment and selection
- employment records
- monitoring at work
- staff members' health

Although requirements will vary from State to State, a business will be well-served by working on the premise that it can process and keep personal data of its staff provided that it meets the data processing principles and data is collected, disclosed, and used for specific purposes in the workplace.

A business does not need an individual's consent to keep certain data as part of its employment records. However, generally, it should proceed on the basis that it must obtain the staff member's consent to keep sensitive data in the employment/personnel record.

Looking Ahead

To conclude by looking ahead, it is likely that encouragement and incentives to implement ESG policies will continue to grow and that diversity and inclusion will inevitably become a key point of ESG focus for businesses in many sectors. At the same time, the debate can be expected to move beyond gender and race and to present those businesses working across more than one jurisdiction particular challenges, with different States reflecting and adapting to ESG in their national laws at different speeds.

Notes

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Lawyers, Judiciary, Bar Councils and Law Schools: What Can We Do to Promote Diversity and Inclusion?

This article is an attempt at analysing diversity and inclusion in the legal profession. The article examines the progress made for the cause of diversity and inclusion in the Judiciary and for lawyers. Towards the latter part, the article attempts to suggest ways to best address the issues of lack of diversity and inclusion including the roles that law schools and bar councils could play to champion the cause of diversity and inclusion.



Introduction

'Justice may be blind, but we all know that diversity in the courts, as in all aspects of society, sharpens our vision and makes us a stronger nation'.
– **William J Clinton**

As rightly pointed out by William J Clinton, diversity is the backbone of development and growth of any society, in all aspects. For any organisation, for any profession or for any country, diversity must be more than policies on paper. Diversity must be such that it adds value and strength to the nation.

A diverse and inclusive ecosystem in any profession earns the greater respect of society for respecting the unique needs, perspectives and potential of all the members of the society who are different as well as those that are alike.

In *Grutter v Bollinger* (2003), the Honourable Supreme Court of the United States of America had famously observed that 'access to legal education (and thus, the legal profession) must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the educational institutions that provide training and education necessary to succeed in America'.

This line of thought fits more aptly with Indian society. India boasts of its diversity, a diversity that can be seen in the wide spectrum of culture, religion, race, ethnicity and several other components across its wide expanse. Especially in a country like India, the lack of diversity and representation of the under-privileged and minorities is that much more critical in the legal profession because more often than not it is the legal profession that functions as the guardians of the fundamental and legal rights of the citizens of any country.

The legal profession is very peculiarly placed at the helm of social change. If a law brings change in society, it is the lawyer that plays the role of an architect and shapes the said cultural shift brought in by the Legislature. By way of an example, it is most interesting to note that the reason why most professions have today embraced a culture of diversity and the reason why most organisations are encouraging inclusiveness and championing the cause of diversity is a direct result of

the advocacy on equal opportunity in the workplace, it is a result of the advocacy on greater safety for women in the workplace. The landmark judgment of the Honourable Supreme Court of India in *Vishakha v State of Rajasthan* reported in (1997) 6 SCC 241 was the reason behind the renewed vigour in the cause for greater equality and safety for women in the workplace and holds greater representation of women across workplaces, deservedly, to its credit.

Decoding Diversity and Inclusion

Diversity and Inclusion are inseparable components of constructing a just and adequately represented ecosystem in any profession, more so in the legal profession. However, the concepts of Diversity and Inclusion are slightly different from each other. Diversity is the degree of representation of different classes/categories in an ecosystem or, in other words, diversity is a measure of the heterogeneity of any ecosystem. Inclusion, on the other hand, is a measure of how seamless and amiable that homogeneity is. In other words, inclusion is a representation of how well the different constituents of a heterogenous ecosystem are valued and integrated in the said ecosystem.

Thus, by way of an example, in the Indian legal system where there is ample presence of lawyers practising in different courts of the country belonging to different religions, different castes, etc., the most important aspect is whether the perspectives of certain groups only are valued in the Indian legal system or whether all opinions and perspectives regardless of the religion, caste, colour of the said lawyer carry equal authority and influence. If the answer to the latter is in the affirmative, then the legal system is ideal and is as diverse and inclusive as can be. However, if the answer to the latter is in the negative, then the Indian legal system, though amply diverse, is not inclusive.

Diversity in the Judiciary: First Step to Diversity in the Legal Profession

To address the question of greater diversity and greater inclusivity, it is imperative we first address the lack of diversity in the machinery that is entrusted with the function of delivering justice, that is, the Judiciary. The question of a diverse judiciary is one that has troubled the Indian legal system for far too long. The profession from across the spectrum, at different levels, seems to be sharing one coherent view on the lack of equal representation in the Judiciary, be it on the basis

of gender, race, ethnicity, religion, socio-economic background, etc. The fundamental reasoning behind seeking greater diversity is that it would ensure that justice is impartial, it would help prioritise decision making for the benefit of the previously disenfranchised sections of society. Even on paper, the degree of diversity of judiciary serves as a benchmark for its fairness and impartiality. This fairness and impartiality could in turn confer greater legitimacy to a vibrant democracy like ours.

Thus, the first step to ensuring greater representation and better inclusiveness of the Indian legal system is to make systemic efforts to make the Judiciary more diverse. It would be valuable to have representations of various marginalised sections of the society on the Judiciary because of their different lived experiences. Such greater representation would help the Judiciary in being more inclusive and in bringing alternative perspectives to interpretations of legislations, the most fundamental objective of which is the welfare of the society at large.

While addressing the cause of diversity in the Judiciary, the first and most prominent issue is that of gender diversity. Women form an important and considerable section of society and the issues they face on a daily basis with legal consequences are many. When the quantum of legal issues arising from the causes of women is immense, the Judiciary should also adapt to accommodate judges from all genders to adequately address them.

At present, the data regarding the representation of women in the Judiciary is disappointing to say the least. In the Supreme Court of India, only four of the 33 judges are women. In all the years of its independence, India has not seen even one female chief justice of the Supreme Court. The condition is no better in the High Courts and the District Courts. There are approximately only 11.5 per cent women judges in High Courts and only about 30 per cent of women judges in Lower Courts despite the comparatively large number of lower courts and advocates practising therein.

This concern has also been underscored by the International Commission of Jurists and Organisation of

Economic Cooperation and Development who believe in the role of gender balance in preserving courts' legitimacy as representative of the societies they serve, enabling courts to understand the real-world implications of their rulings and reducing the barriers to women's access to justice, such as the social stigma associated with reporting cases of sexual violence and abuse. In the said example of cases reported by women, although there may not be a great impact of a larger number of women judges on the bench insofar as the woman litigant's experience is concerned, it does ensure equality of opportunity for women in mammoth institutions like the Indian courts which are the guardians of democracy and the rights enshrined in its setup.

Apart from women's representation, greater representation of the under privileged, the backward castes and classes, of lawyers with different sexual orientations and of lawyers with disabilities, are all important causes

The problem of lack of representation of other marginalised sections of society in the Judiciary is further compounded by the lack of data and figures available to understand the abysmally low representation and the underlying issues for the same. For caste-based or religion-based minorities, as well as for judges suffering with disabilities, such data is hard to find, further highlighting how little attention has been paid to a problem that is so fundamental in ensuring greater representation and in turn better delivery of justice.

Concerns of Diversity and Inclusion for Lawyers

First, insofar as the representation of female practising lawyers in the legal profession is considered, despite the severe underrepresentation revealed by several reports such as the Tata Trust India Justice Report of 2020 or the Tata Trust National Fact Sheet for 2020, there are no systematic efforts to address the most basic issues such as a dearth of washrooms for women and this most basic problem exists for disabled lawyers as well as lawyers that do not identify with the binary norms of gender. This is besides the fact that other facilities, such as sanitary-napkin vending machines or nursing spaces, etc., are far from reality. Hence, the problem of lack of representation extends to every aspect of the legal system and is most evident in everyday examples.

While addressing the cause of diversity in the Judiciary, the first and most prominent issue is that of gender diversity.

The body entrusted with addressing the causes of lawyers are the Bar Councils of different states and the Bar Council of India. However, shocking statistics came to the fore by a study conducted by *Bar and Bench*, wherein it was revealed that only 2.04 per cent of State Bar Council representatives across India are women. To put the numbers into better perspective, out of 441 representatives of 18 State Bar Councils, only 9 are women. In fact, the Bar Council of India has no female lawyer representative at all. It is therefore most pertinent that the issue of greater representation of all underrepresented sections of society is taken up at both the policy and administrative levels.

There is also a dire need to address the issues of lawyers that have special needs by virtue of their disabilities. Besides ensuring greater representation, a very important aspect is also ensuring access of the facets of the legal profession to those that are unable to access it by normal means. This could be lawyers with visual impairments, lawyers with hearing impairments, etc. The most common disappointment that is narrated by lawyers with disabilities is the barriers they face at the workplace. It is assumed that their competence would be a cause of concern and they are thus denied meaningful opportunities. In a very popular interview, a visually impaired lawyer working with the Honourable Dr Justice DY Chandrachud as a law clerk voiced the issues that were so basic yet so exclusionary for lawyers with disabilities on a daily basis. He explained how access to documents filed in courts of law is the biggest issue since most documents were not OCR scanned and thus, despite being in a soft copy format, remain inaccessible to lawyers with visual impairments. Thankfully this issue was addressed by Honourable Dr Justice DY Chandrachud who mandated that all filings in the Supreme Court of India be done with OCR scanned documents. It is grassroot structural changes, such as mandating OCR scanning of all the documents filed in courts, that will go a long way in ensuring access to the legal profession to everyone.

Similar issues arise for lawyers with locomotor disabilities as well. The concept of video-conference hearings was alien to Indian courts. It is only due to the COVID-19 pandemic that a video-conference setup was introduced providing remote connectivity to the courts ensuring lawyers from anywhere in the country could join in the proceedings of the Court. This was also a boost to lawyers with locomotor disabilities.

Are Law Schools the Right Place to Promote Diversity at the Fundamental Level?

For one to become a legal professional, it is unquestionable that one must possess a law degree. Therefore, the formative stage of greater diversity and inclusion is not the institutions where law is practised, it is instead the institutions where legal education is imparted. It is only natural that if there is greater diversity and inclusivity in the institutions imparting legal education in the country, that such diversity and inclusivity will have a rippling effect in the years to follow and would reflect thereafter in the institutions where the legal profession is practised. This diversity and inclusivity will reflect not just in the lawyers that practise law, but also in the judges that adjudicate the complex questions of law.

Another critical issue while considering law schools as the breeding ground for greater diversity and inclusivity is that, more often than not, the cost of quality legal education in our country is beyond the reach of the pockets of the marginalised and the underrepresented. This gap must be bridged by State Bar Associations and or other organisations that could reach out to the underrepresented groups and encourage them financially and morally to take up a career in the legal profession. Such mentoring would go a long way in ensuring financial and emotional stability to these groups of underrepresented sections of the society. This mentoring is also essential since a mere increase in enrolment in law schools will not solve the larger issue at hand; these students must constantly be encouraged to remain in the law programmes they enrol into.

The quantum and the seriousness of this problem is easily made evident if one were to see the fees structures of the top law schools in the country or the composition of a batch of students in any academic year that take up the CLAT or the LSAT. Thus, in the absence of any additional action in making quality legal education more accessible, it would be difficult to bridge this gap of representation of the sections of society that need it the most.

According to a report by Increasing Diversity by Increasing Access ('IDIA'), more than 85 per cent of students who made it to the prestigious National Law Universities ('NLUs') were Hindus and, of them, more than 30 per cent belonged to the Brahmin community—the dominant Hindu caste. On the other hand, less than 4 per cent of the students were Muslim, who constitute 14 per cent of India's population.



This problem was also highlighted by Honourable Dr Justice Dhananjay Y Chandrachud, judge of the Honourable Supreme Court of India, while addressing a conference of the Association of the Advocates on Record of the Supreme Court ('SCAORA'). Justice Dhananjay Chandrachud went to the extent of admitting that 'At the entry level, you have CLAT for admission to National Law Schools. We have a very flawed idea of meritocracy and the test is largely exclusionary in nature. It is attacked on two premises—argument of equality and argument of efficiency'. He went on to add that the test puts candidates from a rural orientation at a disadvantage and that justice is not confined only to the urban areas, it is predominantly rural. Another issue with the entry-level tests is also the process of application which is only online. This restriction of mode of application to only online itself excludes a large section of society that has none to very poor access to the Internet and thus, in the real sense of the word, these entry level tests are not a true test of meritocracy as they fail to bring all the worthy candidates within the ambit of the entry level exams itself.

At this stage, it would be worthwhile to refer to a judgement of the Honourable Supreme Court of India in the case of *Vikash Kumar v Union Public Services Commission*, reported in 2021 SCC OnLine SC 84, wherein the Honourable Supreme Court held that equality is not only limited to preventing discrimination,

but also embraces a wide ambit of positive rights including reasonable accommodation. The principle of reasonable accommodation, the Court observed, is a facet of substantive equality. Therefore, in order to be more inclusive and diverse, it is essential that greater and reasonable accommodation is made for underrepresented sections of the society.

The onus for making quality legal education more accessible also falls on the Government and its offices. There must be greater initiative on the part of the Government to build law schools, to recruit high quality faculties, to ensure a quality curriculum and to aid the underprivileged, underrepresented sections of society in entering the legal profession. This aid is not merely monetary or financial, this aid would also translate into ensuring greater accessibility to quality elementary education as well as greater accessibility to the forums to take up the entry level exams to join law schools.

Conclusion

The cause of diversity and inclusion is one that is of abundant importance to society as a whole. Thus, it is imperative that every constituent of the society works to further the cause of diversity and inclusion.

First, the most important associations to address the needs of any lawyer are the Bar Councils of respective states who are statutorily empowered to address the causes of lawyers. Bar Councils were created to bring together all lawyers into a single category, allowing lawyers to practise all over the country. However, these State Bar Councils operate with very limited accountability. The structures of these Bar Councils and thus their functioning needs an overhaul in so far as the enrolment process and the assistance rendered is concerned.

Second, the newer ways of accessing justice and ensuring reach to justice that came to the fore during the unfortunate time of the COVID-19 pandemic, such as video-conference hearings, must be continued. This would ensure greater access to lawyers with locomotor and other disabilities, to lawyers that are predominantly in a caregiver's role for the elderly and to women who cannot travel far and wide on account of familial roles. It is thus only fair that the system of video-conference hearings

The cause of diversity and inclusion is one that is of abundant importance to society as a whole.

is continued in the future to ensure greater access to everyone alike in the legal profession. Additionally, even for hearings conducted physically, accessibility in terms of physical access to courts for lawyers with disabilities is a major concern. It is imperative that access to ramps and lifts in courts across the country are improved.

Third, structural changes are also required to be made for greater accessibility. For instance, legal databases such as SCC and Manupatra which are widely used in courts of law are not entirely readable for narrating software used by visually impaired lawyers. Hence, the legal databases must be improved accordingly to ensure that lawyers with accessibility issues can also access a wide range of databases.

Fourth, another possible way to ensure greater representation for the sections of society that are not adequately represented in the Judiciary could be reservations. However, a blanket provision for reservations always brings with it the looming question of quality and or the merit of the candidate. An easy answer to this could be that since the reservations being envisaged here are at the highest levels of the Judiciary in the country, these reservations could become operational once nominations have been sent to the collegium for judicial appointments. These reservations could operate much like the preferential treatment given on the basis of seniority for appointment as the Chief Justice of any court and would be limited to a fixed fraction of the total number of judges, thereby ensuring greater diversity without comprising on the quality or the merit.

That being said, reservations are inadequate unless they are accompanied with affirmative action and structural changes to encourage persons from all sections of society to take up the legal profession. Structural changes, such as those suggested in this article, must be enforced on a priority to encourage women, persons who do not conform to the gender binary, persons with disabilities, persons who are from backward castes or other marginalised sections of society to take up the legal profession.

Finally, it is most important that quality legal education in the country must be made available to students across the country without the enormous financial burden that it entails presently. To bridge this gap in financial capacity, it is important that the Government as well as the Bar Councils and senior members of the Bar step in to

help formulate policies and to render support wherever required financially and morally.

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Diversity and Inclusion: Law Firms' Need for a Leaf (and Push) from Corporate Clients

Law firms appear to trail some of their wish-list corporate clients in effectively implementing diversity and inclusion at the workplace. Whilst bar councils and industry associations globally have taken initiatives, a lot is left wanting in terms of meaningful D&I in the legal industry than paper policies. Apart from legal and ethical considerations, D&I comes with its own set of business advantages that may set a firm apart from competition, though a collective effort from law firms, regulators and clients is required to scale the culture to newer heights.



Diversity and Inclusion: Expanding in Scope and Relevance

Diversity and inclusion ('D&I') has been a large part of the discourse around healthy workplace management and corporate governance for many years now. However, the meaning and value associated with the concept has changed over time to transform from gender inclusivity alone to inculcating aspects of

sexual orientation, race, class, disabilities, as well as more localised conversations on caste, faith, region, ethnicity and their intersectionality. These practices have been seemingly less common within the legal sector, particularly in leadership positions.

Today, various movements aimed at altering the status quo have gained momentum, albeit more in some parts of the world than others. However, to see a systemic shift in the industry would require holistic reformation in various parts of the legal sector, including the laws, regulatory bodies, the Judiciary and bar councils, as well as law schools and corporate practices.

This article aims to trace the trends within the corporate legal workplace and understand the benefits in becoming a truly diverse and inclusive space.

Demographics

Demographic trends recorded through surveys over the last decade show that the progress in boosting under-represented minority groups at law firms has been on the lower side. A study on the practice in the West by the Minority Corporate Counsel Association ('MCCA') based on data collected from over 200 law firms found that the representation of racial and ethnic minority groups had increased from 14 per cent in 2010 to a mere 20 per cent in 2020.¹ These statistics worsen in terms of representation at leadership positions. While on the associate level the numbers have increased from 21 per cent in 2010 to 28 per cent in 2020, the study points to a mere 7 per cent to 11 per cent increase at partner level. Additionally, as per the results from the survey in 2020, there was a mere 4 per cent representation from the LGBTQ community, less than 2 per cent from military veterans and 1 per cent for persons with a disability.²

Similar studies by other bodies, such as the American Bar Association³ and PwC⁴, delve into questions of promotion and attrition beyond hiring and measure initiatives towards inclusivity, that is, the value and integration of minority perspectives, beyond mere diversity in representation. While these studies are reported to show a less than ideal progress towards meaningful D&I⁵ in the West, a look to the Asia-Pacific region reflects a rather blurry picture. Although there aren't as many extensive reports and surveys on D&I in the legal industry in the East, there are still calls for diversity from the client side and the need for contextualised policies to account for the deep cultural diversity within the Asia-Pacific region.⁶



Global Trends and Initiatives

To advance in the direction of an equal and sensitised society, the discourse on formally tackling issues around better D&I should be studied, and areas that may be holding back progress should be examined. Recently, various formats of initiatives by both the government and private entities have been taking shape to inculcate principles of equality within the legal industry. Bodies such as the bar councils and associations have taken a proactive role in formulating the infrastructure required to provide for course correction. The Bar Council in the United Kingdom has established dedicated reporting mechanisms and helplines to address issues around bullying, harassment and discrimination and provides specific courses and training sessions on equality, harassment and fair recruitment.⁷ It also conducts regular campaigns and programmes, as well as extensive resources to truly imbibe D&I in the industry.

The American Bar Association, America state bar associations and organisations such as the International Bar Association have also taken steps towards promoting D&I policies,⁸ responsibly reporting on best practices through surveys and studies⁹ and setting up dedicated commissions for various minority groups.¹⁰ Developing countries from the Asia-Pacific region also have formal rules governing legal practice, such as the Bar Council of India Rules and the Advocates Act 1961.¹¹ However, there is dire need for regulatory bodies to imbibe strong standards of D&I (including those persons with disabilities, members of castes and tribes, indigenous people, etc.) and set up mechanisms to promote and ensure their involvement across the legal industry specifically.

The West appears to have made particular progress through initiatives from the industry side, where not only have organisations been set up to assist with inculcating D&I policies at corporate firms, but also a culture of client-side accountability, where major players in the market including Facebook, Novartis AG and Coca-Cola have demanded diversity in the representation they receive from external counsel.¹² Although some of these initiatives have been met with criticism and pushback (as with Coca-Cola's policy mandating 30 per cent representation to be from diverse minority groups¹³), firms have shown measurable commitment towards D&I. Such commitment

is regularly monitored and updated through work done by organisations such as the Diversity Labs, which came up with the 'Mansfield Rules' in 2016.¹⁴ These rules 'measure whether law firms have affirmatively considered at least 30 per cent women, lawyers of colour, LGBTQ+ lawyers, and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions.'¹⁵

While a similar level of concrete steps are left wanting in developing countries, the conversation is building for the Asia Pacific region which is grappling with its own sets of difficulties in contextualising the D&I policies to address region-specific issues around specific gender norms, caste-based differences, conflicts based on faith, etc.

Organisations being set up locally to promote D&I in these countries have pointed out that merely imitating the West in matters of D&I without paying attention to the local societal context runs the risk of increasing instances of 'pinkwashing', where big corporate houses tend to capitalise on the surface positive measures taken towards diversity in LGBTQ+ populations to mask the negative reporting, without inculcating inclusivity in a meaningful manner.¹⁶

Apart from the obvious legal, moral and ethical considerations involved, there are numerous benefits in having a more diverse and inclusive workplace environment.

The Business Case

Apart from the obvious legal, moral and ethical considerations involved, there are numerous benefits in having a more diverse and inclusive workplace environment. With competition in the legal industry heating up across the globe, it is important to ensure that D&I is implemented effectively. Recognising such practical realities, a 'Business Case for D&I' has been devised by various organisations which points to how D&I could help firms attract wider business and gain a competitive edge in the market.¹⁷

It identifies the value of D&I in law firms to include the following factors:

1. *Recruitment of highly skilled staff from diverse backgrounds:* This helps bring diverse perspectives to the firm's practice for clients over a wide range of issues. Additionally, when an employee feels seen and heard at their workplace, there is a higher sense of belonging which results in loyalty and higher retention rates.

2. *Improved productivity and performance*: According to a study by Deloitte, employee outlook on the performance of the organisation may change based on how highly they perceive the organisation to be supportive of diversity, which in turn affects their productivity, and the firm's overall performance.¹⁸
3. *Wider perspectives*: A diverse workforce is likely to attract a wider clientele from different backgrounds and more likely to provide holistic solutions to the localised problems faced by the client. This becomes especially relevant in light of the trend towards client-side calls for diversity in representation from law firms.

Catapulting the Cause

D&I is essential, not only from a moral and philosophical viewpoint for the civilisational progress of society, but it is also necessary to ensure a healthy workplace environment where employees are motivated to perform better. The value of the business case for D&I needs to be recognised in the legal industry just as how it has been in the corporate sector, which seems ahead in terms of policy and implementation. Once market consciousness is built around the importance of D&I, adopting strategies, such as getting certification under the Mansfield Rule or other similar rankings and metrics, can prove monumental in the industry's progress towards equality and inclusion.

For a paradigm shift in the legal industry, however, the push may need to come from different stakeholders involved:

- *clients*, while onboarding law firms to ensure the best talent with the most diverse set of skills addresses their concerns;
- *bar councils*, through their own set of codes and policies, similar to the approach in ensuring inclusion and decorum within courts; and
- *law firms* themselves, in securing a competitive edge and differentiating in the market by showcasing their commitment to diversity and inclusion, just as much as cyber security and data protection seen in recent times.

Views are personal. Special thanks to Ms Avani Airan for her research and contribution to this article.

Notes

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³ Behnke et al, *2020 ABA Model Diversity Survey*, available at www.americanbar.org/content/dam/aba/administrative/racial_ethnic_diversity/aba/credp_2020_mds_report.pdf (last accessed 4 May 2022).

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¹⁸ 'Waiter, is That Inclusion in My Soup? A New Recipe to Improve Business Performance' May 2013, available at www2.deloitte.com/content/dam/Deloitte/au/Documents/human-capital/deloitte-au-hc-diversity-inclusion-soup-0513.pdf (last accessed 4 May 2022).



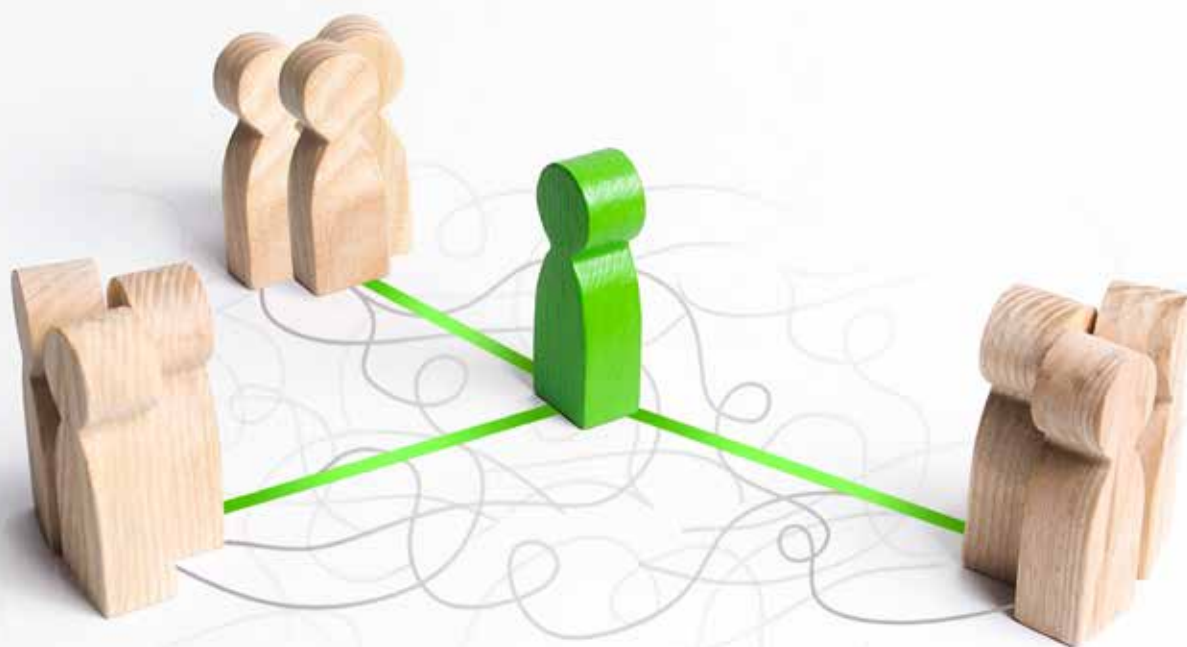
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Diversity and Intersectionality in International Arbitration: Where Do We Stand?

Diversity issues have been on the agenda of the international arbitration community for a long time, with a significant focus on gender diversity and increasing the involvement of female practitioners in various capacities. With the relatively positive outcomes achieved to this end, other aspects of diversity are gaining more and more attention today.



Introduction

The quest for more diversity is not new to international arbitration and has been on the agenda at various levels among the arbitration community for more than a decade. While in the beginning, the discourse primarily focused on gender diversity, advocating for more active efforts towards promoting female arbitration practitioners, other, not less crucial aspects of diversity, have recently come into play.

More efforts are now shifting towards the pursuit of such angles as age, nationality, ethnicity, race, socio-economic and cultural diversity. And this should not come as a surprise: for a long time sociologists have looked at discrimination from various perspectives, leading to the rise of the concept of intersectionality. As a sociological analytical framework, intersectionality considers how multiple factors interrelate and overlap with each other when it comes to discrimination and privileges, and the impact this may have on a particular individual in his or her life experience.

Looking at various dimensions of diversity in international arbitration broadens the lens and helps to equalise the system long criticised as a closed 'club'. In Investor-State Dispute Settlement ('ISDS'), intersectionality may be of particular importance as one of the potential long-term mechanisms to address the current legitimacy crisis of the system. More diverse perspectives in ISDS, reflecting national, ethnical and the political variety of actors, should contribute to more balanced and fair decision-making, enhancing the users' trust in the system and, to a certain extent, increasing its legitimacy.

Online Roundtable Discussion – 'Divided We Fall: Expanding Diversity and Fighting Intersectionality in International Arbitration'

Overview

On 24 January 2022, the Russian Arbitration Center at the Russian Institute of Modern Arbitration ('RAC at RIMA'), during its annual Winter Academy, hosted the roundtable discussion 'Divided We Fall: Expanding Diversity and Fighting Intersectionality in International Arbitration'.¹ The online event featured among its panellists Dana MacGrath, the President of ArbitralWomen (New York),² Veronica Sandler, the President of Women Way in Arbitration ('WWA') – Latin America (Buenos Aires),³ Elijah Putilin, R.E.A.L. (Moscow),⁴ and Veronika Burachevskaya, and was moderated by Elena Burova (Veronika and Elena are Co-Founders of Russian Women

in Arbitration (Moscow)),⁵ all speaking in their capacities as representatives of their professional groups.

The purpose of the discussion panel was to take a closer look at key areas of diversity in arbitration, such as gender, age, nationality, ethnicity, as well as socio-economic and cultural aspects. The speakers exchanged views on how these areas can interrelate in the modern world of arbitration, whether there can be any synergy between them and what the likely challenges are. Below is a summary of the key takeaways of that discussion.

Age Diversity in International Arbitration

The discussion started with a focus on age diversity. In international arbitration, as in many other fields, there is a common misconception that age defines experience and expertise. This manifests itself particularly when it comes to arbitrators' appointments: based on the statistics of some leading arbitral institutions, for example the SCC, the median age of women acting as arbitrators is 46 years.⁶ The picture is also somewhat unbalanced if we look at practising counsel: while there are many female arbitration lawyers at junior and middle levels, when it comes to a senior level, the amount of senior female practitioners in law firms, especially partners, significantly decreases.

The panellists shared their practical tips for young arbitration practitioners on how to obtain their first arbitrator appointments. As a starting point, a good way to gain valuable practical experience and insights into what it is to be an arbitrator may be acting as a tribunal secretary. If you want to be a tribunal secretary, you need to know and get in touch with the arbitrators who use tribunal secretaries or representatives of arbitral institutions. Be proactive: attend arbitration conferences and other events, network and express yourself, or otherwise you will not be known.

Some arbitral institutions keep the rosters of tribunal secretaries that are regularly updated (for example, Tashkent International Arbitration Centre)⁷ and young practitioners should get involved on these lists. What is also important from an institutional perspective is that arbitral institutions implement more policies for younger arbitrators, for example, institutions may promote or recommend young practitioners or academics when it comes to the appointments for smaller disputes. Further efforts to ensure the continued supply of qualified young arbitrators are very much welcomed.

Finally, it is necessary to emphasise the importance of peer-to-peer mentoring and networking. We think very highly of our predecessors and those who have succeeded in the field of arbitration, but we also have much to learn from each other, as we are experiencing the 'new normal' and a different world from those who started a decade ago. A decade ago, specialising in arbitration was not even on the radar for people who entered the legal profession and now it is something that people are introduced to in their early studies, as many have participated in the Vis Moot, Jessup and other moot courts.

Nationality and Ethnicity Diversity in International Arbitration

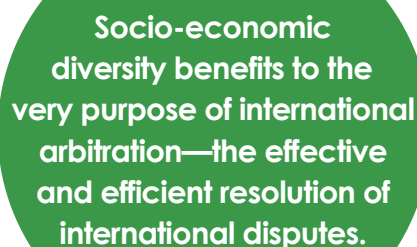
The very notion of international arbitration in itself implies that there is more than just one nation, there is more than one perspective in terms of regions and countries that are involved in transnational disputes. The UNCITRAL Model Law on International Commercial Arbitration prescribes (Article 11) that 'no person shall be precluded by reason of his or her nationality from acting as an arbitrator, unless otherwise agreed by the parties'.

The reality is that arbitration has become to a certain extent a closed club. How you progress your career in international arbitration in reality is different depending on where you are in the world. If you are not coming from a jurisdiction with a developed arbitration scene, it may be utterly difficult to enter the world of international commercial or investment arbitration. Collaborating across organisations that are dedicated to diversity is important to increase overall diversity in the arbitration space, both on a national and a regional level.

Perhaps the root of the problem of the lack of national diversity in arbitration is the lack of visibility of a wider segment of national arbitrators. If you are asked to name a few arbitrators, let us say from Russia or Argentina, on top of your mind there will be one, two or a maximum of five arbitrators, but again, they will be most probably very experienced senior arbitration practitioners. However, the problem is that those who are also well qualified, perhaps less experienced,

but still well equipped to act as arbitrators or tribunal secretaries in international disputes, are not that visible. The suggestion is to develop databases with arbitrators from different jurisdictions.⁸

If you have a look at, for instance, Singaporean lawyers traveling abroad, they are promoting Singaporean law and jurisdiction, the SIAC, but at the same time they are promoting themselves as arbitration professionals and it is beneficial to everyone. Practitioners should be closely involved in the law-making process and in developing the arbitration scene, in promoting their jurisdiction as a seat. This is something that can be done regardless of whether we are students, in-house lawyers, counsel, arbitrators, academics or members of arbitral institutions.



Socio-economic diversity benefits to the very purpose of international arbitration—the effective and efficient resolution of international disputes.

ISDS could be another good example to illustrate the importance of national diversity. Quite often we can see an investment dispute between a Western investor as a claimant and an African or an Asian state as a respondent, but a tribunal hearing such a dispute does not involve a single arbitrator from an African or an Asian state. The UNCITRAL Working Group III dealing with the ISDS reform mentioned in one of its papers that developing states tend to appoint arbitrators representing Western cultures, Europeans and North Americans, rather than to look to decision-makers from their own legal backgrounds and cultural traditions.⁹ Nevertheless, it is in the interest of justice, as well as fair and due process that the perspective of each side of the dispute, including regional and national aspects, are duly represented in the process of decision making.

Socio-economic and Cultural Diversity in International Arbitration

Socio-economic diversity benefits to the very purpose of international arbitration—the effective and efficient resolution of international disputes.

First of all, it benefits the arbitrators' decision making, as demonstrated by the social studies of how a group of decision makers behaves. A group of decision-makers from privileged backgrounds (who went to

similar schools or universities) would usually come up with the same answers and solutions, because they have had similar life experiences. While a group of decision makers from different socio-cultural backgrounds could spot additional risks and problems, so they could comprehend a problem in many ways and, in the end, would come up with a more task-oriented and balanced solution. This conclusion also applies to arbitral tribunals' decision making.

Second, when we talk about international arbitration, we talk about disputes involving many cultural aspects and traditions. A broader access of lawyers from various cultural backgrounds would only help to understand the disputed issues better. This problem is closely related to a more general problem of access to legal education and training. It is important to provide mechanisms enabling more lawyers from various socio-economic backgrounds to get access to university education and internships through scholarships, grants and other means of financial support.

Recently, over the past two years, with the COVID-19 pandemic, the world has changed a lot. There is a big negative side to that, but with that, it also brings new opportunities and opens some new doors. With the increase in the use of technologies, more people can now obtain access to virtual professional conferences, where they otherwise would not be able to travel and to profit from virtual networking and online internship programmes.

Concluding Remarks

By its definition, diversity should not require justification. It is something that is natural and inherent to many aspects of social life—the legal profession, and in particular international arbitration, should not be an exception here. However, what is required is to nurture a professional environment that would eliminate barriers to the inclusion of various perspectives, reflecting age, gender, national, ethnical, racial, socio-economic and cultural aspects of diversity. As VV Veeder succinctly put it, '[D]iscrimination is wrong; and, if allowed to continue, it will bring arbitration into disrepute'.¹⁰

As life changes, the diversity issue will evolve, adding new dimensions to the traditional discourse. Perhaps, diversity is not a destination, but a road that an arbitration community should be constantly tracking.

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Notes

¹ The recording of this online roundtable discussion is available at the YouTube channel of the RAC at RIMA: www.youtube.com/watch?v=fJMYu9ISNKY.

² Arbitral Women is an international non-governmental organisation bringing together women international dispute resolution practitioners, that was founded in 1993 and has grown exponentially since 2000. Its network is now close to a thousand strong, with members from over 40 countries. For more on ArbitralWomen see www.arbitralwomen.org/.

³ WWA brings together a multidisciplinary group of Latin American female attorneys, arbitrators and experts specialising in arbitration, who seek to promote the role and participation of women in the area, in search of processes that favor diversity and maximise its benefits, seeking to contribute to the equitable development of women in arbitration. More on WWA Latam: <https://wwarb.org/>

⁴ R.E.A.L. is a group of global lawyers practising in international arbitration and striving to achieve racial equality for arbitration lawyers. For more on R.E.A.L. see <https://letsgetrealarbitration.org/>.

⁵ RWA was founded in 2019 as an initiative supporting female practitioners in international arbitration and dispute resolution in Russia and beyond. For more on RWA see www.linkedin.com/company/russian-women-in-arbitration-rwa/.

⁶ SCC Review – Diversity in Arbitrator Appointments, 2015–2019, p 23, available at https://sccinstitute.com/media/1792483/rapport_diversity-7.pdf.

⁷ TIAC Roster of Tribunal Secretaries: see www.tiac.uz/tiac-roster-of-tribunal-secretaries.

⁸ As an example, see the recently launched Guide to Next Generation of Russian Arbitrators, available at <http://russianarbitratorsguide.com/>.

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Road to Acceptance: How the Legal Profession Has Contributed to Gender Diversity and Inclusion in the Philippines

Crunching the numbers, the Philippines has narrowed down the gender gap between men and women as it pertains to employment opportunities, welfare benefits and non-discrimination. This is made possible by the state's policies as expressed by its Constitution, as implemented through its accompanying statutes, and reflected by adhered treaties



Introduction

The Philippine legal profession has contributed to diversity and inclusion by the enactment of laws seeking to uphold human dignity and equality. Particularly as regards sex and gender, what began as mere policies to be pursued under the Constitution and statutes protecting workers from malicious employers, has transformed into a set of living laws that seek to protect all persons from gender-based discrimination.

Going Through the Numbers

The 2021 Global Gender Gap Report by the World Economic Forum provides an Insight Report on the Philippines' current state in terms of the parity between men and women. The Philippines is considered to have already closed its overall gender gap, being 78.4 per cent in completion.¹ Out of 156 countries² included in the Insight Report, the Philippines ranks 17th based on the Global Gender Gap Index rankings. The said metric measures the Gender Gap based on four factors, namely: Economic Participation and Opportunity, Health and Survival, Educational Attainment and Political Empowerment.³ Furthermore, the Philippines already closed at least 80 per cent of the gap in managerial roles.⁴ The Philippines is included as one of the few countries where at least 50 per cent of managers are women.⁵ In terms of senior roles, the Philippines has already closed the gap between women and men.⁶ The same is true for professional and technical roles in the country.⁷

To dig deeper into the metrics, the performance of the Philippines in closing the gender gap is considered commendable. Using the four factors of the Gender Gap Index, out of 176 countries the Philippines ranks as follows: 18th for Economic Participation and Opportunity,⁸ 34th for Health and Survival,⁹ 39th for Educational Attainment,¹⁰ and 33rd for Political Empowerment.¹¹ The Philippines is among only 18 countries that closed at least 79.5 per cent of the gap under the Economic Participation and Opportunity category.¹² For both factors of Health and Survival and Educational Attainment, the Philippines is considered to have 'virtually closed' the said two categories.¹³ When only categorising the countries per regional classification, the Philippines ranks 2nd out of 20 countries in East Asia and the Pacific, with New Zealand as the only country also within the region that surpassed the Philippines; New Zealand has an 84 per cent score as compared to the Philippine's score of 78.4 per cent.¹⁴

Relevant Laws

1987 Constitution

The 1987 Philippine Constitution safeguards equality among Filipinos regardless of sex. The Constitution provides that 'The State recognises the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.'¹⁵ Furthermore, Filipinas must be afforded with safe workplaces where they are not threatened by any danger to their well-being, to wit: 'The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realise their full potential in the service of the nation.'¹⁶ In the same breath, the LGBT community is afforded ample protection by no less than the Constitution itself, which states that 'The State values the dignity of every human person and guarantees full respect for human rights.'¹⁷ Based on these three provisions of the 1987 Constitution alone, the principle is well enshrined that there is no room for discrimination in workplaces.

International Conventions

The Philippines is a signatory to various treaties that ensure the welfare of women. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The Philippines also ratified the Convention on the Elimination of All Forms of Discrimination against Women. All these commitments further bolster the country's stand towards workplaces as not just being inclusive of women but also devoid of discrimination.

Labor Code

The Labor Code ('Code') of the Philippines also serves as a legal basis that ensures women and men are on an equal footing in the legal profession. The Code recognises that inherent differences in the genetic makeup of women and men such that it steps in to protect women from unjust treatment in the workplace. The Expanded Maternity Leave entitles women to a 105-day leave period with pay.¹⁸ On top of this is the option exercisable by a woman to extend the period for another 30 days without pay.¹⁹ This benefit in favour of women is available without regard to the woman being married or not or the child being legitimate or illegitimate.²⁰ To further protect women, the benefits thereunder cover not just pregnancy but also any emergency termination

of such and also miscarriage, with the caveat that for these two instances, only 60 days is provided instead of the 105 days initially mentioned.

In contrast, under the Paternity Leave Act of 1996²¹ men eligible to avail themselves of the benefits of the said law are only allowed seven calendar days of leave with full pay. Only the first four deliveries of the man's lawful wife with whom he is cohabiting are covered by the Paternity Leave Act.²² These qualifiers under RA 8187 are in stark difference to the less stringent prerequisites of RA 11210 in terms of when a woman can avail herself of the benefits thereunder. Another key difference is that under RA 11210, a woman is given the option to allocate up to seven days of the leave benefits to the father of the child whether or not the father is married to the woman.²³ See further *Protection of Women Employees in the Philippines* by Paulo N Rabanal.²⁴

Safe Spaces Act

Prior to the enactment of the Safe Spaces Act, the understanding of how sexual harassment may be committed and the means by which victims are afforded remedies were limited at best. The Republic Act No 7877 or the Anti-Sexual Harassment Act of 1995, only punished sexual harassment when committed in a work, education or training-related context. The offending party also needed to be a person with some authority, influence or ascendancy over the victim, such as a teacher, employer, manager or coach. Furthermore, the punishable acts were limited to the demanding, requesting or requiring of a sexual favour from the victim.

Local governments' measurements against sexual harassment were similarly limited, as most ordinances only sought to make infrequent the practice of catcalling and *panghihipo* in their respective territories.²⁵ For its part, the Civil Service Commission ('CSC') issued Resolution No 01-0940²⁶ to specify which acts qualify as sexual harassment in government offices. While Congress afforded a law to protect workers from being sexually harassed at the risk of their employment and local governments attempted to give a similar protection to such persons outside of the office, there was a clear need to expand the scope of protection.

Republic Act No 11313 or the Safe Spaces Act, was approved on 17 April 2019.²⁷ Commonly referred to as the 'Bawal Bastos Law', the said law protects all persons against all forms of gender-based sexual harassment

committed in streets and public spaces, in online spaces, in workplaces and in educational and training institutions. The law goes as far as to even recognise and punish qualified forms of gender-based street, public space and online sexual harassment, in all manners of commission such as catcalling, gender-based offensive slurs and cyberstalking.²⁸

Arguably, the law came about as a response to the need to protect people from sexual harassment outside of the office, classroom or any other related space, that may be committed by any individual with or without ascendancy'. Congress understood that there was a need to enact this law in pursuit of upholding the dignity of every human person and of guaranteeing full respect for human rights.²⁹ A read through of the law's provisions clearly shows Congress's understanding of the variety of ways a person may feel sexually harassed, at any given place at any given time and the urgent need to protect them from such harm.

The Safe Spaces Act punishes four types of gender-based sexual harassment, to wit: gender-based streets and public spaces sexual harassment; gender-based online sexual harassment; qualified gender-based streets, public spaces and online sexual harassment; and gender-based sexual harassment in the workplace. Generally, any person can commit gender-based sexual harassment under the law, with some key exceptions such as a public utility vehicle driver in his or her public utility vehicle.³⁰ The law even contemplates the commission of sexual harassment by minors, in which case perpetrators shall be dealt with by the Department of Social Welfare and Development.³¹

The manner in which the Safe Spaces Act expands the scope of protection against sexual harassment is not reflected solely in its punishment of acts outside a work-related setting. The law makes it a point of emphasis that its enforcement is a community-driven effort, thus requiring the participation of both public and private entities.

The passage of the law mandates local government units to pass their respective ordinances for the purpose of localising the application of the Safe Spaces Act.³²

In line with this primary responsibility, local government units are mandated to fulfil several duties, including the provision of measures to prevent gender-based sexual harassment, creation of an anti-sexual harassment hotline, and dissemination of a copy of the Safe Spaces Act in conspicuous places. Meanwhile, the Department of Interior and Local Government ('DILG') is tasked with ensuring the law's full implementation.

The law also tasks several bodies with enforcement duties by apprehending violators of particular forms of sexual harassment. For example, the Metro Manila Development Authority, the local units of the Philippine National Police ('PNP') in provinces and PNP's Women and Children's Protection Desk are designated as the implementing bodies for gender-based sexual harassment in streets and public spaces,³³ and are thereby granted authority to apprehend perpetrators. On the other hand, the PNP Anti-Cybercrime Group is the unit primarily responsible in implementing the provisions of the law as regards gender-based sexual online harassment.³⁴ Even select private establishments are expected to commit to a zero-tolerance policy against gender-based sexual harassment within their premises and to provide assistance to victims in coordination with local police authorities.³⁵

The question arose as to whether or not the Safe Spaces Act superseded and thereby repealed the Anti-Sexual Harassment Act. The Supreme Court had the occasion to clarify any confusion on the matter in the 2020 decision of *Escandor v People of the Philippines*.³⁶ Penned by Associate Justice Leonen, the Court opined:

The Safe Spaces Act does not undo or abandon the definition of sexual harassment under the Anti-Sexual Harassment Law of 1995. The gravamen of the offenses punished in the Safe Spaces Act is the act of sexually harassing a person on the basis of the [sic] his/her sexual orientation, gender identity and/or expression, while that of the offense punished under the Anti-Sexual Harassment Act of 1995 is abuse of one's authority, influence or moral ascendancy so as to enable the sexual harassment of a subordinate.



The 1987 Philippine
Constitution safeguards
equality among Filipinos
regardless of sex.

The decision recognised the concept of sexual harassment as being 'in the context of unwanted sexual relations imposed by superiors on subordinates in the workplace', as conceived in the United States as early as the 1880s and sustaining for as long as the 1970s. This understanding of sexual harassment is akin to that as defined under the Anti-Sexual Harassment Act of 1995. In contrast, the Safe Spaces Act seeks to penalise sexual harassment on the basis of gender, as the special law is founded on 'the recognition that both men and women must have equality, security and safety not only in the private, but also on the streets, public spaces, online, workplaces and educational ... and training institutions'.

The Safe Spaces Act does not serve to supplant the Anti-Sexual Harassment Act, but rather only expands the scope of protection of persons against sexual harassment, by expanding 'the concept of discrimination and protects persons of diverse sexual orientation, gender identity and/or expression'. Effectively, it benefits the people while protecting the concepts of diversity and inclusion.

Conclusion

An environment that promotes diversity and inclusion is one that needs protective safeguards in order to thrive. The enactment and implementation of supporting laws is the best way that the legal profession can contribute to the preservation and fostering of such an environment. Despite the presence of laws that aimed to protect certain persons in a work-related context, it is a testament to the legal profession, with Congress and other groups, that the more-expansive Safe Spaces Act was passed. May this be a sign that more diversity and inclusion-driven pieces of legislation are to come.

The protection afforded by Philippine laws to both women and members of the LGBT community paved the way for a more inclusive and diverse community of lawyers in the country. With the ever-changing needs and demands of clients in the legal industry, it is high time that minds coming from varying demographics collaborate in teams to come up with solutions addressing said clients' problems. Certain Philippine laws are protecting and aiding the growth of once-disadvantaged groups in the legal profession and, with these laws in place, these groups are ensured to continuously be more visible in the future.

Notes

¹ Global Gender Gap Report 2021 Insight Report, March 2021, p 38, available at www.weforum.org/reports/global-gender-gap-report-2021 (accessed 30 April 2022).

² *Ibid*, p 8.

³ *Ibid*.

⁴ *Ibid*, p 14.

⁵ *Ibid*.

⁶ *Ibid*, p 38.

⁷ *Ibid*.

⁸ *Ibid*, p 18.

⁹ *Ibid*, p 19.

¹⁰ *Ibid*, p 18.

¹¹ *Ibid*, p 19.

¹² *Ibid*, p 38.

¹³ *Ibid*.

¹⁴ *Ibid*, p 33.

¹⁵ The 1987 Philippine Constitution, Article II, s 12; available at www.officialgazette.gov.ph/constitutions/1987-constitution/ (accessed 30 April 2022).

¹⁶ *Ibid*, Article XIII, s 14.

¹⁷ *Ibid*, Article II, s 11.

¹⁸ An Act Increasing the Maternity Leave Period to One Hundred Five (105) Days for Female Workers With an Option to Extend for an Additional Thirty (30) Days Without Pay, and Granting an Additional Fifteen (15) Days for Solo Mothers, and for Other Purposes (RA 11210), s 3.

¹⁹ *Ibid*.

²⁰ *Ibid*.

²¹ RA 8187 – An Act Granting Paternity Leave of Seven (7) Days With Full Pay to All Married Employees in the Private and Public Sectors for the First Four (4) Deliveries of the Legitimate Spouse With Whom He is Cohabiting and for Other Purposes.

²² *Ibid*, s 2.

²³ RA 11210, s 6.

²⁴ Posted online on 17 November 2017, available at www.inhousecommunity.com/article/protection-women-employees-philippines/ (accessed 30 April 2022).

²⁵ Gender and Development, available at <https://pagcor.ph/gad/bawal-ang-bastos-bill.php#:~:text=In%20addition%20to%20penalizing%20acts,moral%20ascendancy%20over%20the%20victim.>

²⁶ www.pea.gov.ph/images/primages/pdf/CGS/CSC_Resolution_01_0940.pdf.

²⁷ www.officialgazette.gov.ph/2019/04/17/republic-act-no-11313.

²⁸ www.ombudsman.gov.ph/GAD/Laws%20and%20Mandates/IRR-of-RA-11313-Safe-Spaces-Act.pdf.

²⁹ RA No 11313, s 2.

³⁰ *Ibid*, s 6.

³¹ *Ibid*, s 7.

³² *Ibid*, s section 8.

³³ *Ibid*, s 10.

³⁴ *Ibid*, s 12.

³⁵ *Ibid*, s 5.

³⁶ G.R. No 211962.



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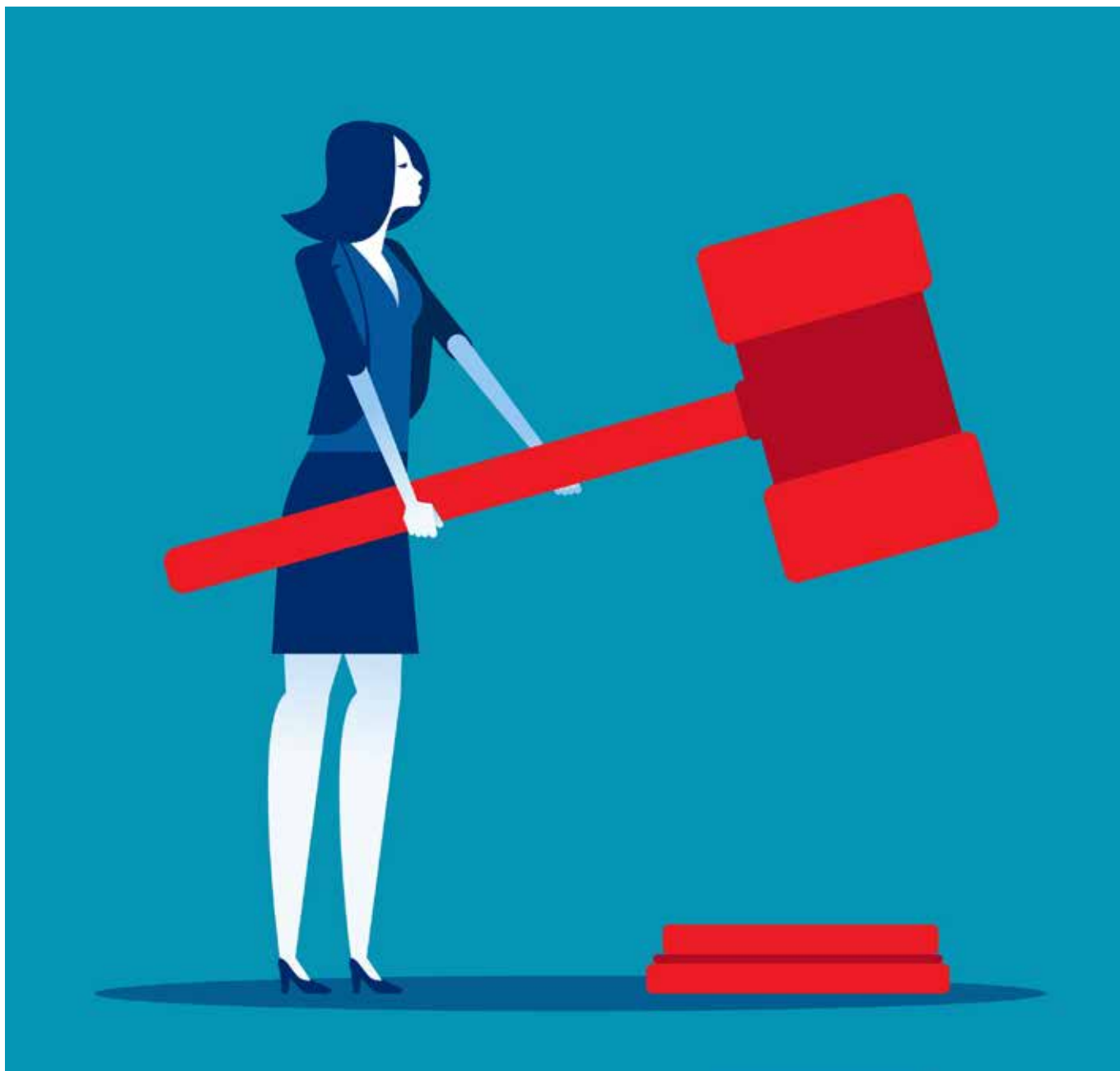
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Women in the Legal Profession

This article addresses the issues of diversity in the legal profession by presenting the current situation for women. The information in this article is based on global, European and Polish statistics. The article also presents activities to support diversity, as well as problems that still concern women in law.



Introduction

Diversity in the legal profession can be determined by various aspects, starting with gender and ending with age. One aspect worth analysing is the current position of women in the legal profession. This article takes into account the current data on women in the legal profession and conclusions related to the standard of the work of women in law. Nowadays, in various aspects and professions, more and more attention is paid to diversity. Of course, this should be seen as a sign of positive change and an opportunity for improving the professional situation of less-privileged groups.

Arabella's Dream—Female History of the Legal Profession

Arabella Mansfield went down in world history as one of the most remarkable women in doing what seemed impossible at the time. History shows that persistence and determination to achieve goals can forever change the position of women in professions then dominated by men. Arabella became the first lawyer in the United States to be allowed to take the Bar exam. In 1868, Arabella joined the Iowa Wesleyan faculty as a teacher of English and History. She and her husband studied law and together applied for admission to the Iowa Bar in 1869. Sympathetic examiners said that her exam answers gave 'the best possible rebuke for the allegation that women cannot qualify for law practice'. Mansfield became the first woman lawyer in the country, but she did not practise law, instead choosing to continue her teaching in the Iowa Wesleyan. During this time, she helped organise the Iowa Woman Suffrage Society. In 1879 she and her husband joined the faculty of Indiana Asbury University (later DePauw University). After a two-year period devoted to caring for her husband, who had suffered a nervous breakdown and whom she ultimately was obliged to place in an asylum, Mansfield resumed her career at DePauw in 1886. She remained there until her death, teaching at various times history, aesthetics and music history and serving as Dean of the School of Art from 1893 and Dean of the School of Music from 1894.¹

This story shows that the first female lawyer made the fight for women's rights a priority. It was difficult to talk about any differentiation at that time, but it should be assessed as a symptom of major changes in the legal profession as the beginning of diversity.

Woman in the Legal Profession—Actual Trends and Statistics

Starting with the situation in Europe, information from the CEE Legal Matters report 'CEE by the Numbers' published in

October 2021 will be presented. The report shows, among other things, the proportion of female lawyers to lawyers in 20 European countries (including Poland). According to the information contained in the report, it can be said that the overall statistics for women look very good, but worse as to the positions of partners/associates. In 16 countries, the number of women associates is over 50 per cent. There are three countries that do win this ranking though: Albania, Macedonia and Romania.

When analysing the situation of women in the legal profession in relation to diversity, it is worth considering and giving attention to additional factors. Particularly noteworthy are the results of the report entitled 'Visible Invisibility: Women of Color in Law Firms' published by the American Bar Association. The concept of 'colour' in this report, the authors define as Hispanic/Latina, African-American, Native American, Asian-American, and those from multiracial backgrounds—60 per cent women of colour who answered the survey were African American, 24 per cent were Asian American, 10 per cent Hispanic/Latin American, less than 1 per cent Native American/Native Alaska residents, and 5 per cent identified themselves as multiracial. The data showed that among lawyers: 29 per cent of women of colour reported missing the desired tasks because of race, 49 per cent of women of colour reported that they had been denied informal or formal opportunities contacts by race, 35 per cent of women of colour reported a lack of client development and relationship opportunities with customers by race. Further, 16 per cent of women of colour and 19 per cent of men of colour said they were denied promotion on the basis of race.

When it comes to the number of women in the legal profession for 2019, it is indicated overall that 36 per cent were women. We can observe a clear upward trend, as in 2010 to 2015 it was 31 per cent and in the 90s, 20 per cent. The greatest increase was seen between the 1980s and the 1990s as the quantity of women in the legal profession increased from 8 per cent to 20 per cent. Of course, any report can indicate data slightly differently, it is important, however, to obtain information whether there is an upward trend in diversity among lawyers.

Actions for Equal Rights of Women in the Legal Profession (Poland)

Using the example of Poland, we can observe a growing positive trend regarding the protection of diversity in the legal profession and taking steps to protect women's rights in the legal profession. Undoubtedly, the activities of the

Women in Law Foundation should be mentioned, which is the first initiative in Poland that aims to integrate the legal community through the exchange of knowledge and good practices. Collaboration within the Foundation provides participants with the opportunity to acquire new skills and in-depth insight into industry changes. The Women in Law Foundation prepared a report entitled 'The Situation of Women in the Legal Services Industry', which shows the statistics on female lawyers in Poland as of 8 March 2022. This article will present the results that reflect the current situation in Poland regarding the diversity of the legal profession. As for the basic information about the survey: 577 respondents took part in the survey, 76 per cent of whom work in law firms and 24 per cent in internal legal departments of companies. The study was conducted in the fall of 2021, the result of which was the preparation of a report. The main questions for which answers were sought were whether the fact of being a woman influences the chances of development in the legal services industry and whether it determines the course of a career or promotes difficulties in everyday work.

The report was divided into thematic sections, that is, professional career, violating borders and working environment. The career part was about workplace development and promotion opportunities, the violation of boundaries was about violating physical boundaries and mobbing, while the work environment was about organisational culture.

Moving on to the statistics collected on the basis of the report, as many as 85 per cent of the respondents experienced the reduction of their own competences due to gender, 71 per cent of women felt that being a woman had a negative impact on the decisions of their superiors regarding their professional career, while 49 per cent declared that they had problems with reconciling professional career with the private sphere. This means that, taking into account the indicated statistics, unfortunately the fact of being a woman still affects the course and professional development. The respondents were also asked if they had ever felt that someone was diminishing their substantive competences as experts, 15.7 per cent indicated that they never had felt that and 10.1 per cent felt that very often. Most women, as many as 37.6 per cent, indicated the answer 'sometimes'. It should be emphasised that, according to the report, the feeling of reducing competencies was not related to the type of company or its size and the length of service or the position held did not matter. Having or not having professional qualifications was

a factor that mattered. According to the study, diminished competences are felt the most by lawyers without any rights, as well as by those who have rights. In order to illustrate how the reduction of competences is felt by women in the legal profession, it is worth providing a quote from one of them:

"The things and ideas proposed by me were often not taken into account. They were even ridiculed. In conversations where only men and I were, it was often overlooked that I had something to say too. During breaks in meetings, typically male topics were started in such a way that I would not be able to express my opinion so as to embarrass me. More than once I was given the feeling that since I am a young woman with little professional experience, I should not speak."

Moving on to the next data presented in the report, over 70 per cent of the lawyers participating in the survey indicated that in their opinion gender has a negative impact on the decisions of their superiors related to their careers. More than half of women, especially those with the longest seniority and full entitlement, have experienced their gender causing disregard for promotion. In situations in which they are applying for a higher position in competition with men, they are therefore in a losing position. Promotion opportunities decrease significantly after lawyers reach middle-managerial positions. In the later stages of their careers, many women experience problems. This phenomenon is perfectly illustrated by, for example, the percentage of women sitting on company boards. Also, 25.9 per cent of women indicated that the challenge is to reconcile a career with the private sphere. Less than 40 per cent admitted that they felt the impact of maternity leave on their professional career, but 13 per cent said that they had not experienced such an impact. However, undoubtedly, the return from maternity leave causes lawyers to have to rearrange their everyday model of functioning.

The report also took into account the sensitive issues related to the breach of personal boundaries. Fortunately, the statistics show some positive news in this regard: 62.6 per cent of women have never experienced a violation of physical boundaries in their work environment and 21.5 per cent indicated 'rarely'. Of course, such cases should never occur in relation to women in a professional environment. In addition, the issue of harassment is a sensitive and painful area. Women who have experienced it often do

not want to answer questions related to it. However, the report shows that 15 per cent of the respondents indicated that they had experienced sexual harassment at work. Additionally, 1 per cent indicated that they experienced it often or very often. Fortunately, 85 per cent of women have never experienced such border breaches. It should be emphasised at this point that sexual harassment is not only about physical aggression. It often takes the form of a subtle condescension that can be confused with adoration. It also takes the form of judgmental chauvinistic statements, jokes or comments, which are intensified in situations of group social meetings.

When looking at the functioning of lawyers in the work environment, the focus was on, among other things, relations with internal and external clients and the support that women can count on in the workplace. The vast majority of women declared that they have experienced negative treatment due to gender by co-workers or clients. Such experiences are more common among women in Polish rather than in foreign companies and lawyers with average work experience. In the case of young people who are just starting work, there is a greater chance that they will be willing to accept the habits of the workplace. They can also be less critical of the organisation and less confident in their qualifications. Women with the greatest experience may accept this state of affairs as an element of culture that has existed for years. It was also decided to check whether the lawyers can count on the support of the law firm or the companies they work for. The answers to this question were varied. Slightly more women perceive such support (43 per cent) than do not (34 per cent). Lawyers with qualifications are less likely to experience such support. However, there is a large area for improvement of the situation, taking into account that as many as one third of the respondents do not feel any support. Half of the lawyers did not have access to mentors to support them in difficult situations; 31 per cent of the respondents could count on such help.

Therefore, the conducted research revealed a number of difficulties. However, it is necessary to answer the question whether women working in the legal profession perceive positive changes taking place in their professional environment. The perception and assessment of trends remain strongly diversified. A slightly larger group of women perceived them than did not see them. The situation is similar in the case of knowledge of the procedures related to unequal treatment. It is worth quoting a statement by one of the women who took part in the survey: 'There

are many women in the office who hold high managerial positions. I can see a huge positive change in the situation of women in the legal market (law firms).'

Summarising the current situation in Poland, an improving trend is visible, but this doesn't mean that the situation is good enough. Greater efforts should be made to raise awareness of the position of women in the legal profession and to promote support in their careers. First of all, one should remember the differentiating criteria when qualifying for promotion and use neutral factors such as the level of experience and qualifications. Negative treatment of women also occurred on the part of clients and it occurred more often in Polish companies than in foreign ones and it affected lawyers with average seniority. As far as the statistics of the number of women lawyers in Poland are concerned, the data indicated that women make up half of attorney-at-law and clearly dominate among the youngest attorneys and among trainee attorneys. It should therefore be assumed that, in terms of gender, the legal profession in Poland is diverse.

Notes

¹ Arabella (Belle) Babb Mansfield, First Certified Female Attorney in the United States, State Historical Society of Iowa.



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Author assisted by Anna Raczkowska.





Diversity and Inclusiveness Driving the Change to Equality

- Diversity and inclusion represent one of the main challenges law firms have been called to fight globally, on one hand to promote the undisputable values they represent and, on the other hand, to properly bring into the work environment of the law industry one of the most important (if not the most fundamental) principles which should inspire any interaction between people: equality.

After remaining bound to tradition for decades, the legal profession has suddenly evolved rapidly in the last few years. Among other aspects which have required larger and smaller firms to adapt, indeed, these were not only operational ones such as innovation and technology, but others going deep into the basic principles upon which the foundations of service delivery and governance of law firms are based, as well as what has already happened in any other industry.

As such, diversity and inclusion surely represent the biggest challenge which firms have been and still are facing: not only to be consistent with shared principles of equal rights and opportunities, but also to expand their vision and not miss the chance to amplify the importance of equality and respect in the legal and justice environment.

There is indeed a growing culture of inclusion, aimed at promoting, no longer silently but loudly, diversity (such being based on, for example,



positively influenced this trend, forcing families to stay together for long periods during lockdowns and inducing parents to share more equally the family burdens by helping each other to a more effective work-life balance. Moreover, the pandemic emergency has spread and strengthened the inclination of clients and lawyers to perform their duties not necessarily from a meeting room or in person. This has created a lot of flexibility, helping different genders

operating in the legal market to deal with each other on equal terms.

gender, nationality, orientation, disability, religion and any other form of diversity capable of being identified and, as such, protected). This way diversity becomes in the law industry (as in any other industry) further to being a valuable and undeniable right of the individual, a winning choice and key to success, enabling professionals, employees and entire firms to which they belong, to better contribute and participate in growth as a real added value.

In the legal profession, as in many other industries, diversity started with the growth of women as affirmed practitioners, setting the path to have them soon becoming leaders of the largest firms. To estimate how representative and important women are in the legal industry in central Europe, it is worth mentioning how the presence of women in the legal industry has been increasingly growing over the last 40 years in Italy. According to official data of the Italian National Bar, since 1981 women practising law in Italy increased from 7 per cent of the entire legal population to 15 per cent in the 90s, 30 per cent in 2001, reaching a peak of 48 per cent in 2021. The inclusion of women in the legal profession is however still in progress, in Italy as well anywhere in Europe. Indeed, the so-called 'gender pay gap' is a challenge which is far from being won, seeing that the remuneration of women is still significantly lower than average.

Among many obstacles to the solution to this problem, on top of the list is family burdens which tends to weigh mostly on mothers. However, COVID-19 has somehow

operating in the legal market to deal with each other on equal terms.

In addition to a cultural evolution, which has made much progress already but still has a way to go, legislators seem to have also identified laws and regulations as a key to accelerate equality and equal opportunities at the workplace, including, but not limited to, the legal industry. Just to mention a few, Italian law has developed (and is still developing) wide legislation to promote equality and equal opportunities and fight discrimination, expanding in detail the principles already set and protections already suggested in the Constitutional Chart. This has led to a series of legislative measures (some of which are still on the way to being discussed and implemented). Among others, the Equal Opportunities Code enacted in 2006 which has been recently amended and integrated by the Law Act No 162/2021. According to the Equal Opportunities Code, public and private companies are generally required to prepare a report every two years on the situation of male and female personnel in each of the professions and in relation to the state of recruitment, training opportunities, career progress and promotions, employee status (e.g., clerk, manager, executive, etc.) and remuneration status.

Moreover, as of 1 January 2022, the so called 'Certification of Gender Equality' has been introduced in order to certify the concrete measures and regulations drawn and implemented by employers to fill the gender gap, in relation to career opportunities in the company, equal

pay for equal tasks and anti-discrimination related (even indirectly) to gender (for example, in case of maternity).

Coming to the European legislation in progress, it is worth mentioning the draft directive submitted by the European Commission on 4 March 2021 and presently under examination and discussion by the European Parliament and of the European Council, which will be aimed at strengthening the gender-related equal pay and equal opportunity principles, also promoting transparency and enforcement mechanisms, among companies operating in the EU countries. Among other provisions, the draft directive states that respect for the right to equal pay between women and men requires employers to have pay structures ensuring that women and men are paid equally either for the same work or for different jobs of equal value and importance. In order to allow workers and employers to assess what constitutes work of equal value, this provision requires Member States to establish tools or measures to assess and compare the value of work in line with a set of objective criteria which include educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. This draft directive therefore provides the basis to assess whether workers can be considered in a comparable situation performing work of equal value and will help employers to better categorise and remunerate job positions based on objective, gender-neutral criteria. Moreover, the availability of clear criteria at a national level will help workers to establish a valid comparison and assess whether they are treated less favourably than others performing the same work or work of equal value or in any way comparable.

According to the draft proposal, another important tool to fight the gender pay gap is the warranty of 'Pay transparency prior to employment' and 'Transparency of pay setting and career progression policy'. These principles find application in the recognition of the candidate's right, prior to employment, to receive from the prospective employer, prior to the interview and without the need to request it, information on the initial salary level based on objective and gender-neutral criteria. In addition, these criteria must also be accessible during employment in order to ensure transparency

of career advancement parameters and allow all the individuals involved, irrespective of the gender, to monitor the implementation of equal opportunity and equal pay rights. In addition, according to the draft directive employers would not be allowed to ask prospective workers about their pay history in their previous employment relationships. This is to ensure that workers are in the best position to engage in balanced and fair negotiations regarding their salaries, approaching an employment opportunity and also to prevent any discriminatory economic treatment suffered in a previous employment from influencing future opportunities.

Further, in general, the draft directive is supposed to introduce the obligation for EU countries to guarantee, through both judicial and non-judicial measures easily accessible to the workers for the protection of their rights, that any worker who has suffered harm caused by an infringement of any right or obligation related to the principle of equal pay can effectively file and obtain full compensation for the harm suffered.

In conclusion, diversity and inclusion is acquiring a more and more important role in a cultural revolution which is progressing rapidly and finally spreading also in more traditional environments such as the legal profession. Local and international legislation and rules can accelerate and facilitate this transition and the law industry, which has apparently delayed acknowledgment and implementation of such principles, will lead the way for their enforcement.

**In the legal profession,
as in many other industries,
diversity started with the
growth of women as
affirmed practitioners.**



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Diversity and
Inclusion in the
International
Trade-Focused
Legal Profession:
Why It Is More
Than Just What
You Can See!



The murder of George Floyd at the hands of a white police officer in Minneapolis, Minnesota, USA nearly two years ago and the subsequent Black Lives Matter protests spurred many employers to implement new diversity and inclusion drives at their respective companies. That phenomenon has also been reflected in the legal profession, although it continues to remain one of the least diverse of any professions in the United States. Despite the increased emphasis on diversity and inclusion within the legal field in the US—and that importance should not be understated—diversity is much more encompassing than race, gender, national origin or religion. At its core, diversity is about bringing different and diverse perspectives to a seat at the table. This truth is even more relevant to international trade-focused legal practices given the myriad of cultural and political intricacies involved in international trade transactions that oftentimes require engagement of the challenge through a multiplicity of lenses as well with colleagues and clients with diverse outlooks, customs and from various regions of the world.

In the context of international trade-focused legal practice, diversity in perspectives is even more important in today's global trading environment than it has been in past years because the drivers of international trade are increasingly becoming more diverse. For example, an August-September 2021 issue of *Fortune* magazine contained their updated annual list of the world's largest publicly owned companies ranked by 2020 revenues (sales). Comparing that data with *Fortune* magazine's 1962 and 1994 data, one thing that stands out is the number of non-US and non-Western companies that increasingly were included in the lists in recent years. That changing trade shift has increasingly also been seen in the economic growth data of countries. From Growth Domestic Product ('GDP') and Purchasing Power Parity ('PPP') perspectives for example, prior to the Russian invasion of Ukraine, IMF data published in July of 2020, on the world's largest economies in PPP terms that compared economic growth between 1992 and 2024, showed that by 2024 the largest economies of the world will be those in Asia (2030 in GDP terms). That trend is not limited to economic growth or annual corporate revenues alone. The trend is increasingly also being reflected in other trade indicators such as Foreign Direct Investments flows. Conclusively, these data points show a shift in the centre of gravity in international trade from Trans-Atlantic to Asia-Pacific.



Clearly, in a shifting and more diverse geoeconomical and geopolitical business environment, representation of diverse perspectives is a very important factor that should not be undervalued. As an international trade lawyer with a diverse background that has also lived and worked in various regions of the world and has represented numerous domestic (USA) and international clients on a variety of international trade matters, I have had the opportunity to view these dynamics first hand. One of the many roles of an international trade lawyer is to serve as a business counsellor, who not only provides effective legal advice, but also honest business advice. The lens through which the business scenario needing a solution is viewed and assessed to arrive at an outcome that best serves the client's needs in such international trade matters are significantly strengthened by the lawyer's diverse life experiences. Although the ability to review and apply the law remains the same, it is these variances in life experiences that allows for thinking outside the box to find creative solutions for particular scenarios. In addition, assessing the challenge through

various lenses allows for varying levels of review of the facts, varying levels of consideration and empathy to provide a unique solution that is tailored for the identified scenario.

In a shifting and more diverse geoeconomical and geopolitical business environment, representation of diverse perspectives is a very important factor.

One such example where having a diverse perspective-added value to a client's business operation involved a US company that sought our assistance to assist its efforts with the construction of a palm oil refinery project in the small African country of Sierra Leone. As this was a greenfield investment and with the client having no experience in the construction or operations of an agribusiness, let alone experience working in an international business setting, this was a daunting task. This constraint was further exacerbated by the size of the foreign direct investment and the client's need to minimise the total cost of the operation. Bearing the above constraints in mind, under traditional legal problem-solving methodology, our advice would have focused solely on instituting solutions that had worked in the US without exploring other feasible solutions that were utilised

elsewhere around the world. However, based on our understanding of how the global supply chain, foreign exchanges and pricing works in various countries around the world due to my prior experiences living and working in Asia, we were able to work with the client to source almost all the equipment used in the construction project from Indian suppliers and from neighbouring countries to Sierra Leone. In addition to the sourcing of the equipment, where third-party consulting services were needed, such services were sourced locally and, when not available locally, were sourced from neighbouring African countries rather than relying solely on American and European consulting companies. These sourcing efforts significantly reduced the project's estimated implementation costs by 50 per cent, which allowed the company to add its additional expenditure, such as a solar panel system, to the facility.

Another salient example where having a diverse perspective added value to a client's business operation involved a Chinese company that hired sales agents in the US to sell its products to US farmers. Because the client primarily resided abroad, it struggled to motivate these agents to sell products without persistent supervision. As a result, the company invested substantial capital in its US operations, which did not realise noticeable returns. The company sought our assistance to assist it find a creative solution to that problem. Under traditional legal problem solving methodology, our advice would have focused solely on instituting solutions that had worked in the US or is typical of American business practices. However, due to our understanding of Chinese business culture and the nature of the business itself, we worked with the client to obtain information from all stakeholders to determine the company's sales goals and assess the challenges inhibiting its sales agents from reaching sales targets. Based on that analysis, it was determined that the agents' compensation structure was based solely on a flat-salary model, which was typical business practice for many small agrobusinesses in China who typically relied on a 'guanxi' relationship-building model to generate sales. As a result, the US agents had minimal financial incentive to pursue sales opportunities aggressively. Many viable solutions were explored through brainstorming with the client, such as terminating the agents and hiring new ones, finding a more reliable US-based manager or even shutting down the US operations entirely. However, given the nature of the business and the company's goals, the most viable solution, which had not been tried before by the

company, was to reduce the agents' base salary and add a commission component to the compensation package as is a typical US business practice. In addition to recommending a change in the agent's compensation structure, the agents were also required to use a GPS mobile application installed on their cell phones to self-monitor their movements during work hours at the office for 90 days to see if that additional factor positively impacted sales output. Although minor, these adjustments improved the agents' sales output and enabled the company to motivate its agents while overseeing its operations from China.

Although having diverse and different perspectives based on life experience is clearly a valuable asset when advising clients on international trade transactional matters, unfortunately only a handful of black US-licensed lawyers practise in the area of international trade law based on my observations and engagements with professional peers. While a lawyer's race, gender or other readily identifiable criteria do not necessarily or always translate to their application of their diverse and different perspectives when assisting clients that are faced with an international trade challenge, it is nonetheless self-evident that representation in any walk-of-life is a very important factor which should not be undervalued. That representation also is an additional reason that diversity, equity and inclusion are invaluable, particularly in the international trade-focused legal field.



Ngosong Fonkem
Page.Fura PC, Chicago, IL

Ngosong Fonkem is an attorney at Page.Fura, P.C., Chicago, a firm that provides companies of all sizes with business-practical representation on all aspects of customs and international trade law. He is a co-author of *Trade Crash: A Primer on Surviving and Thriving in Pandemics & Global Trade Disruption*.

IPBA New Members March to May 2022

We are pleased to introduce our new IPBA members who joined our association from March to May 2022. Please welcome them to our organisation and kindly introduce yourself at the next IPBA conference.

Argentina , Jorge Mayora <i>Allende & Brea</i>	India , Shankh Sengupta <i>TRILEGAL</i>
Australia , Jeremy Mark Holt <i>Hudson, Henning & Goodman</i>	Iran , Alireza Anabi <i>East Azarbaijan Bar</i>
Australia , Zoe Hu <i>Kingston and Partners</i>	Japan , Kota Hirakawa <i>Sowa Law Firm</i>
Australia , James Morrison <i>Peter & Kim</i>	Malaysia , Jun Chin Law <i>Christopher & Lee Ong</i>
China , Lingyi Pan <i>Jin Mao Partners</i>	Malaysia , Shermaljit Singh <i>Owee & Co</i>
China , Weiwei Chen <i>Yingxin Law Firm</i>	Philippines , Zelayne Morpe <i>Cochingyan & Partners Law Offices</i>
China , Peng Gu <i>Jin Mao Partners (Qingdao Office)</i>	Philippines , Elaine Patricia Reyes-Rodolfo <i>Angara Abello Concepcion Regala & Cruz Law Offices</i>
China , Yun Xia He <i>Winners Law Firm</i>	Philippines , Adrian Jonas Tagacay <i>Tagacay Law</i>
China , Liu Jialing <i>Shanghai Jin Mao Partners Law Firm</i>	Philippines , Patricia Tysmans-Clemente <i>Angara Abello Concepcion Regala & Cruz Law Offices</i>
China , Biyun Xu <i>Jin Mao Partners</i>	Singapore , Swee Siang Boey <i>RPC Premier Law</i>
China , Jie Yan <i>Guangzhou Arbitration Commission</i>	Singapore , Yuankai Lin <i>RPC Premier Law</i>
China , Wenjie Zhang <i>Jin Mao Partners Qingdao Office</i>	Singapore , Alvin Tan <i>Schellenberg Wittmer Pte Ltd</i>
China , Xiaojian Zhang <i>Guangzhou Arbitration Commission</i>	United Arab Emirates , Hari Krishna <i>Nimble Legal</i>
China , Yongmei Zhang <i>Shanghai Jinmaokaide Law Firm</i>	United Kingdom , Suzan Kurdi <i>RPC</i>
France , Laure Comparat <i>FERAL</i>	United Kingdom , Samantha Rowe <i>Debevoise & Plimpton</i>
India , Rohan Cherian <i>Assentio Legal</i>	United Kingdom , Arvinder Sambei <i>Brooke Chambers</i>
India , Samar Singh Kachwaha <i>Chambers of Samar Singh Kachwaha</i>	United States , Gregory Casas <i>Greenberg Traurig</i>
India , Hossain Misum <i>Lincoln Legal Chambers</i>	United States , L. Scott Oliver <i>Greenberg Traurig LLP</i>
India , Sumit Roy <i>Claritas Legal</i>	

Q&A with New IPBA Office Holders



Michael Chu
Vice-President

What was your motivation to become a lawyer?

I graduated university with a mechanical engineering degree in the 1990s. But as the end of my time at school approached, I realised that a career as a specific kind of engineer seemed to be limiting in terms of the breadth of technology that I worked with. While engineers frequently get a variety of projects to work on, they tended to be limited by the technologies under which they specialised. Then a friend of mine mentioned that law school was a good option because the field of patent law and other areas of intellectual property law was really growing. I visited with a patent lawyer and learned that the variety of technologies that each particular lawyer worked on was vast—it was so interesting and there were so many possibilities in terms of areas you could potentially specialise in, for example, litigation, international licensing, patent prosecution, among many others.

Could you tell us more about your areas of specialisation?

In my more than 30 years of practice at two large law firms, I have developed significant experience in several areas. For example, I spent many of my early years prosecuting patent and trademark applications for a variety of technologies, including consumer appliances, mobile networks, medical devices and chemical processes. After that, I began to specialise in areas of litigation, first focusing on appeals of large cases to the Court of Appeals for the Federal Circuit, then federal district court cases throughout the country, and then cases before the International Trade Commission. Over the past 12 years or so, I have focused on international cross-border disputes, litigation and transactions, particularly in Asia.

What are the most memorable experiences you've had thus far as a lawyer?

Taking the lead witness in my first patent case with a team here in the Illinois Federal Court—it related to portable air mattresses. This was in the early 2000's.

What are your interests and/or hobbies?

I am actually an experienced portrait photographer and filmmaker. I have produced dozens of portrait and film projects for various non-profit organisations, including High Jump, the Baltimore Leadership School for Young Women, the House of Ruth and the Latin School of Chicago. I am also a photographer for Flashes of Hope, an organisation dedicated to creating powerful and uplifting portraits of children fighting cancer. I have a portfolio site at www.mikesrightbrain.com.

What is the latest non-legal book you've read?

The Wind-Up Bird Chronicle, by Haruki Murakami. I am a huge Murakami fan.

Share with us something that IPBA members would be surprised to know about you.

I am an avid runner and I used to be a triathlete. I have completed 19 marathons and two Ironman Triathlons

Do you have any special messages for IPBA members?

Getting involved in the IPBA is one of the most rewarding things I have done for my career. I came to my first conference in Hong Kong in 2002, and made lifelong friends there that I continue to stay in contact with today. We get together, we exchange work, we see each other at least once a year at the IPBA conferences, as long as there isn't a pandemic! I hope that all of you can engage with the organisation as much as I have.



Gmeleen Tomboc

Deputy Committee Coordinator

What was your motivation to become a lawyer?

Ever since I was young, I've always wanted to be a lawyer for some reason. Even when I struggled in my first year of law school, it did not cross my mind to quit.

Could you tell us more about your areas of specialisation?

I work on capital market and M&A transactions in the APAC region as an in-house counsel at Credit Suisse.

What are the most memorable experiences you've had thus far as a lawyer?

I coordinated pro bono projects for my previous firm. One of my projects was to review the construction contract of a hospital in a rural part of Indonesia. It may have seemed like just another contract but it was very fulfilling to use my skills as a lawyer to help bring health services to that area.

What are your interests and/or hobbies?

I watch a lot of documentaries about wildlife and I go to the zoo every month (of course, it may also be because I purchased a zoo annual pass and I feel that I should make the most of it).

What is the latest non-legal book you've read?

I've just re-read *How to Win Friends and Influence People*, by Dale Carnegie. My mother gave it to me when I was a teenager and I read it every year to brush up and assess how I've applied the principles in the book over the last year.

Share with us something that IPBA members would be surprised to know about you.

I am the type of person who plans vacations using spreadsheets.

Do you have any special messages for IPBA members?

The IPBA is always open to new ideas—if you have an idea for a webinar, session or social event, feel free to reach out to your committee chair.



Sebastian Kuhl

Membership Committee Vice-Chair

What was your motivation to become a lawyer?

I never wanted to be a lawyer. I worked in a trading company for some years doing import/export business of canned food and consumer goods and then the brother of my godmother introduced me at that time to a very well-known German corporate and M&A lawyer who told me for three hours what he was doing. Thereafter, I applied for a job as an associate in a corporate firm in Hamburg. I really enjoy being a lawyer. After 20 years as a lawyer, I tried again a different activity and became a partner in a PE and investment company, but I returned to law after five years and I am happy to be back. We

always have to work with people, which come from different cultures and have different legal backgrounds, we think about intellectual and real problems and we play with words. No day is like the last one and you are nervous until the transaction has been signed and sometimes until it is completed. What more can you wish for?

Could you tell us more about your areas of specialisation?

For nearly my whole career I have done corporate and national and international M&A work as well as project finance, in particular asset finance. For the last seven years I did a lot in the financing of rolling stock (freight wagons). You will not believe how many international private law problems may be linked to the purchasing and financing of a simple freight wagon. And (a different topic) how interesting it is to finance defence projects.

What are the most memorable experiences you've had thus far as a lawyer?

I have so many memorable experiences, but most of them are linked to certain clients or to certain

transactions and not always very legal. One very early experience had been a litigation case I was working on. I was a very young associate at that time, it must have been at the end of my first or during my second year. We represented a transport company and had a claim for damage. The details I do not remember. I knew my arguments and my legal view had not been in line with the views of any court in comparable cases. I had informed the client accordingly and we expected to lose the case. And then we won the case, and even more, the defendant did not appeal against the decision. I was so astonished that I did not know what to say. Even so, it had been a small case, I learned the lesson: Never give up. Judges are always surprising.

And I learnt two more lessons: I do not like litigation because the views of judges are in many cases not predictable. And I learned that the wording in a contract is the most important thing, it always must be crystal clear so that there is no room for arguments and disputes can be avoided (unless you deliberately want to have it unclear ...).

What are your interests and/or hobbies?

I have a small sailing boat with a friend and we sail on the Baltic Sea. I always miss sailing events at the Annual Meeting of the IPBA! And I used to play hockey (but not ice hockey! Only hockey on Astroturf—what the Canadians call women's hockey!) and I jogged as well. The results are damaged knees ... Therefore, today I only sail from time to time and not often enough.

What is the latest non-legal book you've read?

I always read at least two books at a time. As I come home too late in the evening for reading, I normally read early in the morning. My last books are *City Gate, Open up: A Memoir*, by Bei Dao and *Sur l'eau*, by Guy de Maupassant (I think the English title is 'Afloat'), and *Cevdet und seine Söhne*, by Orhan Pamuk (I think the English title is 'Cevdet Bey and His Sons') and *Ein Sommer in Baden-Baden*, by Leonid Zypkin (The Russian title is 'Лето в Бадене' and the English title is 'Summer in Baden-Baden'). And many more. As you can see, I like reading! More than watching movies on TV.

Share with us something that IPBA members would be surprised to know about you.

I asked my youngest son what to answer. He suggested to answer that I can be friendly. Besides this, I have crossed the Atlantic in a sailing boat in 1979 (when I was 23) to participate in the Cape Town–Montevideo race and we arrived second. I lived in Shanghai in 1981 and 1982 (when I was 25 and 26) to open up and head the representative office of a German trading company. The first registered office in Shanghai at that time. And I love cooking and cook every weekend for friends and/or family.

Do you have any special messages for IPBA members?

Be tolerant and open to other cultures and other legal systems! Use the possibility to meet people from other cultural and legal backgrounds and try to understand the different cultural problems and the different views on legal issues! The IPBA offers a perfect platform for this!



Olivia Kung
Publications Committee Vice-Chair

What was your motivation to become a lawyer?

When I was five years old, one day my father came home with a big bag and asked me to stand in front of a mirror. He took a court dress out of the bag and put it on me and asked me whether I liked the look. I saw my

reflection in the mirror and even though the court dress looked huge on me, I liked it. My father explained to me that was a lawyers' 'uniform' and if I wanted to wear it when I grew up, I would need to study hard to become a lawyer.

At that time, I made my decision, purely based on appearance. However, when I became a teenager, I started to do internships in different law firms, and I realised that apart from 'the look', legal work itself was exciting and intellectually stimulating. At 17 years of age, I decided for the second time that I wanted to become a lawyer. This time my decision was based on the substance of the occupation, not just 'the look'.

Could you tell us more about your areas of specialisation?

I qualified as a solicitor in the UK in 2003 and Hong Kong in 2012. I have been specialising in contentious matters since my admission. The majority of cases I have worked on have been commercial litigation cases. Apart from litigation, I also do arbitration and I am a Fellow of the Hong Kong Institute of Arbitrators. I was appointed as an Arbitrator for Guangzhou Arbitration Commission in 2020.

What are the most memorable experiences you've had thus far as a lawyer?

I co-founded Wellington Legal, a law firm in Hong Kong, in 2017. Since the birth of my firm, every day becomes a memorable experience.

What are your interests and/or hobbies?

I enjoy organising events and doing creative and artistic

projects. Early this year, I decided to turn my passion into business, and I started a PR & event company.

What is the latest non-legal book you've read?

100 major events in Chinese History, by Annie S C Wu.

Share with us something that IPBA members would be surprised to know about you.

I was a child actress.

Do you have any special messages for IPBA members?

IPBA is much more than a business networking organisation. It is about building long-lasting friendships; sharing knowledge and experiences; and finding ways to improve the legal industry.



What was your motivation to become a lawyer?

When I started studying, there was the widespread opinion that with a law degree you could make a career both in traditional legal professions and in business. That seemed like a good starting point to me at the time. Then, at the end of my university education, it was clear to me how much the education was geared towards the legal professions, and among these, only the profession of lawyer came into question for me. I specially appreciated the autonomy associated with the profession and also the entrepreneurial opportunities.

Could you tell us more about your areas of specialisation?

My areas of expertise are corporate, banking and capital markets law. It is precisely at the intersection of these areas of law that challenging questions and cases arise time and again and where lawyers with experience in all three areas of law are in demand. Most cases involve transactions or disputes, but often

also guidance regarding the regulatory environment and the design of business models.

What are the most memorable experiences you've had thus far as a lawyer?

Among the memorable experiences are certainly many cross-border mandates, in which one has worked closely with people from other countries and cultures. Also, a very special experience was the appearance before the German Federal Constitutional Court in a case involving corporate and capital markets law. It was one of the very few cases in history in which the German Federal Constitutional Court scheduled an oral hearing to deal with a case from the aforementioned areas of law. The experience was made complete by the fact that the court ruled in favour of my client.

What are your interests and/or hobbies?

I love travelling and am very interested in the history and culture of other countries. Of course, this also includes tasting all kinds of local food.

What is the latest non-legal book you've read?

I usually read several books at the same time, that is, in parallel. The disadvantage is that I rarely manage to read a book from beginning to end in one go. Among the books, I recently read was *The Five Percent*, by Peter T Coleman. The book deals with the question of how to find

solutions to seemingly impossible conflicts. The book was first published in 2011, but is very topical again right now.

Share with us something that IPBA members would be surprised to know about you.

I grew up in Peru, where I was born. Therefore, I always enjoy meeting and exchanging views with the Latin-

America Group of the IPBA and its members from Peru and many other Latin-American countries.

Do you have any special messages for IPBA members?

Get involved and find out what drives other people professionally and personally. Every new contact will enrich your life!



Emerico O. De Guzman

JCM, Philippines

What was your motivation to become a lawyer?

Honestly, it was a choice between law and medicine, having taken an undergraduate course (BS Psychology) which qualified me for the latter. Convenience and the possibility of studying and working at the same time pointed me to law. Upon graduation and as I grew in legal practice though, I felt a sense of fulfillment in being able to somehow bring about industrial peace and progress in the business community.

Could you tell us more about your areas of specialisation?

I had been exposed in the first five years of my practice to the main fields of law: litigation, employment, intellectual property and corporate practice, including mergers and acquisitions. Eventually though, I concentrated on labour and employment law and appellate litigation practice.

What are the most memorable experiences you've had thus far as a lawyer?

I cannot forget the excitement of negotiations involving either asset purchases or collective bargaining, appearing in our appellate courts as well as being involved in significant or trailblazing matters. An example is the first full privatisation exercise of a government

utility firm, the biggest Philippine water utility company, operating in the Metro Manila area and seeing it progress through the years, garnering awards, increasing its value, and enabling it to render much improved water distribution services to millions of Filipinos.

What are your interests and/or hobbies?

I am fond of playing golf when I happen to have some free time; otherwise, I might be travelling abroad with my family.

What is the latest non-legal book you've read?

Success Built to Last, by Jerry Porras, Stewart Emery and Mark Thompson.

Share with us something that IPBA members would be surprised to know about you.

While waiting for the results of the Bar exams, I was challenged to take the very competitive Foreign Service Officer (FSO) exams given annually by the Philippine Department of Foreign Affairs to more than a thousand applicants. I was pleasantly surprised to be one of about 10 examinees who passed the written examinations and interviews in 1983. However, I decided to eventually accept an offer to join a leading law firm in Metro Manila instead.

Do you have any special messages for IPBA members?

The practice of law is truly becoming a global endeavour as global trade and supply chains increasingly cut across multilateral jurisdictions. Being part of a strong and dynamic international bar association, as the IPBA, can only be an asset in one's toolbox for legal practice. Every IPBA Member must therefore get actively involved in the many laudable projects of the Association.



Pimvimol (June) Vipamaneerut

JCM, Thailand

What was your motivation to become a lawyer?

It was a personal motivation—I witnessed a close family member get wrongfully defrauded, which resulted in severe financial impact. From that moment on, I was motivated to ensure that I had the skills, knowledge and competence to not only protect my family members, but also to advise others to protect themselves.

Could you tell us more about your areas of specialisation?

I am a partner and the head of Tilleke & Gibbins non-contentious employment law practice. This means that I undertake a full suite of non-contentious employment law work.

What are the most memorable experiences you've had thus far as a lawyer?

While I am now an employment lawyer, my first area

of speciality was as a maritime lawyer. Part of my job involved getting onboard the ships and investigating damage, etc., for maritime claims. I even had to board a ship that caught on fire in 1995! It was very adventurous, and I am very fond of those memories.

What are your interests and/or hobbies?

Shopping, singing and eating good food and drinks!

What is the latest non-legal book you've read?

A Thai history book about the Thai Royal Family.

Share with us something that IPBA members would be surprised to know about you.

I was initially a maritime lawyer and that I am a good cook!

Do you have any special messages for IPBA members?

I have been involved with the IPBA since 1996. I have made many wonderful memories with the IPBA and have also made many good friends during my membership period. I would highly encourage everyone to continue their membership with the IPBA until the end of their practice.



Jean-Claude Beaujour

Chair, Aviation & Aerospace
Committee

What was your motivation to become a lawyer?

I have always wanted to study law. To me, the law symbolises justice in a world where injustice seems to predominate. It is an essential instrument for society, as it conveys respect for the founding values of humanity, such as freedom and equality. Becoming a lawyer also meant having the chance to participate in the enhancement of the law through my work with legislators and judges.

Could you tell us more about your areas of specialisation?

The aviation sector is particularly rich in terms of the

technical and technological areas covered, as well as the geographical areas. The legal challenges are just as rich, involving private law (product liability for instance) but also international public law (regulation/traffic rights). My practice includes both litigation and negotiation. One particularity of aviation law is that it gathers many aviation enthusiasts whose passion and knowledge of the industry make them even better lawyers. They understand the financial, environmental and technological challenges of their clients and are committed to finding solutions that benefit the industry as a whole. I feel there is a true sense of community among aviation lawyers.

What are the most memorable experiences you've had thus far as a lawyer?

A great satisfaction when I acted as a mediator and succeeded in avoiding the lockdown of a medium-size French company which was litigating with its client, another company. The employment of several hundred employees was safeguarded when both companies

reached an agreement. This is why I am an ardent promoter of mediation.

What are your interests and/or hobbies?

I love the sea and sailing. To be on a boat, whether it is a catamaran or a sailboat, always represents for me a moment of escape and experimentation of both my human condition and my relationship with the natural elements. One of the greatest moments in my life was crossing the Atlantic on a cargo ship with its 30 crew members.

What is the latest non-legal book you've read?

The Old man and the Sea, by Ernest Hemingway. It is all the wisdom of our humanity in a few hundred pages, in poetic language.

Share with us something that IPBA members would be surprised to know about you.

The Covid crisis and the successive lockdowns forced me to reconsider my way of life and encouraged me to

dedicate more time to my hobbies. Having been a pastry enthusiast since childhood, I thus started taking pastry classes with a young chef.

Do you have any special messages for IPBA members?

More than ever, the diversity and excellence of the profiles of my colleagues within this organisation delights me. IPBA members form a great community composed of more than 30 nationalities with the common ideal of bettering judicial systems by working together and learning from each other. I am very honoured by the mandate that has been entrusted to me and I look forward to continuing my predecessor's work by supporting a more stable and sustainable aviation industry.



Manas Kumar Chaudhuri
Co-Chair, Competition Law Committee

What was your motivation to become a lawyer?

Legal knowledge has always been an additional strength for any administrator in India. While working in the Ministry of Defence in India in the early eighties, I found that a formal law degree would benefit me in better handling complex issues. I joined Law School much after I completed my other Masters Degree but retrospectively I now find that it helped me immensely.

Could you tell us more about your areas of specialisation?

I specialise in Antitrust-Competition Law.

What are the most memorable experiences you've had thus far as a lawyer?

I started my legal career as a Judge in one of the States of India (West Bengal) in 1987 and when one of my very

well-contested Orders in my early career as a judge was confirmed by the High Court of Calcutta, then the highest Court in the State, despite that the District Judge, my immediate Appellate Authority, had set aside my judgment, I was extremely delighted. Besides this one incident, there are many between then and now, which is over 35 years in the legal profession for me to date.

What are your interests and/or hobbies?

International relations among nations and sports.

What is the latest non-legal book you've read?

The Art of Happiness, jointly authored by His Holiness The Dalai Lama and Dr Howard C Cutler.

Share with us something that IPBA members would be surprised to know about you.

During my undergraduate college days I played football (soccer) and cricket for my College and was also a member of the Delhi University Football team for one year.

Do you have any special messages for IPBA members?

The IPBA has been doing very well. I am also a member of the ABA and IBA (antitrust/competition

law Working Groups) and find that the focus of other international bar associations, especially with regard to my specialisation, is very intense. In my experience of over 22 Years+ of being associated with antitrust law, I realised that an antitrust lawyer, while defending clients, must know the 'conduct', both unilateral and collaborated, of the top management besides the business model. Thus, the 'trust' between top

management and antitrust lawyers is key to making the stakeholders in any market, including the end consumers, better off. This intense part of other global Bar Associations must be tried in the IPBA Competition Law Committee deliberations by involving antitrust authorities and global top management in the IPBA competition law conferences.



Swee Yen Koh

Co-Chair, Dispute Resolution and Arbitration Committee

What was your motivation to become a lawyer?

I am what many would term as an 'accidental' lawyer. After college, my sister suggested that I should pursue a professional degree. I considered the various courses available and decided to apply for law school in the National University of Singapore. When I was in my second year in law school, one of my friends encouraged me to take part in a moot competition with him. We reached the finals and were chosen to represent our university at the ALSA (Australian Law Student Association) Moot, which was taking place in Adelaide. During our time at the moot competition, we had the opportunity to meet and interact with many law students from Australia, which was yet another eye-opening experience. Taking part in the moot competition made me realise that I truly enjoyed the challenges and thrills of arguing a case and seeking to persuade the judge of the merits of the case. From then on, I have not looked back. I decided to apply for the International Legal Process course, a mooting course which was led by Professor Robert Beckman, whom we affectionately call 'Coach'. He is an inspiring and passionate teacher and a great mentor. He believed in me and told me I was cut out to practise law. For myself, I was really enjoying law school and the study of law fascinated me. Some of my favourite subjects are Conflicts of Law and Public International Law. After graduating from law school, I was privileged to be able to clerk

for the then Chief Justice of Singapore, Yong Pung How, and the other Judges of the Supreme Court. I was given a first-hand appreciation of judicial analysis and thinking. The dedication and contributions of the Judges to the development of law in Singapore motivated me to strive towards greater heights, and after my stint as a justices' law clerk, I decided to return to private practice with WongPartnership LLP to pursue my passion for advocacy and work towards becoming a leading disputes lawyer.

Could you tell us more about your areas of specialisation?

I am a disputes lawyer, with an active practice as counsel and solicitor, in litigation before the Singapore courts, as well as international commercial and investment arbitration. My area of practice focuses on complex, high-value and cross-border disputes across a wide spectrum of matters from commercial, energy, international sales, trade, transport, technology to investment. Due to the nature of my practice, I often collaborate and work with lawyers from all over the world to find the best solution for the client. This to me is yet another bonus, as I get to learn from others with a different experience.

What are the most memorable experiences you've had thus far as a lawyer?

There are too many to list from my disputes practice. You will always remember your 'firsts' (for example, the first time you cross-examined, the first time you appeared before the Court of Appeal), the landmark decisions (for example, where you persuaded the Court on a novel point of law or to depart from its previous decisions) and significant cases (for example, the first time I was involved in an investment arbitration). Perhaps what I would say stands out from the rest would be the time I acted pro bono under the Legal Assistance Scheme for Capital Offences for an accused who was charged with

murder and I managed to reduce the charge to one of culpable homicide just before trial, which the accused pleaded guilty to.

What are your interests and/or hobbies?

I love spending time with my family and close friends, especially sharing travel and gastronomic experiences together. I also enjoy outdoor activities and sports.

What is the latest non-legal book you've read?

I do not remember. I have loved reading since I was a child, but it seems that this has been on the back-burner for some time. I read the newspapers on a daily basis and I hope that counts.

Share with us something that IPBA members would be surprised to know about you.

I used to be an artistic gymnast when I was in secondary school and college.

Do you have any special messages for IPBA members?

I am honoured to be appointed as Co-Chair of the Dispute Resolution and Arbitration Committee. In that role, I hope to do my part to contribute towards the development of the legal profession within the Asia-Pacific region, particularly in the area of disputes and look forward to meeting and exchanging ideas with other IPBA members. In that vein, I would like to do a pitch for the IPBA Arbitration Day which is taking place in person in Singapore on 31 August 2022, during the Singapore Convention Week. Please do sign up for the IPBA Arbitration Day, which would be a great platform for us to share knowledge and information about legal developments affecting the Asia-Pacific region and to interact and get to know each other better.



Rosa Isabel Peña
Chair, Environmental Law Committee

What was your motivation to become a lawyer?

There were two main reasons: to know what my rights and obligations were and to help others to defend theirs. Something inside me has always pushed me to help and defend the weakest and to fight against injustice.

Could you tell us more about your areas of specialisation?

I practice administrative law, public procurement, urban and planning and environmental law. My cases always involve public administration (state, regional or local) and companies or a private entities.

What are the most memorable experiences you've had thus far as a lawyer?

I have had many memorable experiences. The most rewarding have always been when I have successfully defended the rights of my clients. Another memorable

experience I had, was last year when my colleagues in Barcelona voted for me for the position of Council member of the Governing Board of the Barcelona Bar Association. It is an honour and a privilege working for the profession and helping my colleagues.

What are your interests and/or hobbies?

I love dancing, travelling, reading, new challenges and learning new languages.

What is the latest non-legal book you've read?

Un hombre sensate no debería escribir nunca cartas de amor, by Carles McCragh.

Share with us something that IPBA members would be surprised to know about you.

From 2002 to 2019 I annually participated in dance festivals and danced in the most important theatres in Barcelona. It has been, and still is, an unforgettable experience: working on the choreography with the team, playing a different role in each choreography, going on stage in front of more than 1,000 people and letting yourself go with the music.

Do you have any special messages for IPBA members?

Yes, follow your dreams, don't let others set your limits and never give up.



Augusto Vechio

Chair, International Trade Committee

What was your motivation to become a lawyer?

My father was a great lawyer. Since I was a child, I was deeply inspired by his work, his teachings, values and now by his legacy. I believe that all this inspiration and sense of righteousness that I inherited from my father motivated me to become a lawyer.

Could you tell us more about your areas of specialisation?

I have expertise in Regulatory issues, Competition Law, International Trade and Corporate Law (cross-border investments). I am very excited to serve clients investing in Argentina and Latin America and help them to achieve their projects.

What are the most memorable experiences you've had thus far as a lawyer?

Fortunately, as a lawyer I had many professional memorable experiences such as meeting presidents,

participating in top transactions, etc. But the most important thing is that our legal profession has given me the chance to help many people and make great friends. Of course, being part of the IPBA has been a memorable experience, too!

What are your interests and/or hobbies?

Spending time with my family. Reading and taking my sons to their rugby practice are some of my favourite moments in life.

What is the latest non-legal book you've read?

A Man of the People, by Chinua Achebe, a great book from a great African writer. Beyond being a masterpiece of African literature, it provides you with a good picture to understand sub-Saharan Africa.

Share with us something that IPBA members would be surprised to know about you.

I am a windsurfer!! =)

Do you have any special messages for IPBA members?

I would like to highlight that we, as human beings, should not forget about the importance of staying together and united through these confusing times that we are going through. As Pope Francis once said, 'no one is saved alone'.



Doil Son

Co-Chair, Technology, Media and Telecommunications Committee

What was your motivation to become a lawyer?

I wanted to be an expert who can contribute to both society and the economy. I think that the legal profession is a perfect fit.

Could you tell us more about your areas of specialisation?

Technology Transaction/Regulation and Data Privacy are my areas of expertise, including fintech and

healthtech. Most of the cases are related to data integration among domestic and overseas affiliates, data utilisation and exchange, fintech and healthtech business models and regulatory issues.

What are the most memorable experiences you've had thus far as a lawyer?

More than 20 years ago, I advised a client to invest in a certain start-up. I did not understand how this start-up could survive then. Now it has become one of the largest companies in Korea. I could not foresee its potential and future success. Now, whenever I see start-ups, I try to find their potential.

What are your interests and/or hobbies?

Photography and golf. Of course, it does not mean that I am good at it. I just like them very much.

What is the latest non-legal book you've read?

Nowadays, I read many start-up related books, not legal but business stories. They give me some ideas for the future.

Share with us something that IPBA members would be surprised to know about you.

I like animals. After retirement, I would love to help animals.

Do you have any special messages for IPBA members?

Making friends through the IPBA always makes you think that you are a global citizen. Of course, it also gives you a business opportunity to justify your costs!



Winnie Tam SC

Chair, Women Business Lawyers Committee

What are the most memorable experiences you've had thus far as a lawyer?

As Chairman of the Hong Kong Bar between 2015–2017. My service under the Bar Council has very much shaped my outlook and professional paths.

What are your interests and/or hobbies?

Performing arts especially in classical and jazz music. I am also interested in Chinese classics and history.

What was your motivation to become a lawyer?

I had wanted to read a professional degree. At the time, I had considered language and reasoning power to be my strengths. Choosing the law was natural.

What is the latest non-legal book you've read?

A book in Chinese on Analects. In English, Professor Kishore Mahbubani's book—*Has China Won?*

Could you tell us more about your areas of specialisation?

I have had over 30 years of experience in intellectual property and commercial litigation as a barrister-advocate, and over ten years as a part-time High Court judge. I have also developed a strong interest and practice in international commercial arbitration, which takes up over 50 per cent of my current practice. I enjoy both areas of practice immensely.

Share with us something that IPBA members would be surprised to know about you.

I was a keen table-tennis player as a teen and was an active choral singer and director.

Do you have any special messages for IPBA members?

In order to build bridges, the IPBA must reject any attempt to politicise professional organisations.



Members' Notes

Raphael Tay, Malaysia



Raphael Tay has joined LAW Partnerships in Kuala Lumpur as the Head of the Corporate, Commercial and M&A practice. Having been in practice for 35 years, encompassing both international and local work, Raphael has extensive experience in various areas, notably Corporate and Commercial, Mergers and Acquisitions and Information Technology Law. Since joining LAW Partnership, he has received notable accolades from international legal reports such as being named: Top 15 M&A Lawyer in Asia by *ALB Asia M&A Rankings* in 2022; Key Lawyer, Corporate and M&A, Malaysia for *The Legal 500 Asia Pacific* in 2021; and as a Notable Practitioner for M&A in Technology and Telecommunications for *International Financial Law Review* in 2020. In addition to being a well-recognised and respected practitioner among his peers, Raphael lectures as an Adjunct Teaching Fellow for the LL.M. Programme, The College of Law, Australia, and Adjunct Lecturer of the ASEAN Business and Investment Law Course at Chulalongkorn University, Thailand.

Stephan Wilske, Germany



Stephan Wilske has given a lecture at Bucerius Law School (Hamburg, Germany) on the occasion of the Hamburg International Arbitration Days 2022 on 'The Phenomenon of the Ailing Arbitrator and its Legal, Practical and Tactical Consequences' (4 April 2022).

Dr Frédéric Dal Vecchio, Belgium



Dr Frédéric Dal Vecchio, Attorney at law, Jurisdictional Council Member (France), Visiting Scholar at the University of Chulalongkorn (Bangkok) in 2019 and Lecturer at the Royal University of Law and Economics (RULE) in Phnom Penh since 2014, has published a paper regarding transfer pricing in ASEAN (Association of Southeast Asian Nations), in the *European and International Journal of Tax Law*, 2022/1, April 2022, LARCIER Publishing, Belgium.



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