A suicidal mission rewarded

D uring an emotional ceremony on Wednesday afternoon, Femi Falana was presented with the Bernard Simons Memorial Award for the Advancement of Human Rights. Congratulating Falana, IBA president Fernando Pombo said the award was “an acknowledgement of Falana’s commitment to promoting human rights and democracy across Nigeria and West Africa”.

Falana, who was imprisoned by Nigeria’s military dictatorship in the nineties, has campaigned for the rights of oppressed people throughout his career, and represented more cases in front of the Nigerian human rights commission than anyone else. “I took a risk getting involved in human rights in my country,” said Falana. “It was a suicidal mission as many people got killed or detained. The military dictatorship tried to harrass and intimidate me into silence but that made me more determined to continue my human rights work.”

Professional respect for Falana from delegates was clear. A packed auditorium interrupted Pombo’s and Falana’s speeches with raptuous applause, while a media scrum descended to capture the moment on film.

Panellists at the following showcase session on Rendition, Disappearances and Ineffective Detention: Debates Around Torture were also keen to pay tribute to Falana. As Zachary Katznelson of Reprieve said: “I’m reminded by Falana how easy we have it in the US. I have never been dragged in for interrogation.”

Rendition, as Katznelson described it is “when masked men come and grab you off the street, strip your clothes off, force a suppository inside you, diaper you, and put you into a suit. They shackel, cuff and blindfold you, add industrial strength earmuffs and a baoth so that it’s nearly impossible to breathe. And they throw you onto a corporate jet, that may have been whacking around rock stars the previous week.”

Rendition effectively removes people from the sight of the law. There is no screening mechanism to ensure a guilty person is detained as the courts are removed, and no oversight of what happens to the person that has been taken.

Necessity is often used by governments as a justification for rendition and certain interrogation methods. Yvaal Gubara of Amnesty International, however, argued that Article 27 of Geneva Convention IV provides for all to be treated humanely, not only under convenient circumstances. When countries accept that torture is justifiable under certain circumstances, this encourages its use as the norm.

In Israel, for example, despite dozens of cases of torture catalogue by the state every year, all have been accepted as so-called ticking-bomb cases and therefore, under Israeli law, justified by necessity.

Torture, as described by the speakers, encompasses a wide range of treatment from deep deprivation and sensory overload to stress positions, sexual humiliation, rape, electric shocks and water boarding.

The latter involves “being tied to a board with your feet higher than your head,” said Katznelson. “A cloth is placed over your head and water is poured down over your face. Because of the cloth and your feet position, you cannot clear your mouth and nose of water so the water gradually fills up your lungs. They call this simulated drowning. It’s not simulated, it is drowning, and you think you are going to die.”

But governments are not sidelining laws and disregarding them to justify such methods, they are instead reinterpreting them. “The universal norm against torture has been eroded,” said Leonard Rubenstein of the Physicians for Human Rights. “In a paradoxical way, this has not been a result of ignoring laws but of using them to facilitate torture.”

The US government, for example, has said that an action is not torture unless it induces serious physical injury, such as organ failure or even death, or uses drugs to bring on demen-

New anti-money laundering guidance issued

New international guidance, intended to help legal professionals identify and mitigate money laundering risks, are scheduled to be agreed on Friday in Rio de Janeiro, at an international summit of the Financial Action Task Force (FATF), the inter-governmental body charged with combating money-laundering and terrorist financing. The guidance was developed through an active dialogue with the International Bar Association (IBA)’s Anti-Money Laundering Legislation Implementation Group, chaired by Stephen Revell of Freshfields Bruckhaus Deringer, in consultation with other lawyers, including members of the American Bar Association and the Council of Bars and Law Societies of Europe.

The new FATF guidance takes a risk-based approach to assessing the likelihood of money laundering taking place in any case or with any client, and sets out recommended approaches to the implementation of effective monitoring processes and training programmes, which every law firm should now assess. The guidance will appear on the IBA website shortly.
The old do not think slower

It’s very modern to be traditional

Yesterday’s session comparing traditional and modern ways of practising the law featured an impressive array of speakers andographics. Eight lawyers from Germany, India, Australia, Brazil, Nigeria, Austria, the UK and the US were marshalled by Mexico’s Alejandro Ogarrio of Ogarrio Daguerre. So you would have thought that it would be a struggle to fit all of their opinions into the 90 minutes allocated to this session.

A new concept (though an old phenomenon)

A ll lawyers are at risk of discrimination, be they old, young, male, female, disabled or black. That was the message from panelists addressing a diverse audience at yesterday’s session Discrimination, with Particular Reference to Gender and Age. The days of the veteran ruling his law firm with an iron fist, firing staff on whom dying in office have gone, replaced with laws in many countries that enforce an age of retirement. But as recent anti-ageism legislation in countries such as the UK shows, the laws are changing to reflect a more balanced approach.

Michael Prior of Shaun Coulson explained: “Having passed my 70th birthday, I don’t ski or run as fast as I did. But our intellect does not wear out, nor do we reason more slowly than we used to.”

In 2006, the UK enacted legislation that made it illegal to discriminate against a person on the grounds of age. The law’s boundaries are still being tested, with the pending Heyday case expected to provide some clarity on default retirement ages.

Although the session’s panelists focused on the issues facing senior lawyers, Carmen Pombo, chair of the IBA’s Young Lawyers’ Committee, made it clear that ageism is not limited to those above a certain age.

However, while ageism is a relatively new concept, it is an old phenomenon. Women might limit its impact by networking with other professionals and highlighting the unique perspective that they as individuals could provide to a firm or association.

Olubisi Kukoyi, a Nigerian lawyer currently employed by Aberdeen City Council, Scotland, echoed this point about networkingsociety at large.

“Despite a culture of equality in Norway, women only make up 23% of the bar. There is something about our profession that is elitist and we have to take this seriously rather than say that it is the fault of society at large.”

Law firm culture was also criticised by Michael Kutschera of Binger Heydey. “There is a level of personal service that they are getting the old-fashioned way,” he said.

Many on the panel agreed that there will always be a place for smaller firms. Sergio Galvis of Abimbola of Prime Solicitors in Nigeria said that it was “pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big at 200 lawyers. Now we represent the biggest firm at the table, but it was pretty big the number of specialties required means that you have to be big.”

Michael Kutschera of Binger Heydey explained: “Having passed my 70th birthday, I don’t ski or run as fast as I did. But our intellect does not wear out, nor do we reason more slowly than we used to.”

In 2006, the UK enacted legislation that made it illegal to discriminate against a person on the grounds of age. The law’s boundaries are still being tested, with the pending Heyday case expected to provide some clarity on default retirement ages.

Although the session’s panelists focused on the issues facing senior lawyers, Carmen Pombo, chair of the IBA’s Young Lawyers’ Committee, made it clear that ageism is not limited to those above a certain age.

However, while ageism is a relatively new concept (though an old phenomenon)
QUESTION: What do you plan to do in Buenos Aires?

Masi Okechukwu Chris Unegbu
Madonna Law Office
Lagos, Nigeria

The city is really beautiful and I've enjoyed just walking around a bit. I've been on two tours so far and they were both very fun. I went to a museum on Saturday and a tango dance on Tuesday. The tango dance was so much fun because it reminded me of the dances in Africa. It really was a great show.

Akin Adepoju
Spring Bank
Lagos, Nigeria

I intend to stay and vacation the whole weekend. There are a few dinner parties I need to go to and those should be good. I really want to see more of the tango. I plan to take that dance step back to Nigeria with me. After all it is a universal style.

Leonel Pereznieto Castro
Jauregui Navarrete & Nader
Mexico

There is a very interesting parallel between the conference and our events. I went to the International Criminal Court for a breakfast and we are going to the University of Buenos Aires to visit and talk with some professors there. I've been here before so the tourist things don't interest me, but I would recommend el Tigre and el Retiro if I were travelling around the city more.

Juan Luis Hernandez Gazzo
Hernandez & Cia
Lima, Peru

I have been to the city a lot so I've done most of the tourist things. The theatre and restaurants here are superb. I will probably go to La Cabana because it is a great place for steak and Piegari for pasta.

Roland Adrell
Garde Wesslan Advokatbyra
Goteborg, Sweden

I really wanted to go to the Villa Maria social event, but I'm afraid I might not have time because it is all day, and I'm leaving on Saturday. Instead my plan is to see the city and take in the night life, especially the tango dancing.

Carol Ndaguba
Chief Executive at the National Agency for the Prohibition of Traffic in Persons and Other Related Matters
Wuse Abuja, Nigeria

I need to get a good look at things first and the embassy has promised to take me on a tour. I hear the restaurants are very good here so I want to go to some of them. I'd really like to have a holiday and see some of the parks if I can, but I'm jet-lagged, so it is going to be hard.

M Yolanda Pereira Z
Berkemeyer
Asunción, Paraguay

I really need a city tour of Buenos Aires. I've seen a few little places, but I'd like to witness the full city so I can pick the places I'd like to visit. I'd also like to see some of the music at night. I've seen some Argentinian dance events and I'd really like to go back to those and see some more concerts.

Chan Hong Yun
Tay & Partners
Kuala Lumpur, Malaysia

I plan to go to the southern region of Argentina because I have never been, and a good friend of mine told me it was beautiful. I'd like to see a part that is unique to south America. I can go to shops in any city I visit, but the countryside is unique to here.

Akin Adepoju
Spring Bank
Lagos, Nigeria

I intend to stay and vacation the whole weekend. There are a few dinner parties I need to go to and those should be good. I really want to see more of the tango. I plan to take that dance step back to Nigeria with me. After all it is a universal style.

Carol Ndaguba
Chief Executive at the National Agency for the Prohibition of Traffic in Persons and Other Related Matters
Wuse Abuja, Nigeria

I need to get a good look at things first and the embassy has promised to take me on a tour. I hear the restaurants are very good here so I want to go to some of them. I’d really like to have a holiday and see some of the parks if I can, but I’m jet-lagged, so it is going to be hard.

M Yolanda Pereira Z
Berkemeyer
Asunción, Paraguay

I really need a city tour of Buenos Aires. I’ve seen a few little places, but I’d like to witness the full city so I can pick the places I’d like to visit. I’d also like to see some of the music at night. I’ve seen some Argentinian dance events and I’d really like to go back to those and see some more concerts.

VOXPOP: SIGHTSEEING
**CONSUMER LITIGATION**

**Are you in or out?**

With their opt-out systems of redress, Canada and the US have become havens for worldwide class action cases. But with no guarantee that resulting judgements will be observed outside of these countries, courts are becoming more reluctant to take on actions that could incur follow-on litigation in other jurisdictions.

Speaking at yesterday’s session on Collective Redress and Class Action Judgements, George Bermann, of Columbia University’s School of Law, agreed that the hot issue for US class actions was no longer what they look like, but “whether foreign nationals should belong in them”. With the growing trend for class actions to be brought against non-US companies in US courts, the presence of non-US nationals in the class is making judgements complicated and selective, and preventing some classes from being recognised at all.

The key concern for a US court when taking a class action suit is to establish whether any judgement will be preclusive. A lobbyist for consumer group Which?, expressed a desire for this to change, and said that the system was “messy, time-consuming, and doesn’t work.” As a lobbyist for consumer rights, she was frustrated that UK collective redress actions are infrequent. This, she said, was due to the fact that even if a pool of millions of potential claimants existed, the opt-in system in Europe would make it very difficult to assemble a large enough number to form the class.

She also said that there was “no doubt in my mind” that UK citizens had benefited from US class action laws, but when questioned by Bermann on whether she thought that UK collective redress actions were infrequent, she replied: “No, I don’t think they ever will.”

**“I don’t think US judgements will ever be observed in the UK”**

Deborah Price

---

**FAMILY LAW**

**Just avoid London**

Life is good for George. He’s a partner at a US law firm, lives in a townhouse on the upper-east side of Manhattan, owns a vineyard in South Africa and is the sole beneficiary of a trust that holds substantial funds and an art collection. He has also just met the woman of his dreams, South African L’Oreal model Caroline, and they are to be married.

This was the case study used to hold together a session yesterday afternoon on big money divorces. The threat of the discussion analysed what would happen if the couple moved to different jurisdictions and how George could protect his assets.

Unsurprisingly enough, the major conclusion was that George should try to avoid London. “One wouldn’t know whether to start with the bad news or the really bad news if George had to separate from Caroline in the divorce capital of the world,” said Russell Bywater of Dawson Cornwall in London. “In recent years we’ve moved into Hello-styled jurisprudence and the focus has shifted from need to entitlement.”

And even the best pre-nuptial agreement could struggle in the courts of England and Wales. “For pre-nups to even get to first base, there has to be full financial disclosure, a document signed by both parties with record of legal advice and it is advisable to sign it at least 21 days before the wedding. More importantly, it has to be fair in the eyes of the court, and fair at the time of the divorce too,” Bywater continued.

That said, Bywater admitted that although pre-nups do not have to be recognised in court, they can be useful guidelines and there is growing case law to prove this. Therefore, if he had to battle in London, George would have to hope that his pre-nup was full UK standards.

Alternatively, the court may be swayed by a clause that indicates that even if the couple is living in the UK, it would like any future divorce to be conducted in a friendlier, pre-determined jurisdiction. Another clause stating that both parties are aware that the pre-nup is not necessarily valid in the UK but that they hope it would be taken into account would be advisable too.

After all, as fellow panel member Daniel Thulare of Family Law Courts in Johannesburg said: “Love is blind, but divorce opens your eyes.”

---

**Individual counselling calls for the right partner.**

**We’ve got 28 of them …**

Your first choice for independent legal advice in Germany.

On 1 January 2008, we joined forces under the name Oppenhoff & Partner. Drawing on a 100 year-old tradition of successful legal counselling, we specialize in the provision of comprehensive legal advice to business organisations and their management, boards and shareholders.

Oppenhoff & Partner
Konrad-Adenauer-Allee 23 · 50668 Cologne
Tel: +49(0)221 2051-0
Fax: +49(0)221 2051-333

WWW.OPPENHOFF.DE

---

**OPPENHOFF & PARTNER**

Rechtsanwälte
So, are you a millionaire or a person of Genoa? A chicken or a pig? These are important questions because next weekend Club Atlético River Plate is playing Club Atlético Boca Juniors in the superclásico. It is one of the most eagerly anticipated football fixtures of the season. The battle lines are already being drawn and you should pick sides. It is the most passionate derby in Argentina, if not the world. To put it in context, British newspaper The Observer declared watching a superclásico in Buenos Aires number one on its list of 50 sporting things you must do before you die.

Next Sunday, IBA delegates have a great opportunity to see the two teams walk out at River Plate’s 65,645-seat stadium, El Monumental de Nuñez. The atmosphere will have added electricity considering the home side will be desperate for a win. River Plate has won only one of its nine games this season and its fans cannot consider slipping even further behind Boca, which sits comfortably in sixth place in the league.

Mutual hatred
Both clubs formed early last century and although a rivalry was always present, it wasn’t until some 20 years later that a mutual hatred was truly forged. Until this point, both clubs played in La Boca, a poor area of Buenos Aires. River Plate initially moved to Palermo before moving to the more affluent neighbourhood of Nuñez in 1923. This angered the Boca fans who started to see River Plate as snobbish. At the start of the thirties, River Plate bought Bernabé Ferreyra from Tigre for a vast sum that was paid mostly in gold. And so the ‘millionaires’ tag was born. Boca uses the term in a derogatory context, but the River Plate fans say it with pride.

The class division remains to this day. The red and white of River Plate remains the club of the upper classes and Boca Juniors is the blue collar team of the city (quite literally, they play in blue and gold). Boca’s fans call themselves Los Xeneises (people of Genoa) as a nod to the fact that a lot of them originally came from the city’s Italian immigrant community.

The rivals have some colourful nicknames for each other, the most popular (and safest for print) being los gallinas (the chickens) for River Plate and los puercos (the pigs) for Boca. This is because the former are seen as cowards by the opposition. More specifically, it can be traced back to the 1966 Copa Libertadores final against Uruguayan side Peñarol where River Plate led 2-0, but eventually lost 4-2. Boca’s porcine tag is another barbed reference to the location of its 57,395 seater stadium Estadio Alberto J Armando.

IBA match
Boca’s stadium is affectionately known as La Bombonera (chocolate box). This is because a third tier was added in 1953 and the stadium’s shape became almost perfectly rectangular. Although there isn’t a professional match at La Bombonera this week, IBA members are more than welcome to visit the stadium today to see Latin America take on the rest of the world. IBA delegates will battle it out in the annual derby with kick off at 1700. The rivalry between the two sides will undoubtedly be as high as the River Plate/Boca game, but let’s hope the name calling doesn’t get out of hand.

For more details on the IBA game, please contact Keith Oliver (keoliver@petersandpeters.com or +44 7785 232 122) or Pablo Vergara del Carril (p.vergara@zbv.com.ar)

Nicholas Pettifer looks forward to this weekend’s superclásico

HADEF AL DHAIHRI & ASSOCIATES

REGIONAL EXPERTISE
Abu Dhabi • Dubai

PRACTICE AREAS
Banking & Finance
Commercial
Dispute Resolution
Employment
Engineering & Construction
Intellectual Property
Maritime, Transport & Trade
Mergers & Acquisitions
Private Equity
Private Wealth
Projects & Energy
Real Estate
Regulatory
Technology & Media

www.hadalaw.com

LOCAL ATTRACTION: FOOTBALL

Derby day in Buenos Aires

Nicholas Pettifer looks forward to this weekend’s superclásico

The class division remains to this day. The red and white of River Plate remains the club of the upper classes and Boca Juniors is the blue collar team of the city (quite literally, they play in blue and gold). Boca’s fans call themselves Los Xeneises (people of Genoa) as a nod to the fact that a lot of them originally came from the city’s Italian immigrant community.

The rivals have some colourful nicknames for each other, the most popular (and safest for print) being los gallinas (the chickens) for River Plate and los puercos (the pigs) for Boca. This is because the former are seen as cowards by the opposition. More specifically, it can be traced back to the 1966 Copa Libertadores final against Uruguayan side Peñarol where River Plate led 2-0, but eventually lost 4-2. Boca’s porcine tag is another barbed reference to the location of its 57,395 seater stadium Estadio Alberto J Armando.

IBA match
Boca’s stadium is affectionately known as La Bombonera (chocolate box). This is because a third tier was added in 1953 and the stadium’s shape became almost perfectly rectangular. Although there isn’t a professional match at La Bombonera this week, IBA members are more than welcome to visit the stadium today to see Latin America take on the rest of the world. IBA delegates will battle it out in the annual derby with kick off at 1700. The rivalry between the two sides will undoubtedly be as high as the River Plate/Boca game, but let’s hope the name calling doesn’t get out of hand.

For more details on the IBA game, please contact Keith Oliver (keoliver@petersandpeters.com or +44 7785 232 122) or Pablo Vergara del Carril (p.vergara@zbv.com.ar)
We must educate

The first Spanish head of the IBA talks about his expectations about this year’s conference and the importance of the humanitarian leanings of the organisation. By Jaspreet Sira

Why the location of Buenos Aires?
The IBA has an extremely elaborate system of deciding sites. It involves rotating continents, rotating more and less unusual sites, and the capacity of a city to hold an event of this size – and more importantly, a location within that city.

We decide that the IBA annual conference is going to be in a particular city seven or eight years in advance. When we decide on a particular city, it is getting the equivalent of the lottery for them; it is great to receive the excellence of the legal profession. In Singapore last year, with more than 4000 delegates, we were told that they were extremely pleased with this group of leading lawyers and that it did a decent amount to benefit the local economy as well.

Buenos Aires was chosen because we care about the geographical distribution of sites. It is a balance of locations, from Spanish to mainly English-speaking, to those jurisdictions where other languages are spoken.

What do you think makes the city of Buenos Aires special?
Buenos Aires is considered to be one of the most important cultural centres in the Americas today. There is such a variety of culture on offer: the music, the literature, the theatre. Buenos Aires has around 200 theatres; I can’t think of any other city in the world with that number of theatres in full operation.

What are you most looking forward to at the conference?
We will cover all recent developments in the law, across the practice areas covered by all our different groups and committees. Plus delegates have the unique opportunity to network at the highest level with colleagues from across the globe.

We have an outstanding Rule of Law symposium on the last Friday as well, the 17th. This will enable us to discuss issues such as access to justice, anti-corruption, reinforcement of institutions, independence of the profession and human rights, all of which are very relevant matters in Latin America. As in Singapore last year, it should be a very open and frank discussion.

Additionally, it will be important to recognise the quality of the education and practice of the lawyers in the region because the Spanish and Portuguese-speaking contingent of the IBA now makes up several thousand members. Moreover, this is something I am personally keen to focus on as I am proud to be of that origin and to be President of IBA.

Which sessions do you think will be particularly good?
Many of the committees will have specialised subject law sessions and all of them promise to be interesting. However, a topic that is really strong in Latin America, particularly in Argentina with so many universities and such an intense legal profession, is the impact of young lawyers and their future role in the legal community.

Each day, delegates will be met with such a broad offer of sessions that a careful look at the schedule every morning will be the best way to decide on which to attend. In addition to the educational impact of a five-day crash course on all that matters for the modern lawyer, there is the unlimited attraction of Buenos Aires, which will also be experienced through the many social events.

You have been involved with the IBA in a number of roles over the years, vice-president, secretary-general, treasurer. Do you feel strongly about the IBA?
I feel very strongly about the IBA because, with more than 33,000 individual members, we are by far the largest international organisation of lawyers in the world. But why is it that we are the biggest, why is it that we keep growing and growing? We are big because people benefit; they get a lot from being a member and bring us at our conferences.

We had record attendance in Singapore last year; this year, when experience, resources and local contacts really count.

- a proven track record in M&A transactions of all sizes since 1994 in Russia
- more than 40 lawyers in Moscow and St. Petersburg
- full service in transactions, including crucial deal structuring support
- full service in conflict management
- project management, legal support for investors, co-ordination of ancillary services

The biggest Nordic law firm in Russia and Ukraine.

Hannes Snellman
transactions & conflict management
Helsinki • Moscow • St. Petersburg • Kiev • Beijing • Shanghai • www.hannessnellman.com
in Buenos Aires looks like being a record conference again. We have all the world’s leading lawyers at the IBA, but more importantly we have more than 200 human rights programmes worldwide. We help those in need, through unlimited humanitarian actions.

In what way would you say that the IBA is the global voice of the legal profession?

The IBA is the global voice of the legal profession because we care for issues that matter; subjects such as the rule of law, freedom of expression, human rights, separation of powers and different models for developing economies.

We have the structure as well, and the best possible colleagues one could have in an international organisation. Hence I am very dedicated to this unique organisation. We have a good structure and offices in key international locations: London, Sao Paulo, The Hague, Dubai for the Arab world, Johannesburg and we will have an office in Asia soon.

What would you like to achieve in your tenure as president of the IBA?

My number one priority is continuing with the educational engine that is the IBA. Second is to improve the image of the profession through humanitarian and educational activities. Hopefully these will allow countries to improve their understanding of the role that lawyers play in the establishment of democracies and aiding fundamental rights, so they respect the legal profession more.

Also, integrating the bar associations is important, with the individual lawyers and law firms working alongside in-house counsel and company counsel all over the world. Getting closer benefits all three types of institution through their different practices and responsibilities.

What have you enjoyed most about your role with the IBA?

Being amongst this phenomenal congregation of elite lawyers is a huge pleasure. Also, being involved with the humanitarian side of the IBA has been an unforgettable experience.

Last August working with Afghan lawyers to help build the organisation of lawyers there, helping the judicial system and ultimately the lives of people in Afghanistan was wonderful. Also, working in Columbia to consolidate the strong democracy, legal profession and judiciary; and being in Africa, aiding individuals, including lawyers and judges, who are facing situations of extreme risk. Participating in all this pro bono work has been a big satisfaction for me.

You mentioned Afghanistan, making a difference there. Can you tell us more about the work involved?

Yes, Afghanistan is a very difficult case because we, as lawyers and global citizens, must help institutions to be built in a society after war. We have had experiences of that kind with Iraq and other parts of the world. After war it is vital that the country goes back to institutions and systems, to justice and independence of the different powers. We are able to achieve this mainly through having an unlimited number of volunteers, often very prestigious, skilled lawyers. They are ready to put their practices aside for weeks, sometimes months, and go to the most remote and difficult locations, to work for the benefit of their colleagues there.

How do you balance all this with your role at Gomez-Acebo & Pombo?

Well it is a miracle at times, not only in terms of time, but also the physical capacity to deal with so much. I decided early on to be very committed to the IBA but also never abandon working with my firm. Fortunately there are younger partners at the firm who can deal with many day-to-day issues, but this decision has been at the cost of my private and family life. About 60% of my weekends are dedicated to the IBA. The holidays that I used to have, about 18 or 19 working days each year, have been non-existent since beginning my role. When you combine no holidays, almost no weekends and a lot of support from my family and from my partners at Gomez-Acebo and Pombo, then the numbers work. I work fast and I work intensively.

I have been extremely busy, but the alternative would mean not being involved in or committed to so many IBA initiatives. And I simply didn’t want that to be the case.

Any final thoughts on the conference?

The IBA is the leading organisation of lawyers and bar associations in the world, and it is meeting for the second time in its history, after 20 years, in South America. We thought in 1988 that with more than 1000 delegates it would really be impossible to repeat, but now our numbers in Buenos Aires are more than three times that figure. I am sure this will prove an unforgettable week.

Law firms that are flexible for you

Local market knowledge and international strength

Eversheds Bitāns (Latvia), Eversheds Ots & Co (Estonia) and Eversheds Saladinžius (Lithuania) are the Baltic members of Eversheds International. If you are thinking about doing business in this exciting region, or are a Baltic company looking to expand, then we are your ideal partners.

With experienced people on the ground, access to lawyers across the world and the quality and flexibility you would expect from one of the world’s largest law firms, we can help you achieve your ambitions.

For more details please visit:

Eversheds Bitāns
www.evershedsbitans.com

Eversheds Ots & Co
www.eversheds.ee

Eversheds Saladinžius
www.evershessaladinzius.lt

Members of Eversheds International
(imagination + motivation)* perspiration

regulation

= innovation

We are Morrison & Foerster – a global law firm of exceptional credentials.

We have built our reputation on the artful balance of practical solutions and innovative ideas. We help clients achieve their goals in a rapidly changing world.

They value our dexterity and experience in crafting approaches that succeed.

Technology or energy. Financial transactions or litigation. Europe, Asia or the US. We see opportunity wherever it exists. This is what lets us go beyond the conventional.

Morrison | Foerster

For more information contact our Chair, Keith Wetmore, kwetmore@mofo.com or visit www.mofo.com.
Let us work for free

In Brazil, access to justice is a constitutional right, but unfortunately, there are too many cases for legal services to be provided free of charge. So surely the system should be happy that many law firms want to help by conducting pro bono work? “They hate us,” said Marcos Roberto Fuchs of the Pro Bono Institute in São Paulo, at a lively session about the Pro Bono Declaration for the Americas yesterday morning. “We are a clearing house for free legal services, but the bar association and the defence department hate us because they think we are trying to privatise access to justice and take work away from poor lawyers.”

Antonio Corrêa Meyer of Machado Meyer Sedencia Advogados, also from São Paulo, agreed: “There are 600,000 lawyers in Brazil and many of them are single practitioners that rely on work granted to the poor by the state. They worry that pro bono activities will take work away from them, so there is a conflict.”

In São Paulo alone, it is estimated that there are 47,000 poor lawyers. Many of them exclusively do state-appointed work for which they receive $300 per case. If pro-bono work was taking employment away from such lawyers, then Fuchs would not mind. But as it is not, he remains exasperated.

“The problem is one of culture,” he said. “There is so much work to do – how can we be taking work away from lawyers when there aren’t enough of them to do it all? Every little helps, surely.”

This statement was well received by the room, which was genuinely surprised by the situation in Brazil. By this stage, panel members were sitting among the audience and the session became a free discussion where chair Patricia Blair of Mediation Consultants, Connecticut allowed participation from anyone with an opinion.

Guillermo Morales Errazuriz of Morales & Bosa Adogados referred to a similar problem in Chile, which was successfully resolved. He suggested that the tension in Brazil could be alleviated if there was a system of allocating work so that no one felt employment was being taken from them. For example, larger firms could conduct the more complex cases in which their capacity and expertise would be of best benefit rather than taking on small cases for individuals.

While this may be a workable solution for one issue, it would not resolve the wider problem in Brazil. São Paulo is the only state that allows pro bono work at all, so for the Pro Bono Declaration for the Americas to be a success across Brazil, a significant amount of lobbying is required.

In Argentina, and many other Latin American jurisdicions, the issue is one of education. “In general, the declaration has been very welcome,” said Gustavo Javier Torassa of Bullo Tassi Esterenbert Lipera & Torassa. “But the challenge is to get more firms to sign up. We also need to disseminate the declaration throughout the country, not just in Buenos Aires.”

He went on to describe the benefit of having an access to justice committee within the City of Buenos Aires Bar Association: “We can meet and discuss pro-bono work and try to discover a best practice. We need to discuss some guidelines on working in pro-bono activities that should help spread the word.”

New York has an altogether different problem with regard to getting people to sign the declaration. Antonia E Stolper of Shearn & Sterling stood up to explain that the city bar has been cautious to push the declaration onto its members. This is because the 20 hours of work that the declaration asks for is substantially lower, for example, than the 50 hours that the American Bar Association requests. The city bar therefore does not want to confuse issues, although firms active in Latin America have signed the declaration out of solidarity.

The reason pro-bono targets are substantially higher in the US must be better education of the benefits of working for free. Robin Wright Westbrook from the American University Washington College of Law gave some examples of the work her college does to encourage its students to participate in pro-bono activity.

For example, the college actively urges its students to undertake 75 hours of pro-bono work before graduating. While this is not mandatory, the impression given was that not completing 75 hours is severely frowned upon. The college also encourages the use of Student Practice Rules. This is when a student represents a real client in a court of law with judicial approval and faculty supervision. Such projects help generate interest in pro-bono work early in US lawyers’ careers and the audience agreed that similar schemes would be a great long-term plan for changing the culture in Latin America.

Despite the conflict issues in Brazil and the need for a change of culture in many parts of the Americas, the declaration is attracting an impressive number of members. As of October 10, 179 Latin American law firms, 24 US law firms, 15 law schools, 12 bar associations, 12 non-governmental organisations (NGOs), two corporate legal departments and two members of the judiciary had signed.

This achievement is evidently appreciated by the IBA, as president Fernando Pombo made an appearance at the start of the session to express his gratitude and the opinion that: “Pro-bono work is not a question of generosity, it is one of justice.” The declaration has made a good start, but the hard work is yet to come.

Let us work for free

IBA kidnap plot

T

hree IBA members, jealous of one of their colleague’s contacts and reputation, decide to kidnap him and steal his Blackberry with the aim of distributing information slandering his good name. The conspiracy and their targets are of four different nationalities, reside in three separate countries, and the plot is carried out in a fifth jurisdiction: at the IBA conference in Buenos Aires.

This was just one of the fictitious case studies put to yesterday’s audience at the presentation of the report by the IBA Legal Practice Division (LPD) Task Force on Extraterritorial Jurisdiction. LPD Chair David W Rivkin introduced the session and called the over 300-page report “interesting, scholarly and forward-looking,” telling assembled lawyers that their challenge was now to make good use of it.

Members of the task force sub-committees presented their findings and recommendations under six areas of practice: anti-trust, tort, criminal law, bribery and corruption, securities and insolvency. Each committee admitted it had encountered similar challenges when addressing extraterritorial jurisdiction in these areas. The main problem was trying to keep all parties involved happy with the results, from NGOs to state government.

Lucy Martinez, of Friedfields Bruchhaus Deringer in the US, said she hoped that the various committees had managed to publish a set of “broad recommendations that still have real meaning”. Martinez was rapporteur for the criminal law committee, and led the analysis of the case described above. She said that in many cases, opinion on how states should exercise their jurisdictional rights is based on “one’s views on state sovereignty,” a perspective that can vary widely depending on a country’s international profile.

Martinez was joined by Roy Schondorf of Debevoise & Plimpton, and Lucinda Low of Steptoe and Johnson, both in the US, to discuss tort actions and bribery and corruption respectively. A key consideration throughout their presentation was the different jurisdictional regulations in civil and common law countries, with particular regard to whether legal jurisdiction was founded on residency or nationality. The speakers identified five states where the Blackberry case could be contested, with a sixth option available to any other state that chose to invoke the universal principle: particularly relevant in a case where torture is involved.

“In the end the burden will fall upon us to work out the nuts and bolts of deals”

Eric Pan

Despite the multiple angles of discussion, Low claimed that the fictional case was “actually relatively simple in today’s playing field,” and said that extraterritorial jurisdiction was a big consideration for lawyers dealing with cases involving multinational activity and businesses.

The second half of the session focused on business law: Securities committee member Eric Pan, from the Benjamin N Cardozo School of Law in New York, urged delegates to become “skilled and conversant in finding these means of harmonisation and convergence, because in the end the burden will fall upon us to work out the nuts and bolts of deals”.

In the capital markets industry, he said, the IBA report had the opportunity to “make a real, world impact,” coming as it does at a time when the global financial crisis is forcing regulatory authorities around the world to engage with these same issues.

This view was echoed by Alexander Klauer, of Brauneis Klauer Prindill in Austria, who addressed insolvency considerations, and congratulated the LPD on its “prophetic foresight” in including this practice area in the task force’s remit. He reiterated the problem of operating through entities which are multinational, but must function in a world of sovereign states.

Session chair Claus von Wobeser, of von Wobeser & Sierra in Mexico (and the hypothetical victim of the kidnap plot), said he hoped that each committee would continue to work on its respective projects, and called the task force’s work so far “only the start of an enterprise.”
<table>
<thead>
<tr>
<th>SESSION</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thursday AM 0830 – 1000</td>
<td></td>
</tr>
<tr>
<td>Academic and Professional Development: Breakfast</td>
<td>Florida Rooms, The Marriott Plaza Hotel</td>
</tr>
<tr>
<td>Managing Partners' Breakfast</td>
<td>Fiestas Room, The Marriott Plaza Hotel</td>
</tr>
<tr>
<td>Thursday All day 1000 – 1800</td>
<td></td>
</tr>
<tr>
<td>Guiping from the fire hydrant: strategies for roll-out of new fibre networks, including analysis of deals and regulatory issues</td>
<td>Martin Fierro I (2nd Floor)</td>
</tr>
<tr>
<td>Thursday AM 1000 – 1230</td>
<td></td>
</tr>
<tr>
<td>United States versus rest of the world: who is winning the war on litigation?</td>
<td>Retiro C (1st Floor)</td>
</tr>
<tr>
<td>Thursday AM 0900 – 1200</td>
<td></td>
</tr>
<tr>
<td>BIC open forum and open Policy Committee meeting</td>
<td>Ombú I (2nd Floor)</td>
</tr>
<tr>
<td>Thursday AM 1000 – 1230</td>
<td></td>
</tr>
<tr>
<td>In search of the best – trade and customs practices by government, business and private sector advisors</td>
<td>Catalinas (1st Floor)</td>
</tr>
<tr>
<td>‘Show me the money’ – financing private companies with venture capital</td>
<td>La Pampa (1st Floor)</td>
</tr>
<tr>
<td>Organised crime: the impact of corruption and terrorism on the rule of law and public/private business</td>
<td>Tirso De Molina C, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Investment treaty arbitration workshop</td>
<td>Retiro B (1st Floor)</td>
</tr>
<tr>
<td>Have fun at your own risk: drafting and enforcing liability/damages releases</td>
<td>Cassina A, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Termination and substituted performance</td>
<td>Martin Fierro II (2nd Floor)</td>
</tr>
<tr>
<td>Is Latin America ready for private water?</td>
<td>Gómez Losada (2nd Floor)</td>
</tr>
<tr>
<td>Capital markets transactions in Latin America</td>
<td></td>
</tr>
<tr>
<td>Employment and discrimination issues in the workplace affecting foreign workers</td>
<td>Libertador B (1st Floor)</td>
</tr>
<tr>
<td>Mediating disputes in the art and heritage sector: why and how to spread the word</td>
<td>Tirso De Molina A, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Intellectual property law meets competition law: latest developments with a Latin flavour</td>
<td>Libertador A (1st Floor)</td>
</tr>
<tr>
<td>Global product liability trends</td>
<td></td>
</tr>
<tr>
<td>Reorganisation and reconstruction of airlines</td>
<td></td>
</tr>
<tr>
<td>In search for, in combat of... tax arbitrage</td>
<td></td>
</tr>
<tr>
<td>Electronic discovery and cross-border issues related to corporations</td>
<td>Poncho (2nd Floor)</td>
</tr>
<tr>
<td>Part-time law = implications for legal practice and education</td>
<td>Río de la Plata (2nd Floor)</td>
</tr>
<tr>
<td>Reconciliation: the challenges of combating impunity</td>
<td></td>
</tr>
<tr>
<td>Law firm management: Law firm visits</td>
<td></td>
</tr>
<tr>
<td>Class actions: are they an effective access to justice tool?</td>
<td>Tirso De Molina B, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Trafficking in women and children</td>
<td></td>
</tr>
<tr>
<td>Thursday AM 1100 – 1230</td>
<td></td>
</tr>
<tr>
<td>Legal Profession and World Organisations: Open business meeting</td>
<td>Golden Horn (1st Floor)</td>
</tr>
<tr>
<td>Thursday AM 1030 – 1130</td>
<td></td>
</tr>
<tr>
<td>Public and Professional Interest Division: General Meeting</td>
<td>Libertador C (1st Floor)</td>
</tr>
<tr>
<td>Thursday AM 1130 – 1230</td>
<td></td>
</tr>
<tr>
<td>Legal Practice Division: General Meeting</td>
<td></td>
</tr>
<tr>
<td>Thursday PM 1230 – 1300</td>
<td></td>
</tr>
<tr>
<td>Human Rights Institute: General Meeting</td>
<td></td>
</tr>
<tr>
<td>Thursday lunch 1245</td>
<td></td>
</tr>
<tr>
<td>Litigation Committee lunch excursion</td>
<td></td>
</tr>
<tr>
<td>Thursday lunch 1300</td>
<td></td>
</tr>
<tr>
<td>Corporate Counsel lunch</td>
<td></td>
</tr>
<tr>
<td>African Regional Forum lunch</td>
<td></td>
</tr>
<tr>
<td>Thursday PM 1400 – 1800</td>
<td></td>
</tr>
<tr>
<td>IBA Council Meeting and Election of Officers</td>
<td>San Telmo (Ground Floor)</td>
</tr>
<tr>
<td>Thursday PM 1500 – 1800</td>
<td></td>
</tr>
<tr>
<td>Competition issues on regulated industries: access to essential facilities in emerging markets</td>
<td>La Pampa (1st Floor)</td>
</tr>
<tr>
<td>Financial crime and regulation</td>
<td></td>
</tr>
<tr>
<td>Sentencing: innovative initiatives</td>
<td></td>
</tr>
<tr>
<td>Latest developments in construction</td>
<td></td>
</tr>
<tr>
<td>The transition to competitive power systems</td>
<td></td>
</tr>
<tr>
<td>Insurance fraud/asset tracing and subrogation</td>
<td></td>
</tr>
<tr>
<td>Tractors, sensors, satellites and genes</td>
<td></td>
</tr>
<tr>
<td>E-commerce and internet sales</td>
<td></td>
</tr>
<tr>
<td>Lessons learned from children’s toys</td>
<td></td>
</tr>
<tr>
<td>The international movement of children</td>
<td></td>
</tr>
<tr>
<td>Financing and assignment of operating leases</td>
<td></td>
</tr>
<tr>
<td>Recent developments in maritime law</td>
<td></td>
</tr>
<tr>
<td>Anti-avoidance provisions – another great planning technique bites the dust</td>
<td>Auditorium (Ground Floor)</td>
</tr>
<tr>
<td>Global trends in direct taxation: Part II</td>
<td></td>
</tr>
<tr>
<td>Women in development: focus deficiency or cultural barriers, a legal and judicial perspective</td>
<td>Tirso De Molina A, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Securitisation in the Americas: legal problems and opportunities</td>
<td>Libertador A (1st Floor)</td>
</tr>
<tr>
<td>Lessons from the school of hard knocks: extraterritorial reach of North American laws on multinational corporations</td>
<td>Río de la Plata (2nd Floor)</td>
</tr>
<tr>
<td>Towards a system of international criminal justice: from the ad hoc tribunals to the International Criminal Court</td>
<td>Tirso De Molina B, Meliá Buenos Aires Hotel</td>
</tr>
<tr>
<td>Which law firms and organisations are doing the best international pro bons work? What models are being developed? How can they be adapted?</td>
<td>Libertador C (1st Floor)</td>
</tr>
<tr>
<td>Give a winning presentation</td>
<td></td>
</tr>
<tr>
<td>Thursday PM 1500 – 1630</td>
<td></td>
</tr>
<tr>
<td>OAS Inter-American Anti-Corruption Convention developments</td>
<td>Ombú I (2nd Floor)</td>
</tr>
<tr>
<td>Thursday PM 1530 – 1800</td>
<td></td>
</tr>
<tr>
<td>Conflict management and dispute resolution</td>
<td></td>
</tr>
<tr>
<td>Thursday PM 1630 – 1800</td>
<td></td>
</tr>
<tr>
<td>Anti-Corruption: Open committee business meeting</td>
<td></td>
</tr>
<tr>
<td>Thursday PM 1800 – 1900</td>
<td></td>
</tr>
<tr>
<td>African Regional Forum Open business meeting</td>
<td></td>
</tr>
<tr>
<td>Thursday evening 1830</td>
<td></td>
</tr>
<tr>
<td>Young lawyers’ reception</td>
<td></td>
</tr>
<tr>
<td>Thursday evening 1830</td>
<td></td>
</tr>
<tr>
<td>Committees on Employment and Industrial Relations Law and Discrimination Law joint dinner</td>
<td>Yacht Club Argentino</td>
</tr>
<tr>
<td>Thursday evening 2000</td>
<td></td>
</tr>
<tr>
<td>Immigration and Nationality Law Committee dinner</td>
<td></td>
</tr>
<tr>
<td>Thursday evening 2015</td>
<td></td>
</tr>
<tr>
<td>Insurance Committee dinner</td>
<td></td>
</tr>
<tr>
<td>Thursday evening 2030</td>
<td></td>
</tr>
<tr>
<td>Criminal Law Section dinner</td>
<td></td>
</tr>
<tr>
<td>Maritime and Transport Law Committee dinner</td>
<td></td>
</tr>
<tr>
<td>Technology Law Committee dinner</td>
<td></td>
</tr>
</tbody>
</table>

**SESSION LOCATION**

- All locations in Sheraton Buenos Aires Hotel and Convention Center unless stated.
- **TODAY’S SCHEDULE**
- www.legalmediagroup.com
- IBA Daily News - Thursday, October 16 2008
Anyone with an interest in international politics should make sure they don’t miss this afternoon’s session on international criminal justice, chaired by Justice Richard Goldstone.

The exciting panel of speakers will include Luis Moreno-Ocampo, chief prosecutor of the International Criminal Court in The Hague, whose role has seen him investigate abuses in Sudan, Uganda and the Democratic Republic of Congo. Also speaking will be Carla Del Ponte, who was chief prosecutor at the ICC during the pioneering International Criminal Tribunals for the former Yugoslavia, and for Rwanda.

“It’s a very exciting panel; one of international experts” said Goldstone, speaking ahead of the session, “and it’s relevant to anyone interested in international politics, not just law.” Through the testimonies of the experienced speakers, the session will include both an assessment of the ICC today and, Goldstone hopes, “outline what lawyers can do to move the endeavour forward”.

“People don’t realise the incredible pace at which international justice has moved in the past 15 years, since the Yugoslavia tribunal in 1993. It’s been a movement of historic proportions, with the ICC now ratified by 106 nations worldwide.”

Goldstone also welcomed the possibility of contentious questions from a roomful of lawyers discussing international war crimes.

“There’s certainly room for a lot of debate, particularly in relation to the unfortunate fact that some large countries are still not involved; namely the US, China, Russia and India.”

The session is planned for Kio de la Plata on the second floor of the Sheraton, a space which holds up to 90 delegates. But Goldstone is expecting a better turn-out than that. “I hope it’s so busy that we have to be moved to a bigger room,” he said. Don’t let him down.
When you face legal issues halfway around the world, who is there to trust for knowledge and on-the-ground experience?

Lex Mundi, the world’s leading association of independent law firms, has gathered 160 premier firms in more than 100 countries. With a Lex Mundi member firm on your side, you can be confident that you will receive the best possible legal expertise with superior service and local market knowledge, anywhere, anytime. Through their knowledge of their local markets, Lex Mundi member firm lawyers can unite you with a deep understanding of their jurisdiction’s social and political systems and can expertly steer you through the local legal terrain.

Choose the Mark of Excellence. Choose a Lex Mundi Member Firm.