INTERNATIONAL BAR ASSOCIATION

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# 'One of the best balms to the voices of hate is justice'

## ICC prosecutor Karim AA Khan speaks out in an interview at the IBA annual conference. By Ben Rigby

With a formidable 30-year track record in international justice as an investigator, prosecutor and counsel for the defence in notable cases, Karim AA Khan KC, the chief prosecutor of the International Criminal Court (ICC), was interviewed by IBA executive director Mark Ellis at a lunchtime session on Wednesday.

Referencing the ICC's engagement in the ongoing Israel-Palestine conflict in Gaza, Khan confirmed the ICC has a dedicated team that is "actively investigating the situation", but he directly addressed all the victims of conflict by saying: "Where there is no hope, there is no justice, just violence and extremism," adding that "one of the best balms to the voices of hate is justice."

Acknowledging the challenges the ICC has in managing reduced resources to fund investigations, Khan noted there is sometimes "a lack of real vigour to fund institutions that have to deliver on promises to victims". But he agreed with Ellis that current crises have focused people's attention on the importance of law, justice and accountability.

He also acknowledged the suffering of Jewish victims, as well as other communities globally affected by war and violence. He said: "People need to feel that institutions value life, equality and justice," and not just criminal justice alone.

Referring to the work of all supranational bodies, including the ICC, he said: "We have the burden of history to make sure at this moment that institutions are seen to work better because we have many opportunities to succeed quickly."

Khan revealed that he had spoken to Israeli families about terrorist attacks from Gaza, noting that "Jewish people have a unique history" because of the Holocaust, which supplied a critical context for the impact the attacks have had on Israeli society. However, he also noted the same applied to Palestinians, who had faced their traumas and uncertainty.

Khan deprecated all forms of international tribalism, which, he said, "almost forces people to deny the humanity of others", adding: "We must have the ability to have enough love in our hearts and have compassion in our soul to recognise other people's suffering, even as we seek justice."

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# IBA and World Bank to forge closer ties to boost development goals

## World Bank GC highlights the role lawyers can play in supporting governments and institutions with practical help, writes John Malpas

The IBA and the World Bank's legal team have pledged to step up their co-operation in order to help the bank achieve its development goals.

The IBA's president, Almudena Arpón de Mendívil Aldama, and Christopher Stephens, senior vice president and group general counsel at the World Bank, agreed to explore ways in which their respective organisations could work together more closely than ever during yesterday's keynote address, when Stephens underlined the private sector's "crucial role" as a partner.

"Finding a good and capable resource partner is one thing but you have to find partners who have the energy and commitment to get things done," he said, adding that he had been energised by the IBA meeting in Paris.

"There are endless ways in which we can use lawyers either directly as consultants or through cooperation with the IBA and its many committees," he said. "Best practices and tool kits are invaluable to us, we'd like to do one on access to justice on legal aid, and this is the place to come to create that."

During his keynote – and the subsequent question and answer session, which also featured Wachtell Lipton corporate partner Adam Emmerich – Stephens expounded on the need for "capacity building" whereby governments and institutions are provided with practical help.

He said this went beyond model laws and cited, as examples, the introduction of a new arbitration act in Fiji that would boost investor confidence and a gender equality law in the Maldives, a first for a Muslim country. In both cases this was achieved with the help of his legal team, he told delegates.

Left to right: Adam Emmerich, Christopher Stephens, and Almudena Arpón de Mendívil

He said that the International Finance Corporation, the World Bank's private arm, did run a panel system. However, he added that he is keen to inject more flexibility in the process due to frustration at the frequency with which key lawyers moved between firms, which may not be on the panel.

Referring to his own legal team, he said he is pursuing a policy of putting more legal staff into the field to increase their engagement with local teams.

He said a key benefit for in-house teams, compared to lawyers in private practice, is that they are brought into deals and projects much earlier.

He said his team is using novel legal structures in a bid to ensure the success of projects.

# 'There should also be no impediments to material relief'

*Continued from page 1*

Agreeing with Ellis, Khan said Israel has a responsibility to comply with the rules and customs of war, one stated in unambiguous terms – not just a moral obligation, but legal obligations that should be adhered to.

There should also be no impediments to material relief, Khan added, noting the candidly expressed views of the Red Cross, the United Nations and others to allow the same while acknowledging the genuine difficulties of the current conflict.

On Ukraine, Khan discussed the background and timing behind deciding to indict Vladimir Putin, the president of Russia, before the ICC. Noting the specific situation of children in the Russia-Ukraine conflict, he called them "the most invisible part of the population" who have suffered the most profound effects, either by being directly targeted or affected by the conflict, leading to generational harm.

Without excluding the possibility of other indictments, he said any new charges would be based on the evidence before the ICC and solely on the evidence, which would first be presented to the ICC's judges for their consideration.

While expressing support for Ukraine's desire to join the ICC eventually, Khan noted that irrespective of any state's decision to ratify the Rome Statute, there were a variety of ways in which states could support the same objects. He argued that "sovereign states have certain rights to decide for themselves" in areas in which we can work together "that would be enhanced by being based upon shared values, and also our basic humanity".

Khan discussed with Ellis the idea of creating a special tribunal for the crime of aggression while recognising limits on the ICC's jurisdiction.

Khan obliquely answered the question by noting that institutions had to be very sensitive to allegations of double standards over selecting such tribunals, not least between countries in the global north and south.

Surveying the factors at play, he said one option would be to consider amending the Rome Statute so that whatever mechanism did take place could be undertaken to a common standard rather than creating a unique or extraordinary tribunal for that purpose, in line with an existing rules-based legal order.

Khan acknowledged the US was one of those countries that had been very forceful in saying it would not support the creation of an international tribunal for the crime of aggression, saying he has had "constructive discussions" with US politicians.

The session closed with questions from the audience, from thoughts over the doctrine of proportionality about the Gaza conflict, and in relative terms, as well as how to deal with the proliferation of electronic evidence in war, and whether existing mechanisms in public international law were insufficient for preventing war crimes.

# 'Men shouldn't be the reference point to what success looks like'

From left to right: Dr Franklin Vrede, Paula Surerus, Aedamar Comiskey, Linda Yang, Marie-Aimée de Dampierre, Maria-Pia Hope, Farmida Bi, Carola Van den Bruinhorst.

## A panel of female law firm leaders discussed what makes good leadership and how to sustain progress made on diversity and inclusion. By Méganne Tillay

Empathy, patience, generosity and attentiveness are among the characteristics that make women such great leaders in the legal industry, according to panellists speaking at Wednesday's IBA showcase on female leadership.

Paula Surerus, managing partner of Veirano Advogados, said that such qualities can help management teams "obtain the full engagement and potential" from the partners, and drive further collaboration and information sharing.

Marie-Aimée de Dampierre, global chair at Hogan Lovells, added: "Women are listening, and people feel that they trust us, that they are in a safe environment. This helps build trust internally and with clients, and this in turn incentivises great collaboration and work culture."

Women also bring empathetic people management skills to the table, adds Maria-Pia Hope, managing partner and CEO of Vinge. Having women in partner roles has helped shift and expand the substance of discussions at partnership and business level, she says.

Farmida Bi, Norton Rose Fulbright's chair for Europe, Middle East and Africa, said: "For the last 22 years that I've been partner, female colleagues across the industry have been asking management teams: 'let us in, we'll manage better and make you more profitable'. But now, as a leader at my firm, I feel that this conversation has shifted across the industry to: 'We have to be more diverse because it's more reflective of who we are as firm'."

Bi adds that there is a profound unfairness in the business structures in the legal industry.

"Almudena is [one of] the first female IBA presidents, and I hope we won't be waiting another 20 years before having another one," Bi said. "As women, we've always been told that we have to be as good as the next man, it shouldn't be that men should be the reference point as to what success looks like. Fundamentally, it's all about fairness."

### Breaking down stereotypes

When asked whether the definition of femininity and female leadership has imposed a prison around their leadership style, the panellists agreed that gender stereotypes were unhelpful and that women are more than capable of making tough decisions.

Aedamar Comiskey, senior partner and chair at Linklaters, believes that women in the workplace should be thought of in a more comprehensive way. She said: "We have all those qualities, but women aren't just there to do the nice soft people management stuff, they're also here to do the difficult business stuff, the long hours and tough business decisions, the client management, closing big M&A deals, helping businesses fight for a case in court, and so on."

This was echoed by Bi, who added: "I don't see why anyone should be constricted to what other people's perceptions of them are. As leaders, we have to make tough decisions but there is a difference between making a tough decision and imposing it, the communications for that are key. Most men wouldn't think twice about those decisions, and neither should women."

Hope agreed, stating that communicating tough decisions can still be compassionate and empathetic when done properly.

### Boosting diversity

When it comes diversity and inclusion, de Dampierre said that women have been instrumental in speaking up against inequalities within the legal profession. She says women have helped drive change towards more gender equality and raise awareness for other diversity and inclusion issues so that everyone can thrive in law firms, but this is still a work in progress and everyone needs to take part.

She adds that such changes need to be embedded in a firm's policies, strategy, structure and culture, adding: "The test will be: do clients want to work with you? Do people stay long at the firm? Do people have a positive experience throughout their career at the firm?"

Bi noted that women have been part of the profession for a long time in certain jurisdictions, and she finds it "bizarre" that some industry players are still not able to reflect that.

### Talent retention

Law firms also need to understand the business case for improving diversity. In light of the Great Resignation, de Dampierre says it is "all about attracting and retaining talent" and firms need to understand that younger generations expect their employers to support them to develop professionally and personally, and that they can demonstrate they are a responsible business that is inclusive and mindful of the environment as well.

She said: "The thinking at management level should be: as long as people stay with the firm, we want them to have the most positive experience possible. Clients will want to work with firms sharing these values, too."

Comiskey seconded that thought, adding that diversity and inclusion is "the right thing to do" and is key in retaining talent. She said: "As leaders, we need to think about what makes people proud to work at a firm. These types of conversations show us what works and what can be improved."

### Equal reward

In the face of gender pay gaps, often slower career progression and a lack of access to leadership roles for women across professions, Bi advises law firms to look at their remuneration structures and to reward those who "do all the extra bits that make a law firm great" – roles that often are taken up by women, she said.

Comiskey agreed: "Everybody needs to do their fair share of everything. In a law firm, all partners need to look after and develop teams, clients and make money. It shouldn't work in gendered silos. You need to do it all regardless of who you are."

# "It is very noble to defend victims but the noblest accomplishment of our profession is to defend the accused"

Former US President Donald Trump speaks to press before the start of civil fraud trials in New York last month

## Legal profession continues to wrestle with social responsibility and acting for difficult clients in an increasingly binary era where lawyers are more and more frequently associated with their clients.

On Wednesday, away from the Palais des Congres, a panel explored the burning ethical questions facing the profession in the grand surroundings of the International Chamber of the Paris Commercial Court in central Paris.

A wide-ranging discussion chaired by Lalive's Sandrine Giroud tackled issues including the enormous pressure lawyers can face from their clients, the binary and nuance-free nature of discourse in a social media-driven world, the limits of free speech, the rights of lawyers to take on unpopular clients and even whether we are facing the end of universal rights.

Panellists included former French ambassador to Denmark, Francois Zimeray of Zimeray & Finelle, Christopher Stephens, senior vice president and group general counsel of the World Bank, Adam Goodman of Dentons and Robert Bernstein of Holland & Knight.

With news breaking that a number of Donald Trump's 2020 campaign attorneys have pleaded guilty to aiding and abetting false statements in the Georgia election racketeering prosecution, Robert Bernstein said: "They have confessed to perpetuating lies told by Trump in a conspiracy to overturn a free and fair election and it really exemplifies how lawyers are often put under extreme pressure. Imagine a lawyer in that position told to do something illegal by a former and possibly even future president – but fundamentally it is our job as lawyers to push back and hold that line."

The World Bank's Stephens noted the tension between the profession's role as guardians of process and managing the pressures of doing a good job in a competitive environment: "These are divisive times and we have to ensure that doesn't cloud our judgement as lawyers. We all get a bit excited and passionate about the causes of our clients but societies crossed a line somewhere with such a divisive politic as we see now. If you see things only as right and wrong, black and white, it is easy to see your opponent as not a good person with bad ideas, but rather simply as a bad person, which is a dangerous road."

Zimeray emphasised the threats posed by our era of social media-driven binary thinking: "Are we living in a different era? Yes we are. We have all the means of communication and access to knowledge in the world, but we are in a terrible situation where facts no longer matter and prejudice prevails. The lawyer's role is to understand nuance and complexity and our time is defined by a desire for simplicity, no matter how impossible. This makes it even harder to defend unpopular clients now. There is too much distrust of lawyers and reality is complex not simple. But sometimes the right thing to do is to defend someone no one wants to defend."

The issue of managing people in firms with diverse views on the Israel-Hamas war was also discussed in light of the decision by several US firms to rescind job offers, with the panel weighing the limits of free speech and the link between discourse and core competencies as a lawyer. Holland & Knight's Bernstein said: "There has to be a balance between the right to private conduct and free speech with maintaining an inclusive work environment with acceptable discourse. There is a misconception of what free speech means – people in the US do have the right to say what they want but you are not entitled to private employment, so you are not free from the consequences of what you say.

"There is also the question regarding if someone's judgement is so off that they say something extreme on social media then what does it say about their core competencies. Clients pay us to hire people who can exercise good judgement and I can't say these people are doing that."

# US ambassador to Poland welcomes election 'sea change'

## Mark Brzezinski underlines strategic importance of Poland and says Ukraine will prevail. By John Malpas

Ukraine will ultimately win its war with Russia, although fighting has reached its bloodiest stage with land being won back "yard by yard".

This was the assessment of US ambassador to Poland, Mark Brzezinski, during his keynote interview with the IBA's executive director Mark Ellis on Tuesday.

Brzezinski, who was sworn in as ambassador to Poland in 2021, left the audience in no doubt of Poland's crucial strategic role in supporting Ukraine's war effort.

He praised the Polish people's willingness to accommodate more than a million Ukrainian refugees in what amounted to a "mobilisation" of the people and acknowledged the democratic process that saw the incumbent right-wing populist Law and Justice party lose its parliamentary majority.

He agreed with Ellis that the elections represented a "sea change", given what the IBA's executive director described as the incumbent government's assault on the rule of law, which had led to an ongoing rift with the EU.

"Ultimately the recovery and rebuilding of Ukraine presupposes a large European Union participation in that and geo-strategically Poland is the access point to Ukraine," Brzezinski said, welcoming the fact that Donald Tusk, who is leading the opposition coalition, had already visited the European Commission.

Brzezinski said of the elections: "It was a true voice of the people, about the government they want and expect and the kind of presentation they want to make in the world and that is important for democracy, rule of law and freedom of media."

The ambassador did, however, warn that the support in Poland for bringing in more refugees had fallen a little and was likely to continue falling, although he was confident the vast majority would still continue to support the war.

Mark Brzezinski

But he warned: "We have to brace ourselves that what is happening in Ukraine will take time. In Eastern Ukraine the gains are yard by yard and it is the bloodiest of fighting."

Brzezinski also said he believed sanctions against Russia were working, despite the fact that some powerful non-aligned countries continue to engage with Moscow.

And he sought to reassure the audience that NATO was alert to the dangers of the war spreading and had "gamed' every potential scenario that could lead to an escalation of the conflict.

# IBA announces 2023 human rights, pro bono and young lawyer award winners

## Winners to be presented with their awards at this morning's SPPI breakfast ceremony. By Ben Rigby

The IBA's Section on Public and Professional Interest (SPPI) handed out three awards at its breakfast ceremony this morning, highlighting achievements for human rights and pro bono work, as well as recognising the IBA's outstanding young lawyer.

The awards were announced by SPPI chair Myra Garrett and presented by SPPI members including Alberto Mata Rodríguez and Odette Geldenhuys.

Singapore's Ravi Madasamy won the IBA Human Rights award for his anti-death penalty work and other public interest litigation work, including a case involving gay rights and the right to vote. The award recognises lawyers who have made an outstanding contribution to the promotion, protection and advancement of the human rights of all, particularly with respect to their right to live in a fair and just society under the rule of law.

The IBA Outstanding Young Lawyer award went to Raphael Lorenzo Aguiling of the Philippines. Created in partnership with the IBA and LexisNexis in recognition of William Reece Smith Jr, a former IBA president, the award is given to a young lawyer who has shown not only excellence in their work and achievements in their career to date, but also a commitment to professional and ethical standards, as well as a commitment to the larger community.

Aguiling said: "My life is dedicated to using law as an instrument for change – to stand up for the marginalised, to voice the voiceless and to improve the lives of those around me."

The IBA Pro Bono award, supported by LexisNexis, went to Maria Fernanda Mierez of Argentine firm Beccar Varela for her pro bono work over the past two decades, both with her firm and the Buenos Aires Bar Association.

She commented: "One of the reasons I chose this career – in addition to being attracted to the idea that justice is present in every one of my actions – was because I could have a broader positive impact, beyond my own vocation, [to which] pro bono work was the catalyst."

Ravi Madasamy

Raphael Lorenzo Aguiling

Maria Fernanda Mierez

# Luxury fashion brands weigh up the future of AI and the metaverse

## The metaverse offers new ways for brands to engage with customers, but the technology is not without risks, writes Méganne Tillay

*Panellists at Tuesday's LPD showcase*

Legal professionals from brands including Prada, Meta and Valentino outlined the risks and opportunities for the luxury fashion industry created by the rise of AI and the metaverse at Tuesday's LPD showcase: fashionably metaverse – high technology meets high fashion.

The session started with Semjon Rens, public policy director at Meta for Germany, Austria and Switzerland, giving a short presentation on what the metaverse is, the risks it presents, its limitations and the opportunities it presents.

Beatrice Grifoni, design, communication and IP legal director at Valentino, then talked about projects Valentino has implemented in recent years, using AI and the metaverse to raise awareness and engagement with the brand.

She said: "During lockdown, people couldn't go to stores and could only shop online. We wanted to find a way to communicate with the public differently as shops were closed. We cooperated with some games, such as Animal Crossing New Horizons, and created Valentino dresses for gamers to download and use for their characters in the game."

Gleiss Lutz antitrust partner Moritz Holm-Hadulla also shared that his firm uses the metaverse for internal meetings, especially training sessions, as well as client events.

But these metaverse and AI developments aren't without challenges. Erika Levin, partner at Fox Rothschild, said: "Metaverses are bringing people together across industries. But the question remains: how do we work through the inoperability point? We need to figure out intellectual property protection for those issues to transcend."

Rens added that the metaverse cannot replace real-life experiences such as fashion shows, but it gives people a chance to have an immersive experience and to attend events that are often exclusive.

A second panel looked at how buyers across jurisdictions use technology to engage with brands and how that may affect the future of luxury retail, with an opening speech from Prada Group's legal director Luca Chiama.

He said: "At present, the marketing is more customer-focused and aspiration-driven, and it mostly takes place online. In the future, generative AI will help predict customer behaviour and help expand the customer base."

He warned however that AI and digital disruption will happen at many levels including for data ownership and protection, cybersecurity, intellectual property and supply chain technological integration.

Meanwhile, Vivien Chan & Co intellectual property partner Anna Mae Koo shared a perspective of how customers in Asia use technology to purchase. She said: "China and Indonesia are huge markets for live-streaming the use of luxury products. Asian people like to associate brand with people. CEOs, celebrities and influencers are key and their interactions online on TikTok or Taobao and other live-streaming platforms result in huge amounts of online purchases."

But Garrigues intellectual property partner Cristina Mesa shared that companies are worried about generative AI (GAI) due to the way the system works and uncertainty around copyright, data and other regulatory issues which vary widely from one jurisdiction to another.

Fox Rothschild's Levin said: "From a copyright perspective, there is extreme worry and concern if you're a company using GAI because the US Copyright Office does not take any applications for AI-generated work. But the regulators have not yet grasped that GAI is not copying products or designs, it's learning and distributing something different."

She added: "However, the cases brought forward in the US are not finding liability against AI developers. So, the law is trying to meld itself, but we're not there yet. The main question in the US right now is: on what basis can you bring this claim? I think AI regulation in the EU will be important for the US to analyse."

# What impact does social media have on democracy?

PREVIEW

## Former Danish prime minister Helle Thorning-Schmidt will be delivering this morning's keynote address, where she will focus on social media's impact on democracy and the rule of law.

Thorning-Schmidt was appointed co-chair of The Oversight Board in 2020, a governance body set up by Facebook as an independent check on the social media platform's content moderation decisions around freedom of expression – namely what content should be removed and what should be allowed to remain, and why.

In an era of heightened fake news, misinformation and high-profile conspiracy theorists, there is increased scrutiny on social media companies around what they are doing to police their platforms from bad actors.

Thorning-Schmidt will draw on her role at The Oversight Board to talk about how the dissemination of fake news can be countered and the role lawyers can play in effectively controlling this powerful force.

Speaking on CNBC last year, Thorning-Schmidt said The Oversight Board is a new way of regulating content online that takes the burden away from social media companies, giving a more independent view based on a company's own community standards but also human rights.

For instance, Facebook-owner Meta asked the board whether the social media company was right to ban former US president Donald Trump from the platform in 2021 in the wake of the January 6 Capitol attack. After a thorough review that took into account public comments, Thorning-Schmidt said the board agreed that the decision was right to remove Trump because he was seen to be instigating violence on January 6.

*Thorning-Schmidt was Danish prime minister from 2011 to 2015.*

SESSION: **Morning Keynote Address: Helle Thorning-Schmidt, former prime minister of Denmark and co-chair of Facebook's Oversight Board**

TIME: **Today, 09:30 – 10:45**

LOCATION: **Amphitheatre Havane, Level 3**

# 'The European regional forum is very much about the friendships'

## IBA European regional forum co-chair Christine Blaise-Engel talks to Ben Edwards about the work the group is doing and looks ahead to today's sessions

**You are the first French co-chair of the IBA's European regional forum. What does your role entail?**

This is my second year and so I'm almost at the end of my term. The European regional forum was originally set up by countries in Eastern Europe, but it now covers all of continental Europe; we have huge representation in several countries, though not so much in France. The role of the co-chair is to coordinate the activity between all the sub-regional groups and our working parties and promote all of that with the IBA. We have five working parties – diversity and inclusion, young lawyers, ESG, wellbeing, and communications.

The European regional forum is also setting up three conferences a year: fashion and luxury, mobility services and one for startups. All of these conferences are industry-orientated and so are very much focused on business. We invite people from those industries – the conference speakers are not lawyers – and the speakers are happy to come because they can meet their counterparts too, and the lawyers are happy too because they learn a lot. So, it's not only about networking, it's also about learning. As co-chair I'm responsible for co-organising the fashion and luxury conference this year, which is going to be in Milan.

The conferences are very much determined by the themes that are happening in those industries. For example, we renamed the automotive conference as the mobility services conference because that better reflects the way that people engage with the market now, renting cars and so on. It also made sense to create a fashion and luxury conference because we have the fashion capitals of the world in Europe with Milan and Paris, so we wanted to promote this. When you talk about fashion and luxury, it is not just about IP, it is about corporate issues, it's about real estate, it's about e-commerce.

*Christine Blaise-Engel*

**What is the forum's priorities for the year ahead?**

We have previously been very focused on wellbeing and diversity and young lawyers, and while these topics are very important, we have to focus as well on business. We talked about this on Sunday when we had our typical brunch with all our forum officers. It's important that we take advantage of the fact that we have a large network and we can discuss topics if we are facing similar difficulties in the matters we are dealing with. We have a WhatsApp group so you can contact directly as soon as you need someone, which can also ease the process for referrals.

**You are a corporate and M&A partner at Fidal in Paris. Can you tell us about what is happening in the Paris legal market right now?**

The market in Paris is a very cross-border market, but Fidal has a presence everywhere in France. That is an advantage because there are a lot of industries in the regions in France, but when your practice is in Paris, a lot of your work is likely to be international and that means you have to travel a lot in order to meet clients or get new clients or develop new practices. I travel at a minimum once a week, especially in Europe but I go to the US often and every two weeks in London. If you just stay behind your desk, it is not going to work, particularly if you have an M&A practice like mine.

**How is M&A activity shaping up in France this year?**

It's complicated. M&A is not flat but the process is taking much longer than it used to. In the past you would negotiate the letter of intent or whatever, and the process started and then we closed or not. Now the process is very long. It can take clients ages just to negotiate a good price, and then there might be a renegotiation that takes another two months. I was advising on one deal recently that started in April and was still going on in September. I was away at a conference and they called and said we want to close the deal at the end of the week, so instead of going to the conference I spent my days and nights in the hotel just negotiating. But this is how we work.

**You are head of international strategy at Fidal. What opportunities and challenges are there for French firms on the international stage?**

The market opportunity is huge. The biggest foreign investors in France are still from the US, followed by Germany, the UK and Belgium. That's why Fidal has developed a Belgium practice beside the European practice already established in Brussels. France is still a very nice country to invest in. They are investing directly in the regions, but sometimes their first take is in Paris.

**What have you been doing at IBA Paris 2023?**

On Monday we had the Psychological health, safety and wellbeing session and we also had our annual ERF lunch, which is becoming very popular. The president (Almudena Arpón de Mendívil Aldama) came along to say hello and told us how important the European regional forum is for the IBA as it is a channel in Europe, and that was the first time an IBA president has come to our famous lunch. I was also quite emotional because it was my last speech. But today is a very important day for us. We have our open day where people can come and meet us to learn about what we are doing and how much time they would need to invest if they wanted to get involved, so it's really an opportunity to have one to one meetings with people who are interested in joining the forum. This afternoon we also have the European automotive and mobility service industry session, which is being co-moderated by my forum co-chair Massimo Calderan, and we will also be involved in the Sports and ethics session.

*The speakers from Tuesday's diversity session*

**One of the hot topics at the conference is the impact of artificial intelligence on the legal profession. How is the legal industry in France embracing AI?**

We don't want to fight with the machine. The machine is doing things we can do, but better than we can do them. I read an article once where they asked lawyers to review confidentiality agreements and do mark ups and compete against AI. The best lawyer did it in something like 37 minutes, but the machine did it in just three minutes. So for this type of commoditised work, we don't want to fight the machine – it's up to us to do what the machine can't do and focus on that. Within our firm, we have Fidal Innovation, so we are working a lot on this issue, but we see it as an advantage not as something which is bad for lawyers because we're going to lose our jobs. It's just caused us to find a way to do our job differently than we did in the past.

**What else will you take away from this year's conference?**

When I started with the IBA between 15 and 20 years ago, I just wanted to get referrals. I would come to the conference, do my job, tick the box. That was it. But over time, especially with the European regional forum, it has very much become about friendships. This is why I was a bit sad at the lunch on Monday, we are all very close and connected, we are real friends. Life is a short trip, and I value those friendships very much. That's the real opportunity and we are very lucky for that.

## Launch of diversity toolkit

On Tuesday, the efforts of the diversity and inclusion working party within the European regional forum (ERF) of the IBA crystallised with the launch of the Diversity and Inclusion (D&I) Toolkit for law firms – a truly transformational instrument, write Antonia Verna and Pavla Kopeckova Prikrylova

The project started at European level and with the support of the IBA special projects fund and was extended to become a global IBA initiative at the start of 2023.

The initiative was led by Antonia Verna, chair of the diversity and inclusion working party, a member of the IBA D&I Council and a partner at Portolano Cavallo; and Pavla Kopeckova Prikrylova, vice-chair of the diversity and inclusion working party and a partner at Peterka & Partners. The project was supported by the D&I council, other IBA committees and IBA legal policy & research unit director, Sara Carnegie.

The D&I Toolkit for law firms is a practical and inspirational tool for all law firms, no matter the size and location. It can serve as a guide to those who are yet to start their journey in creating D&I strategies within their organisation; for improving and completing already existing practices; or for reviewing existing internal policies to determine whether all necessary aspects are covered sufficiently.

In other words, the D&I Toolkit can assist any type of law firm in reviewing and adapting its internal environment from the D&I perspective, in order to ensure it embeds equitable conditions for its employees and provides a more holistic legal service to its clients.

*Antonia Verna is chair of the European regional forum's diversity and inclusion working party and a member of the IBA D&I council and Pavla Kopeckova Prikrylova is vice-chair of the IBA's diversity and inclusion working party.*

***The D&I Toolkit is available in its interactive form on the IBA website: ibanet.org/DI-Toolkit-for-Lawyers***

# Defining the perfect partner

## Lexington Consultants' Moray McLaren explains why firms need to rethink how they measure lawyer performance

Two ideas structure my thinking when working with law firms as they review and update their approach to partner remuneration – namely profit-sharing and defining what it means to be the "perfect partner".

Both ideas require change. Emerging from the COVID period, I have seen more openness to change in the previous three years than in the past 30. But will this impetus carry over for the long term?

To help us understand the key issues, my colleague at Lexington Consultants, Stephen Revell, and I undertook a survey of law firm remuneration trends for the law firm management committee of the IBA. Survey respondents identified five areas for attention:

**1: Accountabilities are still the major challenge**

Although leaving each partner to their own separate business is much easier than aiming to give a sense of direction to a group of senior professionals, our research tells us that defining and understanding the behaviours of an ideal partner is still the number one challenge.

Any firm without a strategy is at the mercy of its remuneration model – in fact individual incentives make a firmwide strategy irrelevant – leaving a vacuum when it comes to developing common approaches to client relationships or people, for example. Our IBA survey shows that the top five remuneration priorities are all about defining accountabilities.

**2: Clearly defining partner contribution with formal key performance indicators (KPIs)**

In line with the results of the IBA survey, it is clear that firms are re-thinking what partner contribution means and updating their KPIs.

Approaches are still led by financial KPIs, but there is a growing understanding of the importance of non-financials, even among Eat What you Kill (EWK) firms. Of those respondents who identified themselves as EWK, more than half said they are rewarding partners based on financial and non-financial criteria. From the lockstep firms that award a bonus, 37.5% award these on financials only and 62.5% on a mixture of financials and non-financial KPIs.

A focus on purely financial metrics is unwise – finding the right balance is key – as is using the correct financial metrics. This has spectacularly misfired in the firms using the wrong financial metrics, such as billable hours and income, as opposed to financial contribution and profit margin.

The most common categories of non-financial performance are anchored around developing your people, stronger client relations, plus management and leadership. An increasing number of firms are now seeking to define the values required from partners.

Despite the work invested in redefining performance indicators, financial performance is still the main driver for partner rewards.

**3: Introducing guardrails within tighter performance bands**

Agreeing performance indicators is one challenge but understanding how to coordinate them is another. In addition to moving away from only financial KPIs, both EWK and lockstep firms are adopting performance bands with guardrails.

In pure EWK, partners are vulnerable to market changes, so some have adopted hybrid approaches, such as using equity bands. Partners are assessed and moved up and down bands according to three-year results, which provides more stability.

Lockstep firms have their own particular cultural challenges. A pure lockstep works on a simple assumption that with each year, the size and profitability of a partner's practice will increase. This may not always be the case.

Less than half (44%) of the law firms identifying as lockstep in the survey describe their approach as "automatic progression". Many are introducing a bonus to reward their high performers (modified lockstep) and performance gateways (managed lockstep).

**4: The case for reinforcing governance**

Reviewing a partner's financial success is straightforward but evaluating fellow partners on non-financials (e.g. motivating their team or building the firm reputation) is more nuanced. And there is reluctance to move to a system requiring judgement over fellow partners. Some 46% of respondents said they have a remuneration committee, 16% leave this role to current leadership and the remaining say they are decided "purely on financial metrics".

The partner paradox is clear – firms in which partners enjoy a high-level of independence, light-touch management and a 'first among equals' approach to leadership have some significant barriers to overcome.

**5: Moving from partner evaluation to partner development**

With partners now expected to be more than 'just' an excellent technical lawyer, many firms are failing to prepare lawyers for partnership. New partners are frustrated because they have not been given the skills to build their practice and firm leaders are irritated by a lack of progression from good technical lawyers to fully contributing partners.

Another unforeseen consequence of COVID was the group of unprepared seniors who were sucked into partnership (for all the right reasons, such as busy workload). On the positive side, firms have invested financially in making-up the next generation, but they need to help them develop the skills necessary to increase firm profitability.

Proper partner KPIs are key to achieving this, as they define both the development competencies of the potential partner group and a firm's partner selection criteria.

**Conclusion**

So, will what brought us here, get us there? Our results show that a lot of firms believe the answer is "no". The move away from financial metrics continues with today's requirement for performance management striking at the heart of the partnership model – finding an acceptable balance between professional autonomy and the rights and duties of co-owners in a business.

But firms don't want to back to where they were either, with an increasing number of firms agreeing that tightening KPIs helps growth.

Being a law firm leader is far from easy and is characterised by the presence of enormous responsibilities with minimal authority. Any leader must get a clear mandate for change.

*Moray Mclaren is a partner at Lexington Consultants and a professor at the LawAhead Center for Legal Services at IE Law School. He chairs the law firm management committee's talent & leadership subcommittee. The survey results are being published by Harvard Law School's The Practice magazine and will be available on 6 November.*



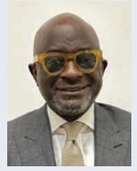
# Delegate Views

## What are your key takeaways from IBA Paris 2023?

**Ajra Azhar**
**Director, Colombo Associates, Sri Lanka**

Having been awarded a scholarship from the rule of law forum for my paper on tech justice, I have learned so much from the many sessions I have attended. My key takeaway is that AI has to be open to both rich and poor to ensure it is fair.

**Adewale Olawoyin**
**Managing Partner, Olawoyin & Olawoyin, Nigeria**



As co-vice chair of the maritime and transport law committee, one of the issues we are discussing is the urgent need for legal certainty regarding the sale of vessels. As many countries have different rules, if someone has a claim and gets a court order, a problem can arise further down the line if this challenge is not resolved.

**Kathleen Garrett**
**Partner, Reed Smith, UK**

The accelerated change in the business of law due to AI and digitisation is what I have taken away. It gives us the opportunity to provide certain services quicker and cheaper and allows lawyers to focus on impactful advice. There will be winners and losers, especially when we see AI generated comparative analysis.

**Nico Lang**
**Managing Director, Yingke Africa, South Africa**

It's my first time at the IBA and I found it useful sharing ESG compliance experience. As the managing director of Yingke Africa, our clients are mainly Chinese investors in Africa and we face ESG compliance issues for different companies who invest in mining, infrastructure and manufacturing.

**Emre Atayilmaz**
**Partner, Pelister Atayilmaz Enkur Law Office, Turkey**

As commercial lawyers there are a number of areas we are interested in at the IBA. One in particular impacts manufacturing companies around their supply chains. There are new developments regarding regulatory and legal requirements and it was good to catch up on the latest in this area.

**Gurbachan Singh**
**Managing Partner, GSM Law, Singapore**

The IBA's networking and focused sessions are of the highest quality and always of great use. My practice area is tax and the sessions I have attended are well focused with all the latest issues discussed. The best tax experts attend and I have made exceptionally good contacts at the event.

**Emma-Jean Markin**
**Managing Partner, Markin & Associates, Ghana**

This year's event had so many topical sessions which I found particularly helpful. One takeaway involves data protection around the world. In Africa only 30% of countries have laws on data. Harmonising it across Africa is important as different rules currently apply in a number of African countries.

**Shan Greer**
**CEO, BVI International Arbitration Centre, British Virgin Islands**

Having become CEO of the centre at the start of the year, one of my takeaways from the Paris IBA is how globalised we have become. I was surprised to see how many countries use BVI structures. I had not appreciated how far-reaching they are.

**Nicola Williams**
**Barrister, 1 MCB Chambers UK**

My interests lie in the field of judicial diversity around race and gender. Racial diversity is currently lacking in the UK with very poor representation of people of African and Caribbean descent in the judiciary and almost no improvement over 10 years. A diverse judiciary is essential for the betterment of society.

**Franka Pues**
**Legal Researcher, Pogust Goodhead, UK**

I am a PhD student at the Dickson Poon School of Law. I attended criminal law and public international law sessions and am particularly interested in how to implement digital evidence. My takeaway is that victims are not one class and grouping them together takes away from the diversity of different conflicts and justice.

**Lugard Agbomoagan**
**Lead Attorney, G L Agbomoagan Legal Practitioners & Consultants, Nigeria**

My key takeaway is that the IBA has created a level playing field for young lawyers from all countries. Young lawyers everywhere should know about the IBA and see that there is no limit to what they can achieve in an open world. At the IBA every lawyer is important no matter where they are from.

**Marwa Gharib**
**Gharib Law Firm, UAE**

It's been fascinating to learn more about the issues in arbitration and banking. Arbitration is impacting the eco-system of our country in that two parties will turn to London to deal with their arbitration. The takeaway is that we need to work out how to keep arbitration in the UAE.

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# Law Rocks! takes centre stage in the City of Lights

## There are parties, and there are parties. And then there is Law Rocks!

A staple of the IBA annual meeting since the Boston meeting in 2013, the charity was set up in 2009, and celebrates its 15th anniversary next year.

An idea created by promoters and founders, Nick M. Child and Ted Scott of Secretariat, and Damian Hickman of the International Dispute Resolution Centre in London, without whose unwavering support it would not exist, Child and Hickman took time out of their busy schedule to discuss their plans for Paris 2023, and more.

Child explains the background: "Law Rocks! is a global charity that raises money for worthy causes, through a battle of the bands event made up of bands from the legal community."

The format is simple, he says: "We play as many iconic venues as we can around the world each year, and in 14 years have given away over $6 million."

Law Rocks! is often attached to various arbitration weeks around the world – Paris is a regular favourite, Dubai's event is famously competitive, Hong Kong's is exuberant.

Child explains: "Law Rocks! allows us all to swing in to town – Paris in this instance – and leave it having raised money for charity, and having had a stonking good night at the same time."

Hickman adds: "The IBA audience seem to love it – we always sell out and the IBA community really loves to get involved. We have many repeat bands around the world, but each year we have newcomers who have been before, and then plucked up the courage; and yes, it takes courage to get up there!"

The event has had all sorts of people judging, explains Child "but for the IBA we like to have those from the IBA family play Simon Cowell," or any of the other judges' that delegates know from TV talent shows. This year's judges are Raphael Kaminsky, of Teynier Pic, Jessie Smith, of Howard Kennedy, London, and a mystery committee member from Paris Arbitration Week, who, Child says, will have their identity to be revealed soon…

Hickman says that every IBA gig gives half the money raised from the event to the IBA Human Rights Institute, which in troubled times, remains an important entity, while the other half is donated to a local charity in whichever city the IBA is in.

He says: "Our adopted Paris charity, which also benefits from our Paris Arbitration Week gig, is Enfance & Partage (Childhood & Sharing) which for more than 40 years has been working to ensure that every child is protected by their family and by society in order to preserve their future as adults."

Neither man would be drawn on which gig is the best, with Child laughing, saying "Wow, too many to choose from. A big highlight was the Dubai gig last year – 750 people all having a blast with some amazing bands!"

Hickman notes the Los Angeles gig is always special, with the venue being sold out year on year. This year's event is also completely sold out, they note: but if delegates want to donate they can do so at lawrocks.org/donate or on the IBAHRI and Enfance et Partage's websites.

Asked to recommend French music, Child said: "French music has never quite made it in the UK given the language barrier, but Air has to be the most prevalent (and also brilliant) band that has had exposure. We wanted to add Plastic Betrand but he was from Belgium."

Thursdays sponsors deserve a mention too: Reed Smith Paris, International Arbitra and HKA.

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# EVENT CALENDAR 23/24

WOMEN & DIVERSITY IN LAW AWARDS

## 13 March 2024
**LONDON**

With 400 attendees in 2023, the Women and Diversity in Law Awards set out to say a big, collective 'thank you' to those who are dedicating their professional careers to moving the DE&I needle or using their positions of influence to help facilitate change.

**womenanddiversityinlawawards.com**

LAW FIRM MARKETING SUMMIT

## 8 October 2024
**LONDON**

Now in its ninth year, the Law Firm Marketing Summit has established itself as the leading forum in Europe that addresses the challenges that those responsible for law firm marketing strategy are facing.

**lawfirmmarketingsummit.com**

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LUXURY LAW SUMMIT LONDON

## 11 June 2024
**LONDON**

The summit provides general counsel and their teams with a unique opportunity to discuss the challenges facing the sector, sharing insights on the latest trends and challenges while also hearing from leading figures within the world of luxury.

**luxurylawsummit.com/london**

LUXURY LAW SUMMIT NEW YORK

## November 12 2024
**NEW YORK**

The Luxury Law Summit New York is a unique opportunity for general counsel and in house legal teams to discuss experiences and share insights on these latest trends and challenges. Bringing together the leading luxury brands, leaders and thinkers in luxury enjoy unrivalled access to this high-end legal marketplace.

**luxurylawsummit.com/new-york**

ANTI-COUNTERFEITING WORLD LAW SUMMIT

## 12 June 2024
**LONDON**

The Anti-Counterfeiting World Law Summit convenes the globe's most well-known counsel in a one-day programme with policymakers, government agencies, law enforcement and technology innovators to address the industry's most pressing issues and emerging trends.

**anticounterfeitingworldlawsummit.com**

# IBA Paris 2023 guide

## What to look out for on Thursday and Friday

INTERNATIONAL BAR ASSOCIATION

## Thursday

**09:30 – 10:45**

**Morning Keynote Address: Helle Thorning-Schmidt, former prime minister of Denmark and co-chair of Facebook's Oversight Board**

Amphitheatre Havane, Level 3

This session will focus on social media's impact on democracy and the rule of law. It will explore how the dissemination of fake news and misinformation can be countered and the role lawyers can play in effectively controlling this powerful force.

**11:00 – 12:30**

**SPPI Showcase: law as a lifelong and rewarding profession**

Salle Maillot, Level 2

This interactive session will explore what the legal profession should be doing to enhance its value proposition to those in the profession, those contemplating joining the profession, and those who engage the services of the profession by developing and expanding the legal and non-legal skillsets of lawyers. It is billed as a 'must attend' for those involved in law practice management, especially if they are focused on retaining talent in these times of the Great Resignation.

*Chaired by Babatunde Ajibade, SPA Ajibade & Co, Lagos, Nigeria; SPPI vice chair and treasurer; and Myra Garrett, William Fry, Dublin, Ireland; SPPI chair*

**14:30 – 15:45**

**Mean machines – how AI isn't free from unconscious bias**

Rooms 212-213, Level 2

Artificial intelligence has been touted as a bias-free solution from recruitment to performance assessment. However, is this the full story? This session unpacks the incredible advances in and contributions of AI, but at the same time, exposes the dark side to reliance on machines.

*Chaired by Frances Anderson, Victorian Government Solicitor's Office, Australia and co-vice chair, forum for government and public lawyers.*

**16:00 – 18:00**

**IBA Football Match**

UrbanSoccer - Porte d'Aubervilliers, 111 Av. Victor Hugo, 93300 Aubervilliers

Register your interest in playing prior to (or during) the conference week by emailing Leonie Stevens (lstevens@petersandpeters.com) or Keith Oliver (keoliver@petersandpeters.com).

**19:30 – late**

**Law Rocks! Paris**

Backstage by the Mill, O'Sullivans, 92 Bd de Clichy, 75018 Paris

The latest in an ongoing series of 'battle of the bands' style rock concerts in which law professionals battle it out on stage for charity at legendary music venues around the world. Tickets can be purchased at: lawrocks.org/iba-paris

## Friday

**09:30 – 11:00**

**Rule of law symposium: accountability and justice**

Salle Maillot, Level 2

This panel will draw from the expertise and insight of experts in the frontlines of international justice to provide perspectives and lessons learned from around the world. The panel will also discuss the role organisations such as the IBA can play in contributing to global stability and peace through the administration of justice.

*Chaired by Federica D'Alessandra, Oxford Institute for Ethics, Law and Armed Conflict, co-chair, forum for government and public lawyers*

*Please note that this meeting is open to those not attending the annual meeting who can attend for free if they register online at ibanet.org.*

**19:30 – 22:30**

**Closing party**

Hôtel de Ville, 75004 Paris

Tickets must be purchased at the registration desk.

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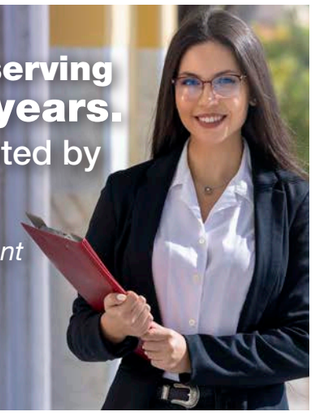

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