

Bar Executive Exchange

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ANNUAL CONFERENCE OF THE INTERNATIONAL BAR ASSOCIATION

IBA 2022 MIAMI
30 OCT-4 NOV



Merete Smith

*Secretary-General,
Norwegian Bar
Association*

*Co-Chair, IBA Bar
Executives Committee*



BIC Officers meet with President of the Law Society of Ireland, Michelle Ní Longáin, and Director General, Mark Garrett, during their retreat to Dublin in April

From the Co-Chairs

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Let's talk about it: How can we improve mental wellbeing in the legal profession?

After two years of digital annual meetings due to the pandemic, we will finally gather once again for the IBA's Annual Conference. We are very much looking forward to seeing you all in wonderful Miami!

How have you been since we last saw each other?

This leads us to this year's Conference topic – the mental wellbeing of lawyers. Findings in the recent IBA report from 2021 illustrate that over a third of legal professionals surveyed feel work negatively affects their mental wellbeing. Notably, one in ten under-30s has experienced suicidal thoughts as a result of work. We, as part of the legal profession, cannot accept this.

Why don't more people speak up, you may ask? Many lawyers feel unable to speak about their mental wellbeing because of the stigma attached to the subject, and they fear it will have a negative impact on their career or professional standing.

In other words, the subject is still taboo. The wellbeing of lawyers has been a topic in previous Annual Conferences, but the IBA report shows that we still need to talk about it and continue to strive for solutions. What preventive measures can be taken? Which assistance programmes should be offered? The focus of the Bar Executives programme will be what Bars and law societies can do to meet these challenges.

The findings in the IBA report are fortunately not exclusively negative. For example, substance abuse among individual lawyers is reduced compared to previous research, and firms and organisations are increasingly acknowledging the importance of mental wellbeing. You can read more about the IBA report in BIC Project Lawyer George Artley's BIC Project Feature in this newsletter, where the link to the report is included.

A healthy legal profession is not only important for lawyers themselves, but is also a key factor in providing the best legal services possible. Mental

wellbeing is the best driver to work creativity, productivity and efficiency.

The legal profession is facing a time of change due to legal tech development, and lawyers are being forced to adapt rapidly and be flexible. Fatigue and a poor mental state are very counterproductive and are not compatible with tackling the pending changes. The range of negative outcomes is numerous, and it may affect the whole legal profession.

A special responsibility rests on bar associations and law societies – it is our role to protect the interest of the public and the lawyers, and also to safeguard the rule of law. The IBA is the global voice of the legal profession and can also be of help to the global legal profession. Cooperation between the global bar association, the national

Bars and the whole legal profession is necessary. What can companies do, and what can employers do? Which measures are necessary to reverse this negative and gloomy trend?

The main role of a lawyer is to aid and help others, but recent reports on lawyers' wellbeing shows that lawyers now must start to aid and help themselves. This is not an easy task, and we want to use this opportunity to begin the discussion on how bar associations and law societies can contribute to improving the wellbeing of lawyers.

Until then, take care!

Paul Mollerup

Co-Chair, Bar Executives Committee

Merete Smith

Co-Chair, Bar Executives Committee



Bar Executives Committee – Remit

The Bar Executives Committee (BIC) will be directed to those involved in the day-to-day management and administration of a bar association and those involved in international liaison on behalf of a bar association. Typically, membership will include Chief Executive Officers of bar associations, bar association staff and international liaison officers. The Committee will provide opportunities for its membership to address issues

and administrative matters which are of common interest. The BIC will provide substantive meetings and training at the bar leaders' conference and IBA Annual Conference, and where possible, at regional events. By working closely with those who work within a bar association, the BIC will help them to enhance their skills and abilities and exchange knowledge and ideas on administration, structure and promoting the rule of law worldwide.

Of special interest to this group will be the BIC Programme for Excellence, which has been designed for member bar organisations that are keen to achieve organisational excellence. This Programme offers the benefits of a structured approach in identifying organisational strengths and areas of improvement and recognises successful efforts to implement excellence and best practice.

Roger Slade

Shareholder, Haber Law, Miami; President, Miami-Dade Bar



The Zoom revolution

Since beginning my practice in commercial and business litigation in 1988, I have been a slave to my calendar, to the office, to the Court and, to some extent, to clients. Then, along came the Covid-19 pandemic, a scourge for almost everyone affected by it, resulting in death, sickness, masks, social distancing, political and social conflict and the cancellation of almost every in-person event imaginable. Many legal jurisdictions pivoted quickly to online proceedings, but many did not. Some jurisdictions even closed their courtrooms, at a loss for what to do.

Here in Florida we did not miss a beat. Zoom, Google Meet, Teams and other platforms became available and were in use almost immediately. For a time, there was competition among them. Then, suddenly, almost imperceptibly, Zoom won out and virtually (no pun intended) everyone was on Zoom calls with the Court, with clients, with friends and family and with our colleagues at law firms, sitting at home in their sweatpants, working diligently. The Florida courts did not stop their hearings or bench trials.

Now that Covid-19 has slowed down significantly in the US (but not disappeared), the death rate has thankfully dropped, as have hospitalisations and other Covid-related illnesses. Masks off, restaurants open, planes flying, courtrooms operating, all of us out in the world once again visiting friends and family.

So what has this sea change wrought for lawyers? Will we ever go back to normal? The answer is, thankfully, no. Zoom has given us a 'get out of jail free' card. No longer is the average lawyer obligated to sit in traffic in Los Angeles, Miami, New York and other places in order to 'get to the courthouse', 'meet the client at the office' or 'attend that meeting.' You can now 'Zoom in' to all of these things from the comfort of your living room or home office.

So when I took our last trip abroad it no longer mattered whether 'I had something scheduled' causing me to explain to my family why I had to cancel another vacation or family reunion. Have laptop, will travel. All I had to was to make sure I had an internet connection – it did not matter whether I was in Europe, the Middle East or on a boat in the Caribbean. I could attend from anywhere.

Despite the obvious convenience supplied by our new reality, it does have its downsides. Now I am no longer 'on vacation' (if I ever was to begin with – I can't remember). Now I am accessible by video 24/7. Now I have to explain 'Zoom etiquette' and procedures to clients, witnesses and staff. Strange things can also happen on Zoom, such as the lawyer who appeared on a Zoom call with the judge as a cat, or the television personality who, for some reason, stood up in front of the camera in the buff.

But these things have now mostly disappeared as our legal community has learned the ropes. We still hear 'you're on mute' from time to time, dogs still bark in the middle of conference calls, there seems to be construction ongoing in the background of every call. However, for the most part, we have Zoom down pat. Now we can collaborate successfully with remote lawyers who work with us in other cities and countries and with paralegals and staff that we have never met in person. And we can, thankfully, reduce our overhead by telling our landlords that we no longer need that big space, or that huge conference room, or that view of the water. Now we can work whenever we want, however we want, from anywhere. And it has been a blessing disguised by a series of very unfortunate occurrences. If you were one of the lucky ones to survive, the Zoom revolution is likely to give you a whole new perspective on life and on the practice of law.

Biography: Roger Slade is a shareholder at Haber Law and President of the Miami-Dade Bar. Slade is an AV-rated commercial litigator with over 30 years of litigation experience. Throughout his career, he has handled all types of litigation matters including business fraud, class actions for both plaintiffs and defendants, real estate litigation, privacy litigation, commercial collection matters, employment discrimination claims, general business disputes and international family law matters. Slade's clients range from public companies, real estate developers, financial institutions to small businesses and individuals.

BIC Project Feature: Mental wellbeing in the legal profession

George Artley

BIC Project Lawyer



Dear friends,

It has been nearly a year now since the IBA launched its report identifying worrying mental wellbeing trends across the legal profession.

The report drew on data collected from almost 3,500 surveyed legal professionals and more than 180 legal organisations, including bar associations, law societies, in-house legal departments and law firms. The report's findings confirm that the mental wellbeing of legal professionals is a cause for global concern: it has a disproportionate impact on women, young people, those who identify as an ethnic minority and those with disabilities, and that stigma is a major problem, with 41 per cent of respondents saying that they would not discuss issues with their employer for fear of damaging their career.

The report itself can be found here on the IBA's dedicated mental wellbeing page, along with the details of the task force members, and other resources.

The IBA Bar Issues Commission has been at the forefront of the IBA's work on these issues, with both Co-Chairs of the task force that led the project being BIC Officers: Steven Richman, Member, Clark Hill and IBA Council Member at the American Bar Association, and Deborah Enix-Ross, Senior Advisor to the International Dispute

Resolution Group at Debevoise & Plimpton and President of the American Bar Association. I was privileged to help manage the project as BIC Project Lawyer, along with the Director of Legal Projects at the IBA Legal Policy & Research Unit, Sara Carnegie.

Since launching the report, I have had the pleasure of speaking with many of you both online and in person, including at the Law Society of Ireland in Dublin, and most recently at our Annual Bar Leaders' Conference in Vilnius.

Two events focusing on the topic of mental wellbeing are planned for our next meeting in Miami. One will involve a broad discussion of the IBA's plans for the next stage of its mental wellbeing work (you can find the details of that session on the Monday [here](#)).

The other is tailor-made for Bar executives, and will be hosted by the Miami Dade Bar Association. This Bar Executives' Programme on the Tuesday morning is entitled 'The role of Bars and law societies in combatting stress, substance abuse and mental illness, and the role of Bars and law societies to set up assistance programs for members in need'.

We hope to see as many of you as possible in Miami!

Bar Executive Officers' Committee meeting, Miami

Tuesday 1 November 2022

Bar Executives Programme – invitation only

This programme is intended for chief executive officers, bar association executives, international liaison officers and others who are responsible for the day-to-day running of their association and international project work. It is a programme created by our Bar Executive Officers' Committee, which will go forward to plan its own agenda and future programmes.

The focus is on the role of Bars and law societies in combatting stress, substance abuse and mental illness, and the role of Bars and law societies in setting up assistance programmes for members in need.

The schedule is:

0900	Meet at the Miami Beach Convention Center
0915–0945	Bus transfer to Miami Dade Bar Association
0945–1000	Arrival at Miami Dade Bar Association
1000–1015	Presentation of the Miami Dade Bar by Executive Director Bret Berlin
1015–1115	Tour de table What are the current issues on the table in the various law societies and bar associations?
1115–1130	Break
1130–1230	Combatting stress, substance abuse and mental illness Presentation of initiatives taken by Miami Dade Bar Association by Executive Director Bret Berlin
1230–1245	Closing remarks
1245–1345	Lunch Hosted by the Miami Dade Bar Association
1345–1415	Bus transfer to Miami Beach Convention Center



Bar Executives Committee sessions and meetings of interest

Monday

0930–1045

The relationship between online cross-border legal services and existing lawyer regulation – does anything have to change?

Presented by the IBA BIC International Trade in Legal Services Committee and IBA BIC Regulation Committee

The rise in the frequency of online cross-border legal services, already in evidence before the pandemic but doubtless increased by home working and travel restrictions, poses challenging questions about whether Bars' existing regulation of foreign lawyers, often based on their physical presence, needs to be reconsidered in light of digital advances.

1115–1230

Wellbeing in the legal profession: next steps

Presented by the IBA Bar Issues Commission

The IBA has completed its groundbreaking global survey of the legal profession and issued its principles for addressing the situation. What comes next? How can bar associations go about implementing the principles and work with regulatory bodies and the private sector? Within the IBA, the regional fora are already engaged. But is programming enough? This programme focuses on next steps, and will feature wellbeing professionals, Bar leaders and others in the private sector, who will offer their points of engagement.

Tuesday

0800–0915

IBA Bar Breakfast hosted by the American Bar Association

Is the rule of law dead?

We are at a critical moment in world history. Citizens around the world are divided over many issues – public health, the climate crisis and the rise in nationalism, to name but a few. These divisions have caused, or have the potential to cause, a decreasing faith in the legitimacy of institutions and a growing distrust among their citizenries. We have seen attacks on the justice system, and indeed physical attacks on judges and lawyers themselves. Such assaults, whether rhetorical or physical, jeopardise the rule of law across the spectrum of jurisdictions. In this time of division, what can bar associations and the legal profession do to lead the way to restoring confidence in our democratic institutions, in the judicial system, and to protect the rule of law?

The panel will discuss these issues, and undoubtedly bring forth more questions than answers, but promises a provocative discussion on this most fundamental of questions.

1430–1730

Protecting judges in conflicts, revolutions and times of political oppression

Presented by the IBA Judges' Forum, IBA Bar Issues Commission, IBA Human Rights Law Committee, the IBA's Human Rights Institute and the IBA Rule of Law Forum

Judges are appointed to uphold the rule of law. They take on responsibilities for society to ensure the impartiality of legal process, provide fairness in courts, protect the rights of individuals and take important decisions upon the liberty of citizens.



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The role of judges in times of conflict, revolution and political oppression requires bravery to uphold the rule of law. There are many famous historical examples, but in modern times we have witnessed judges who have upheld their moral and ethical standards to ensure the rule of law prevails. Conversely, others have not, some because they have feared for their lives and that of their families.

This session will examine these problems in the 21st century. We will discuss certain jurisdictions where judges are the target of the enemies of the rule of law, and we will look at case histories and discuss what protection can be offered and how the international community should respond.

1615–1730

What's all this I hear about sandboxes? Regulatory innovation and access to justice

Presented by the IBA BIC Regulation Committee, IBA Alternative and New Law Business Structures Committee and the IBA BIC International Trade in Legal Services Committee

The struggle to address the crisis in access to justice and access to legal services continues globally, with the pandemic having taken its toll on those in need. Efforts to innovate and reimagine the delivery of legal services have taken a new turn, one that includes permitting alternative business structures and professionals other than lawyers to deliver legal services directly to consumers. In a growing number of jurisdictions, regulators and the organised Bar have begun implementing the limited, supervised testing of new methods of delivery via a policy tool called a regulatory sandbox. What is a sandbox and how does it work? Can it really increase access and do so in a way that preserves professional values and public protection? Experts directly involved with such implementation will tackle these and other questions.

Wednesday

0930–1230

BIC Bar Leaders' Forum

This is an opportunity for Member Organisation Representatives to be updated on the status of ongoing projects in which the IBA is involved, and specifically those that touch on sensitive areas for bar associations. It will also allow them to find out what work is being planned, and propose subject matter and programmes for future activities within our very dynamic Bar Issues Commission.

1115–1230

Alternative business structures – only for common law firms?

Presented by the IBA Alternative and New Law Business Structures Committee, IBA BIC Regulation Committee, IBA Law Firm Management Committee and the IBA Professional Ethics Committee

Traditionally, law firms were owned and invested in by lawyers to ensure that the firm remained independent and unbiased. However, this meant firms were restricted to the amount the owners could afford to invest into it. Since the Legal Services Act came into force in 2007 in the UK, law firms are now able to operate as alternative business structures (ABS). Most notably, ABSs are eligible to receive funding from external sources and be managed by non-solicitors. They're also able to provide several services under one brand name – including non-legal services. In recent discussions, we've discovered that it's mainly common law firms that are thinking about the possibilities and opportunities presented by ABSs. But where are the civil law firms? Should they lose market shares and clients in their own countries when foreign law firms from common law jurisdictions offer services under the ABS umbrella internationally? Do clients interpret ABSs as a sign of unreliability, although there are already plenty of professionals working in traditional law firms that are not legally fully qualified yet, such as paralegals for example? What about initiatives in the common market and international trade agreements that may be capable of changing the professional lives of lawyers in (but not limited to) civil law countries?



We will talk with lawyers, policy-makers and legal tech providers from civil and common law jurisdictions, to understand where the legal profession stands today and how it will flow tomorrow in the international legal market on ABSs.

1430–1730

BIC Showcase: Key questions to be discussed when drafting a new framework on AI

Presented by the IBA Bar Issues Commission and the IBA Alternative and New Law Business Structures Committee

The futurist Ray Kurzweil has forecast that artificial intelligence (AI) may reach or exceed levels of human intelligence by 2029. It does not matter whether the timing of the prediction is accurate. What matters is how we deal with a technology that has the potential to outpace human development. Therefore, a forward-looking regulation is required in order to protect a humane society and human rights.

Today, we can observe the rapid progression of self-driving cars or robots in healthcare. What we have not yet seen to the same degree is how human judgement is taken over by AI. If we want to preserve a human society where humans continue to make the final decisions, we need to, however, make sure that humans remain in control. These considerations hold particularly true for the areas of advocacy, justice, law enforcement and public administration.

While still in its early stages, digitisation is also advancing in these sectors, which are central to the functioning of each democratic society. Stressing the importance of a human society is not denying the benefits of innovation and progress. For example, studies have shown that less than 50 per cent of the population have access to the legal system in some jurisdictions. Technology – including AI-based instruments – can help broaden

such access, for example due to lower costs.. Intelligent systems could, for instance, be used to largely automate the submission of briefs and the issuing of court orders in civil proceedings. However, once AI-based technology is applied in the courtroom or in the decision-making process, fundamental legal rights could be seriously affected. While lawyers will adapt their working methods and use new technologies, they will continue to consider themselves as advocates of those who need them and as guardians of the rule of law as an overarching principle of freedom and democracy. This will not apply to an algorithm, as intelligent as it may be. Bars should, therefore, actively participate in the regulation of AI being applied in the areas of advocacy. Acknowledging the increasing importance of AI in modern society, and the expected benefits when used at the service of the legal profession, there are key questions that need to be discussed when drafting a new framework on AI.

Thursday

1430–1830

IBA Council Meeting

The IBA Council is the governing body of the IBA, having general control of the affairs of the IBA and passing, as required, resolutions and guidelines for members and the legal profession worldwide. Those entitled to attend are IBA Officers, Division Officers, Honorary Life Members of the Council, appointed representatives from Member Organisations, appointed Deputy Secretary-Generals and any co-opted members.



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1615–1730

Do 'bad' clients deserve 'good' lawyers?

Presented by the IBA Regulation of Lawyers' Compliance Committee, IBA Anti-Corruption Committee, IBA Legal Policy & Research Unit, IBA Law Firm Management Committee and IBA Professional Ethics Committee

The legal profession is under attack. Every day, new accusations of enabling criminal and unethical activity emerge, and calls to end self-regulation grow ever louder.

What are we to do about this?

So far, the profession's response has been mixed, and even contradictory. Criminal lawyers rightly point out that it is their corporate counterparts who are the targets of most criticisms, risking a dangerous division of the profession. Others argue that even acknowledging the validity of some of these attacks will have catastrophic results, and risks opening the Pandora's Box of lawyers becoming associated with the interests of their clients. 'Lawyers are politically and ethically neutral figures, and should be permitted to advise their clients on any course of action so long as it is legal' is the standard reply, but is this true?

How unfair are the criticisms being levelled at the profession? Is it not already heavily divided? Do the profession's core principles even apply to corporate

lawyers anymore? And if corporate lawyers have become businessmen first, and legal professionals second, what does this mean in a world where big business is being increasingly regulated along ethical lines? Events are already pushing the profession in a certain direction, regardless of how much we might object: law firms have traditionally been reluctant to draw ethical lines in the sand, yet recent events in Russia and Ukraine have forced many firms to start taking an ethical stance where they might not have previously.

Yet is the formal ethical regulation of lawyers actually possible when our profession is founded on the certainty of statute, reasoned judicial precedent, and independent regulation? Are those trying to adapt the law to ever-changing ethical standards simply giving in to cancel culture and mob rule? Or are they simply acknowledging the reality of the new world of social activism in which business, law, and all of us now operate, one which we ignore at our peril?

This session will attempt to tackle some of these thorny issues and marks the formal start of the IBA's broader engagement with its members on these vital questions.

1900–2200

Bar Issues Commission dinner

Havana 1957, Ocean Drive, Miami

Ticket price: \$127