IBA Global
Employment Institute

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THE THIRD IBA GEI ANNUAL GLOBAL REPORT

National Regulatory Trends on Human Resources Law

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Prepared by the

Global Employment Institute
International Bar Association

INDEX

1. Introduction

1.1 The Annual Global Report (AGR) is an annual report highlighting certain general international trends in human resources law. This is the third AGR and is based on responses from lawyers from 43 countries. The methodology that will be used is described in Section 2 below.

1.2 The third AGR covers trends in human resources law during the calendar year 2013 (although for some countries a number of new developments taking place at the beginning of 2014 have been recorded). Each AGR will build on the historical perspective of the previous editions. This may prompt changes to the coverage of future editions of the AGR.

1.3 Please note that it is not the intention or purpose of the AGR to set out the law on any particular topic, its aim is to highlight changes and trends. Any reference to a particular law is not intended to be a description or summary of that law and should not be relied upon as a statement of the law or treated as legal advice. Before taking any action, a reader should take appropriate legal advice.

2. Methodology

2.1 Lawyers from 43 countries (Schedule 1) were asked to respond to the questionnaire in Schedule 2. The questions were designed to cover the most relevant issues relating to employment, industrial relations, discrimination and immigration law. Lawyers were asked to consider only relevant changes during 2013 (and the start of 2014 in some cases) and to explain them and their significance very briefly. The answers to the questionnaire have to some degree been consolidated as shown in Section 3 of this report (Trends and Developments). As previously noted, the goal of the AGR is to highlight general international trends in human resources law. Readers seeking more in depth analysis are welcome to contact the GEI or the lawyers who participated in the survey. Input was obtained from lawyers working in-house in various industries. The GEI is particularly grateful to in-house counsel/HR directors from Microsoft, Intel, IBM, General Electric and the University of Cambridge for their valuable contributions.

2.2 The Council of the GEI appointed a Working Group for the development of the AGR. The members of this working group were: Duncan Inverarity*, A&L Goodbody, Ireland*; Caroline André-Hesse, *Altana, France*; Dayo Adu, *Bloomfield Advocates and Solicitors, Nigeria*; Iván Suárez, *Bufete Suárez de Vivero, Spain*; Marco Mazzeschi, *Mazzeschi, Italy*; Minna Saarelainen, *Borenius, Finland*; and Rebecca Ford, *Clyde & Co, UAE*.

2.3 This Working Group with the coordination of the GEI Vice-Chair for Institutions, Keith Corkan, drafted the questionnaire and contacted lawyers from different countries (Schedule 1). The GEI Council wishes to convey its gratitude to all of them for their participation and interest in the development of the survey.

2.4 A first draft of the AGR was submitted to qualified senior HR managers and employment counsel in an open meeting on 19 June 2014 in London at the offices of Laytons Solicitors LLP and sponsored by the IBA.

3. Trends and Developments

3.1 Dismissal issues

In Belgium the Constitutional Court has made a series of rulings to protect the position of blue-collar workers who appear to have suffered discrimination from their employers upon dismissal including dismissals following a TUPE transfer. The practice in Belgium seems to have developed whereby employers were dismissing blue-collar workers and giving them shorter periods of notice. These practices have now been declared unlawful by the Constitutional Court and the significance of this perhaps lies in the fact that Belgium had witnessed a form of cultural discrimination and the Constitutional Court is taking steps to eradicate this.

In Canada the Ontario Superior Court recently declared that statutory minimum notice periods should also provide for continuation of benefits to employees during the period thus providing protection for employees and by making it more expensive for employers to effect termination and giving them pause before proceeding to terminate. On the other hand the Federal Court of Canada has said that provided the federally regulated employer provides statutory notice or pay in lieu of notice of dismissal then dismissal can take effect without cause although this does not affect the right to bring a claim for unlawful dismissal. Nevertheless it would appear to provide flexibility for federally regulated employers in Canada. The number of complaints for unlawful dismissal remains constant and it remains to be seen whether these recent changes will affect this.

In Chile a new bankruptcy act now guarantees payments for staff that lose their position as a result of liquidation of the employer with priority to be given within the liquidation to such employees.

In Ireland a significant trend in 2013 has continued namely the courts readily granting injunctions to employees restraining employers from improperly invoking investigation, suspension and dismissal procedures. Such procedures are very expensive for claimants and the availability of such relief cuts across the long established Anglo Saxon practice of the courts' reluctance to actively intervene in the working relationships of the parties.

In the UAE, the courts remain reluctant to allow employers to rely on redundancy as a justification for dismissal and clear unequivocal evidence in support remains the norm. The continued difficulty in proving unfair dismissal has resulted in efforts to create an obligation of trust and confidence in

relation to dismissal. These have however so far failed although obligations of good faith and reasonableness in the period prior to dismissal remain effective.

In Japan, the government is contemplating a change to the law on unfair dismissal to give flexibility to companies to dismiss in an effort to boost the national economy.

Malaysia seems to be developing a doctrine of unfair dismissal based on a 1967 statute and the concepts of equity, good conscience, harsh punishment and proportionality.

3.2 Collective Consultation issues

In England there are new regulations which water down the effect of collective redundancy consultation and protection for employees under a TUPE transfer including greater rights for employers to vary terms and restructure businesses acquired following a TUPE transfer. These developments are part of government policy intending to deregulate many areas of practice in the workplace in favour of greater flexibility for employers.

In France there is a new provision where an employer with at least 50 employees contemplates the dismissal of at least 10 employees within a period of 30 days. In these circumstances the employer must implement a job-saving plan, either unilaterally or as part of a collective agreement with trade unions. A works council must also be consulted and the plan should be sent to the labour administration for ratification. The measure is designed to give more flexibility to French employers. Where the employer seeks to dismiss less than 10 employees, the employer must now notify the labour authorities following which the latter have 21 days to ensure that employee representatives have been consulted and that social measures have been properly considered. There is also a new law in France requiring greater consultation with works councils or other consultative bodies in relation to planned redundancy and restructurings.

In Greece the government has dismissed significant numbers of public sector workers for economic reasons. In general terms the courts have taken steps to protect the positions of the workers and to declare these terminations unlawful. In many cases reinstatement has been ordered.

Although collective rights in Hong Kong are limited, the courts in unlawful dismissal cases are developing a principle of trust and confidence in the manner of dismissal. The government is also considering a power of reinstatement which to date can only be ordered where both sides agree.

Israel is increasingly recognising collective rights and TUPE like protections for employees on the basis of a human rights form of justification.

In Italy, collective rights continue to be recognised by the government and the courts although limited steps have been taken to allow employers to terminate employment more easily with lower costs.

In South Africa there is a major issue involving employers, government, courts and unions in relation to extending rights under collective agreements to non-parties by government declaration. This has resulted in much litigation which has not yet concluded the matter one way or the other.

Switzerland has this year adopted a new collective redundancy law restricted to companies employing over 250 employees which is otherwise quite similar to the EU Collective Redundancy Directive. There is emphasis on a social compensation plan which seeks to mitigate the effects of redundancies with power given to an arbitral tribunal to impose terms where the parties cannot agree.

New Zealand has witnessed greater scrutiny on the part of the courts in relation to redundancy dismissals. Collective rights continue to be recognised but proposed legislation will, if enacted allow small companies to refuse to employ certain employees who are outsourced from another company.

Norway has now adopted the Acquired Rights Directive.

Russia has also witnessed the gradual evolution of collective agreements and work councils albeit this is at an early stage. There is a new ground to dismiss public servants for conflict of interest and failing to disclose foreign assets.

3.3 Corruption and Whistleblowing

Significant new bribery and anti-corruption measures recently came into force in Brazil, Mexico and Russia. Whistleblowing legislation recently came into force in France and Canada and legislation is pending in the Czech Republic, Denmark and Ireland. The Swedish government is conducting research into existing laws and whether further protection should be provided to whistleblowers.

Germany and Switzerland, on the other hand witnessed unsuccessful attempts to pass new regulations.

IBM reports a significant increase in complaints to the regulatory agencies in the US, greater enforcement as a result, and an increase in the number of “bounty” payouts to whistleblowers.

According to the University of Cambridge, for HR practitioners and legal experts there remain legal and practical reasons why potential foreign whistleblowers might pause before reporting potential violations of the U.S. securities laws to the Securities and Exchange Commission (SEC). Among other things, would-be whistleblowers may reasonably be concerned with potential civil or criminal liability in their home jurisdiction for sharing information with the SEC that may be protected by local privacy or secrecy laws. This concern is compounded by the fact that in implementing the whistleblower rules, the SEC specifically noted that they may share information received from whistleblowers with foreign regulatory authorities (over whom the SEC has limited leverage to enforce assurances of confidential treatment).

Similarly, while whistleblowers may be protected under certain local laws from retaliation, recent decisions from U.S. courts suggest that anti-retaliation provisions of U.S. law may not apply extraterritorially. Finally, there is some degree of anecdotal evidence suggesting that cultural biases against whistleblowing in other jurisdictions may deter would-be whistleblowers who are concerned about potential reputational harm and, in some situations, their personal safety.

According to the University, organisations are trying to ensure that their whistleblower policies strike the appropriate balance between uniformity across geographies with tailored reporting mechanisms that account for diverse geographic and cultural norms. For example, a firm may decide to implement a global anti-retaliation policy regardless of whether such protections are required under the laws of each jurisdiction in which it operates. If undertaken in a manner consistent with local labour laws and cultural sensitivities, that same firm will have taken a significant step toward establishing an environment that fosters internal reporting of potential issues. This is especially the case if the reporting mechanisms, such as ethics hotlines, are staffed locally (or, at least regionally) by individuals who are fluent in the local language and sensitive to the types of legal and reputational concerns present in a particular location.

In July 2013, the Fifth Circuit in the US issued the first appellate court decision interpreting the "whistleblower" provisions of the Dodd-Frank Consumer Protection and Wall Street Reform Act. *See Khaled Asadi v. G.E. Energy (USA) LLC,* No. 12-20522 (5th Cir. July 17, 2013).

The suit was brought by Khalid Asadi, a former employee of G.E. Energy LLC who was fired after telling his supervisor and a company ombudsperson about a suspected violation of the Foreign Corrupt Practices Act. Asadi passed on concerns that the company had improperly hired a woman to curry favor with a senior Iraqi official in negotiating a joint venture agreement. As Asadi's source allegedly put it, GE was "pimping its way to the agreement." Shortly thereafter, Asadi, who was based in Jordan as GE's Iraq country executive, got a "negative" performance review and subsequently was terminated. Because Asadi made his report internally rather than going to the SEC, the court held that he was not actually a whistleblower and dismissed his complaint for failure to state a claim.

The court held that only an individual who has actually made a report to the Securities and Exchange Commission qualifies as a "whistleblower" who is entitled to bring an anti-retaliation claim under Dodd-Frank. In so doing, the court rejected the expansive interpretation of the definition of a "whistleblower" that several district courts and the SEC had adopted. The decision provides significant protection for employers facing retaliation claims and prevents employees from bypassing the administrative scheme and limitation period of Sarbanes-Oxley when bringing retaliation claims under Dodd-Frank based on purely internal reports.

IBM reports that one area of increased attention is in the interpretation of the provisions requiring mandatory disclosure by government contractors of fraud or overpayments. The mandatory disclosure rule has three prongs of potential punishment for contractors who fail to comply: threat of suspension or debarment, fraud enforcement actions by the government, and private False Claims Act suits by relators. Federal contractors have raised questions about the lack of clarity in the rule and the lack of protection from liability for those contractors who self-report as required by the disclosure rule. Recently, a federal court held that, even though the company had disclosed non-compliant billing practices to the government, an individual was entitled to bring a FCA action against the company for fraudulent overbilling.

Another area in which there has been recent activity is to what extent internal investigations of allegations will be protected by the attorney-client privilege. A federal court in the District of Columbia recently held that records of an internal investigation of alleged violations of the False

Claims Act by excessive or fraudulent contract costs that were passed along to the government, were not protected by the attorney-client privilege, even though conducted at the direction of in-house counsel, but were ordinary business records created to comply with defense contractor requirements. Yet another area of increased concern for contractors is that of liability for misrepresentations or false statements by contractors only if the maker of the statement intended the government to rely upon the statement; the Fraud Enforcement and Recovery Act (FERA) provisions related to FCA liability were revised (in response to a US Supreme Court decision that said intent was required) to impose liability if a statement is "material" to a government payment, regardless of intent.

3.4 Flexible Working

Many countries have either enacted, extended or proposed legislation giving employees the right to claim flexible or remote working. This includes Belgium, Germany, France, Poland, Spain, England, New Zealand, Australia, Ireland, Luxembourg, Denmark, Chile, Russia, Norway, Brazil, Mexico, Colombia, India, and Malaysia, and is further evidence of a trend seen in each of the last two Annual Global Reports. In some cases, employers have been given the right to impose flexible working in response to severe economic conditions in order to preserve jobs.

In other cases flexible working has been linked to childcare issues but some countries report a trend towards universal entitlement for example in the UK and some states of the US. This follows the trend towards granting parental leave recorded in last year's AGR.

Governments in a number of countries have refused to encourage any form of remote or flexible working (Argentina, China, Finland, Greece, Italy, Korea, Nigeria, Pakistan, Scotland, South Africa and Turkey). In other countries there has been limited encouragement of flexible or remote working (Ukraine, UAE, Sweden, Switzerland and Japan).

A recent survey in the UK has identified tension in the workplace between women who opt for flexible working for childcare responsibilities and full time employees who often have to assume greater responsibility as a result. This has fuelled a sense of resentment particularly on the part of full time workers. A separate survey records a rise in workplace bullying of women particularly in the 28 to 40 age group and the consequential career impact. In part this is thought to be due to flexible working entitlement being exercised.

3.5 Atypical Working Practices

Many countries have recently enacted minimum standards of employment for agency workers and in some cases temporary workers with standards in some cases similar to those of full time workers or a comparable or intermediate status. (Italy, Japan, Canada, Hong Kong, Taiwan, China, Singapore, Sweden, Switzerland, Belgium, Colombia, Germany, Greece, and Spain). This has coincided with an increase in the use of temporary and agency workers in many countries including those such as India where there are no minimum standards. A number of countries are debating whether to introduce legislation guaranteeing minimum standards (New Zealand, Ireland, Chile and Norway).

Zero-hours contracts have become more common in the UK but few other countries report a similar development. Finland is an exception and the government has recognised the risks to employees and has restricted their application in practice. The UK Parliament has proposed legislation which will limit abuse by employers arising out of the lack of employee status of workers on zero-hours contracts. Zero-hours contracts are designed to provide flexibility where work demands fluctuate but they can raise numerous potential issues including uncertainty on the part of employer and employee as to whether there is a contractual obligation to perform or provide work, penalties for employees not being available, short notice for work availability, cancellation of work and (depending on circumstances) the possible loss of employee status. The proposed legislation in the UK will be designed to address these issues.

14 countries (Argentina, Australia, Brazil, Czech Republic, Denmark, France, Israel, Korea, Luxembourg, Malaysia, Turkey, Russia, Scotland and South Africa) report no recent developments in the area of atypical working practices.

3.6 Self Employed Status

In the UK and many other countries, the numbers who work for themselves are growing and those who work for government are declining. The self-employed do not enjoy the expensive safety net which civil servants enjoy in many countries. In most developed nations, the government workforce is being downsized often with strict austerity measures which arguably will eventually lead to more solvent economies. Some commentators however say the rise in flexible working is not to be confused with a rise in entrepreneurialism although there is clearly some connection.

Governments no doubt recognise the impact of greater self-employment on national employment figures. Equally the encouragement of flexible working practices should make companies more competitive and minimise redundancies and lay-offs, thus also contributing to improved employment figures if not greater economic output.

In the UK there has been a surge in self-employment but a debate has ensued between the government which claims that this is evidence of entrepreneurialism and the unions who believe that many become self-employed because of lack of alternatives in the job market. One survey suggests that the number of self-employed will overtake the number in public sector jobs by 2018 with significant political and economic implications.

3.7 Data Protection and Privacy

Many countries report new or pending legislation on protection of privacy and data in the workplace including Israel, Chile, Mexico, Hong Kong, Korea, Malaysia, Singapore, South Africa, UAE, and the US some of which have stringent penalties for infringement. This follows a similar but less extensive trend recorded in last year's AGR. China does not as yet have any national law, but there would appear to be a greater incidence of local and industry regulations and guidelines being applied in practice. Some of the new legislation has some novel features. For example in Hong Kong, the Privacy Commissioner has power to actively assist employees in making claims for compensation against their employer including the provision of legal advice. Taiwan has a strict new statute preventing any pre-employment questioning or enquiry relating to physical or mental health information and a wide range of personal and credit information. There are now ten US states which prohibit disclosure of social media account usernames and passwords with twenty other states with similar legislation pending. Some US employers have been monitoring the use of social media to discuss collective bargaining issues, and this has resulted in enforcement proceedings by the National Labour Relations Board in some cases. The question of balancing employer and employee rights in relation to social media disputes in the workplace is prevalent in many jurisdictions with the outcome of cases being seemingly dependent on the individual facts as much as the law.

The existing EU Data Protection Directive introduced in 1995 (Directive 95/46/EC; the "Directive") provides an extensive data protection regime for the EU, imposing broad obligations on those who

collect and control the use of personal data ("Data Controllers") and conferred broad rights on individuals about whom data is collected ("Data Subjects").

The driving factors for the reform and the ongoing public debates about privacy in the EU are individuals that are concerned by increased data collection; online tracking and profiling; and fear of losing control of their data.

Recognising that the Directive is showing its age in an era of social networking, behavioural advertising and cloud computing, the European Commission decided to clarify and modernise its data protection framework and to bring it into line with modern business practice in a global economy. In November 2010, the strategy for modernising the EU data privacy regime was published. The Commission acknowledged that rapid technological developments and globalisation have profoundly changed the world and brought new challenges to the protection of personal data and identified several key objectives for reform, including:

- Strengthening individuals' rights in light of the impact of new technologies;
- Improving harmonisation of data protection across the EU member states without the need for national implementing legislation;
- Revising data protection rules in the area of police and judicial cooperation in criminal matters;
- Promoting high standards of data protection worldwide; and
- Strengthening and clarifying the roles of the national DPA.

The new rules will come into force sometime in 2015 and companies will face very substantial penalties for non-compliance up to 2 per cent of turnover.

3.8 Restrictive Covenants

The widespread international move to protect personal data has been countered to some degree by some jurisdictions looking to enforce restrictive covenants to a greater extent for example Chile and New Zealand. However some countries remain resistant to enforcement for example the UAE and Ukraine where employment practices are rooted in the old Soviet Union and its pro-employee stance and even though in other respects the Ukraine has moved away from the Soviet experience.

In London as Banks become more heavily involved in recruitment once again, poaching of teams and clients from competitors is on the increase with a greater number of reported claims for theft of confidential information and restraining injunctions.

IBM reports that there has been a good deal of litigation in the US, on both federal and state court levels, regarding enforcement of non-compete agreements, especially at the executive level. Increasingly, courts will enforce NCAs only to protect trade secrets, and will significantly restrict the exclusion period. This affects a company's ability to protect talent in highly-competitive areas where there are shortages of executives with leadership capabilities or professionals with highly sought-after but rarer skills, especially in the technology area. Courts have also scrutinized agreements between companies not to hire their respective employees – most notably in the lawsuit which alleged anti-competitive agreements between Google, Intel and Apple not to hire each other's employees; and in an anti-trust action by the US Department of Justice against eBay for similar agreements.

At least one state court has found that continued employment (which in the employment-at-will legal system in the US generally supports agreement to competitive restrictions by employees) is insufficient to provide consideration for a non-compete provision – so the ability to protect against an employee going to a competitor is reduced. The state of Illinois now requires two years employment before covenants can be enforced. Could this be Californian social liberalism slowly creeping eastward as it has done in the past?

3.9 Retirement and Pension Issues

In Belgium, Luxembourg and Norway, new legislation encourages people to work longer and modifies the existing system of retirement pensions. This includes the possibility of combining retirement pension and continued employment. In Japan, the Old People Employment Security Act requires an employer to extend the mandatory retirement age or to keep and maintain 60 years old as the mandatory retirement age and re-hire some employees. In Israel, legislation was amended in 2013 extending the mandatory retirement age for women. In United Arab Emirates, New Zealand, and Hong-Kong, there is no retirement age. Finland has implemented legislation aimed at promoting the employment of seniors by increasing the costs related to the termination of an employment relationship. These developments continue a trend observed in last year's AGR.

Germany has reduced the minimum qualifying period to be eligible for a full pension. This contrasts with France, Ireland and Spain, where the state pension age has increased and will continue to increase incrementally.

The number of age discrimination claims has increased in England. In Canada, a decision of the British Columbia Human Rights Tribunal will soon be appealed. If the Supreme Court agrees with the Tribunal, many professional businesses who may not view individuals as "employees" will need to revisit any mandatory retirement policies they may have. In Singapore, companies have pledged to stop age discrimination when hiring security guards. Age is not a protected ground under existing Hong Kong discrimination law. In Switzerland, the Swiss Federal Supreme court stated that a lack of motivation is usual before retirement and cannot justify redundancy. 20 countries (Chile, Colombia, Czech Republic, Malaysia, Denmark, Italy, India, Korea, Nigeria, Pakistan, Russia, Scotland, Switzerland, China, South Africa, Sweden, Taiwan, USA, Turkey and Mexico), report no new developments in this area.

3.10 Maternity, Paternity and Dependents

The country reports record a strong international trend in favour of increased parental leave to care for children and dependents, protection from dismissal, tax incentives and allowances for parents including Brazil, Mexico, Canada, Colombia, England, France, Israel, Korea, Luxembourg, New Zealand, Norway, Poland, Singapore, Spain, Taiwan, and the UAE.

The US remains reluctant to embrace this trend although a number of private companies in the US are adopting family friendly policies. It would be interesting to compare the employment, productivity and growth figures for these countries to see if there is any correlation with these benefits and if so whether governments take into account such economic factors when they agree to new legislation as well as political and cultural issues.

3.11 Discrimination in the Workplace

A number of countries reported new or pending legislation to prevent sexual harassment and discrimination because of sexual orientation, gender identity or age including Australia, Finland, France, India, Israel, Japan, South Africa, Sweden, Ukraine and the US. Many countries do of course already provide existing protection.

Discrimination against women in the 28 to 40 age group remains endemic in many countries including the UK and perhaps suggests that existing laws are not providing the level of protection originally envisaged. In Finland the government has proposed that sexual harassment should be criminalised in an attempt to limit the scope of abuse, but it remains to be seen if this is the solution to a serious social problem.

In England the government is presently consulting on a provision in the Equality Act enabling it to make an order outlawing discrimination on the grounds of caste as an aspect of race.

3.12 Diversity

A number of countries report developments in the Diversity field. The Ontario Securities Commission is following the example of a number of EU countries in its consideration of voluntary steps which listed companies should take to improve gender diversity on boards and within senior management. The UK government continues to press this issue given that progress within boards of listed companies has been slow and is looking at other measures including all women shortlists for board vacancies. The number of female chief executives in the FTSE list of 100 companies remains at no more than 5 per cent even though progress has been made in increasing the number of non-executive directors. The German and Hong Kong governments have adopted voluntary target figures similar to the UK with a figure in Germany of 30 per cent of non-executive positions allocated to women by 2016.

In Sweden, the country's 10 largest companies continue to collaborate in their efforts to promote women to operative management positions, (Saab, Volvo, SBAB, SPP, SEB, Scania, Sandik, Ikea, H&M and Ericson). Each company selects 10 women from up and coming talent to positions as senior managers. They were asked to identify what has helped them to reach the positions they have attained and what is required for them and women in similar positions to advance further.

Japan has now imposed an obligation on listed companies to employ one disabled employee for each 50 employees employed. During the past year, US government contractors have been given targets by the government to employ veterans and the disabled. The Office of Federal Contract Compliance Programs (OFCCP) has historically required government contractors to undertake Affirmative Action Programs to ensure that contractors set employment targets for certain job categories including good faith efforts to develop job applicant pools which include candidates from under represented populations including women. The OFCCP is presently focussing on forms

of systematic discrimination including gender pay equity and this issue has also been pursued in private class actions with issues such as job preferences, career breaks, education attainment and performance being raised in those actions as grounds for pay disparity. US diversity laws and cultural practice are extraterritorial with tough enforcement standards for US multinationals operating outside the US.

In 2012, the European Commission drafted legislation to ensure that women will eventually represent at least 40% of all non-executive board member positions by 2020. This is expected to impact on some 5,000 businesses. At this current stage, the new law would only apply to public listed companies; and employers with fewer than 250 employees or an annual world-wide turnover of €50,000,000 or less would be exempt. Therefore, in the first instance the provisions will be impacting on larger organisations. If women make up less than 40% of a company's non-executive board, the company management will have to appoint sufficient members to reach the 40% target. They must do this by applying clear, gender neutral and unambiguous criteria. The Commission is hopeful that the 40% target will be met by all enterprises by 1 January 2020. Public undertakings will need to reach this target by 1 January 2018. There is some flexibility written into the proposed legislation, for example, member states can exempt listed companies from the 40% target if women make up less than 10% of their workforce. Member states can also declare that the target has been met where the company can show that women hold at least 1/3 of all director positions (both executive and non-executive).

In the UK, Athena SWAN is a national Charter scheme to advance women's careers in STEM (science, technology, engineering and maths) subjects. Its Bronze, Silver and Gold awards celebrate good practice in recruiting, retaining and promoting women in those subject areas within Higher Education in the UK. Each application must be accompanied by an action plan, which details the measures that applicants plan to take during the three-year award period.

The Athena SWAN Charter principles form the basis of assessing applications for awards:

- To address gender inequalities requires commitment and action from everyone, at all levels of the organisation
- To tackle the unequal representation of women in science requires changing cultures and attitudes across the organisation

- The absence of diversity at management and policy-making levels has broad implications which the organisation will address
- The high loss rate of women in science is an urgent concern which the organisation will address
- The system of short-term contracts has particularly negative consequences for the retention and progression of women in science, which the organisation recognises
- There are both personal and structural obstacles to women making the transition from PhD into a sustainable academic career in science, which require the active consideration of the organisation

Nationally, Athena SWAN activity has significantly increased following the link between Athena SWAN awards and research funding. In 2011, the Chief Medical Officer announced that the National Institute for Health Research would only expect to shortlist medical schools for biomedical research centre and unit funding if the schools holds a Silver Athena SWAN award. In January 2013, the Research Councils UK (RCUK) unveiled its new Statement of Expectations for Equality and Diversity, expecting those in receipt of Research Council funding to provide evidence of commitment to equality and diversity with participation in Athena SWAN specifically mentioned as one piece of such evidence. It may be expected that other funders (such as the Royal Society and charities) will follow suit.

As a founder member and institutional Athena SWAN award holder, the University of Cambridge is actively engaged in promoting the principles of the Athena SWAN Charter and encourages eligible University Departments, Faculties and Schools to participate in the scheme. The number of female professors in the University is 15.3%, against a national figure of 19.8%.

In the context of Athena SWAN and the UK legal framework, the University of Cambridge has undertaken a range of positive action measures to promote the career progression of women. Since 1999, WiSETI (Women into Science, Engineering and Technology Initiative) has provided opportunities to profile careers in STEM and support students and researchers in identifying STEM career pathways.

Responding to targets to increase the number of women applying for senior academic promotions (SAP), the SAP CV Scheme is a positive action initiative that aims to encourage more women to apply for senior roles. It brings together Lecturers, Senior Lecturers and Readers who are thinking

of applying for promotion, with senior academics who have extensive experience of the University's SAP procedures. The Scheme is highlighted annually through a series of Open Fora hosted by the Pro-Vice-Chancellor (Institutional Affairs).

3.13 Unions, collective bargaining, and industrial action

The Belgian government has imposed a national salary freeze for a period of two years and this is being contested by the unions before the Belgian Council of State and the ILO. Few countries report extensive union activity probably because of high unemployment rates and low wages in most countries although China may be the exception where strikes and work stoppages are more prevalent because of poor labour standards in some provinces. Belgium and Finland however witnessed serious strikes and stoppages in the Aviation Industry, and this has created a debate in both countries about the collective bargaining principle and the importance of the governments having suitable contingency arrangements. The government of Alberta is proposing a law which restricts the rights of public sector workers to strike. A number of countries however report support for union activity from their governments and the courts. Chile is proposing a law on expanding the right to strike while the Irish government is contemplating a new law which will encourage collective bargaining. The Chinese government anticipates a law clarifying local regulations in relation to collective bargaining, while in Israel the right to strike and form unions is increasingly being recognised by the courts. The New Zealand government has enshrined into domestic law the ILO freedom of association and collective bargaining provisions and the courts have recognised the right to cite ratified conventions as an aid to interpreting domestic Employment legislation.

The Chinese government and the All-China Federation of Trade Unions actively encourage companies and their employees to unionise wherever possible as observed in last year's AGR. This includes in some cities and provinces regarding union dues and levies as tax obligations. In many cases, the workers claim the unions are under the control of management however. Despite these various moves to support unionisation, there are in some countries restrictions imposed by courts and governments. So in Sweden following a ruling from the European Court of Justice, workers are prevented from taking action against an employer based in another EEA country. In New Zealand, employers will under a proposed law be able to seek a declaration that collective bargaining has concluded. In the US, a number of states are considering "right to work laws" in companies which would include no mandatory union fee and a restriction on employers making employment conditional on union membership.

Microsoft has informed us that US companies are reviewing with concern the efforts by the United Auto Workers Union to unionise VW's plant in Tennessee and whether this will be the first of many attempts to unionise the overseas businesses of foreign companies. The UAW agreed to a formal election overseen by the National Labor Relations Board which was lost by a narrow vote. The UAW is seeking a new election via the regulators claiming various groups made anti-union statements. In the meantime three workers have brought court proceedings against the UAW and VW alleging improper collusion in relation to the vote. Unions are increasingly collaborating internationally and in the US, employers fear the prospect of European style works councils gaining traction.

There were few reported developments on International Labour Standards, International Framework agreements and union partnering with third parties. A Canadian court however has allowed a human rights claim to proceed against Hudbay Mining which was brought by employees of the company's Guatemala based subsidiary company. A recent report by Amnesty International on the poor working conditions of labourers in Qatar has caused some embarrassment to the UAE government including recognition that this needs to be addressed before the country's hosting of Expo in 2020 if not before.

In Mexico, local and international labour unions are actively monitoring the implementation of codes of conduct and international framework agreements and are carrying out media campaigns and holding workshops particularly in the manufacturing industry. These unions are also increasingly forming alliances with non-governmental organisations in an effort to enforce the codes and framework agreements and to maintain international labour standards.

In 2013 in South Africa, 12 companies signed up to the UN Global Compact whereas in Sweden, following the government's adoption of the UN Guiding Principles of Business and Human Rights, policies on CSR and labour standards have become more prominent although detailed statistics are not available. South Africa in general terms appears less turbulent than last year.

3.14 Executive Remuneration and Banking Reform

More and more countries intend to regulate executive remuneration following a trend which was apparent in last year's AGR. In England, directors of quoted companies are now required to prepare a directors' remuneration report in respect of financial years ending on or after September, 30th 2013. In France, an amended version of the corporate governance code for listed

corporations was published. This code aims at increasing transparency on directors' remuneration. In Switzerland, the Federal Council has issued an order against excessive compensation in listed joint stock companies (Minder Order). It requests listed Swiss joint stock companies to annually submit the top management's compensation to shareholders for a binding vote and prohibits termination payments to the top manager. In Israel, there are several bills intended to limit the salaries of senior officials in government and public companies. Greece and Mexico have increased tax on remuneration. In the USA, in order to disclose the difference between the compensation paid to their chief executive and their employees, a new regulation will apply a ratio of CEO pay to median employee pay. Only certain publicly traded companies are concerned. It will not apply to emerging growth companies, smaller reporting companies, and foreign private issuers.

In Europe, several countries have implemented new EU-Standards in the banking sector, such as Czech Republic, Italy, Norway, Ireland, Germany, Sweden and Belgium. The Capital Requirements Directive IV (CRD 4), which transposes the new global standards on bank capital into EU law, came into force on January, 1st 2014. CRD IV aims to ensure that every credit institution and investment firm has sound and fair remuneration policies, so that pay reflects effective risk management and performance, without encouraging unjustified risk-taking. Firms must limit variable pay to 100% of salary. This limit can be increased to 200% of salary if the requisite shareholder approvals are obtained.

United Arab Emirates, in line with the approach in Europe, has introduced a new core principle on remuneration and some best practice guidance for companies established in the Dubai International Finance Centre and regulated by the Dubai Financial Services Authority. However, these guidelines do not contain caps on the level of remuneration.

3.15 Immigration and Talent Issues

The Immigration reports from the various countries showed the following:

- In most countries there is a shortage of highly skilled workers;
- Many countries (Brazil, Canada, China, Germany, Luxembourg, Korea, New Zealand, Holland, Singapore, Taiwan, Belgium, and Australia) are taking actions to attract highly skilled workers. This is done by different methods. For example:

(i) By setting quotas for specific sectors, for example in Brazil special quotas were issued for doctors, in Japan for construction workers (in view of the 2020 Olympics);

(ii) By granting tax benefits to highly skilled workers willing to relocate in the country (Luxembourg);

(iii) By creating a new visa category (R visa for highly skilled and trained workers in China);

(iv) By extending the criteria for allowing skilled workers into the country (Germany, where professional qualifications can be used instead of a diploma);

(v) By granting permanent residency to workers moving to the country (e.g. Korea).

- In other countries, the need for highly skilled workers is not properly addressed by the Government (Chile, Colombia, England, Hong Kong, Israel, Italy);

- Some European countries (Italy, Germany, France, Holland, Spain, Belgium) are partially solving the issue of the need for highly skilled workers, through the implementation of the Blue Card Directive (work permits granted to workers holding a 3 year University diploma and other qualifications);

- Exceptions are India and Pakistan, where the research indicated that there is no skill shortage. Actually, in India there is a reverse phenomenon of IT experts going back to India after having studied and/or worked abroad;

- In many countries the rules for obtaining "low-skill" work permits (for non-educated workers) have been tightened and become more strict (Canada, China, Colombia, Israel, New Zealand);

- Poland and Sweden appear to be the most flexible and open countries for granting permits to foreign workers;

- India, Pakistan, UAE and Russia seem to be more protectionist against the entry of foreign workers.

The results of GEI research are in line with the data shown in other reports, including the following:

- According to the **OECD Migration outlook 2013**,"*Many Governments have become more restrictive towards foreign recruitment, seeking to protect their workforces in the face of rising unemployment. However, countries have also introduced measures to ease the situation for foreign workers who have lost their jobs, mainly by allowing them*

to stay and search for work. More countries are adopting point-based systems, because of the flexibility they provide in the selection of highly skilled candidates. Programmes to attract investors and entrepreneurs are also receiving attention."

- According to the 2012 report prepared by the **McKinsey Global Institute**, by 2020, there will be:

(i) A potential shortage of about 38 to 40 million high-skill workers (13% demand of such workers);

(ii) A potential surplus of 90 to 95 million low-skill workers (10% of supply of such workers;

(iii) A potential shortage of nearly 45 million medium-skill workers in developing economies (15% demand of such workers);

As to immigration trends, the McKinsey report highlights that:

(iv) Advanced economies could avoid a shortage of high-skill workers by doubling the growth rate in tertiary education attainment, retraining mid-career workers and allowing more high-skill workers to immigrate. Even these measures could leave 20 to 23 Million workers in advanced economies without the skills that employers will need;

(v) The challenge in developing nations could be even more daunting. If current trends persist, in 2020 there could be one billion workers in the global labour pool who lack secondary education;

(vi) Unemployment of low-skill workers would continue to rise and global growth rate would fall if high-skill jobs were to go unfilled;

(vii) Patterns of migration and trade flows could adjust to address labour shortage and surpluses across regions. But given the volumes of low and medium-skill workers that would need to be employed, and rising resistance to immigration in some nations, these adjustments could have limited impact.

The report concludes that as the 21st century unfolds, the supply of high-skill workers is not keeping up with growing demand while too many workers are left with inadequate or outdated skills.

GE's comments tend to endorse these findings. They report a severe talent shortage in the U.S. of employees with scientific, technical, engineering, and mathematical expertise (STEM). United States immigration policy has been largely unchanged since 1990. Updating U.S. immigration laws to reflect the needs of the American economy in 2014 is critical to help maintain U.S. economic leadership. GE recommends the following solutions:

- Permit more visas for those with technology skills. By 2018, America will face a projected shortfall of more than 200,000 workers with advanced degrees in STEM fields. Immigrants can help fill this gap.

- Authorize more visas for U.S. educated students graduating with advanced degrees in STEM fields. For example, more than half of all Ph.Ds. graduating in STEM fields from U.S. universities are foreign-born, yet current immigration laws make it difficult or impossible for them to stay in the U.S. after graduation to help fill the STEM shortage.

- Allow more visas for entrepreneurs looking to start companies in the U.S. Immigrants have consistently demonstrated a strong entrepreneurial spirit and desire to create new businesses.

- Set market-based caps for H1B visas for temporary high-tech workers that adjust to the demands of the economy. In 2013, applications for H1B visas exceeded the cap limit within the first five business days during which applications were accepted for the fiscal year (FY) 2014. These applications came from companies in need of skilled workers, not from prospective workers.

U.S. businesses that rely on STEM personnel for growth are hopeful that Congress will address this very important issue in its current session.

General Electric, like many large multinationals, endeavours to create a unified global culture of growth, performance and compliance across newly acquired diversified businesses spanning over

100 countries. Aside from personal leadership by its Senior Management Team, the main thrust of this effort is the GE Spirit & Letter, applicable to all employees, which sets out a standard of conduct and integrity to which all GE employees are expected to adhere. These 14 policies form a Code of Conduct that unifies employees from different cultural backgrounds. The adoption of Binding Corporate Rules by GE in 2002, from a communication and privacy standpoint, has helped promote seamless training, communication, and enforcement of its code of conduct across global borders. These are GE's key tools in building an integrated corporate culture.

GE also reports that U.S., Chinese and EU companies are rapidly pursuing growth opportunities in emerging markets, including nearly a dozen African countries. The legal heritage of many of these countries has evolved either from Spain, the UK or Portugal. Accordingly, the laws of these countries differ substantially and require an understanding of laws of the heritage countries as well as the particular local statutory evolution. Accordingly, getting a clear understanding of laws to do business in Africa, can be quite complex. In particular, immigration regulations frequently change and the local administrative offices are often not adequately staffed or prepared to promptly respond to the immigration needs that come with rapid growth. This can dramatically slow down the business activities of foreign businesses looking to expand in Africa. Additionally, local hiring requirements typically apply to visa approvals and work permits, but the levels of local talent available to fulfill these local hiring requirements is often inadequate. Finally, immigration expertise can be difficult to find and care must be taken to secure local professional help that will not succumb to bribery or improper facilitation payments.

IBM has addressed lack of talent issue overseas by posting employees with mentoring skills who are skilled in developing local talent.

4. Conclusions

The findings of this year's AGR have to some degree endorsed a trend previously seen namely that rights of employers and employees in relation to collective and individual dismissal issues should be considered against the backdrop of an ongoing tough economic environment. Governments have therefore recognised the need to give flexibility to employers wherever possible, but have also been forced to recognise employee rights with the courts in many countries being receptive to enforcing those rights and forcing companies to follow procedure under domestic employment law which in the case of EU countries is underpinned by various social directives. The courts have also strived to protect employees in some countries by developing the principle of trust and confidence and in some cases adopting a human rights justification.

The widespread development of whistleblowing legislation continues in many countries with multinationals striving to keep pace with the differing legal, cultural and political standards in different countries as part of an attempt to find a uniform and global solution to the elimination of corruption and protection for employees who are prepared to disclose inequity and wrongdoing.

The US has witnessed close scrutiny by the courts of non-compete agreement and agreements between certain Silicon Valley companies not to hire each other's employees. This has resulted in at least one anti-trust action by the US Department of Justice. Such scrutiny is not evident in other countries.

Although we report the continuation of a strong trend in support of flexible and atypical working practices and parental leave in many countries, encouraged by governments, this is by no means universal and is generally more prevalent in the EU and the Far East. It is perhaps surprising that the development of zero-hours contracts in the UK and Finland has not been witnessed elsewhere at least to any significant degree. Such contracts can offer flexibility to both sides, but they risk significant opportunities for exploitation of employees and there is likely to be legislation in the UK restricting the scope of their application. Other governments are not so altruistic with strict austerity measures reducing government workforces in many countries with national employment statistics and self-employment remaining important barometers of economic growth in many countries.

Many countries have taken steps to protect privacy in the workplace both in relation to sensitive employee information and the use of social media. This includes China where although there is no

national law, local and industry guidelines are being applied increasingly in practice. What is less clear is what is driving this trend, and persuading governments to enact such legislation in favour of employees. It may well be that different legal, political and cultural pressures apply in different parts of the world, that evolving human rights standards is only part of the story, and that social media is simply too commercially and socially important to ignore.

The EU's drive towards greater privacy for employees and consumers is evident in a major new draft data directive with the EU Court of Justice creating new rights in favour of employees and consumers in advance of the new directive's implementation. Much has been written about the cultural differences between the EU and the US in relation to privacy in light of the Snowden affair.

A number of countries have seen the continued trend of longer working before retirement, an increase in the number of claims for age discrimination and flexible pension arrangements in response to the universal problem of funding for retirement. Protection from discrimination on the grounds of age or sexual orientation and gender identity is being provided by an increasing number of countries.

An increasing number of EU countries have adopted voluntary targets for increasing the proportion of women board members of listed companies and the EU Commission has proposed a mandatory scheme which could if enacted amount to a quota scheme. Such schemes are seen in some quarters as tokenism and could lead to appointments of individuals who lack the requisite skills. The imposition of voluntary targets has resulted in progress albeit slow in some countries and in the UK the government is looking at additional measures designed to increase the representation of women which at executive director level remains low as it does in many countries. The experience of Athena SWAN in the UK and its wide ranging proposals has proved to be significant in the broader debate about STEM skills within commerce and industry.

Despite the continued general decline in union power worldwide and the limited scope of recent strike action, a number of governments have legislated in favour of collective action and freedom of association under ILO and other similar standards. This can perhaps be attributed to governments and corporations increasingly embracing international conventions, codes and treaties which include human rights and international labour standards. Governments and courts in a number of countries however have adopted pro employer positions in relation to collective rights as a counter to this trend. The US has witnessed attempts to unionise the overseas businesses of foreign companies, and companies fear the evolution of EU style works councils in the US.

Not surprisingly curbs on executive pay remain prevalent in many countries with increasing legislation requiring transparency and accountability, greater shareholder activism and restrictions on bankers' pay and increased bank capital. These are trends which are likely to continue for an extensive period as economies continue to recover with periods of slow growth in most sectors.

It is noticeable that the approaches to addressing the widespread problem of skills shortages varies between different countries and their Immigration policies. This underscores the importance of wholesale Immigration reform in certain countries particularly in the US. Immigration practices would appear to be an issue in relation to doing business in Africa for US and EU companies in addition to substantive legal issues in certain African countries.

5. About the International Bar Association Global Employment Institute

The International Bar Association Global Employment Institute was established in early 2010. Its primary purpose is to develop a global and strategic approach to the main legal issues in the human resources and capital fields for multinationals and worldwide institutions.

The Executive Council Officers of the IBA GEI are:

Chair: Salvador del Rey

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Vice-Chairs for multinationals: Pascale Lagesse, Bob Mignin and Julia Onslow-Cole

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If you would like to join the IBA Global Employment Institute or one of the other committees in the Human Resources Section, or if you would like further information on section or committee activities, please visit www.ibanet.org. We also invite you to contact the IBA Membership Department on:

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Further information is available at the IBA website:

www.ibanet.org/LPD/Human_Resources_Section/Global_Employment_Institute/Global_Employment_Institute_Home.aspx

Schedule 1: Countries and lawyers

Argentina

Juan Javier Negri (Negri, Busso & Farrina) – Employment and immigration law

Australia

Anne O'Donoghue (Immigration Solutions Lawyers) – Immigration law

Adrian Morris (Ashursts) – Employment law

Belgium

Bernard Caris (Liedekerke) – Immigration law

Chris Van Olmen (Van Olmen) – Employment law

Brazil

Maria Isabel Tostes da Costa Bueno (Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados) – Employment and immigration law

Canada

Lukasz Granosik and Team – Iysra Siddiquee (Norton Rose – Montreal) – Employment and immigration law

Chile

Oscar Aitken (Carey y CIA) – Employment and immigration law

China

Lesli Ligorner (Simmons & Simmons) – Employment and immigration law

Colombia

Lorena Arambula (Cardenas & Cardenas Abogados) – Employment and immigration law

Czech Republic

Oldrich Baroch (Baroch-Sobota) – Employment and immigration law

Denmark

Anders Etgen Reitz (IUNO) – Employment and immigration law

England

Ann Bevitt (Morrison and Foerster) – Employment law

Tom Brett Young (ASG Immigration Limited) – Immigration law

Finland

Minna Saarelainen (Borenius Ltd) – Employment and immigration law

France

Caroline André-Hesse (Altana) – Employment law

Karl Waheed (Karl Waheed) – Immigration law

Germany

Gunther Mavers (MKRG) – Immigration law

Michael Magotsch (DLA Piper) – Employment law

Greece

Elsa Dalampyra (LLM Lawyer) – Employment and immigration law (not an IBA member)

India

Amit Bhasin (Law Offices of Bhasin & Bhasin Associates) – Employment and immigration law

Ireland

Duncan Inverarity (A&L Goodbody) – Employment and immigration law

Israel

Tsvi Kan-Tor (Kan-Tor & Acco) – Employment and immigration law

Italy

Marco Mazzeschi (Mazzeschi Srl) – Immigration law

Angelo Zambelli (Grimaldi Studio Legale) – Employment law

Japan

Hideki Thurgood KANO (Anderson Mori & Tomotsune) – Employment and immigration law

Hong Kong

Lesli Ligorner (Simmons & Simmons) – Employment and immigration law

Luxembourg

Veronique Hoffeld (Loyens & Loeff) – Employment and immigration law

Malaysia

Vijayan Venugopal (Shearn Delamore & Co) – Employment and immigration law

Mexico

Oscar de la Vega (Littler Mendelson) – Employment and immigration law

Netherlands

Martin Beijneveld (Van Harmen Beijneveld van Houten) – Employment law

Jelle Kroes (Jelle Kroes) – Immigration law

New Zealand

Don Mackinnon (Swarbrick Beck Mackinnon) – Employment and immigration law

Nigeria

Adekunle Obebe (Bloomfield) – Employment and immigration law

Norway

Stein Kimsas-Otterbe (Homble Olsby) – Employment and immigration law

Pakistan

Salim Hasan (Meer & Hasan) – Employment and immigration law

Poland

Bartlomiej Raczkowski (Bartlomiej Raczkowski) – Employment and immigration law

Russia

Irina Anyukhina (ALRUD) – Employment law

Timur Beslangurov (VFBS) – Immigration law

Scotland

Alan Thomson (McClure Naismith) – Employment and immigration law

Singapore

Desmond Wee (Rajah & Tann LLP) – Employment and immigration law

South Africa

Stuart Harrison (Edward Nathan Sonnenbergs) - Employment and immigration law

South Korea

Tom Pinansky (Barun Law) – Employment and immigration law

Spain

Iván Suárez (Bufete Suárez De Vivero) – Employment and immigration law

Sweden

Olle Linden (VINGE) – Employment and immigration law

Switzerland

Ueli Sommer (Walder Wyss Ltd) – Employment and immigration law

Taiwan

Marcus Clinch (Eiger Law) – Employment and immigration law

Turkey

Maria Lianides Celebi (Bener Law) – Employment and immigration law

Ukraine

Oksana Voynarovska (Vasil Kisil & Partners) – Employment and immigration law

United Arab Emirates

Rebecca Ford (Clyde and Co Dubai) – Employment and immigration law

United States

Bill Martucci (Shook Hardy and Bacon) – Employment and immigration law

Schedule 2: Questionnaire

1. Have there been any significant developments or changes in human resources law and practice in your country including but not limited to:
    a) Talent shortages and global leadership issues;
    b) Post-merger integration including cross border cultural changes;
    c) International relocation;
    d) Cross-border investigations including whistleblowing, confidentiality and legal privilege;
    e) The imposition of government quotas or targets for gender parity including board membership.

2. What changes have there been in your laws that are intended to have an impact on flexible working practices including remote working? Is flexible working being extended?

3. Have there been any changes or developments relating to atypical working practices including the emergence of zero-hours contracts or the extension of agency working or the engagement of temporary workers. Please briefly explain any social, economic and workplace consequences.

4. Have there been any significant changes in respect of the rules relating to maternity, paternity or dependants?

5. What changes have there been in the laws that regulate executive remuneration and are any new laws anticipated in relation to banking reform and executive accountability?

6. What changes have there been that materially affect the ability of employers to dismiss employees including redundancy practice. Do employers in your country generally observe procedures or are they being increasingly ignored?

7. What changes have there been in your laws that could materially affect the rights of employees:
    a) Before, during or after a business reorganisation, merger or acquisition?
    b) To employee participation or employee involvement in works councils, collective agreements or other consultative bodies?

8. To what extent have international labour standards emerged as an issue, for example, campaigns by unions and non-governmental organisations requiring multinationals to adopt human rights and corporate governance standards such as the UN Global Compact or within international framework agreements?

9. What changes have there been in relation to collective bargaining, freedom of association, strikes or other industrial action? To what extent has the erosion of union power encouraged the emergence of new forms of union activity such as publicity campaigns against multinationals, the targeting of particular departments within organisations, liaison between unions nationally and internationally and with non-governmental organisations?

10. Have there been any changes in relation to restrictions on corruption and bribery in the workplace including the relevance and effectiveness of new whistleblowing procedures?

11. Have there been any significant changes in the way employment cases before the courts and tribunals are reported, including any new powers to restrict reporting at the request of the parties?

12. Have there been any significant changes in relation to enforcement of restrictive covenants and obligations of confidentiality by employers?

13. What changes have there been in the laws or workplace practices relating to privacy, surveillance, data protection, social media and human rights such as protection of family and home life and freedom of expression?

14. What changes have there been in your laws concerning discrimination in the workplace by reason of gender, sexual orientation, age, race, nationality, ethnic origin, ideology, religious belief or disability. Are there plans to extend rights to caste or victimisation or social inequality?

15. Have there been any changes to the law and practice of retirement including ability of employers to impose early retirement? Has there been in increase in Age Discrimination claims arising out of early retirement or pay protection schemes or enhanced redundancy payments for older workers?

16. What changes have there been to the immigration laws of your country relating to the recruitment of foreign nationals?

17. What changes have there been in relation to the right of permanent residence of foreign nationals employed in your jurisdiction?

18. What changes have there been to immigration rights of families of foreign nationals employed in your country?

19. Have there been any changes to the working rights and/or right to benefits of families of working nationals employed in your country?

20. Have there been any changes to the immigration laws in your country relating to the establishment of a branch or subsidiary of a foreign company? Please explain the relevance if any of permanent establishment or residence for tax purposes.

21. Is there a skills shortage in your country and if so is your government addressing immigration policy in response, or is it becoming more protectionist.