

Introduction

Few contemporary questions for the legal profession are as fundamental as the wellbeing (or lack thereof) of more than one billion people on the planet who are living in poverty. Since the onset of the global financial crisis (GFC) in 2008, the intervening years have been characterised by unprecedented economic volatility and uncertainty about the growth of the global economy and government debt burdens. When the GFC arrived, the poor of the world were already in crisis: crisis is never new to the impoverished in Africa, Asia and the south Pacific islands, Latin America and the Caribbean. The poor had experienced austerity prior to the GFC, in countries such as Argentina. But the events that followed the GFC deepened that crisis; they set back many attempts to escape poverty, propelled people into poverty for the first time, or significantly increased their degree of economic and social inequality, not only in developing countries, but everywhere.

Corporate governance and responsibility, labour and employment law, pro bono activities, the empowerment of women and vulnerable groups, and the rule of law are not the mainstays of an activist agenda. Rather, they are part of the 'day job' of business lawyers and the daily aspirations of the law for everyone. Fortunately, these demands on the work of lawyers and their firms are increasingly recognised as the new normal. Business lawyers have a professional responsibility to understand the issues and advise clients of the impact on their activities.¹ Their clients have a responsibility to their own interests and to the communities in which they operate to act in ways that promote social and economic wellbeing. Lawyers do well by doing good.

Origin of the Task Force

In a global economy crying out for fresh thinking, lucid analysis and pragmatic optimism, the challenge was to assemble thought-leading lawyers and others who passionately believed that there are smarter ways for the global community to mitigate the effects of the GFC on the poor. Though often invisible to the well-to-do, poverty looms large and overwhelms. Nonetheless, we set out to avoid the perennial danger of doing nothing even though doing something might be problematic. We sought to craft or identify existing, developing and new mechanisms that are both necessary to bring change and at the same time appeal to the self-interest of all stakeholders in a sustainable and improving future.

The theme or mantra of the two-year term of IBA President Akira Kawamura from 2011 to 2012 was 'well-being of the people through the law'. He said: 'When economic hardships intensify, those living in poverty suffer immediately and the most. With no buffer to protect them, the poor risk losing what little they have, including shelter and food. The GFC has taken even the most basic work away from the poor and has driven others into poverty, leaving them with no ready means of recovery. The global legal profession needs to assess and, to the extent feasible, through law reform and legal services provisions, remediate the causes that have led to the hardships encountered by those living in poverty.'² The first action was a report on the regulatory failures and weaknesses of the financial system that had contributed to the inception of the GFC; recommendations for reform were given.

Therefore it was no surprise that Past President Kawamura envisaged a second phase of the

¹ For example, the Ruggie Guidelines point out the professional responsibility of lawyers to direct attention to the Guiding Principles on Business and Human Rights (see, John Ruggie, 'UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (UNHRC 2011) available at http://ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf). Similarly, in addition to CSR, lawyers and their firms are called in other fields covered in this book to advise their clients and to shape the law accordingly.

² See IBA E-News, dated 29 May 2012, on the launch of the second phase of the GFC Project, www.ibanet.org accessed on 8 January 2013.

Presidential Task Force on the GFC. Launched in the second year of his term, this phase was his historic vision – historic because of the direct focus on poverty and the role of lawyers to end or reduce it – and was supported by his successor, President Michael Reynolds, who also gave a fresh emphasis to this subject and improved relationships with impoverished and often inaccessible countries such as Burma.

Past President Kawamura asked that the Task Force focus on the aftermath of the GFC rather than just the crisis itself. Rejecting the notion that lawyers could only point powerlessly to the problems of poverty, he encouraged the Task Force to be forward-looking, to shape and implement change, and to recognise the extreme peril of failing to do so. This project would demonstrate the IBA's interest in making a contribution to society and not only the practice-related issues of its members. Furthermore he believed post-GFC, governments and international institutions should work to encourage countries of the world to behave more humanely. Social equality was an increasingly important driver of political and legal change. Lawyers could and should help to shape that process.

The IBA's Public and Professional Interest Division (PPID) Council and its Chair buttressed that theme. At the opening of the Dubai annual IBA conference, PPID Chair Peter Maynard asked: 'We are "the global voice of the profession", but what are we saying in terms of the big-picture issues of the second decade of the 21st century, such as war and peace, poverty, diversity, human rights, corruption, corporate social responsibility, ethics, pro bono and access to justice, and the rule of law?' At the annual conference in Dublin, he returned to this theme: '(M)ore needs to be done... I am talking about the things that not only have made the IBA good, but will make it great. It is no mystery that the measure of greatness is how much we benefit mankind. Islands of affluence in an ocean of poverty do not make a sustainable or just global economic order. The GFC and the Eurozone crisis have exacerbated the problem of poverty. But... we must continue to question and improve upon the conventional ways of helping poor countries and the poor everywhere.'

Phase Two followed the Phase One work led by the Legal Practice Division on financial regulation. That first phase of the Task Force³ recognised that current regulation and supervision of the financial industry were weak and unfit to deal with the challenges facing the world economy. In this connection, it reported particularly on developed markets, the actions of which had taken the world to the brink of disaster and calamity in many places, and continues its work.

The 'GFC Phase 2' project was led by the PPID. The overall co-ordination of the project was turned over to the PPID to organise, implement and complete. Phase Two sought to build on the work done in Phase One, where appropriate, and, reporting through this book, directed its attention to the negative impacts of the GFC on those persons least able to manage or counteract them. Inequality was worse as a result of the GFC – the poor were poorer and there were many more thrust into this category. This showed how vulnerable the world's economic system was, and is. Virtually no one warned against it. Economic stability had fallen off a cliff. The downward spiral precipitated by the GFC has resulted in job losses, housing crises, food shortages and generally increased poverty around the world. This devastation of fundamental human needs impacted most on those with little or no capacity to positively influence their circumstances. Indeed, we faced – and some experienced – the prospect of a double-dip recession. The future of many of the world's most vulnerable groups, including women, children, indigenous peoples and other people living in poverty, hung in the balance.

If the GFC had not occurred, quite a number of countries would have been ahead of the millennium development goals.⁴ Nevertheless, countries such as Bangladesh were ahead, although they have work yet to do on specific goals, such as infant and maternal mortality. But, this phase was to highlight the plight not just of the poor in developing countries of the world but poor people everywhere, in both developed and developing countries.

3 See, for example, 'Interim report: preliminary views on the financial crisis', April 2010 and 'A survey of current regulatory trends', October 2010, IBA, London.

4 See, eg, www.un.org/millenniumgoals/ and www.undp.org, accessed on 8 January 2013.

The mandate

Phase Two of the Task Force would report on wider social and legal issues that have resulted from, or been highlighted by, the GFC. It would look for solutions to these problems through changes that could be made to the legal arrangements and frameworks reflecting social and economic policy that would serve to improve the circumstances of peoples' lives and avoid the worst and sometimes unforeseen consequences of law and policy in times of financial crisis.

Thus, the goals of the project were to:

- (a) review and describe the impact of the GFC on the poor;
- (b) assess the impact of the global economic crisis on the modern welfare state and posit ways to avoid or mitigate the negative consequences in the future;
- (c) identify and review legislation that may tend to reinforce cycles of poverty in the context of property rights, contract enforcement, labour and employment laws, as well as the impact of austerity programmes, and posit ways to avoid or mitigate such negative consequences in the future;
- (d) assess problems facing access to justice, good governance, human rights and civil liberties in circumstances where government changes affect groups such as women, indigenous populations and other marginalised groups, and posit ways to avoid or mitigate the negative consequences in the future;
- (e) identify and advocate the ways that the legal profession can improve the prosperity of people throughout the world through legal and justice reform.

As for the report, it was decided that the results of Phase Two would be collected in a book of edited papers to be published by the IBA. It would also compile the contents of the book in a relatively short time frame of less than a year.

The first step was to assemble a Steering Committee⁵ to determine how best to carry out the mandate, to choose the experts of the Task Force, to explain the parameters of the exercise to them and provide initial guidance for their work. The Steering Committee consisted of lawyers from both the LPD and PPID. It recognised that the effects of the GFC on poverty were felt in different ways across different countries, sectors, social groups, locations and levels of integration into the global economy. The immediate impacts were transmitted most strongly through unemployment, finance, food, fuel, and austerity measures. These effects have worsened and are still being experienced in many countries and groups. After intensive discussions, a detailed work plan was prepared, especially with the help of Neil Gold, and approved by the Steering Committee, which then identified and engaged experts to carry out each part of it within a limited time.

It was also decided that the programme of the 2012 IBA Annual Conference in Dublin should be examined with a view to identifying particularly relevant sessions that deal with the relationship between the GFC, poverty and the role of law as a neutral, remediating or exacerbating influence on the experience of those in or thrust into poverty. Those sessions were marked in the programme as Presidential Priority sessions. A team of rapporteurs was assembled. Their roles were focused on extracting and reporting on the key content of the Presidential Priority sessions. They gathered and noted the key papers, summarised presentations and discussion found in this volume.

At its meeting at The Hague on 1 June 2012, the Steering Committee recommended to the PPID Council the membership of the Task Force, consisting of the authors who contributed chapters to this book and the two editors.

The PPID Council approved the Task Force, the Steering Committee was dissolved, and immediately after, the Task Force held a meeting in The Hague to launch its work. The experts were asked to look at specific topics in the work plan, with a focus on the role of the lawyers in that sector of the post GFC environment. Some of the experts had expertise in legal and justice reform projects in the context of development and others had broader justice reform, access to justice, pro bono, CSR, employment law and other relevant expertise.

5 The Steering Committee consisted of Olafunke Adekoya, Bernard Bekink, Chris Botha, Adrian Evans, Hendrik Haag (Chair of the first phase of the Presidential Task Force on the GFC), Graeme Kirk, Tim Soutar, Phillip Tahmindjis and the two editors of this volume, Neil Gold and Peter Maynard.

*Expert members and authors:***1. Livingston Armytage:** Access to Justice: Governance and the Judiciary

Dr Livingston Armytage is a specialist in judicial and legal reform, advising governments, courts and international development agencies on improving justice systems around the world. He is Founding Director of the Centre for Judicial Studies and Adjunct Professor of Law at the University of Sydney.

2. Diamond Ashiagbor: Labour and Employment

Dr Diamond Ashiagbor (BA, Oxford; PhD EUI Florence) is Professor of Labour Law at SOAS, University of London and formerly Reader in Law at University College London and Lecturer in Law at the University of Hull. She researches and publishes in the areas of labour/employment law; equality and human rights; labour law, trade and development. Her previous positions include: Research Fellow in the Institute of European and Comparative Law, University of Oxford and Fellow of Worcester College, Oxford. She has also been a Visiting Scholar at Columbia Law School. Dr Ashiagbor's main areas of research interest are labour/employment law; equality and anti-discrimination law; human rights, equality and multiculturalism; EU market integration and 'new governance'; the law and economics of labour market regulation; labour law, trade and development. She has published widely.

3. Martín Böhmer: Human Rights

Dr Martín Böhmer is a professor and founding and former Dean of the Law School at Universidad de San Andrés in Buenos Aires, as well as Professor of Law at Universidad de Buenos Aires. He is a Senior Researcher and founding and former Director of the Justice Area at CIPPEC (a public policy NGO in Buenos Aires). He is the former Dean of the Universidad de Palermo Law School, and the first Director of its Public Interest Law Clinic. Mr Böhmer received his lawyer degree (Abogado) from the University of Buenos Aires and his JSD and LLM from Yale Law School. He has been published widely.

4. Marius Job Cohen: Property (with Jan Loorbach)

Dr Marius Cohen obtained his Master of Laws degree at the University of Groningen and his PhD at Leiden University. He was a law professor, Dean of Law, and rector magnificus at Maastricht University. He served as State Secretary for Education and Sciences, State Secretary for Justice, and Mayor of Amsterdam. Dr Cohen was elected as lijsttrekker (leader) of the Labour Party. He resigned as Party Leader and Member of the House of Representatives in February 2012.

5. John Corker: Access to Justice: Pro bono

John Corker has been the Director of Australia's National Pro Bono Resource Centre since January 2004. John has been a practising lawyer for 25 years and obtained his law degrees from Monash University (LLB) in Melbourne and the University of New South Wales (LLM). He also teaches post graduate law students in Communications and Media Law and is a director of Australia's National Indigenous Television Service (NITV).

6. Neil Gold: Secretary, co-editor of paper collection and lead rapporteur

Neil Gold is Professor Emeritus of Law at the University of Windsor in Canada. He has advised on legal education, dispute resolution and legal system reform in many countries. He was awarded the Law Society of Upper Canada's Medal (LSM), its highest honour, for distinguished service to the legal profession. He is a member of the Law Societies of Upper Canada and British Columbia and holds a BA (York), LLB (Toronto) and LLM (Osgoode Hall – York). He has been published and spoken widely.

7. Adrian Evans

Professor Adrian Evans has taught, practised law and consulted in ethics education contexts at LaTrobe and Monash Universities, Australia. He is both an academic and a legal practitioner, with teaching and managerial responsibilities in legal ethics, justice education and clinical case supervision. Professor Evans is currently working on enhanced processes of individual ethics assessment and accreditation. He is a recipient of the Monash Vice-Chancellor's Award for Distinguished Teaching and is the Associate Dean (Staff) at Monash Law School, Victoria, Australia.

8. Bryan Horrigan: Corporate Social Responsibility and Governance

Dr Bryan Horrigan is the Louis Waller Chair of Law and Associate Dean (Research) at Monash University's Faculty of Law in Melbourne, Australia. He has served as Director of the National Centre for Corporate Law and Policy Research, Deputy Director of the National Institute for Governance, and Foundation Co-Director of the Centre for Comparative Law, History, and Governance. His most recent book in the area of corporate responsibility and governance, *Corporate Social Responsibility in the 21st Century: Debates, Models, and Practices Across Government, Law, and Business* was published internationally by UK-based Edward Elgar Publishing in late 2010. Professor Horrigan completed his undergraduate studies at the University of Queensland and holds a doctorate in law from Oxford University as a Rhodes Scholar.

9. Jan Dirk Loorbach: Property (with Job Cohen)

Jan Loorbach is Former President of the Dutch Bar Association and has been in active practice for many years and served as Dean of the Rotterdam Law Centre.

10. Peter Maynard: Chair, co-editor of paper collection

Dr Peter Maynard holds a BA (Hons) from McGill, LLM from Cambridge and an MA and PhD from Johns Hopkins University. He is qualified barrister in England and Wales and several Caribbean states. He is Head of Chambers at Peter D Maynard Counsel and Attorneys, in Nassau, Bahamas. He is a leader within the IBA and is Past Chair of the PPID. He is formerly an economist at the United Nations, NY, and is the former President of both the Bahamas Bar Association and Organization of Commonwealth Caribbean Bar Associations. His preferred areas of practice are anti-corruption law and asset tracing and recovery. He is the author of numerous publications and a law professor.

11. Shelley Marshall: Labour Law and Employment

Shelley Marshall is a graduate in Arts and Law and in Development Studies from the University of Melbourne and the London School of Economics and Political Science respectively. She is a Senior Lecturer in the Department of Business Law and Taxation at Monash University, Australia. Two of her recent publications address the financial crisis: *Re-Embedding the Market: Crisis and Reinvention?* (2012) and the fall special edition of *Politics and Society* both examine the causes of crisis and propose new ideas for re-governing markets in response to the financial crisis.

12. Sigrun Skogly: Human Rights

Dr Sigrun Skogly is Professor of Human Rights Law and Head of Law, Lancaster University, UK; Visiting Professor, Buskerud University College, Norway. She received her first degrees from the University of Oslo and College of Europe in Bruges. She graduated from the University of Essex with an LLM in International Human Rights Law. Her doctoral degree is from the Faculty of Law at the University of Oslo. Her doctoral dissertation studied the human rights obligations of the World Bank and the International Monetary Fund (IMF) from a public international law perspective. She has published and spoken widely.

13. Birgit Spiesshofer: Corporate Social Responsibility

Educated at Universities of Heidelberg (PhD [Dr. jur.]), 1988, Tuebingen and Freiburg, and Trainee (Referendar) i. a. at the European Commission and at New York University School of Law (MCJ,1990), Dr Birgit Spiesshofer is an Attorney at Law, and has been an Of Counsel at Salans LLP since 1 April 2010. Previously she was a partner at Hengeler Mueller. She began her career at Feddersen Laule (today White & Case), and worked as a foreign associate at Kaye Scholer Fierman Hays & Handler in Washington, DC. She established 'Gaemo Group – Corporate Responsibility International' in June 2009. She is Chair of the CSR Committee of the Council of Bars and Law Societies of Europe (CCBE), Co-Chair of the CSR Committee of the IBA and a member of the Constitutional Law Committee and of the Human Rights Committee of the German Lawyers Association.

14. Muhammad Yunus: Microcredit and Microfinance

Dr Muhammad Yunus is a Bangladeshi economist and founder of the Grameen Bank, an institution that provides microcredit. Yunus and Grameen received the Nobel Peace Prize in 2006 'for their efforts through microcredit to create economic and social development from below'. He is a member of the advisory board at Shahjahal University of Science and Technology. Previously, he was a professor of economics at Chittagong University. He is the author of *Banker to the Poor* and two books on Social Business Models, and a founding board member of Grameen America and Grameen Foundation.

Coordination members

1. Bernard Bekink

Dr Bernard Bekink is an associate professor and holds the degrees BLC, LLB, LLM, LLD, all from the University of Pretoria. He is an attorney of the High Court of South Africa. After completion of his LLB degree he joined Couzyn, Hertzog & Horak. He was Senior Legal Advisor for the City Council of Pretoria and later joined the University of Pretoria as Senior Lecturer in the Department of Public Law.

2. Christo Botha

Dr Christo Botha holds both a BJuris and an LLB from Rand Afrikaans University. He was awarded an LLD from the University of South Africa and a postgraduate diploma in forensic accounting from Pretoria University. He has been in active practice since 1982.

3. Adrian Evans

Professor Adrian Evans has taught, practised law and consulted in ethics education contexts at LaTrobe and Monash Universities, Australia. He is both an academic and a legal practitioner, with teaching and managerial responsibilities in legal ethics, justice education and clinical case supervision. Professor Evans is currently working on enhanced processes of individual ethics assessment and accreditation. He is a recipient of the Monash Vice-Chancellor's Award for Distinguished Teaching and is the Associate Dean (Staff) at Monash Law School, Victoria, Australia.

4. Neil Gold, Secretary, co-editor of paper collection and lead rapporteur for Presidential Priority Sessions at the Dublin Conference

Neil Gold is Professor Emeritus of Law at the University of Windsor in Canada. He has advised on legal education, dispute resolution and legal system reform in many countries. He was awarded the Law Society of Upper Canada's Medal, its highest honour, for distinguished service to the legal profession. He is a member of the Law Societies of Upper Canada (LSM) and British Columbia and holds a BA (York), LLB (Toronto) and LLM (Osgoode Hall – York). He has been published and spoken widely.

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6. Tim Soutar

Tim Soutar is Vice-Chair of the IBA's Access to Justice and Pro Bono Committee and the convenor of the IBA's Dublin Conference Showcase session on Law and Poverty. Tim read Jurisprudence at St Catherine's College, Oxford before joining Coward Chance. He became a partner Clifford Chance in 1988, practising in their energy and infrastructure team until his retirement in 2005. As well as spending many years in Asia, he ended his career with the firm as the resident Managing Partner for the Gulf Region. In addition to his work with the IBA, he is a trustee at ISLP-UK, where he manages their Tanzanian Law School Assistance Programme.

The report

The Task Force met several times by telephone and face-to-face at the mid-year meeting held in The Hague. Task Force members reviewed the program for the IBA annual conference in Dublin, and identified those sessions that related to its work. The PPID Chair contacted the session leaders and asked that their sessions be included in the PPS, and that they consider addressing the GFC, poverty and law.

In addition, the Task Force engaged in exemplary cooperation with lawyers and the institutions they represented. The most notable example was the cooperation with the American Bar Association (ABA) which, in connection with the World Justice Project, had published a book entitled '*Global Perspectives on the Rule of Law*'. Laurel Bellows, James Silkenat, Stephen Zacks and William Hubbard were very helpful; William Hubbard in particular directed us to that book, and steered us to securing the contributions of two additional Nobel Laureates. Therefore, the present book boasts chapters not only by Laureate Muhammad Yunus, who was a part of the Task Force, but also by Amartya Sen and James Heckman. It also contains, in the report on the Presidential Priority Sessions, a summary of the keynote address at the IBA Annual Conference in Dublin by Laureate Joseph Stiglitz.

It should be stressed that this book is a first attempt at dealing thoroughly with the post-GFC effects on poverty. It is intended to help legal practitioners and those who interpret their efforts more decisively down the path of dealing with the issues. But poverty is not capable of such an efficient recipe for its eradication. There are still some issues that could not, for various reasons, be covered extensively, or at all. Nevertheless we feel we have captured an essential core of issues and approaches, and it is hoped that this book may be a stimulus to the continuation of the work by many others in these and the other relevant fields.

Marius Job Cohen and Jan Loorbach in 'Poverty and the Law' comment on the impact of austerity measures taken across Europe not only on employment, pensions and wages, but also on democratic core values of the countries of Europe. While they provide perspectives from the Netherlands, their views are of more general application. They posit that human rights that are fundamental can and must be suprapolitical, and ought not to be derogated from substantially, regardless of the political interest involved or the circumstances of the day.

Against a challenging but positive background of success and with specific examples, Muhammad Yunus asserts 'Lawyers Can Help Us to Win the War Against Poverty'. In spite of the GFC, trust-based

microfinance banks like Bangladesh's Grameen Bank have continued to do well. To date, the bank has lent more than \$7bn to 8.4 million people. He points out that, astonishingly, the repayment rate is 98 per cent. Now additional microcredit programmes have been established around the world. His work and participation have encouraged the exploration and implementation of microfinance and social businesses, but also of other specific mechanisms to empower the poor.⁶

What is 'The Role for International Pro Bono Work by Lawyers in Addressing the Social Impact of the Global Financial Crisis'? John Corker gives a comprehensive and thought-provoking answer to that question. Some law firms and lawyers already have a strong investment in addressing gender and other human rights issues: working with organisations that conduct real-time monitoring of the impact of a crisis; drafting laws, preparing guides, toolkits and other legal materials; delivering training and representing individuals or groups. Law firms have also made significant strides to set standards such as through the IBA Pro Bono Declaration and other developments. Other law firms provide the broad range of commercial legal work that supports and stabilises organisations. Prepared to make a sustained effort over time, law firms ought to develop strong relationships and work closely with governments of developing countries, established aid or charity organisations or other NGOs, particularly those that have a history of working on the ground. The work may involve: coordinating lawyers across a number of firms and in-house corporate lawyers; conducting detailed comparative studies of the law and its implementation across multiple countries, to be used as an important advocacy tool.

In order to leverage from the available international pro bono legal support, it is important to understand the way in which lawyers and law firms work. Individual firms have quite different pro bono cultures and interests that can change as the structure of the firm, or the key persons involved, change. Spending time understanding a firm's culture or identifying the firm to approach that is likely to be the best match for a project or initiative is well worthwhile. Pro bono coordinators in law firms, brokers and pro bono clearing houses are all good starting points.

Then, Nobel Laureate Amartya Sen gives a master class in reasoning about 'Global Justice'. He explores justice as a pluralistic idea with many dimensions and not as just a monolithic ideal. He admits that he previously tended to agree on the centrality of the perspective of John Rawls, whose path-breaking book, *A Theory of Justice*, published in 1971, set the stage for much of the modern discussion. Agreement on many major issues of world justice can emerge even when there are other matters in relation to which we continue to differ.

In both a revealing and a compelling way, Livingston Armytage advocates that it is 'Imperative to Realign the Rule of Law to Promote Justice'. Regarding foreign aid, he critiques the global approach to promoting the rule of law over the past half century. He recommends that it is urgent to invest in judicial reform for the purpose of promoting justice (outcomes that are fairer and more just) rather than primarily economic growth. Showcasing two major development agencies, USAID and the World Bank, as exemplars in judicial reform, he makes a convincing case that a paradigm shift is required for those development agencies that regard justice as being instrumental to aggregate economic growth and are relatively indifferent to concerns about distribution: wellbeing and wealth do not trickle down.

Should not lawyers be the architects of judicial reform? Armytage is also very critical of the limited and inadequate contributions of lawyers to this discourse. While academic lawyers have produced theories, 'their contribution seems largely ghettoised in academe'. He finds it bizarre that economists and political scientists have so far dominated articulation of the theoretical model for judicial reform.

The prevailing focus on primarily promoting aggregate economic growth has brought the rule of law enterprise to the brink of failure. Once the measurement of growth has been disaggregated, it becomes clear that the promotion of economic growth has failed to alleviate poverty. Moreover, it has had the perverse effect of exacerbating inequality. The human being – rather than the state, the market or the development agency – is the key actor. Justice in development should embrace the centrality of human rights and bring to life the rights that are enshrined in customary, domestic or international law. This theory of rights-based development reframes the approach to the rule of law in international development.

In 'The Global Financial Crisis: A Human Rights Meltdown?' Sigrun Skogly critically observes:

⁶ Note the formation and activity of the Working Group on Poverty, Empowerment and the Rule of Law, set up within the IBA Rule of Law Action Group.

'What began as a financial crisis is rapidly turning into a global human rights crisis'. This is a crisis of economic and social rights, such as the right to food, health, housing and work, and the repression of growing social protest threatens civil and political rights, such as freedom of expression, freedom of assembly and association and the right to be free from discrimination. Increased xenophobia and discrimination also threaten the well-being of migrants and minorities.

Against this context on the ground, and the lessons and principles contained in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other human rights treaties, Sigrum considers ways in which states can balance the pressure from the GFC and yet comply with human rights obligations. She also warns of the dangers of ignoring the adverse human rights effects of the GFC on vulnerable groups.

In 'The Viability of the Welfare State', Nobel Laureate James J Heckman posits a typology of four models of the welfare state: the Nordic/corporatist model (Scandinavia, Finland and the Netherlands), the Continental model (Austria, Belgium, France, Germany and Luxembourg), the Mediterranean model (Italy, Spain, Portugal and Greece), and The Anglo-Saxon model (US, Canada, UK, New Zealand and Australia). He makes statistically well-supported observations about their viability. Because of the current 'romance' with the Nordic model, he takes a closer look at Sweden, and the introduction of performance incentives and disincentives there.

Post-GFC, unemployment has been unacceptably high in the many countries affected. In 'The GFC: Impact on Labour and Employment Law', Diamond Ashiagbor points out that employment protection laws and industrial relations systems, established welfare states in industrialised countries, or nascent systems of social assistance in developing countries, that might have served to protect workers from some of the harsher effects of the downturn, have struggled to meet the challenge and, in some instances, have been conspicuously targeted by austerity measures. Nevertheless, significant voices, such as the International Labour Organisation, trade unions and workers organisations, and those parts of the European Commission (EC) responsible for labour law and human rights, argue for labour law and social rights as an essential element of economic and political governance, even more necessary during times of economic crisis.

In 'Responding to the Underlying Causes of the Crisis: Why Labour Should Not Pay', Shelley Marshall identifies three stages of the GFC: the initial shock, higher public deficits and sovereign debt and the labour market crisis. She observes that the policy space available for responding to the third stage is now limited. Deficit-financed public spending and monetary easing simultaneously implemented by many advanced and emerging economies at the beginning of the crisis are no longer a feasible option for all of them. The large increase in public debt and ensuing concerns about the sustainability of public finances in some countries have forced those most exposed to rising sovereign debt risk premiums to implement strict belt-tightening. Austerity policies and across-the-board cuts in public spending programmes are likely to compound the problems in the labour market. But, labour market policies with income-support schemes have the potential for positive job creation effects.

Then, in 'Global Financial Crisis, Corporate Responsibility and Poverty', Birgit Spiesshofer aims a bright spotlight at CSR in the post-GFC economy. She explains that, for moral standards to be effective in a business framework, they must be connected – by operation of law, technology or, in the internet age, by reputational impacts – with economically measurable negative or positive consequences, with losses, costs or liability on one hand, or competitive advantages, ultimately translatable into profits, risk or cost avoidance, on the other.

In highly competitive and regulated markets, such as North America or the European Union (EU), expectations regarding ethical, social and environmental requirements are mostly set out in laws, supported by robust enforcement. However, regarding the banking sector, the GFC revealed that the framework was inadequate. Beyond profit maximisation and shareholder value, new corporate responsibility rules must be game changers to introduce the incentives and disincentives to improve the working and living conditions in poor countries and reduce the negative environmental footprint of multinationals, and to unleash the creative potential of companies to develop more sustainable solutions and technologies.

She anticipates that we will hear more discussion about extraterritorial application or the effect of national laws and about the standing of third world citizens in first world courts to hold parent

companies liable for alleged environmental or human rights violations of their subsidiaries in third world countries.

In 'The Roles of Lawyers in Steering Corporate Governance and Responsibility Towards Addressing Social Injustice and Inequality', Bryan Horrigan takes a giant leap forward in clarifying the multi-dimensional roles and responsibilities of lawyers and the corporations they represent. International lawyers not only have an interest in framing the commentary on the way in which human rights have been affected by the GFC, but they also have a responsibility to provide insight into how law may be relevant both in terms of addressing the events and how these events may impact upon the enjoyment of human rights. Furthermore, it is important to determine whether the existing international legal structures may provide guidance to policy-makers as to how they can comply with their human rights obligations in times of crisis. International human rights lawyers are often criticised for being more interested in the approval of human rights standards (through adoption and entry into force of human rights treaties) than in the implementation of and compliance with these standards. In the current GFC, it is imperative that international lawyers live up to their responsibility to seek implementation and compliance.

Towards the end of the book, tectonic shifts and revealing personal insights regarding access to justice in yet another country – Argentina – are explained by Martín Böhmer in 'Something to be Proud of: The Response of the Legal Profession to Argentine Social Crisis'. The chapter starts from the two premises that the crisis in Argentina and the region had much earlier roots in the human rights atrocities perpetrated by military regimes and that Argentina, after the huge sovereign debt restructuring of the mid-2000s, was already immersed in pulling itself out of difficulty so that '(t)he 2008 crisis went almost unnoticed'. As a result of a devalued currency and improving terms of trade, successive husband and wife Kirchner administrations were insulated from international financial markets and external control, financing public expenditure by internal and export taxes. In response to the mass killings, torture and kidnappings, civil society and the families of victims mobilised – especially the Mothers of the Plaza de Mayo. Among lawyers and judges, the practice of public interest law (PIL) emerged, consciously including those who had been excluded or marginalised.

Report of the Presidential Priority Sessions

In his keynote address at the IBA Annual Conference in Dublin, Nobel Laureate Joseph Stiglitz commented on the adverse effects of austerity measures. He pointed out that austerity policies have almost never worked. Tried unsuccessfully by Hoover in 1929 and more recently by the IMF in East Asia and Latin America, austerity policies converted downturns into recessions and recessions into depressions, except in the case of small countries with flexible exchange rates whose exports could replace government spending. Large countries with weak trading partners did not have that option. He also pointed out that the growth of demand in emerging markets was not strong enough to pull the US and Europe out of recession.

The PPID Showcase session, entitled 'Lawyers Against Poverty', which was a joint session of the PPID and its Pro Bono and Access to Justice Committee, made a number of recommendations for reducing global poverty. Lawyers could ensure that an adequate range of norms is in place to support development. They could monitor and assess the effectiveness of relevant rule-making initiatives. They could evaluate the social impact of routine practice activities that may advance the interests of clients but harm the poor (for example, certain forms of intellectual property protection). They could help prevent predatory elites from embezzling resources that should be used for development, by examining the circumstances surrounding the award of contracts (eg, whether tendered, taxes paid and due diligence completed) and by challenging suspect transactions. Although specific rules of professional conduct vary from jurisdiction to jurisdiction, lawyers everywhere share the professional value of responsibility for implementing the rule of law. This responsibility transcends providing client service and preventing clients from engaging in illegal conduct to encompass a commitment to ensuring that the law contains robust rights, including those that alleviate poverty and secure economic development. Another key component is providing the disadvantaged with means to redress rights violations. Activities such as participating in rule-making, assessing the effectiveness and social impact of laws and engaging in pro bono work are essential to the

wellbeing of a legal system and inherent in the role of lawyers. The IBA's Pro Bono and Access to Justice Committee might consider exploring ways of collaborating with A4ID,⁷ other similar organisations, and bar associations to expand both the totality of anti-poverty legal projects and access to them by lawyers.

A wide range of other relevant sessions were covered, ranging from intellectual property issues to anti-corruption. An insightful essay by Adrian Evans on 'Connections between the Ethics of Combating Money Laundering and Reduction in Global Poverty' is also offered. He concludes that money laundering has a deleterious impact on the increase in poverty worldwide. He shows that it supports organised crime and reduces tax revenues that would in part be used to meet the needs of the disadvantaged. He also notes that the management of laundered proceeds weakens the integrity of professionals who, wittingly or otherwise, facilitate the handling of these funds. In the chapter he posits ways that lawyers' views and management of their own professional ethics can materially alter the consequences of money laundering.

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It was a great team effort, which we think is reflected in the extraordinarily high quality of this book.

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⁷ Advocates for International Development <http://a4id.org>.

