

# Lawyers can help to end Ukraine war

“Together we can prove that the law is effective and that the law works, that every war crime will be investigated, and every war criminal will be brought to justice.”

Such were the words of Volodymyr Zelenskyy at the opening ceremony of the International Bar Association’s (IBA) 2022 conference in Miami last night. Addressing a crowd of some 5000 lawyers and law firm representatives, Ukraine’s president insisted on the crucial role that lawyers can play in helping to end the war waged by Russia.

“I would like to draw attention to the fact that lawyers will put an end to this war after the military, after the politicians,” he said. “Lawyers will ensure that all those guilty of terror are brought to justice and that all damages caused by Russia are compensated at the expense of the assets of the aggressor state itself. It is this kind of justice that should be the end of the evil that Russia has brought.”

On February 17, IBA celebrated the 75th anniversary of the association’s inaugural meeting – just days before Russia’s invasion of Ukraine. Since then, hundreds of Ukrainian cities were destroyed, dozens completely burned amid constant missile and bomb terror, and millions of Ukrainians suffered losses from the war unleashed by Russia, Zelenskyy continued.

“We are already cooperating with the United States, with the International Criminal Court to punish all Russian murderers and torturers,” he said. “We have already started the creation of the Special Compensation Mechanism, which will ensure the confiscation and channeling of Russian assets to compensate for the losses caused by this war.”

Zelenskyy also expressed gratitude for IBA’s ongoing cooperation with the Ukrainian Office of the Prosecutor General, and for its initiatives to fight for justice for Russian war victims.



“This is a chance for all of us to establish the force of international law... Long live freedom and let justice prevail!” he concluded.

The opening ceremony was also an occasion for IBA to present two Special Awards for Extraordinary Leadership and Dedication in Protecting Human Rights and the Rule of Law in Ukraine to Anna Ogrenchuk, president of the Ukrainian Bar Association, and Valentyn Gvozdiy, vice president of the Ukrainian National Bar Association.

“This award truly belongs to all lawyers of Ukraine: attorneys, judges, prosecutors, notaries, bailiffs, and so many others,” said Ogrenchuk upon receiving the award. “It belongs to my courageous and fearless colleagues who protect Ukraine from the modern-era evil which grew by our side. Some lawyers oppose the aggression of the Russian Federation with the weapons at the front line, and some – by performing their duty of protecting the rule of law.”

Ogrenchuk added that it was lawyers’ duty to break the bubble that

has long shielded Russia, its military and political leadership from violations. “It is time to break the chain of crimes and impunity,” she said.

“Today, Ukrainians are fighting for peace, against terror, and against aggression. In times like these, human rights are more vulnerable than ever,” said Gvozdiy. “The Ukrainian National Bar Association has acted as a watchdog for the observance of human rights in Ukraine since the beginning of the war and will continue to defend the fundamental values of civilisation and the rule of law. This award is given to each of almost 70,000 Ukrainian advocates fighting for human rights in Ukraine. We are grateful to IBA for their fantastic and strong support.”

Following Zelenskyy’s video address, IBA president Sternford Moyo took the stage and thanked the Ukrainian president for his address, as well as all involved in the organisation and hosting of this year’s conference.

“This conference is once again a success, which was not always

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# QUESTION

## What are you looking forward to most about this week?



**Laisani Macedru**  
Fiji National Provident Fund  
Fiji

I'm looking forward to going to the sessions, primarily I'm interested in the financial transactions ones. Also, sightseeing in Miami when – or if – I have the time.



**Elizabeth Pope**  
NERA Economic Consulting  
USA

I'm most looking forward to being able to connect with people at the conference and seeing if our expertise aligns with what they're looking for.



**Nathan Jenks**  
Secretariat  
USA

I'm most looking forward to being able to do the social parts we haven't been able to do in ages – I'm just happy to have the opportunity to be back in person at a conference.



**Dr Valentyn Gzodiy**  
Ukrainian National Bar  
Association  
Ukraine

I'm here because I want to say thank you to the world legal society for helping and supporting Ukrainian lawyers during this terrible war. We're looking forward to communicating with the best minds in the legal profession to find the best solution for how to rebuild Ukraine, how to find guilty people accountable and how to get reparations in civil procedures. These are very complicated and difficult questions as you don't have a war every day, so this practice is quite unique. My goal here is to facilitate the international legal community to help Ukraine to find legal solutions after the war.



**Denia Permata**  
Soemadipradja & Taher  
Indonesia

I'm most looking forward to having the experience of attending an international conference in-person again, obviously it's been a while because of Covid-19. I'm really looking forward to sustainability related topics, that is what I am passionate about and it's what I'm here for.



**Arunabha Ganguli**  
Supreme Court of India  
India

I'm looking forward to learning from the best legal minds in the world with so many fascinating interactions. The resources that humans contain can't be gained anywhere else.



**Flavia Alves**  
IBA Latin America Office  
Brazil

I'm looking forward to meeting people from all over the world and seeing people I've met before in a wonderful city.



**Sophia Rook-Blackstone**  
Alliott Global Alliance  
England

It will be great to meet law firms who want to join our alliance, sharing knowledge on what law firms are finding difficult as well as new opportunities for the existing firms.



**Luiza Tangari Coelho**  
Fialho Salles Advogados  
Brazil

Meeting all our colleagues from IP practices again, and the excellent discussions in intellectual property and technology that take place across the week.



**Lucas Spadano**  
Fialho Salles Advogados  
Brazil

It's my first time at the IBA so I'm looking forward to learning and getting to know everyone, and of course the city of Miami.



**Roselyn Sands**  
EY Law  
France

I am most looking forward to being with my colleagues who I've missed so much and sharing experiences together. The content, the conference and the meetings seem fantastic and of course our session on oldness.



**Ximena Bustamante**  
Pactum Dispute Resolutions  
Ecuador

I'm looking forward to meeting other practitioners and promoting the use of mediation around the globe. I want to go the party tonight and on Friday, and I am looking forward to the lunches and meeting with the Latin American regional forum.



**Vanessa Abdel-Razak**  
Abdel-Razak & Associates  
Haiti

I'm looking forward to visiting the area. Florida, especially South Beach, is a great area to be in and I'm looking forward to learning more about it. I'm particularly interested in globalising my practice.



**Susan Batuuka Kaggwa**  
Uganda National Oil  
Company  
Uganda

I'm looking forward to learning, learning, and re-learning. I'm looking to learn technically about the oil industry, enrich my knowledge and teach them about Africa.

# Human rights showcase

Influential leaders will share their personal stories of human rights abuses and delve into what can be done to curtail them.

It's a sad fact that human rights violations are rampant today.

Speakers in this afternoon's showcase will share their personal stories of struggles under abusive governments.

They will also delve into what the international community can do to push back against atrocities such as the crushing of protests in Iran, China persecuting the Uyghurs or Russia jailing those who criticise Putin.

Baroness Helena Kennedy will chair the session.

"This session will examine all the ways in which different parts of the world have seen an incredible erosion of human rights," says Kennedy.

Advocates from across the world will be featured at the event.

Evgenia Kara-Murza will share her fight for the release of her husband, the Russian opposition journalist Vladimir Kara-Murza, who is jailed in Moscow for exercising his right to free speech. Her husband has been poisoned and incarcerated, and Evgenia will describe what their family has suffered.

Human rights lawyer Neri Colmenares will highlight how The Philippines has changed under the new Marcos-Duterte government. He will



Baroness Helena Kennedy

**SESSION:** IBAHRI Showcase: an attack on human rights globally  
**TIME:** Today, 14.30-17.30  
**VENUE:** Rooms 203-205, Level 2

discuss how journalists and lawyers have been killed by the government and how the government has committed extrajudicial killings while claiming that it is part of the war on drugs.

Rushan Abbas, founder of the Campaign for Uyghurs, will discuss the persecution of the Uyghur population in China, which includes serious evidence of forced labour, incarceration in concentration camps and forced sterilisation.

The first female major in Afghanistan, Azra Jafari, will share her concerns for women's rights under the Taliban regime and for the security of the persecuted Hazara ethnic group.

Nighat Dad, founder of the Digital Rights Foundation in Pakistan, will address ways in which new media has been used to silence dissent, rather than as an instrument of empowerment.

Stephen Rapp, senior fellow at the US Holocaust Memorial Museum's



Center for the Prevention of Genocide, and Valerie Oosterveld, professor at the University of Western Ontario, will also feature.

Kennedy urges IBA attendees to sit in on this session regardless of whether they work on these issues on a day-to-day basis.

"One thing I always say to legal audiences is that we're all human rights lawyers. We all know that protecting rights is fundamental," she says.

"There are lawyers all around the world who do wonderful work. Even if human rights is not the field in which they operate, they often give pro bono hours to help in cases."

*"One thing I always say to legal audiences is that we're all human rights lawyers. We all know that protecting rights is fundamental."*

VISCHER

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MEET OUR EXPERTS AT THE IBA 2022: Raphael Butz, Gian-Andrea Caprez, Benedict Christ, Adrian Dörig, Karin Graf, Urs Haegi, Moritz Jäggy, David Jenny, Roland Müller, Klaus Neff, Christian Oetiker, Gérald Virieux, Thomas Weibel, Lukas Züst

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# Meet the Officers

## Mark Ellis IBA executive director



Mark Ellis is the executive director of the IBA. Prior to joining the IBA, he spent ten years as the first executive director of the American Bar Association's Central European and Eurasian Law Initiative (CEELI). Mark was a long-time consultant to the World Bank on investment policies in Central and Eastern Europe and the former Soviet Union.

He has served as legal advisor to the Independent International Commission on Kosovo, chaired by Justice Richard Goldstone, and was appointed by the Organization for Security and Co-operation in Europe (OSCE) to advise on the creation of Serbia's war crimes tribunal. He was actively involved with the Iraqi high tribunal and acted as legal advisor to the defence team of Nuon Chea at the Cambodian war crimes tribunal.

## Almudena Arpón de Mendivil IBA vice president



Almudena Arpón de Mendivil is the current IBA vice president for the term 2021-2022. Almudena joined the IBA management board in 2009, a position she has maintained under her different IBA roles until today. Almudena has previously held positions as the IBA Treasurer, chair of the legal practice division and IBA secretary-general. During her IBA career Almudena has also led a number of committees and relevant projects for the Association.

Almudena is a partner at the Spanish law firm Gómez-Acebo & Pombo. She is the head of the TMT group. Her expertise is diverse, with an emphasis on corporate, and she is highly experienced in the telecommunications, media and technology sectors.

## Baroness Helena Kennedy KC Director, IBA human rights institute



Baroness Helena Kennedy KC is the director of the IBA's human rights institute (IBAHRI). She directs the work of

the IBAHRI upholding the rule of law and human rights globally. Helena is one of Britain's most distinguished lawyers. She has spent her professional life-giving voice to those who have least power within the system, championing civil liberties and promoting human rights. She has conducted many prominent cases of terrorism, official secrets and homicide. In 1997, she was elevated to the House of Lords where she is a Labour peer.

## Jaime Carey IBA secretary-general



Jaime Carey is the secretary-general of the IBA. He began participating in the IBA in 1984 and has held amongst others, the following positions: country representative, deputy secretary-general for Latin America, chair of the Latin American regional forum, co-chair of the corporate and M&A committee, LPD assistant treasurer, LPD and IBA treasurer, vice chair of LPD, and chair of LPD.

He was a trainee at Steel Hector and Davis in Miami in 1979. He is currently the managing partner at Carey, Chile's largest full-service law firm. His areas of expertise are corporate law and tax law.

## Claudio Visco IBA secretary-general



Claudio Visco is secretary-general of the IBA together with Jaime Carey. His tenure is for the calendar years of 2021 and 2022.

Claudio sits on the IBA management board and has held the position of member of the IBA diversity and inclusion council, chair of the bar issues commission, co-chair of the capital markets forum and chair of the securities committee. He significantly contributed to the drafting of important IBA guidelines and recommendations including the 'IBA Practical Guide on Business and Human Rights for Business Lawyers', 'IBA Business and Human Rights Guidance for Bar Associations' and the joint IBA-OECD report on 'the Role of Lawyers and International Commercial Structures'.

He is the managing partner of Macchi di Cellere Gangemi.

## Kimitoshi Yabuki Chair, IBA bar issues commission



Kimitoshi Yabuki is the current chair of the IBA bar issues commission, one of the IBA's constituents, with members of about 190 bars and law societies. He has also held the role of chair of the IBA Asia Pacific regional forum and several other officer roles throughout his 25 years at the IBA.

Kimitoshi is the immediate past president of the Tokyo Bar Association and the immediate past vice president of the Japan Federation of Bar Association. Kimitoshi is one of the leading figures in the international legal assistance activities in Japan. Particularly, he has worked on various rule of law projects throughout Asia, including Cambodia, Indonesia, Laos, the Philippines and Vietnam.

In his private practice, Kimitoshi is the managing partner of Yabuki Law Offices.

## Anne Ramberg Co-chair, IBA human rights institute



Anne Ramberg is the current co-chair of IBA's human rights institute (IBAHRI) council and the immediate past secretary general of the Swedish Bar Association. She is an ad hoc judge at the European Court of Human Rights, and conciliator and alternate member of the Bureau to the Court of Conciliation and Arbitration within the OSCE. She is the chair of the Uppsala University Board and the chair of the Stockholm Prize in Criminology Foundation. She serves as a member of the board of Civil Rights Defenders, Raoul Wallenberg Institute and Southern Africa Litigation Center. She is member of the ILAC advisory council.

## Peter Bartlett Chair, IBA legal practice division



Peter Bartlett is Chair of the IBA legal practice division (LPD), the first person from the Asia Pacific to occupy that position. Peter has also chaired the IBA strategy working group and the IBA projects commit-

tee. He is a past IBA treasurer and a past chair of MinterEllison, Australia's largest law firm. Peter is one of Australia's leading media law experts. He headed the defence team in a recent 110-day trial, dubbed by Australian media as the 'Libel Trial of the Century.' He is a candidate for the position of IBA Secretary-General for the upcoming 2022 election.

## Jörg Menzer Chair, IBA section on public and professional interest



Jörg Menzer is chair of the IBA section on public and professional interest (SPPI). He has also held other positions within the IBA, including deputy secretary general, co-chair of the European regional forum and in the regional fora coordination committee. He served as chair of the online services committee, as well as public and professional interest division (PPID)/SPPI vice chair-treasurer and has represented the SPPI on the IBA management board and IBA council.

Jörg heads the Bucharest office of Noerr as managing partner. He has been with Noerr since 2001 and is currently responsible for the coordination of the firm's practice for international clients in Romania, specialising in M&A and corporate law.

## Mark Stephens CBE Co-chair, IBA human rights institute Council



Mark Stephens CBE is the current co-chair of the IBAHRI Council. Mark is a partner at Howard Kennedy, and former president of the Commonwealth Lawyers Association. He also currently sits on the council and executive committee of the Commonwealth Lawyers Association.

Mark has undertaken some of the most important cases in the UK and around the world. In addition to representing high-profile individuals, he has been retained by several governments, among them the Republic of Cyprus, Greece, Jamaica, Libya, Mauritius and Russia, and has litigated in countries as diverse as Antigua, Australia, France, India, Iraq, Iran, Malaysia, Netherlands, New Zealand, Samoa, Singapore and the US.

# Back together at last

IBA President Sternford Moyo talks to John Crabb about his unusual tenure, the importance of the rule of law, and the power of the Association

**Hi Sternford, let's start by discussing the IBA itself. Why is this week's event so important?**

Well, the IBA was established in 1947 at around the same time as the United Nations. From the start, the IBA was very closely connected to the goal of peace. Part of the objective was to try to contribute to peace through the administration of justice.

There were other objectives of course, such as the creation and fostering of relationships among lawyers, bar associations and law societies, and to try to improve service delivery by lawyers through programmes of continuing legal education. In Miami, one of the main objectives is continuing education for lawyers, who will be able to learn from the various sessions that are going to be taking place throughout the week.

Part of the reason for the formation of the IBA was to promote and protect the rule of law, human rights and the effective administration of justice.

It was also necessary to establish an association of this stature to achieve some kind of uniformity and harmonisation in the resolution of difficult legal problems at all times, and it is important for lawyers of the world to get their minds together and find ways to deal with problems of procedural and substantive law and new areas of the law.

All these things require that we get together as lawyers of the world and find resolution to these problems.

Today, as you will see from this week's conference in Miami, the IBA provides a unique platform for continuing legal education. Lawyers can enjoy continuing legal education in their home countries, but you're not going to become a world class lawyer this way. It is important to interact with lawyers from other parts of the world.

It's important to elevate the platform to something that is wider, such as the International Bar Association, where you meet lawyers from many jurisdictions, both developed and developing. Lawyers where some of the solutions you may be dealing with, for instance, in a developing jurisdiction, will have been tested in a more developed jurisdiction.

It is extremely important for me, as an employer, to expose myself with organisations such as the IBA. The practice of law, particularly commercial law,



is becoming increasingly transnational. It's very rare that you deal with issues that are peculiar to your own country. That's why in many jurisdictions you'll find lawyers are corresponding with each other across borders. A problem in Zimbabwe will involve South Africa and other parts of southern Africa. The IBA provides a unique platform where you can meet these colleagues, develop relationships with them and collect contracts from them.

**Obviously the last two IBA conferences were held virtually because of the pandemic, but happily we are back together at last. How important is it that the event is in person this year again?**

Incredibly important. After the sessions this week you will immediately see lawyers standing up to ask questions, because they want to deepen their understanding and to clarify presentations that have been made. After that, they actually move informally to talk to the speakers, sometimes we'll find them, over tea, discussing the formal sessions in a more informal setting where it is easier to ask questions without fear of exposing ignorance or a

lack of understanding of what may otherwise be found to be simple.

So, it's really important in that sense that you do get an opportunity to clarify matters, you do get an opportunity to expand the information you receive in areas that are of special interest to you.

But more importantly, you do get an opportunity to establish relationships with other lawyers, and lawyers in the audience who are presenters or are part of the leadership. You get an opportunity to exchange cards and talk to one another about other aspects other than the formal programme itself, enjoying muffins and coffee, dining together and attending receptions together.

The practice of law depends largely on relationships, it is on the basis of relationships that arrangements such as mergers and acquisitions bringing law firms together takes place. Relationships come first, the legal contracts and issues follow – so it's extremely important to have a conference of this nature taking place in person and remove the virtual aspect.

We learn a lot from just virtual sessions, but we don't develop relationships with people that we see on our laptops.

**You've been the President of the IBA for nearly two years, of course overseeing a very difficult time. What have you been able to achieve during your tenure?**

It should be for others to talk about my achievements, but it has been a great honour for me to chair the IBA in the office of the President. I've been associated with the IBA for a long time, and it was a pleasure for me to contribute to the administration of justice, the observance of the rule of law and the independence of lawyers and judges. These are things that we push all the time, but we can't afford to relax.

Challenges to the independence of the judiciary and lawyers and to the rule of law will take place. You only need to look at what is happening today in Ukraine, where the international rule of law is seriously challenged by the unlawful invasion of the country by Russia. The IBA has spoken very firmly in condemnation of violations of international law in that region, and in condemnation of violation of the rules governing how warfare is conducted.

The IBA has worked very closely with lawyers in the region to try to scope out programmes that we can establish to ensure that we protect the administration of justice as much as possible, as well as the independence of lawyers and the rule of law in that part of the world. In fact, we are still basking in the glory of our executive director Mark Ellis visiting Ukraine amid the conflict to study the situation to see what is likely to take place and also to start thinking about accountability. Serious violations of the rule of law are taking place, international crimes are being committed, children's hospitals and other facilities are being bombed indiscriminately.

These are the kinds of things that international criminal law is there to deal with, the activities that shock the conscience of humanity.

You will also have seen what happened in Afghanistan, the total collapse of the rule of law with the return of the Taliban. The IBA has worked tirelessly to create an independent bar association in that region, the Afghanistan Independent Bar Association.

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# A conversation with...Kerry Kennedy

Robert F. Kennedy's seventh child discusses human rights and the rule of law

On Monday October 31, Mark Ellis, executive director at the International Bar Association, will lead a conversation with lawyer and human rights activist Kerry Kennedy.

Author of the New York Times best seller *Being Catholic Now* and founder of the Speak Truth to Power human rights education programme, Kerry Kennedy is the seventh of Ethel and Robert F. Kennedy's 11 children. She has spent the past 40 years promoting equal justice and basic rights for all, fighting against child labour, discrimination and ethnic violence.

Since 1998, she has been president of Robert F. Kennedy Human Rights – an association with a mission statement to fight for “a more just and peaceful world”, inspired by Robert F.

Kennedy's spirit. Its wide-ranging activities include strategic litigation, education, and partnership with the business and investment community. Over the years, it has worked on freeing political prisoners, defending the rule of law, addressing mass incarceration through bail reform, and strengthening the voices of human rights defendants.

Born in Washington DC and educated in New England, Kennedy is a member of the Massachusetts and District of Columbia bars. Over the years, she has led countless human rights delegations in support of the many causes that are dear to her heart, including women's rights, indigenous land rights, judicial independence, freedom of expression, criminal justice reform and environmental justice.

A graduate of the Ivy League's prestigious Brown University, Kennedy has received a myriad of awards and honours for her activism work, including the prestigious World Summit of Nobel Peace Laureates' social activism award. Having served as chair of the Amnesty International USA leadership council for over a decade, she is also on the board of directors of the US Institute of Peace, Human Rights First, Kailash Satyarthi Children's Foundation, Laureates and Leaders, Nizami Ganjavi International Center and Health eVillages.

She regularly features as a commentator on national and international TV networks, speaking out in the name of those who cannot, and has been offering advice to the Association on American Indian Affairs,

the Albert Schweitzer Institute and the Center for Victims of Torture.

As a writer, one of Kennedy's most memorable pieces of work was *Robert F. Kennedy: Ripples of Hope*, which gathered first-hand accounts of people whose lives have been affected in one way or another by the Kennedys – including Barack Obama, Gloria Steinem and singer and activist Bono.

The book's title was a tribute to John F. Kennedy's 1966 speech to the

**SESSION:** A conversation with...  
Kerry Kennedy  
**TIME:** Today, 1315 – 1415  
**VENUE:** Ocean Drive Room

## The power of the IBA

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We've worked very closely with them to ensure that there is no gender discrimination in that region, to soften the harsh aspects of the extremes of religion. The independence of the bar association of Afghanistan itself was threatened, and we also had to protect female judges who were at risk for executing their duties.

**You are originally from Zimbabwe so have a natural interest in legal development in Africa. What business opportunities do you see across the continent?**

Africa is about 17% of the world's population, almost 1.4 billion people live in Africa and the majority are young people. Africa produces 9.6% of the world's oil output, 90% of the world's platinum, 90% of the world's cobalt, 50% of the world's gold and huge amounts of uranium, copper, magnesium and more, there is no reason why Africa should not be rich.

The landmass of Africa is more than 30 million square kilometres, this is fertile land and the climate is ideal for agricultural production. The potential for production within Africa is very high and the potential for production of crops is very high. About

600 American corporations operate out of South Africa alone, so you can see how attractive Africa is from an investment point of view.

To ensure that we realise this opportunity we ensure that countries in Africa respect the rule of law, human rights and democratic values. The IBA has a big role to play in Africa, we have worked to ensure that there is proper regional integration – some countries are just too small to develop without building business relationships with their neighbours.

Botswana for instance is less than five million people. If a lawyer wanted to operate from Gaborone and specialise in securities law, they will find that the market is too small to allow for that level of specialisation. But if you look at South Africa, or at the horn of Africa, it becomes possible for a lawyer to build a specialist business within the region.

We also help try to stop violent governmental transitions, and to stop crimes against humanity that have taken place in many parts of Africa. You're looking at Sudan, the Democratic Republic of Congo, the Central African Republic, Uganda: in all those countries, situations require investigation by the prosecutor of the International Criminal Court. The only way

***“Sometimes we'll find lawyers, over tea, discussing the sessions in a more informal setting where it is easier to ask questions without fear of exposing ignorance.”***

to stop crimes against humanity erupting in many parts of Africa is to ensure that there's no impunity and that offenders are prosecuted.

Prosecution can act as a deterrent for similarly minded people who may want to commit crimes against humanity to access power. The fact that there were prosecutions in respect to the violence that took place in Kenya a few years ago is part of the reason why there is traditional government in place there. People have learned that it does not pay to go commit crimes and there will be accountability.

Africa also needs to stop just exporting just raw materials, it needs to promote industrialisation. Integration is really a part of the effort to create industrialisation because it may not be effective to create a processing plant in one country in southern Africa, but if you bring countries together you are able work together. Economies of scale will make it possible for us to

build bigger refineries, and regional integration is being promoted by the African Free Trade Agreement, which is all about bringing together disjointed markets to create a single common market in Africa.

These are extremely rich countries. Zimbabwe has 60 high value different types of minerals that it can produce and market internationally. Nigeria is the 8th largest producer of petroleum in terms of capacity.

There is absolutely no reason why cocoa farmers in west Africa should not be wealthy people. Ultimately Africa, if it is properly managed, will become the breadbasket of the world. Lawyers craft the agreements, define the rights and obligations for the countries that are party to these agreements, they will champion the rule of law which is really a prerequisite.

You can't grow anything in an environment where the rule of law is not observed.

# Showcase roundup

This roundup provides a snapshot of all the showcase sessions that will be featured throughout the conference. Topics range from human rights and sustainable development to AI regulation and cyber risks

## **IBA Showcase: the new normal of escalating cyber risks – what companies and their counsel can do**

Today, 09.00-12.00

From ransomware attacks to online fraud schemes, cyber risks are creating new pain points for firms. Led by the Presidential Task Force on Cybersecurity, this showcase session will feature a keynote and fireside chat with Robert Silvers, US Department of Homeland Security Undersecretary for Policy, who was recently appointed by President Biden to head the nation's first Cyber Safety Review Board. This will be followed by a panel of leading cyber and data privacy legal counsel from around the world who will delve into the strategies law firms can employ to help businesses manage cyber risks.



## **IBAHRI Showcase: an attack on human rights globally**

Today, 14.30-17.30

Led by the IBA's Human Rights Institute, this showcase session explores the perils faced by the international ecosystem of courts and how legal protections preserving and promoting rule of law, human rights and democracy are being compromised. Discussions will focus on what can be done to address concerns about governments straying away from their international commitments on refugee protection, freedom of expression, the right to protest and other areas of law essential to peace and justice. The panel includes speakers from around the world, including the Philippines, Afghanistan and Russian Federation.

## **Sustainability Focus LPD Showcase: the intersection of climate change, sustainability, corporate governance, and the role of lawyers: advising clients through transformative times**

Tuesday, November 1, 09.30-12.30

The attention on corporates to be held accountable for their environmental, social and governance performance has reached new heights. From

activists and governments to customers and investors, corporates are increasingly pressured to address issues on climate change. Inevitably, these pressures are creating legal concerns for boards as courts become involved with liability and litigation. Led by the Energy, Environment, Natural Resources and Infrastructure Law Section and Legal Practice Division, this showcase session will focus on the intersection between the ESG movement and the role of the lawyer, and how lawyers can prepare for and mitigate legal risks through corporate governance amid growing regulatory and stakeholder pressures.

## **IBA Showcase: bridging diverse interests in the extractive industries**

Tuesday, November 1, 14.30-17.30

The oil and gas and mining sectors face unprecedented challenges in achieving the balancing act of meeting expectations for equitable, socially inclusive and environmentally sustainable practices, while continuing to develop projects needed to meet global demand in energy and minerals. However, a lack of understanding persists in many societies about the benefits that can be derived from investments in the extractive industries. Led by the Energy, Environment, Natural Resources and Infrastructure Law

Section, this showcase session will hear from global experts on the role of the legal community to help bridge the diverse interests of stakeholders involved in and affected by the extractive industries. Panellists will share successes and failures from their experiences working in different parts of the world, addressing key topics such as types of regulatory regimes, free and prior informed consent, human rights and dispute resolution.

## **IBA Showcase: atrocity prevention – from Rwanda to Ukraine, why international law still matters**

Wednesday, November 2, 09.30-12.30

Led by IBA executive director Mark Ellis and Professor Leila Sadat, member of the War Crimes Committee advisory board, this showcase session will focus on the issue of atrocity prevention and ensuring that those who commit atrocity crimes are brought to justice. This panel will address issues such as justice through the International Criminal Court, universal jurisdiction, the UN Security Council, the Responsibility to Protect principle, and other accountability mechanisms. Panellists will also focus on country case studies, including the current war in Ukraine, providing food for thought for attendees.

## **BIC Showcase: key questions to be discussed when drafting a new framework on AI**

Wednesday, November 2, 14.30-17.30

Fast-forward to the future. At its current pace of development, artificial intelligence may reach or exceed levels of human intelligence by 2029. This calls for the need for forward-looking regulations to protect human rights and to ensure that humans continue to make the final decisions and remain in control. Led by the Bar Issues Commission, this showcase session will address the digitisation of various sectors, including advocacy, justice, law enforcement and public administration. The panel will focus on the benefits of AI-based systems in these sectors, such as lower costs and easier access, but also the negative impact of technology, including effects on fundamental legal rights. While AI is increasingly important for society, a wide range of questions need to be addressed when applying it in the legal profession.

## **Sustainability Focus SPPI Showcase: connecting the business of law and the rule of law – the IBA and the UN Sustainable Development Goals**

Thursday, November 3, 09.30-12.30

While the legal profession has an important role to play in addressing all 17 of the UN Sustainable Development Goals, UN SDG 16 covering "Peace, Justice and Strong Institutions" is of particular importance to the IBA. Led by the Section on Public and Professional Interest, this showcase session will explore how UN SDG 16 provides a golden thread that runs through much of the IBA's activity. This interactive session will engage the audience on the ideas relating to ESG and SDGs that were discussed throughout the week, share knowledge with other members to ensure that the IBA is collating key work on the subject, and build a portrait of how the legal profession is contributing to UN SDG 16.

# Rule of law symposium

## TODAY

### Reversing the Rule of Law deficit in Europe: how commercial law firms can help

Today, Time: 1115 – 1230  
Venue: Room 233, Level 2

Led by the European Regional Forum, this session takes a look at the role of commercial law firms in supporting the rule of law in the European Union. Although the rule of law is one of the fundamental values upon which the EU is based, it has been threatened by many events in recent months.

Featuring speakers from Poland, Hungary and the US, the panel will examine how commercial lawyers

working for corporates can support the rule of law in wider civil society. The audience can share their experience on the emerging need to address rule of law issues from the perspectives of clients.

While the topic of the rule of law in commercial law may be very new and at times intimidating for lawyers not trained and used to work with individuals, lawyers should adapt and get used to addressing the issue and being close to human right issues in their daily work.

The panel in this session will discuss the rule of law related journey of commercial law firms working in the business and corporate environment. Members of the audience will discover ways to deal with human rights issues in ways they have never thought about before and get insights to the approach of the United Nations. Fi-

nally, the panel will set the scene for the near future with the aim of helping commercial law firms move forward on their rule of law journeys.

For the early birds in the crowd, the American Bar Association will host a breakfast session on Tuesday morning on the rule of law.

## TUESDAY

**IBA Bar Breakfast hosted by the American Bar Association**  
Tuesday November 1, Time: 0800 – 0915  
Venue: Sunset Vista Ballroom B, Level 4

Divided views on public health, cli-

mate change and the rise in nationalism have caused, or have the potential to cause, a decreasing faith in the legitimacy of institutions and a growing distrust among their citizenry. This has been evidenced by attacks on the justice system, including physical attacks on judges and lawyers. Such assaults, both rhetorical and physical, jeopardise the rule of law across the spectrum of jurisdictions.

This breakfast session will look at the role of bar associations and the legal profession in leading the way to restore confidence in democratic institutions, in the judicial system, and to protect the rule of law. While the panel will undoubtedly bring forth more questions than answers, it promises to be a provocative discussion on the most fundamental questions.

# Three causes for optimism in a 'leaderless, fractured world'

## The FT's former 15-year editor Lionel Barber offers his vision of what the future holds for liberal democracies

Liberal democracies as we know them have reached the end of a cycle and must adapt, said former *Financial Times* editor Lionel Barber during the International Bar Association annual conference's opening ceremony in Miami.

"The end of the Cold War was supposed to spell the end of history and the triumph of the liberal democratic ideal," he said. "That world view no longer applies. We now live in a leaderless world, and this requires an adjustment in our thinking."

Reminiscing his encounter with Russian president Vladimir Putin in the summer of 2019, Barber reflected on how much the world had changed since then. "Think about it," he told the audience. "A once-in-a-century pandemic that ravaged our economies, Putin's war in Ukraine – the most dangerous conflict on the European continent since 1945 – and the return of inflation, which put an end to two decades of cheap money."

Barber also spoke of the January 2021 US Capitol insurrection – a direct attack on American's highest symbol of democracy.

"In these turbulent times, I've often thought of my big night meeting with Mr. Putin," Barber recalled. "Russia's spymaster looked at me through those shark-like eyes and declared: the liberal idea is obsolete. Putin claimed that Western governments have lost touch with their populations, being obsessed with multiculturalism, gender politics, and diversity...Three years on, I'm forced to ask – could Putin actually be right, after all?"

Wondering what the future held for liberal democracies in what he described as a "fractured leaderless world", Barber offered his own view, laying out three causes for optimism.

"Let's start with some relatively good news: liberal democracies coped better than most during the pandemic," he said. "Of course, governments were unprepared, millions died

unnecessarily, and lockdowns imposed a brutal economic cost. But the private sector, working with governments, developed anti-Covid vaccines at warp speed. It's a triumph of scientific endeavor, and a reminder that public private sector partnership serving the national interest is not a dead letter."

A second cause for optimism, Barber continued, is the state of globalisation. The free movement of goods, services, capital and labour, all championed by the US and other liberal democracies, have raised hundreds of millions out of poverty. And although there were losers, there were also many winners, said Barber.

"During the pandemic, the chattering classes pronounced globalization dead and buried," he added. "It is true that Covid tore through our networked world, disrupting global supply chains and reinforcing the trend towards nearshoring or hopeshoring in manufacturing. But rumours of globalisation's demise are premature."

Instead, we are witnessing something more nuanced, the FT's former editor suggested: a process that some refer to as "conscious uncoupling",



and of which Brexit and the US-China split are prime examples.

Across the US, the UK and Europe, liberal democracies have responded with impressive unity to Putin's unlawful invasion of Ukraine, and their ongoing unity will determine much of their own future.

"The outcome of the Ukraine war is a critical test for liberal democracy," said Barber. "Putin may not win, but he can't afford to lose...[He] still believes he can outlast a decadent, irrevolent West, and our challenge is to prove him wrong."

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# Defending the legal profession

*Continued from page 1*

guaranteed in light of the challenges we are facing,” he said. “The IBA conference is a unique opportunity for all of us. It’s a unique platform to connect with colleagues, expanding existing relationship and building new ones.”

The practice of law, particularly common law, is becoming increasingly international, Moyo continued. As such, lawyers cannot be successful without building relationships with colleagues in other parts of the world. “We cannot confine ourselves to the borders of our countries,” he said.

This year’s conference is taking place in a context of challenge to the rule of law and the administration of human rights. In this context, the IBA’s Human Rights Institute (IBAHRI) has been busy protecting lawyers in every corner of the globe – including in Afghanistan, from where lawyers have had to escape since the Taliban took over.

“A lawyer’s office is the first stopping point to enforce any sort of rights,” said Moyo. “Hence it is so important to defend the legal profession, which is currently under attack. Without an independent division and a separation of powers, you may as well forget about the rule of law.”

This year’s conference will deal with a wide array of topics, often beyond attendee’s direct area of expertise, including cybersecurity, climate change, and ESG. “But there are other problems in the world, such as extreme poverty,” Moyo continued. “This is something we, as lawyers, can resolve – by creating rules that balance the interest of investors with the interests of communities. That is a prevalent principle.”

The IBA president urged the audience to embrace ESG initiatives and advise on transactions appropriately to ensure that investments are going to the right places.

In Ukraine, too, the rule of law has come under serious threat, Moyo insisted. “Russia’s invasion of Ukraine was a violation of international law, and has led to crimes against humanity,” he said. “Serious atrocities have taken place in that country, with civilian and children’s institutions being bombed and huge human losses having resulted from the invasion.”

Russia’s war against Ukraine is unlawful, and contrary to international law and the Charter of the United Nations, Moyo continued. IBA has been working alongside the Ukraine Na-



***“It is important for us to recognise the exemplary and dedicated leadership of our colleagues in Ukraine.”***

tional Bar Association and the Ukraine Bar Association and has sent staff to assess the situation in Ukraine.

“As a result of this initiative, we

have signed a memorandum of understanding with the Minister of Justice that will create a framework of accountability for crimes and aggressions

taking place in Ukraine and for the administration of justice in that country,” said Moyo. “At this time, it is important for us to recognise the exemplary and dedicated leadership of our colleagues in Ukraine. The awards we are presenting tonight are a small testament to our appreciation of their work.”

Moyo concluded his speech by wishing the assembly a successful conference and pleasant stay in Miami.

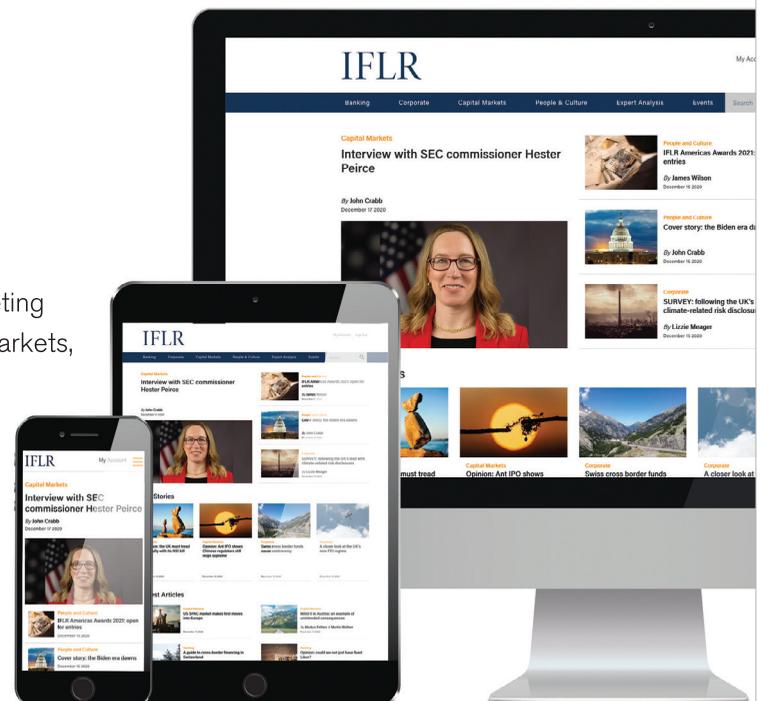
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# Leading the way with moral conscience

A panel including the Barbadian prime minister will discuss how lawyers can help to eradicate poverty and tackle climate change

This morning the IBA will be welcoming Hon Mia Amor Mottley, prime minister of Barbados as part of a session discussing a lawyer's path to alleviating poverty while practicing law with a high moral conscience.

Prime minister Mottley has prepared a video address as the keynote speaker.

Mottley became Barbados' first female prime minister in 2018, after starting her career working as an attorney. She gained the world's attention during the COP26 climate conference in Glasgow this time last year by telling leaders of the world's largest economies to "try harder" to avert catastrophic climate change.

A week before the start of COP27 where she will be no doubt making waves once again, Mottley will address IBA delegates in Miami.

As a leader of an island state on the frontline of the impact of climate change, Mottley has not just called on global leaders to boost climate finance and do more to tackle climate change, but also encouraged innovative

**SESSION:** Champion poverty alleviation through taking the high-road; a lawyer's path to alleviating poverty while practicing law with a high moral conscience

**TIME:** Today, 0930 – 1045

**VENUE:** Room 235, Level 2

climate financing in Barbados, harnessing her legal background to push for climate financing. This year Barbados issued an innovative blue bond, raising \$50 million dedicated to ocean protection with a precedent setting pandemic clause.

It has been said that there are basically three types of practice orientation: one, the legal technical approach two, the wise advisor and three, the lawyer with a high moral purpose as guided by the lawyers' conscience.

It's well recognised that the solution to the social challenges which intersect poverty such as migration



climate change and wealth inequality must involve a lawyer's commitment to a high moral imperative. However, in practice this must be balanced with the client's support.

This requires that that the lawyer approach legal problem-solving guided by such purpose.

International norms, particularly norms that are grounded upon soft law, increasingly call for a holistic approach to business planning.

The panel discussion will focus on how such things as the independence of the legal profession can assist in pursuing the practice orientation of a high moral purpose while still

maintaining the support of the client in such pursuits.

The session is led by the IBA's poverty and social development committee. Chairing the panel will be Tara Archer-Glasgow of Higgs & Johnson, flying in from the Bahamas and Bruce Macallum from Public Sphere in Canada.

Speakers include Jane Anderson, public lawyer and co-chair of the Access to Justice and Legal Aid Committee from Sydney, Carolina Henriquez-Schmitz of Thomson Reuters Foundation in New York and Peter Knox KC from the High Court, chancery division in England, UK.

## A conversation with...

The IBA's popular lunchtime conversation series returns in Miami for another year. Here's what is on the agenda

### Kerry Kennedy

Today, Time: 1315 – 1415  
Venue: Ocean Drive Room

**Kerry Kennedy** is President of the non-profit Robert F. Kennedy Human Rights. A human rights activist and lawyer, she authored the New York Times best seller *Being Catholic Now*, as well as *Speak Truth to Power* and *Robert F. Kennedy: Ripples of Hope*. The seventh of Ethel and Robert F. Kennedy's eleven children, Kerry has devoted more than 40 years to the pursuit of equal justice, the promotion and protection of basic rights, and the preservation

of the rule of law. She works on a range of issues including child labor, women's rights, disappearances, indigenous land rights, judicial independence, freedom of expression, ethnic violence, criminal justice reform, immigration, impunity, and environmental justice.

### Ambassador Beth Van Schaack and Prosecutor General of Ukraine, Andriy Kostin

Tuesday, Time: 1315 – 1415  
Venue: Ocean Drive Room

**Dr Beth Van Schaack** was sworn in as the department's sixth ambassador-

at-large for Global Criminal Justice (GCJ) in March 2022. In this role, she advises the secretary of state and other department leadership on issues related to the prevention of and response to atrocity crimes, including war crimes, crimes against humanity, and genocide. Prior to returning to public service in 2022, Ambassador Van Schaack was the Leah Kaplan visiting professor in Human Rights at Stanford Law School, where she taught international criminal law, human rights, human trafficking, and a policy lab on legal and policy tools for preventing atrocities. Earlier in her career, she was a practicing lawyer at Morrison & Foerster, the

Center for Justice & Accountability, a human rights law firm; and the office of the prosecutor of the International Criminal Tribunals for Rwanda and the former Yugoslavia in the Hague.

**Andriy Kostin** was appointed as the prosecutor general of Ukraine on 28 July 2022. A graduate of the Odesa National University Law Faculty, he has previously held several positions in Odesa and internationally as a practicing lawyer. From 1995 to 1998, he worked as an attorney at Polonsky & Partners. From 1998 onwards, he worked as the deputy director and later as the director of the law firm Pravo. Prosecutor general Kostin was a member of the governing body of the IBA – the IBA Council – from 2013 to 2015.

# Award winners

Each year, the IBA celebrates lawyers' achievements through four awards: the IBA Award for Outstanding Contribution by a Legal Practitioner to Human Rights, IBA Pro Bono Award, IBA Outstanding Young Lawyer Award and the IBA Outstanding International Woman Lawyer Award. Last year's winners include Ludmila Kazak and Maksim Znak (Outstanding Contribution to Human Rights), Geoff Budlender (Pro Bono), Michael Polak (Outstanding Young Lawyer) and Beth Michoma (Outstanding International Woman Lawyer). These award recipients will be joined by esteemed company as this year's winners are announced.

## IBA Award for Outstanding Contribution by a Legal Practitioner to Human Rights

The IBA Award for Outstanding Contribution by a Legal Practitioner to Human Rights is awarded annually to a practitioner that has "made an outstanding contribution to the promotion, protection and advancement of the human rights of all, or any group

of, people, particularly with respect to their right to live in a fair and just society under the rule of law". The award will be presented by co-chair of the IBA's Human Rights Institute, Anne Ramberg, during the SPPI Awards Breakfast on Thursday, November 3 at 8am EST. This year's winner is Jiang Tianyong of the People's Republic of China. Jiang's career in human rights dates back to 2004, when he represented Chen Guangcheng, eventually leading the Free Chen Guangcheng movement beginning in 2010. His licence was revoked in 2009 and he was one of the lawyers who "disappeared" during China's Jasmine Crackdown in 2011 as he was deemed "dangerous". Unfortunately, he will be unable to accept his award in person as he is barred from leaving the country. In his place, his wife will be accepting the award.

## Annual IBA Pro Bono Award

The IBA Pro Bono Award is awarded annually to a lawyer, "who has shown an outstanding commitment to pro bono work as part of their legal career". The award will be presented



Jiang Tianyong



Elba Gutiérrez

during the SPPI Awards Breakfast. This year's winner is Elba Gutiérrez of Mexico. Currently the manager of Greenberg Traurig's Global Pro Bono programme, she pushed for a pro bono initiative in Mexico City, which has since grown to a strong pro bono practice. This is especially notable due to the fact that pro bono work in Mexico is not yet commonplace.

## IBA Outstanding Young Lawyer Award

Each year, the IBA Young Lawyers' Committee present an award to a young lawyer who has shown not

only excellence in their work and achievements in their career to date, but also a commitment to professional and ethical standards as well as a commitment to the larger community.

The IBA Young Lawyers' Committee's goal is to identify, discuss and promote issues relevant to young lawyers.

This year's winner is Yorm Ama Abledu, from Koranteng & Koranteng Legal Advisors in Ghana. Abledu has studied law in New York and Scotland, and has won multiple human rights cases in her role as assistant public defender under the Legal Aid Commission, where she works pro bono.

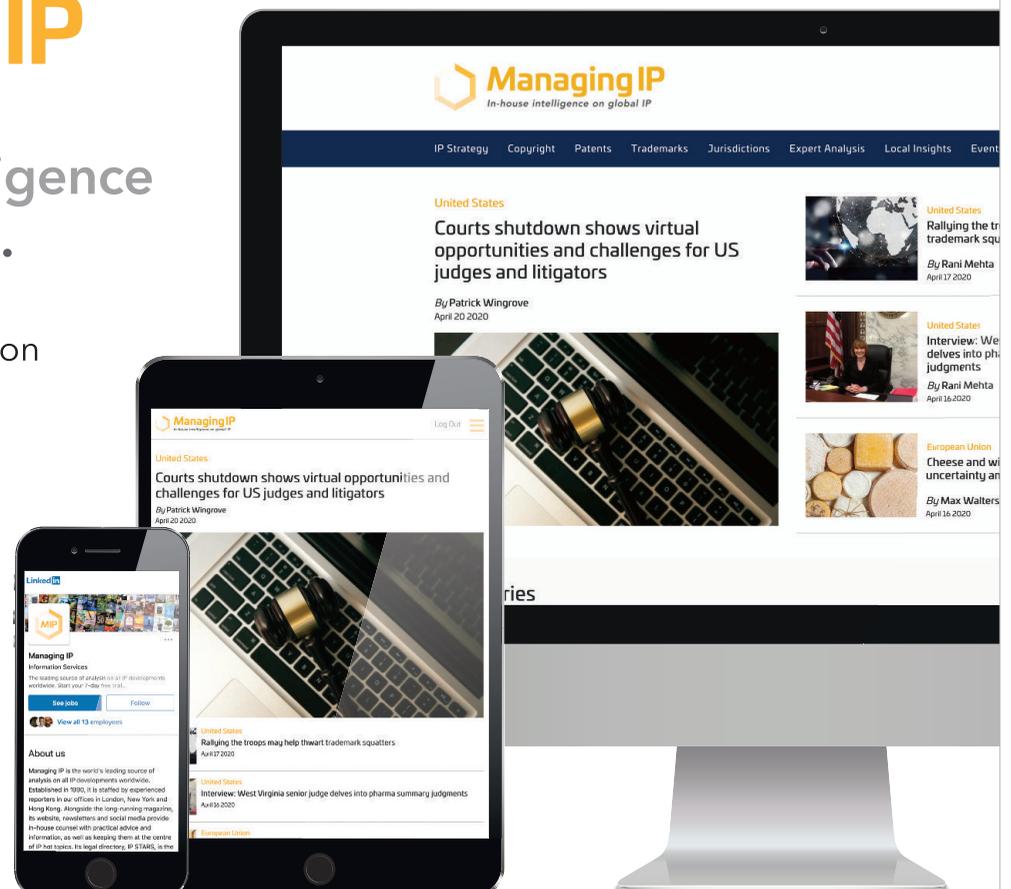
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# What to eat in Miami

A round up of the best food that Miami has to offer

**M**iami is not just a centre of international finance but also food. From ultra-sleek, modern Michelin star restaurants to taco shop speakeasies, the dynamic city boasts strong Caribbean and Latin American influences. The seaside city and sunny weather is not just to the benefit of sunbathing tourists, as the climate allows year-round food production and the freshest seafood.

## Little Latin America

Miami's intake of Cuban refugees during the Cuban Revolution and throughout the Cold War has culminated in a fusion of Latin American culinary influences. You'll find fish tacos in almost every seafood joint, with hipster millennial entrepreneurs serving up vegan arepas and artisanal Peruvian cocktails.

Try the classic Cubano sandwich: a juicy mixture of ham, Swiss cheese, sliced roast pork and pickled chips in between two slices of thick bread. For a good-sized American portion of this sandwich head over to *Havana 1957*. For a lighter bite, visitors can opt for pastelitos, which are delicious Cuban puff pastries. *Ariete* and *Chug's* have a variety of sweet and savoury options.

While the grilled pineapple on pizza debate rages on, you can try central American-style tacos in *Taquiza*, which is famous for its combination of grilled pineapple and roast pork. For a pick-me-up in the morning to go with your coffee, or a snack in-between IBA meetings, empanadas are Miami's essential quick bites and can be found around every corner.



## Sun, sea and seafood

With the Atlantic Ocean and Caribbean Sea merging at Miami's doorstep, there is no shortage of fresh and varied seafood. *Joe's Stone Crab* is one of the oldest restaurants in Miami, yet it has managed to retain popularity for over 100 years due to its stuffed baked clams, jumbo crab cakes and seared sea scallops.

Try the taste of Florida's spiny lobster at *Michael's Genuine*. Only available on the menu for a few months starting in August, the cousin of the Caribbean lobster has become so popular they are getting harder to find, with most being shipped to

**"You'll find fish tacos in almost every seafood joint, with hipster millennial entrepreneurs serving up vegan arepas and artisanal Peruvian cocktails."**

China. At *AQ Chop House*, you'll find grilled octopus tentacle – a staple seafood dish in Spanish-influenced culture.

For seafood with a view, head over to *Lure Fishbar* inside Loews Miami Beach, which offers a menu of trendy plates like tuna tacos and devilled eggs with caviar. *Novikov Miami* is a fusion of Chinese-Japanese seafood serving up the freshest dishes of sashimi, maki and dim sum; all with breathtaking views of Biscayne Bay.

## Sugar, spice and everything nice

To end the night on a sweet note, or to cool off from the tropical weather, Miami has a treasure trove of artisanal ice cream joints and sweet pastry cafes. Visitors bored of the traditional vanilla or chocolate ice cream can find eccentric flavours of rose petal, avocado and watermelon-mint sorbet at *Azucar*. In *Wynwood*

*Parlor*, you can get a sugar spike with the combination of freshly baked cookies and cocktail-inspired ice cream flavours.

Empanadas are not the only Latin-inspired snack around Miami, *The Salty Donut* offers Latino-style donuts that perfectly balance the flavours from its South American heritage with the local palate – a menu favourite is their salty maple bacon donut.

If you prefer to drink your dessert, Miami has an abundance of eclectic cocktail bars dotted all around the city. *Sweet Liberty Drinks & Supply Company* is a constant top contender in state and national best bars lists. Here you'll find a range from classic cocktails like an old-fashioned to the utterly wild sweet potato pain killer cocktail. For a spot that won't fail you on any day or night, head over to *Broken Shaker* – a quintessential cocktail bar decorated like a tropical paradise.



# Q&A with Robert Silvers, undersecretary for policy at the US Department of Homeland Security

Recently appointed as head of the first Cyber Safety Review Board, Robert Silvers discusses priorities for the US government in relation to cybersecurity, and how it impacts regulation

In the context of normalised home-working and heightened international tensions, cyber risks to companies and their customers have reached unprecedented levels. Alongside ransomware, state-sponsored cyber intrusions and myriad online fraud schemes, the renewed spectre of politically motivated and destructive cyberattacks on a global scale – including against critical infrastructure companies – is now looming.

In this Q&A, Robert Silvers, US Department of Homeland Security (DHS) undersecretary for policy and chair of the newly established Cyber Safety Review Board (CSRB), covers priority workstreams for the department, the evolution of cyber threats since Russia's onslaught on Ukraine, and collaboration with counsel and the private sector at large.

## What are the DHS's key priorities when it comes to cybersecurity?

Our priorities include deepening our relationships with critical infrastructure companies to make sure their networks are protected, increasing our pursuit of law enforcement investigations of cybercrime to bring perpetrators to justice, and maturing the work of our operational collaboration models such as the Joint Cyber Defense Collaborative (JCDC) and CSRB. We also prioritise assisting victim companies when they have been hacked to help them identify what happened and recover their stolen data. Finally, we are establishing minimum cybersecurity baseline standards for critical infrastructure, including through regulations. For example, we have announced and implemented plans during this administration to increase cybersecurity regulation in the transportation sector, including in the aviation, rail and pipeline industries. Wherever we can, we rely on voluntary partnership models, but in some instances there is a need for smart and targeted regulations.



## How would you describe the impact of cybersecurity on national security policymaking, and on measures adopted in the regulatory space, including by the Committee on Foreign Investment in the United States (CFIUS)?

The Department of Homeland Security is a member of CFIUS, which reviews inbound investment for national security concerns. Those concerns have increasingly revolved around access to sensitive data and critical infrastructure networks in the US. We need to be vigilant about the way countries that might threaten our national security can gain access to those systems and potentially cause damage to them. We also need to be mindful of protecting our valuable intellectual property from theft and preventing large volumes of US personal data from being compromised. When a new foreign investment into the US is proposed, we are vigilant to the cybersecurity risks that may be attached to it.

## What is DHS doing to build real-time operational collaboration with the private sector on cybersecurity?

We are moving past merely partnering with the private sector and sharing information with it. While that is good and important, government and the private sector need to work shoulder to shoulder to succeed against the

*"The goal is to make our entire country, and especially critical infrastructure operators, aware of the risk of potential cybersecurity threats spilling over from Russia's aggression in Ukraine."*

most sophisticated adversaries and defend our digital infrastructure. This includes discussing threat trends that everyone sees on their networks in real time, pooling that information to discern any patterns, and sharing it on an anonymised basis with network defenders so that they can protect themselves.

We have set up the JCDC, which brings together over 25 of the leading technology and cyber companies in the US, to work together with the Cybersecurity and Infrastructure Security Agency (CISA). JCDC members share insights with one another on a daily basis, which allows us to move at the same speed as cyber threats.

Many JCDC members are part of the most significant players in our technology ecosystem: Amazon Web Services, Google, Microsoft, the biggest cybersecurity companies, and more. They have critical insights into what's happening across the US's complex digital infrastructure, and their cooperation has allowed them to respond and proactively address potential threats.

## How can in-house and outside counsel help to build strong cybersecurity programmes?

Attorneys have a critical role in elevating cybersecurity in companies. Whether it's in-house or outside counsel, it can't be overstated how important their advice is in making sure that companies make the right decisions to

protect both customers and businesses. Having been a partner at a large law firm advising clients on cybersecurity, I witnessed first-hand how critically C-suite and company boards take the advice of counsel. That advice can take the form of driving compliance with the increasing proliferation of cybersecurity regulations around the world or critical counsel regarding incident response in the wake of a major cybersecurity breach. Companies are looking to their attorneys to advise on how they should work with the government and on what kind of information they should share with customers, business partners, regulators and law enforcement. Counsel are crucial stakeholders and a critical audience for DHS as we get the message out about the many ways in which companies can work to elevate their cybersecurity and work proactively with the federal government to do so.

## Can you expand on the CSRB's role and mission?

The Cyber Safety Review Board is an extremely innovative and exciting initiative from the Biden administration. It brings together luminaries from the federal government and the private sector to review what happened and make recommendations for improvement in the wake of major cybersecurity incidents. For instance, in the realm of aviation accidents, the National Transportation Safety Board typically conducts a review to find out

# Managing cyber risks

Led by the Presidential Task Force on Cybersecurity, this panel focuses on practical strategies that in-house counsel can adopt to battle cyber risks. Cyber risks to companies and their customers and employees have never been more important to the corporate world than in the post-Covid environment, as work patterns change from being based in the office environment to working from home. Data breaches, from personally identifiable information to sensitive client and employee data, can have broad-ranging consequences. These include penalties, regulatory investigations, shareholder litigation and sanctions for privacy violations.

The onslaught of ransomware attacks, state-sponsored cyber intrusions and myriad online fraud schemes is now combined with the renewed spectre of politically motivated, destructive cyber-attacks on a global scale, including against critical infrastructure companies. As the variety of data and cyber threats proliferate, an effort that goes beyond IT departments is needed for businesses to protect their valuable information assets. In-house counsel increasingly need to take a more active role in providing guidance on how best to respond to cybersecurity breaches and ensuring that designated plans are in place to prevent and address threats.



***“As the cyber regulatory landscape develops, lawyers need to take a proactive role by serving as a bridge between IT departments and key stakeholders.”***

The role of in-house counsel in managing cyber risk is quickly evolving. As the cyber regulatory landscape develops, lawyers need to take a proactive role by serving as a bridge between IT departments and key stakeholders, offering legal advice in the event of a cyber breach and ensur-

ing resources are allocated to prevent and remedy cyber situations.

This session will begin with a keynote and fireside chat featuring Robert Silvers, US Department of Homeland Security Undersecretary for Policy, who was recently appointed by President Biden to head the nation’s

**SESSION:** IBA showcase: the new normal of escalating cyber risks – what companies and their counsel can do

**TIME:** Today, 09.00-12.00

**VENUE:** Rooms 203-205, Level 2

first Cyber Safety Review Board. This will be followed by a panel of leading cyber and data privacy legal counsel from companies and law firms around the world, who will address how lawyers can drive positive changes for their clients and firms in managing emerging cyber risks.

what happened; it then shares lessons learned with the aviation community to prevent recurrence. The CSRB has for the first time brought that model to cybersecurity. Our vice chair, Heather Adkins, is one of our private sector members and runs security engineering at Google. The rest of the roster of members – 14 in total – is a who’s who of cybersecurity.

We’re bringing together incredible talent from diverse perspectives, to look at the most significant cyber incidents and make sure that the community does whatever it can to elevate its cybersecurity based on what we have learned. Importantly, the CSRB is not about accountability and enforcement: it’s not a regulator and doesn’t have the authority to issue fines. It’s all about being forward-looking and simply identifying ways that our community can be safer when it comes to cybersecurity.

## **How has the context of the war in Ukraine impacted cybersecurity planning and policymaking in the US?**

In response to Russia’s brutal invasion of Ukraine, CISA launched the Shields Up campaign – the broadest cyber awareness campaign in history. Its goal is to make our entire country, and especially critical infrastructure operators, aware of the risk of potential cybersecurity threats spilling over from Russia’s aggression in Ukraine. The conflict has now been playing out since February and we’re not out of the woods yet. The risks remain, and it’s crucial that network defenders remain vigilant to sophisticated cyberattacks that may derive from the conflict. It’s something that is very much still an issue and one that we are working on every day so that everyone can be alert and ready.

***“When a new foreign investment into the US is proposed, we are vigilant to the cybersecurity risks that may be attached to it.”***

## **How would you compare the level of threat in terms of cyberattacks and cybersecurity compared to this time last year, and how much more seriously is DHS taking it?**

The Russia-Ukraine conflict is a further potential threat vector piled on top of an already daunting landscape. For years, we’ve seen ransomware attacks stemming from Russia do tremendous damage, even before this conflict, but also from other nation-

state actors such as China, North Korea and Iran. Other kinds of criminal actors have been trying to steal data, intellectual property, payment information and cryptocurrency, or to drain accounts. This all makes for an already crowded threat landscape. We’re taking it very seriously, and so should the attorney community because it is a huge business risk factor for companies. This is a growing compliance issue both at the federal and state level, and is an issue that affects all of us.

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