



Infrastructure, the Rule of Law, and the Need for a Global Lawyer Regulatory Umbrella Organization

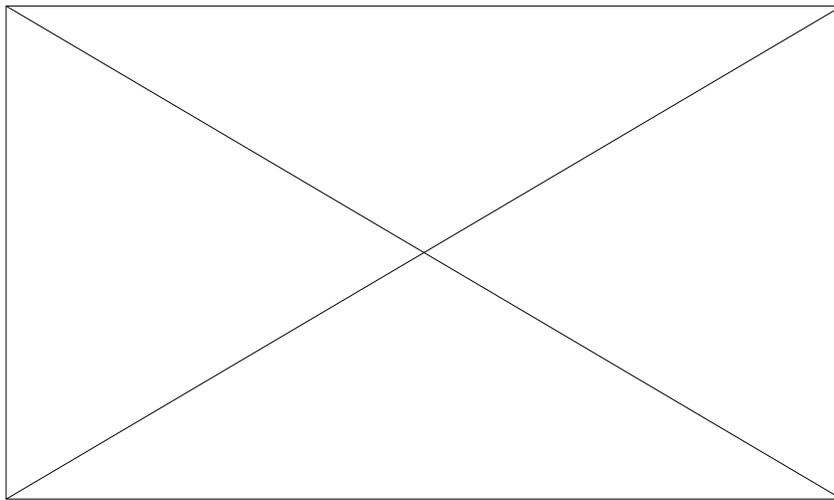
**Michigan State University College of Law Symposium
*Lawyers as Conservators
of the Rule of Law***

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Penn State Dickinson School of Law
September 9, 2011**

An Excerpt from the US Television Show "West Wing"

[The woman is the US President's Chief-of-Staff shortly before the President leaves office]

http://www.youtube.com/watch?v=lxqp9c_sGv4



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Infrastructure

- It's not sexy
- It makes for a lousy telethon
- It may be hard to find individuals willing to invest time and money to create it...
- But it is critical

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Issues Facing 21st Century Lawyers

Some Overarching Issues

- Who regulates?
- Who (or what) is regulated?
- When does regulation occur?
- Where regulate?
- How does regulation occur?
- Why regulate?

Some Specific Issues

- Access to, and affordability of, legal services
- Lawyers' obligations, if any, as "gatekeepers"?
- Alternative business structure issues
- Technology (cloud computing/outsourcing/etc.)⁴

The Relationship of Lawyers to the Rule of Law

- Numerous documents recognize the importance of lawyers to the rule of law
 - UN Basic Principles on the Role of Lawyers
 - IBA General Principles for the Legal Profession (with 2011 commentary)
- The “Services Providers” paradigm (Terry 2008) means that lawyers increasingly are treated as comparable to other providers
- “Gatekeeper” obligations, in particular, put pressure on the rule of law
- Global bar associations have organized to assert rule of law concerns. See FATF 40+9

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My Thesis...

- It would be helpful to have some sort of global organization in which national and subnational lawyer regulators could get together (virtually if not in person):
 - to discuss these and other issues
 - to brainstorm about the differing solutions they are considering or have adopted
 - to cooperate with respect to lawyer licensing and discipline

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Consider:

- Legal profession entities other than lawyer regulators have developed international umbrella organizations
- This has happened on a national, regional and international basis
- Other fields have international umbrella organizations that promote discussions among national & subnational regulators

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Umbrella Organizations Related to the Legal Profession



Bar Issues Commission



International Association of Prosecutors



International Institute of
Law Association Chief Executives

(Includes many "representational" rather
than "regulatory" bar associations)



National Organization of Bar Counsel

US, Canadian, & Australian
prosecutors in lawyer discipline cases



European Law Faculties Association

Représentant les avocats d'Europe
Representing Europe's lawyers



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Global Regulator Organizations in Other Fields



News

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General Information

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Objectives and Principles of Securities Regulation

IOSCO Multilateral Memorandum of Understanding (MMoU)

The International Organization of Securities Commissions

General Information

The member agencies currently assembled together in the International Organization of Securities Commissions have resolved, through its permanent structures:

- to cooperate in developing, implementing and promoting adherence to internationally recognised and consistent standards of regulation, oversight and enforcement in order to protect investors, maintain fair, efficient and transparent markets, and seek to address systemic risks;
- to enhance investor protection and promote investor confidence in the integrity of securities markets, through strengthened information exchange and cooperation in enforcement against misconduct and in supervision of markets and market intermediaries; and
- to exchange information at both global and regional levels on their respective experiences in order to assist the development of markets, strengthen market infrastructure and implement appropriate regulation.

Contacts

Mr. Greg Tanzer, Secretary General

Mr. Tajinder Singh, Deputy Secretary General

Ms. Isabel Pastor, Senior Advisor

Mr. David Cliffe, Communications Manager

Mr. Mohamed Ben Salem, Senior Policy Advisor

<http://www.iosco.org/about/>

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International Competition Network

Site Search [] SEARCH

ABOUT MEMBERS DOCUMENT LIBRARY WORKING GROUPS NEWS & EVENTS CONTACT

ICN will encourage the dissemination of antitrust experience and best practices, promote the advocacy role of antitrust agencies and seek to facilitate international cooperation.

Memorandum on the Establishment and Operation of the International Competition Network

Home > About

About

The ICN provides competition authorities with a specialized yet informal venue for maintaining regular contacts and addressing practical competition concerns. This allows for a dynamic dialogue that serves to build consensus and convergence towards sound competition policy principles across the global antitrust community.

The ICN is unique as it is the only international body devoted exclusively to competition law enforcement and its members represent national and multinational competition authorities. Members produce work products through their involvement in flexible project-oriented and results-based working groups. Working group members work together largely by Internet, telephone, teleseminars and webinars.

Annual conferences and workshops provide opportunities to discuss working group projects and their implications for enforcement. The ICN does not exercise any rule-making function. Where the ICN reaches consensus on recommendations, or "best practices", arising from the projects, individual competition authorities decide whether and how to implement the recommendations, through unilateral, bilateral or multilateral arrangements, as appropriate.

For more information about the ICN, including answers to frequently asked questions, see [The ICN Factsheet and Key Messages](#).

SEARCH DOCUMENTS

"The ICN is unique as it is the only international body devoted exclusively to competition law enforcement and its members represent national and multinational competition authorities."

<http://www.internationalcompetitionnetwork.org/about.aspx>

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International Labour Organization
Promoting jobs, protecting people

About the ILO Topics Regions Meetings and events Programmes and projects Publications Labour standards Statistics and databases

ILO home > About the ILO

About the ILO



The ILO is the international organization responsible for drawing up and overseeing international labour standards. It is the only 'tripartite' United Nations agency that brings together representatives of governments, employers and workers to jointly shape policies and programmes promoting Decent Work for all. This unique arrangement gives the ILO an edge in incorporating 'real world' knowledge about employment and work.

Read more on who we are

Mission and objectives »
The main aims of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.

Origins and History »
The ILO was founded in 1919, in the wake of a destructive war, to pursue a vision based on the premise that universal, lasting peace can be

Calendar of events
« « Apr 2011 » »
M T W T F S S
28 29 30 31 1 2 3
4 5 6 7 8 9 10
11 12 13 14 15 16 17
18 19 20 21 22 23 24
25 26 27 28 29 30 1

Read more
Background documents
▶ ILO Constitution
▶ ILO Declaration on Social Justice for a Fair Globalization
▶ ILO Global Jobs Pact
Brochures
▶ The ILO at a glance
▶ ILO Information Leaflet
▶ The ILO : what it is, what it does
See also
▶ ILO member States
▶ Departments and Offices
▶ Bureau for Workers' Activities (ACTRAV)
▶ Bureau for Employers' Activities (ACTEMP)
▶ Bureau for gender equality

Internet

<http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>

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IFAC 04/04/2011

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About IFAC

IFAC is the global organization for the accountancy profession. It works with its 164 members and associates in 125 countries and jurisdictions to protect the public interest by encouraging high quality practices by the world's accountants. IFAC members and associates, which are primarily national professional accountancy bodies, represent 2.5 million accountants employed in public practice, industry and commerce, government, and academia.

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What We Do

Through its independent standard-setting boards, IFAC develops international standards on ethics, auditing and assurance, education, and public sector accounting standards. It also issues guidance to support professional accountants in business, small and medium practices, and developing nations. In addition, IFAC issues [policy positions](#) on topics of public interest and [comment letters](#) on matters relevant to the profession.

A [fact sheet](#) provides additional information about the organization and its role.

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Structure and Governance

IFAC is committed to inclusivity. Its [structure and governance](#), therefore, provide for the representation of its diverse constituencies and interaction with external groups that rely on or influence the work of professional accountants.

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INTERNATIONAL CIVIL AVIATION ORGANIZATION

HEADQUARTERS : MONTRÉAL, CANADA

ICAO Regional Offices:
Bangkok, Cairo, Dakar, Lima,
Mexico City, Nairobi, Paris

NEWSROOM



ACT GLOBAL

ICAO: UNITING AVIATION ON CLIMATE CHANGE

ICAO: Uniting aviation on climate change

ICAO ENVIRONMENTAL REPORT 2009



AVIATION and CLIMATE CHANGE

► **LATEST NEWS**

CURRENT RADIATION LEVELS IN JAPAN AND TRAVEL ADVICE

Radioactive material from the damaged Fukushima Daiichi plant is gradually spreading outside Japan into the global atmosphere but at extremely low concentrations that do not present health or transportation safety hazards, according to the United Nations organizations closely monitoring the situation. more...

► Assad Kotaite Graduate and Postdoctoral Fellowship Fund

► **ALL MEETINGS**

Global Runway Safety Symposium
ICAO, Montréal, Canada, 24 – 26 May 2011

Fatigue Risk Management Systems (FRMS) Symposium and Forum
ICAO, Montréal, Canada, 30 August – 2 September 2011

Seventh Symposium and Exhibition on ICAO MRTDs, Biometrics and Security Standards
ICAO, Montréal, Canada, 12 – 15 September 2011

Global Air Navigation Industry Symposium
ICAO, Montréal, Canada, 20 – 23 September 2011

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ICAO PUBLICATIONS UPDATE

JUST PUBLISHED

NEW AVIATION PERSONALITY RELEASED BY ICAO

Online Subscription
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ICAO
INTERNATIONAL CIVIL AVIATION ORGANIZATION

Beijing Achievements
The 2011 Beijing Report Card
ICAO Report Card on International Civil Aviation Operations

<http://www.icao.int/>

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Cross-Border Insolvency Concordat
(Reprinted with permission of the International Bar Association.)

INTERNATIONAL BAR ASSOCIATION
SECTION ON BUSINESS LAW
COMMITTEE J - INSOLVENCY AND CREDITORS' RIGHTS

THE AMERICAN LAW INSTITUTE

and

INTERNATIONAL INSOLVENCY INSTITUTE

GLOBAL PRINCIPLES FOR COOPERATION

IN INTERNATIONAL INSOLVENCY CASES

Developing the infrastructure for a global world may require many contributions and parts...

CROSS-BORDER INSOLVENCY PROTOCOL FOR THE LEHMAN BROTHERS GROUP OF COMPANIES



UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)

UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment

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How Might One Create a Global Lawyer Regulator Umbrella Entity?

- Identify the lawyer regulators to include
 - For each country (WTO Members?), determine the professionals to include (Cf. EU Directive 98/5)
 - Identify the regulator for that group of professionals
 - Collect contact information for these regulators
 - Would a “Wiki” format work?
 - Existing sources: ABA, NOBC, CCBE, APEC, IBA, UK SRA?
- Determine a host or platform to use
 - Create a new organization or use a preexisting one?
 - Exclusively regulators or not?
 - Scope? (e.g. admissions, rule-making &/or disciplinary?)
 - Useful formats in a financial resource-challenged world?

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Existing Information Exchanges Among Lawyer Regulators

- **Intra-Europe**: The CCBE has discipline information online, http://www.ccbe.eu/index.php?id=94&id_comite=24&L=0
- **US-Europe**: the Conference of Chief Justices (CCJ) & CCBE agreed to information exchange
- **US-Australia**: CCJ and the Law Council of Australia adopted resolutions and a protocol
- **US-Canada-Australia**: See NOBC members (National Organization of Bar Counsel- discipline prosecutors)
- **IBA Bar Issues Commission** and the Int'l Bar Ass'n (IBA), *Guide for Establishing and Maintaining Complaints and Discipline Procedures* (2007)

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Sources of U.S. Information



Admissions



National Organization of Bar Counsel

Bar Associations and Disciplinary Authorities

Michigan Attorney Discipline Board
Michigan Attorney Grievance Commission

Discipline

National Lawyer Regulatory Data Bank
Center for Professional Responsibility
American Bar Association
321 North Clark St.
Chicago, IL 60610
312-988-5299



Rulemaking



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Other Sources of Information and Templates One Could Build On

(a) *'lawyer'* means any person who is a national of a Member State and who is authorised to pursue his professional activities under one of the following professional titles:

Belgium	Avocat/Advocaat/Rechtsanwalt
Denmark	Advokat
Germany	Rechtsanwalt
Greece	Δικηγόρος
Spain	Abogado/Advocat/Avogado/ Abokatu
France	Avocat
Ireland	Barrister/Solicitor

Source: EU Directive 98/5, the Lawyers' Establishment Directive, 1998 O.J. (L.77) 36, available on the CCBE webpage:
http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_version_consolide1_1265370307.pdf



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Professions approved by the SRA for RFL status

[updated 21 July 2011]

The Solicitors Regulation Authority (SRA) is satisfied that the professions listed below are so regulated as to make it appropriate for members of those professions to be managers of recognised bodies, in accordance with Schedule 14 paragraph 2(2) of the Courts and Legal Services Act 1990.



The SRA will consider whether other professions should be added to this list as and when requested to do so.

Jurisdiction	Profession
Romania	avocat
Slovakia	advokát/advokátka
Spain	abogado/advocat/abokatu/avogado notario
Sweden	advokat
3. European Economic Area	
Norway	advokat
4. United States of America	
All states	attorney-at-law
District of Columbia	attorney-at-law
5. Commonwealth	
Anguilla	solicitor barrister
Antigua and Barbuda	solicitor barrister attorney-at-law

- The UK SRA's list of "lawyers" that may be managers of registered entities

<http://www.sra.org.uk/sra/regulatory-framework/professions-approved-by-SRA-for-RFL-status.page>

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The APEC Legal Services Initiative, Draft Inventory of Requirements Affecting Practice of Foreign Law in APEC Jurisdictions (Group on Services, Sept. 2010)



4. APEC Economy: Chile

Full licensing

A foreign lawyer can obtain a full licence to practise law in this jurisdiction.

The relevant legislation is the *Tribunal's Organic Code Title XV*, Decree 110 of the Ministry of Justice Official Gazette March 20, 1979. This is available online at www.vcn.cl/ (in Spanish).

In order to obtain a full licence to practise law in this jurisdiction, foreign lawyers must be a permanent resident and must complete the totality of their legal studies in a university in Chile. These requirements are the same as the rules applicable to a local applicant.

	Name	Website or other contact details
Organisation(s) that controls licensing of lawyers	Corte Suprema de Justicia (Supreme Court of Justice)	www.poderjudicial.pl
Peak professional association representing the legal profession	Colegio de Abogados de Chile (Chilean Bar Association)	
Other associations playing a significant role in developing policy for the legal profession	Ministerio de Justicia (Ministry of Justice)	

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International Bar Association

the global voice of the legal profession

BIC Resources | Bar cooperation programme | IBA Committees

IBA Member Organisations in Africa

AFRICA | AMERICAS | ASIA PACIFIC | EUROPE | MIDDLE EAST

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z



Algeria

*Organisation Nationale des
Avocats
Algeriens Palais de Justice
10 rue Abane Ramdane
Algiers 1, Algeria
Tel: +213 (21) 647 732*



Angola

*Angola Bar Association
Avenida Ho Chi Min
Edificio da Direccao Nacional de
Estatistica
Luanda, Republic of Angola
Tel: +244 (2) 345069
Further information*



Botswana

*SADC Lawyers' Association
Unit 7 2nd Floor Tshipidi
House
Botswana Road
Plot 684
Private Bag 0056*



Botswana

*The Law Society of Botswana
Unit 5, First Floor
Kagiso Mall
PO Box 50889
Gaborone, Botswana
Tel: +267 3900 200*

http://www.ibanet.org/barassociations/BIC_Africa.aspx

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Who Else Has Worked on this Idea?

- See the “Project of Worth” by the Spring 2011 *Law Without Walls*™ students Wu Dan (Peking School of Transnational Law) and Elizabeth Reiser-Murphy (U. of Miami)
- Liz and Wu Dan did conceptual work and research one could build on

LAWWITHOUTWALLS™

- See <http://www.lawwithoutwalls.org/projects-of-worth/>

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LAWWITHOUTWALLS™

Screen shots from the *Project of Worth* presentation by Wu Dan and Liz Reiser-Murphy:

The International Association of Legal Services Regulators (IALSR) is an organization of legal services regulators from around the world who communicate continually and convene in a conference every two years.

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Certification Information

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Country	Legal System	Legal Service Provider	Regulator	Certification Information	Online source (URL)
Angola	Civil Law	Advogado	Ordem dos Advogados de Angola	Online Certification System	http://www.oaan.org/advogados.htm
Belgium	Civil law	Avocat(French-speaking part);Advocaat (Dutch-speaking part);Rechtsanwalt(German-speaking part)	Two federal bars in Belgium: the Ordre des barreaux francophoneset germanophones (O.B.F.G.-French and German speaking Federal Bar) and the Orde van Vlaamse	Online certification system	
Belize	Common law	Attorney-at-law or attorney	General Legal Counsel	The Registrar has a list ("Roll") "Practicing Certificate."	

Conclusion

- There currently is no global lawyer regulator umbrella organization
- Cross-border communication might help lawyers and their regulators to serve as conservators of the rule of law
- It is worth considering the best way to facilitate such communication
- Infrastructure isn't sexy, but it is a worthwhile investment

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