



The International Network for Women in Dispute Resolution

Leading Women in ADR

India Johnson , President and CEO of American Arbitration Association

What would you like for our readers to know about you?

Like them, I am lucky and happy to have discovered this field of dispute resolution, especially in my case, from the neutral organization side. I love leading and managing organization-wide effort and I found a good field where I could do that.

You have been with the AAA for 38 years. How has the field changed during that span of time?

Arbitration was a very industry-oriented type of dispute resolution back in the 70s and earlier—textiles, maritime, construction and other industries. Then in the 80s and 90s, as the courts got backlogged, arbitration grew in importance for companies and among commercial litigators in the US and just about every issue ended up in arbitration—and that direction was supported by the US Supreme Court in many different decisions.

What indicators do you see that say something about the future of our field?

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Sarah Lancaster, Registrar of the London Court of Arbitration

What would you like for our readers to know about you?

I am very approachable – which hopefully those who know me will confirm!

You have been involved in International arbitration for 14 years. How has the field changed during that span of time?

In my experience, the main change has been the evolution, and increase in use, of technology. When I started in international arbitration, any exhibit to be displayed for a tribunal was printed as an A0-size poster and displayed on a wooden easel. Since then, the use of powerpoint has developed, as has the ability to store thousands of documents on a small USB memory stick. Similarly, email has changed the nature, and volume, of document production and of correspondence exchanged between the parties and the tribunal.

What do you see as the future of our field?

I think that the future of arbitration is very positive. My own view is that technology will continue to play an increasingly important role in arbitration, with some arbitrators now asking parties to send documents to them via FTP sites, rather than in paper format. Similarly, the use of video-conferencing facilities is becoming more

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Our Newsletter

I have the privilege of introducing you to the new format of our Newsletter, which we very much see as your Newsletter. In this issue of ArbitalWomen and the succeeding ones, we introduce you to women “on the point” who are leading important arbitration centres, presiding as arbitrators and excelling as advocates. Collectively they are significant and inspiring role models from whom we can all learn.

In our first interview, India Johnson, who has gained enormous experience at the American Arbitration Association and become its first female president, shares her thoughts on the future of the field, challenges to mediation and arbitration. All women who wish to be active in the arbitration arena will no doubt find the career path and extensive experience of this remarkably accomplished arbitration expert to be most stimulating.

Sarah Lancaster, our other interviewee and the new LCIA registrar in London, offers aspiring female arbitrators practicable guidelines on how to engage in the arbitration community and promote themselves. She also reflects on the LCIA as an institution which has been making concerted efforts to promote women in arbitration and along with ArbitalWomen endeavours to broaden the female presence in the field.

This new direction to our newsletter content comes at the perfect time as the younger generation of arbitration practitioners is emerging and there are many great young women amongst them. A new wave of original and talented young women on the horizon is certainly great news for arbitration in general and for AW in particular. In this context, I was delighted to read last week that the Paris Very Young Arbitration Practitioners group (below 35) in which women have

a leading role, was awarded the OGEMID Rising Stars Award (even though they beat AW which came in second). With our very young arbitration practitioners colleagues on board, we shall no doubt trust the awards so let us get them to join. In the meantime, let us provide a forum through the newsletter for them, and the more experienced practitioners (and mothers) amongst us to share ideas, tips, stories and thought provoking questions.

Dominique Brown-Berset

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India Johnson

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The strategies being used by advocates - challenges to arbitrators, challenges to counsel, motion practice, extensive discovery, delay—one U.S. arbitrator, a former judge called it ‘arbitration abuse’ by parties who aren’t interested in economy and timeliness. The arbitrators and providers are going to have to work hard to overcome or manage the tactics —to keep the playing field level and to make sure the companies who use arbitration for efficiency can be served.

What experiences have you had that helped you advance in the field that others might find helpful?

Much good fortune came my way—as part of the AAA while the field was growing—so many AAA experts were there at my side—it was a great learning experience. At the AAA-ICDR, we truly stand on the shoulders of giants who came

before us, all the way back to 1926. The lawyers I worked with in Atlanta—a really excellent and high-integrity commercial and construction bar—so many great advocates and arbitrators and mediators around the country mentored me and taught me what they and their clients go through when they have disputes. Very fine people imprinted me over many years, cases, trials and tribulations.

How do you expect to spend your time professionally during your first year in office?

We want to ramp up the AAA-ICDR talent and arbitration facilitation efforts on our larger B2B cases, both domestically and internationally. Bringing our highest-level experts and skills to bear on the more complex cases so these parties can get through the process and move forward and be productive, hire people, be economically useful to all of us. Clients frequently feel the process itself is a problem and we need to work on that, both in perception and in reality.

Advancing Women

Advancing women is an important goal for AW how does the AAA contribute to that effort?

I have big shoes to fill. Our long-time CEO and President, Bill Slate, set a high bar right as he arrived and worked successfully to bring women into AAA-ICDR as board members, neutrals, speakers/trainers, executives, consultants—you name it. He did so much that it makes it hard for anyone to exceed his success in outcomes. However, women beget more women I think. Both men and women clients select women as neutrals and as advocates. But women lawyers and women corporate law clients will actually call and point out our failures if we don't have quality neutral lists that include women on them. They will let us know when we put on an educational program that is imbalanced. So, it's helpful to have a constituency that keeps nudging and reminding us and me.

I am occasionally finding out that there were three women panel members on a case that someone is telling me about. But, that won't be the reason they are talking about the case and they won't mention an all-woman panel of three.

It isn't such a big deal anymore apparently—though it still feels that way to me. \ We will continue to advance women in all of our efforts—and thankfully, now women are doing a lot of the selection of panel members.

Does your organization have a policy or practice to address the issue of increasing the number of women on the panel or in programs?

We have actual diversity objectives and the addition of women to the panels of arbitrators or mediators are particular recruitment goals for management every year. We have a staff that works to make sure a list of proposed neutrals will have women on the list if available geographically or by subject expertise. In some expertise areas, there are many women on the panel and in others, very few—which reflects the same demographics in these fields of expertise outside of dispute resolution.

What would be the important steps for a woman (taking the fastest track possible) to becoming active as an arbitrator or mediator?

Successful, expert women with some years of experience, in *a field that uses arbitration*, are in the best position. They need to build their most valuable subject-matter expertise and their reputation for that expertise, and for a judicial demeanor so that people in those fields which use arbitration, can imagine presenting a case to her and getting a decision from her. There are fields that just don't utilize ADR very much and women from those fields, such as criminal law, won't find a receptive audience for their neutral skills. Or, you might be a family law expert in the US and gain a lot of mediation experience but that will probably not move you into commercial mediation. While some parties will say experience in ADR as a neutral is important, they most often are going to tie it to expertise in an area that is close or right on the subject of the dispute. We are routinely asked for subject expertise.

Lastly, I recommend women think carefully about even wanting to be neutrals in arbitration and mediation as much as advocates. CEOs and CFOs do not get up every day saying "I sure would like to hire and pay an arbitrator today!" They do get up every day saying "I sure would like to have people on my team that can help me make this enterprise a success." So kudos to all the advocates, experts, consultants who help enterprises succeed. Those are great careers.

Challenges to Mediation and Arbitration

Challenges to arbitration for failure to disclose are a prevalent and growing issue today. How is your organization proactively engaged in addressing this problem?

We have been addressing it through staff and arbitrator training and communications. We have strenuous procedures for arbitrators that encourage full disclosure and the staff considers this a key part of its role. But going forward, we are going to have to do more. We need to find ways to keep strategic use of uncovered potential conflicts or contacts that an arbitrator may have had from becoming a blemish to the process.

By strategic use, I mean where the non-disclosed arbitrator information was discovered by the party or counsel but kept quiet until they perhaps lose the case, or, lose on a key process decision. It was not brought forth so that the challenge could be made and decided properly and the case could proceed. For a company to live through an expensive arbitration, pay counsel, expert and arbitrator fees, win the case, and have its lawyer explain that the other side *now* claims uncovered non-disclosed information about the arbitrator —therefore you must accept a settlement less than the Award—will translate as a blemish on the process and on the arbitrator community.

Do you see a growing role for mediation in the field internationally in conflict resolution?

Yes, I think it will grow in popularity just as it did in the US domestic ADR field. American attorneys and companies had their issues with mediation in the early days and now it is as common as filing a lawsuit. It will take longer in international disputes, because we have so many cultures and jurisdictions and legal systems. There are no cohesive pressures such as the Federal and State court judges in the US that pushed mediation on US litigants for decades. But mediation will take hold. For one thing, international arbitration gets more expensive and takes more time and that in itself drives interest in alternatives—so now we have international mediation as an alternative to international arbitration which was an alternative to court in a foreign country where you would be the foreign party.

How do you envision technology impacting the ADR field in the near term? Long term?

In the near term, people are slowly adopting some online tools and technology to enhance an arbitration process for a case. Long term, with more and more global business, more useful technology coming along, and the younger lawyers and business people taking the reins of arbitration, technology will be embedded and we probably won't even notice. I remember someone telling me we should not put the "e" on any term or process, such as "ecommerce" because 'everything is e now' so why would you mention electronic or internet when that is part of everything we do?

At some point, ODR will be better defined so that people can understand that it means something *specific*. ODR has to be so 'online' that it is not similar to what we do now in normal transactions because almost all communication on any case is conducted online now, there is hardly any DR case that is not at least partially 'oDR'; the internet, email and sometimes document and payment platforms are involved from the beginning. Online bidding/negotiation with algorithms is ODR, but simply communicating back and forth electronically is not ODR to me.

Concluding

What is the "dead moose" under the table issue that no one is talking about in our field?

Two things are smelly under the arbitration table—people are surmising, rightly or wrongly, that arbitrators are content with the delays and complexities being added to the arbitration process-- because it simply makes each case more lucrative for the arbitrator, at the expense of the end-users. We haven't developed a way to get this subject out in the sunshine and give the arbitrators a chance to show it isn't so, or, give the end-users or their lawyers a chance to ask about it out-loud. Arbitration is a pay-go system; the arbitrators are not 'free' as court judges are funded with taxpayer dollars. But it is not an environment where people are or can be comfortable talking about the "spend" when it comes to the arbitrator. A company can complain to its lawyer or law firm about the bills they send and they can complain to the AAA-ICDR about filing fees—but one party on a case cannot overtly complain or discuss the arbitrators fees due to fear of punishment. So we have to work on this; transparency and trust are important because the amounts of money are sometimes extremely large.

Secondly, some companies and lawyers think arbitrators "split the baby" in making their decisions. This same theory is also stated about judges and juries—it's part of looking at your outcome on a case and wondering why you didn't win or lose all instead of partially winning or losing. Yet, claims are frequently so inflated that everyone involved knows it. Over the years we have studied thousands of awards and we don't find this splitting the baby claim to be true.

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There is a “sister” theory about arbitrators as well, the compromising award theory. That theory is “arbitrators don’t want to make hard decisions because they don’t want to irritate or aggravate either lawyer, in the event his firm might choose them again on other cases, or recommend them to other lawyers as arbitrators”. So, while arbitrators are busy trying to work professionally and even compassionately with the attorneys and bring them along to agreement or compromise on their process disputes clients are often reading that differently. To the company, the arbitrator looks afraid or loathes making tough, clear decisions as the process is going along for her own ‘commercial’ reasons—being selected again. But most arbitrators want very much to have a smooth process where the lawyers feel they had the appropriate opportunity to try their cases and represent their clients. And they want the two companies to feel they had the opportunity to be heard the way they wanted to be heard, not the way someone else defines it. So here the arbitrators are being ‘dinged’ for being problem-solving, solution-seeking judges instead of hammers looking for nails!

Whenever you are ready to leave the AAA. How would you like to be remembered?

I hope people will remember that I was about and for the end-users—the people who pay the bills for all the lawyers, experts, arbitrators, mediators and AAA-ICDR. In the B2B area, the end-users are the productive companies and individuals out there who had a business problem and needed resolution so they could get back to producing, innovating, hiring people and keeping the economy going. I want to be remembered for not getting so caught up with all the professional arbitrators and all the professional advocates, the court decisions and the academic dissection of arbitration and mediation, that I forgot to see the AAA-ICDR is to provide something faster, more expert, more economical, less stressful and as fair as the courts. We (ADR types) all get quite full of ourselves at these ADR and arbitration conferences and in the many professional organizations surrounding ADR—as if arbitration and mediation were invented for the neutrals and the advocates to pontificate about and benefit from economically, rather than to help people and firms with disputes. If ADR is just for the neutrals and the advocates, the parties should just return to court.

Debora M.Slate

Sarah Lancaster

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commonplace in appropriate cases.

What experiences have you had which helped you advance in the field that others might find helpful?

I gained a great deal from working in Australia as a lawyer. Not only did it allow me to develop an understanding of a different legal system, it also provided an insight as to how the expectations of clients from different jurisdictions can vary and expanded my appreciation of certain cultural issues to which a lawyer in international practice must be sensitive. For those readers who have not yet worked in a different jurisdiction, I would highly recommend exploring an opportunity to do so.

How do you expect to spend your time professionally during your first year in office?

As you would expect, I am currently focussing on gaining a proper understanding of the internal workings of the LCIA, as well as building relationships with my new work colleagues, arbitrators and arbitration users.

I certainly do not have any plans to implement any radical changes at the LCIA. I will, however, be consulting with colleagues, as well as external parties who regularly deal with the LCIA, to understand their experiences and so ensure that we maintain and build on the gold standard service we currently offer.

Advancing Women

Advancing women is an important goal for AW how does LCIA contribute to that effort?

The LCIA, like all institutions, is conscious of the important contribution women make in the international arbitration community. At present, our casework team is almost exclusively female. And in the short time I have been at the LCIA, I have been impressed by the number of female arbitrators selected and appointed by the LCIA Court.

Of course, it is important for the individual candidates also to promote themselves and I would encourage aspiring female arbitrators (and arbitration practitioners alike) to become members of the LCIA, so that we know who they are.

Does your organization have a policy or practice to address the issue of increasing the number of women on the panel or in programs?

Sarah Lancaster

The LCIA does not have any formal policy in place. We do, however, regularly select and appoint both established and up-and-coming female arbitrators. In this regard, it might be of interest to your readers that in 2011, of the total female appointments made in LCIA arbitrations, over 70% resulted from selection of the candidate by the LCIA Court, with less than 30% stemming from party nomination.

What steps should a woman take in becoming an active arbitrator or mediator?

In the world of both arbitration and mediation, a good network is important – as appointments may come from an institution, from the parties themselves or from law firms acting for the parties. There are a number of institutions (including the LCIA), which aspiring arbitrators and mediators can join and which will organise regular conferences and other net-working events. In addition, if the woman is just starting out in the area, there are a number of arbitration- and mediation-specific courses, which can help a candidate to build her specialist knowledge and her confidence in the area.

It is also always useful to have a good mentor, who can provide guidance on the steps that a candidate could take and who can effect introductions to others within the relevant community.

Challenges to Mediation and Arbitration

Challenges to arbitrators for failure to disclose conflicts of interest is a growing issue today. How is the LCIA proactively engaged in addressing this problem? As you would expect, the LCIA always ascertains an arbitrator's willingness and ability to accept an appointment before completing the formalities of appointment. This includes asking the arbitrator to sign a statement of independence, confirming that they are independent and impartial and also disclosing any circumstances of which the LCIA Court should be aware in this regard. This is reflected in Article 5.3 of the LCIA Rules. The LCIA always provides a copy of the statement of independence, as well as any disclosure made, to the parties to the arbitration.

Article 5.3 of the LCIA Rules also reminds arbitrators and the parties that the arbitrator is under a continuing duty of disclosure.

Last year, the LCIA also took the unique step of publishing digests of the reasoned decisions made by the LCIA Court in respect of challenges to arbitrators, grouped by category of objection. The digests, which can be found in *Arbitration International*, Volume 27 Number 3, provide useful guidance to arbitrators, and to the wider arbitration community, on what types of circumstances and relationships might be sufficient to result in an arbitrator not having the requisite independence or impartiality.

Do you see a growing role for mediation in the field internationally in conflict resolution?

Mediation remains an important tool for parties to use as a means of resolving their disputes, and I did watch it grow in popularity over my time in private practice.

In the short time I have been at the LCIA, I have seen a number of cases in which international parties have referred their disputes to mediation under the LCIA's Mediation Rules, with arbitration under the LCIA Rules as the fall-back if the mediation process fails.

How do you think technology will impact upon the ADR field in the short term? Long term?

As I mention above, technology has already made a significant impact on the ADR field. In the short-term, I would anticipate a slow but steady increase in the number of arbitrators and mediators asking for submissions and other documents in soft copy rather than hard copy. In the very distant future, I can see the possibility of paperless ADR becoming a reality and 'remote' mediations and arbitrations by video-link becoming more commonplace.

Concluding

What is the "elephant in the room" issue that no one is talking about in our field?

One of the elephants in the room is the ability to compel witnesses in international arbitration.

While the Courts of many jurisdictions will compel a witness to attend an arbitration hearing within their jurisdiction in order to give evidence, Courts are generally not prepared to compel a witness within their jurisdiction to give evidence overseas or to compel a witness from overseas to attend to give evidence in their jurisdiction.

How would you like to be remembered?

Positively!

Rashda Rana

AW Hosts Panel Discussion in Dublin 2012

Following the success of 2011 gathering on the occasion of the IBA annual conference in Dubai, the International Centre for Dispute Resolution (ICDR), the Bahrain Chamber for Dispute Resolution (BCDR-AAA) and Swiss law firm Homburger joined forces again, and sponsored another ArbitralWomen event at the IBA conference in Dublin. Almost 50 participants (male and female) from around the world were in attendance to discuss the topic of "Application of Mandatory Law Provisions by Arbitral Tribunals".

The event was hosted and co-sponsored by the Irish law firm Matheson Ormsby Prentice.

After an informal breakfast, Gabrielle Nater-Bass, partner of Homburger and member of the ArbitralWomen Board, opened the session with a short welcome address. She was joined by Nicola Dunleavy of Matheson Ormsby Prentice who announced that this was a particular auspicious time for an ArbitralWomen event in Dublin, as for the first time in Irish history, the top three legal positions in Ireland are all held by women, i.e. the Chief Justice of the Supreme Court, the Attorney General and the Director of Public Prosecutions.

After some very interesting information on arbitration and enforcement of arbitral awards in Ireland, Mark Appel, Senior Vice President of the ICDR, introduced the topic of the panel discussion and the panelists Olufunke Adekoya (partner at Aelex, Nigeria), Ann Ryan Robertson (counsel with Locke Lord, USA) and Nathalie Voser (partner at Schellenberg Wittmer, Switzerland).

Olufunke Adekoya addressed the issue of "The Impact of Foreign, Mandatory Anti-corruption Law on the Arbitral Process". The core of her presentation emphasized that while laws / public policy relating to 'hard corruption' (bribery of public officials) are generally considered as part of international public policy and a legitimate interference with party autonomy, there is no

clear cut position yet on whether influence peddling through intermediary contracts could amount to corruption. She also expressed the view that alleged breaches of intermediary agreements are fertile grounds for allegations of corruption, undue influence and influence peddling; and there was a need for a firm position on such contracts. Many countries take the view that foreign mandatory anti-corruption laws which prohibit the use of intermediaries per se, do not give rise to a sufficiently legitimate and manifestly overwhelming interest, or, are so closely connected with the parties' dispute, for them to override party autonomy and the parties' chosen law and they will enforce awards arising out of such disputes. She doubted whether this position was in conformity with States obligations under many international anti-corruption treaties.

She concluded her presentation by raising the question of whether the arbitrator should raise the issue of corruption on her own initiative, where neither party raises it. This observation prompted a very lively floor discussion.

Olufunke Adekoya was followed by Ann Ryan Robertson. She addressed the issue of the application of mandatory rules of law in the United States. The core of her presentation focused on the fact that American lawyers think of mandatory rules of law in terms of "public policy." The concept of public policy not only can prevent application of an otherwise enforceable law but also bar the possibility of the parties entering into an agreement that is contrary to the otherwise applicable law. As an example of this concept, Ms. Ryan Robertson relied on cases in the United States that have found that the parties' agreeing that punitive damages are waived in a Title VII case is unenforceable, because the agreement defeats the remedial purpose of the statute and is therefore against public policy.

AW Hosts Panel Discussion in Dublin (cont.)

Ms. Ryan Robertson further noted that most controversies in the United States could be arbitrated, including non-penal statutory claims, using as an example the well-known United Supreme Court case of *Mitsubishi Motor Corp. v. Soler Chrysler-Plymouth, Inc.*

Turning to the importance of the use of conflict of laws principles in determining the applicability of a mandatory rule of law, Ms. Ryan Robertson noted that the Restatement (Second) of Conflicts of Laws provides the framework in the United States for applying the applicable law and in some limited instances will lead to the application of a third law. She also discussed the concept of merely taking into consideration a foreign mandatory law as opposed to applying or enforcing the law. Ms. Ryan Robertson concluded with the observation that in many instances a mandatory rule is applied without overriding the parties' choice of law because the law chosen by the parties will require consideration of the rules, both mandatory and not, of another legal system.

Finally, Nathalie Voser dedicated the last presentation to the issue of the impact of mandatory law, thereby looking at the European and in particular the Swiss approach. She started by explaining where mandatory law provisions are to be found within the European Union (i.e. in the Rome I EC Regulation on the law applicable to contractual obligations (Rome I Regulation) and, for Switzerland, in the Swiss Private International Law Act (SPILA). The core of her presentation then focused on the issue of how mandatory provisions are to be considered by arbitral tribunals. Ms.

Voser emphasized that other than courts, arbitral tribunals do not have a *lex fori* since the only provisions applicable to arbitral tribunals with their seat in specific jurisdictions are the provisions of the *lex arbitri*.

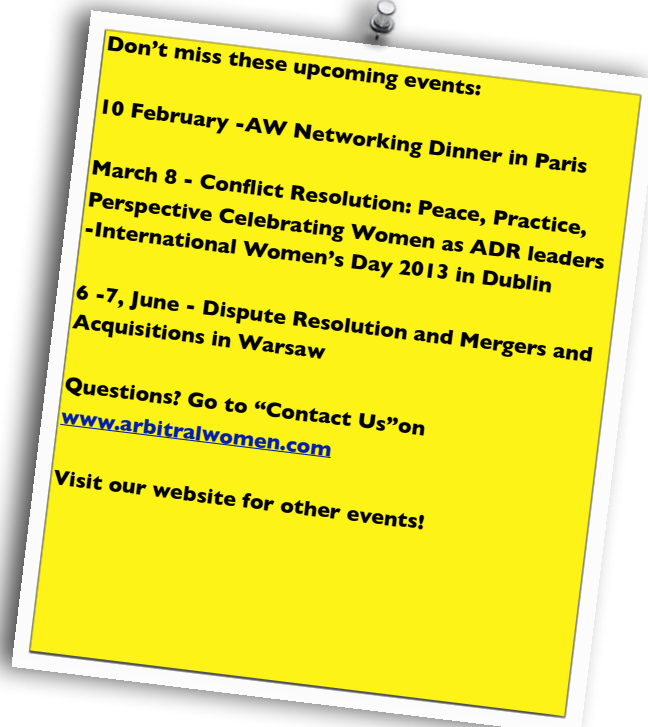
Assuming that the Rome I Regulation is not applicable to arbitral tribunals with seat in the European Union (an issue which is currently disputed particularly in Germany), one has to consider the applicable *lex arbitri* and see whether it provides for a rule on mandatory laws. Interestingly, none of the well-known arbitration laws or the major arbitration centers contain provisions on mandatory rules. Also, the UNCITRAL Arbitration Model Law has no provision on how to deal with mandatory laws in arbitration.

Nathalie Voser expressed the view that it is likely that arbitral tribunals would let themselves be guided by Article 9(3) of the Rome I Regulation (even if not directly applicable) and/or best practice that has developed. This led her to the final subject, which was whether or not best practices have developed in international arbitration.

She concluded her presentation by mentioning that the impact of the

mandatory foreign law should be limited as much as possible, as it might constitute a risk to the sometimes delicate balance within a comprehensive substantive legal system.

The interesting floor discussion was closed by James McPherson, CEO of the BCDR-AAA.



Impressive Developments among Young Practitioners in the Dispute Resolution Field

In the last decade, we have seen a tremendous evolution of younger generations in the international dispute resolution field in several countries around the world. They are active,



Mirèze Philippe

visible and very competent. They are involved in important working groups on defining practices and guidelines in dispute resolution. They are at the head of institutions. They are invited as panelists at important events. They have reached levels in short periods that older generations have taken longer to attain. It is impressive to see their involvement and commitment.

The evolution is the fruit of a variety of investments. The first one is the result of the LLM programs in dispute resolution in several countries, to name but a few, Geneva, London, Miami, Paris, Stockholm, Washington. These programs have been producing talented and highly qualified law graduates, thanks to remarkable instructors. Students who benefit from these excellent trainings come to practice with a significant knowledge in dispute resolution. The second one developed following the participation of students to international competitions, such as the Willem Vis Moot, the Jessup International Law Moot Court, the Frankfurt Investment Arbitration Moot Court, the ICC Mediation Moot. The practice moots allow students to develop their skills in pleading a case and learning how to navigate in this world. They experience what it is to be a professional. The third factor of this evolution stems from the multiple young arbitrators forums created by different organizations and groups, which gather young generations of professionals who network. There are even now “very young arbitrators” groups. Another reason for this success is the effect of the

sharing of information through newsletters published by numerous law firms. List-serves such as the Young OGEMID list through which professionals share views are yet another aspect. Other factors, such as conferences, seminars, workshops contributed to prepare young generations to practice dispute resolution. Finally, mentorship from which young practitioners benefit has also helped the process.

I have personally seen significant progress since the year 2000 among students drafting memoranda and pleading the Vis Moot problems. It is amazing to see and hear many of them plead in a professional way, so much that it is sometimes hard to believe they are only students and not professionals already in practice.

This trend of evolution is becoming now visible in the Arab region.

I was invited last October 2012 to speak at a seminar organized by the International Chamber of Commerce National Committee in Bahrain. It was the second time I had noticed a tremendous change, last time was at a conference in February 2011 in Bahrain. We know that the business environment in the Gulf has changed, but it is a pleasure to see many young and capable practitioners in the dispute resolution field, men and women alike.

During the years I was in charge of representing and promoting the International Court of Arbitration of the International Chamber of Commerce in the Arab Region in the beginnings of 2000, I had the occasion to visit the Middle East and the Gulf countries and organize with our local National Committees conferences and workshops. In those years, many participants needed simultaneous

translation of the speeches from English to Arabic. The participation of young people and women was rather scarce and those who took part did not always dare to speak. Most recently, I was impressed to see the evolution and the involvement of the younger generation coming from various countries in the Gulf. Translation is no longer necessary. Young practitioners participate actively and ask pertinent questions. The dispute resolution field is no longer a new area to discover but a subject they have learned and are eager to develop. Women's participation particularly amazed me by the thoroughness of their comments and their dynamism. Some of them had participated in the Willem Vis Moot competitions and had, as such, an interesting experience to share.

In a few more years the younger generations in the Gulf will take over and will have the necessary knowledge and experience to offer to the local businesses another avenue for resolving their disputes, thanks to the confidence they will build among the business community.

Mirèze Philippe

ASA Below 40 Conference in Zurich

The second weekend of November 2012, was dedicated to Kompetenz-Kompetenz and Bifurcation of arbitrations. The conference was very well attended.

Young arbitrators from a very wide variety of jurisdictions attended the conference, which was divided into three sessions, each with two presentations and a lively discussion afterwards.

The seminar location at the Dolder Grand in Zürich. One panel was entirely female and one panel included a female moderator. During the first session "Kompetenz-Kompetenz: Where do we stand", moderated by Alexander Gordon from Walder Wyss in Zürich spoke about the US perspective of the concept and put forward the idea that the concept is not as universal as we would hope. The second

speaker, Tamir Livshitz from Niederer Kraft & Frei spoke about the Swiss Lüscher initiative and its effect.



Panelist at the ASA Below 40 Conference in Zurich

Two non-Swiss, Ian Quirk from the Essex Court Chambers and Markus Schifferl from Torggler, were the speakers at the second session moderated by Sonja Stark-Traber from Schellenberg Wittmer. They addressed respectively the anti-suit injunctions in the UK practice and the Brussels I regulation and its evolution. A lively discussion followed this panel, which also included some comments regarding the res-judicata effect of anti suit injunctions.

The all-women panel composed of Vanessa Alarcon Duvanel from Winston & Strawn and Julia Didon Cayre from Berwin Leighton Paisner, together with Bennar Balkaya from Balkaya & Balkaya as moderator, was in my opinion among the most interesting. The speakers coordinated their presentations in a remarkable way, switching back and forth between themselves. Bennar Balkaya shared insightful comments and organized the following debate well. The topics addressed by this panel were particularly interesting.

Following a topic along the lines of the title of the session "Bifurcation, Trifurcation – slicing and dicing the case" the topic of summary judgment was also discussed and its transmutation into an arbitration proceeding.

The ASA conference was very useful and encouraging. The conference was followed by a fondue dinner.

Lara M. Pair

ArbitalWomen Network Around the World

Sydney

On 3rd October 2012, Rashda Rana, Treasurer of ArbitalWomen, hosted a dinner to celebrate the appointment of Sarah Lancaster as the new Registrar of the LCIA. Sarah started in her new role on 29 October 2012 in London. Before her appointment she had been working in the Sydney office of Baker & McKenzie. There, she was involved in building up the international arbitration practice.



L to R: Mina Wang, Rashda Rana (Treasurer), Sarah Lancaster, Angela Bowne, Julie Granger, Diane Chapman, Erika Hansen and Natalie Puchalka

We talked about how to provide greater support for women in Australia; the availability of mentoring and the possibility of hosting more events in the Australian market for women to enable them to get together and discuss issues that affect particularly women but also dispute resolution more generally. There was an obvious interest for more contact, promotion and learning. As a Board member, I was particularly interested to know what concerns women of any generation have about their practice and ambitions. As a practitioner, I was not surprised to find that we all have the same concerns: how to promote ourselves in an industry that is still male dominated and for those of us with families, how to juggle international travel, which is inevitable in this ever expanding world market.

Sarah spoke about her experiences and what led her to make the decision to involve herself in the internal machinations of an arbitral institution. You can read more about Sarah in the

interview in this Newsletter. All guests were very proud that Sarah was heading off to become Registrar. We all wished and continue to wish her well in her endeavours in dispute resolution.

Rashda Rana

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Find a Practitioner

Visit our website to search for appropriate and qualified dispute resolution practitioners.

Membership

Women who wish to join the organization may submit an application with a C.V. directly to the website.

Newsletter

ArbitalWomen Newsletter is a publication presenting information about international dispute resolution and women practitioners in this field. For questions or comments, select "Contact Us" on the homepage.

ArbitralWomen Network Around the World

Paris



Hosting India Johnson, President and CEO of AAA/ ICDR in Paris (3rd on right)

On 30 November 2012 Mirèze Philippe & Debora Slate organized a dinner to welcome India Johnson –interviewed in this issue– at the occasion of her visit to Paris and to the ICC.

The views on the number of events in dispute resolution around the world was enlightening; it would seem that on average, we can count one event per day and per country is organized, excluding working groups on different topics and of various bodies, such as IBA or UNCITRAL.

We also noted that we must be particularly cautious with social networks. It's true that disclaimers may help, but we are not sure it suffices if a party intends to use any argument to challenge an arbitrator or an award. The ease of communications and information retrieval offered by internet is an extraordinary evolution, but the price to pay is equally gigantic; privacy seems to disappear once a person's information is in the system. Whether a person buys online, consults the internet, or joins a social network that person is "in the system" and it's very difficult to have that information removed. India also raised the frightening issue of endorsements. People may improperly use an endorsement without that person or organization knowing about it or approving it. There does not seem to be a way to be alerted to such matters, which are unfortunately sometimes discovered only by chance.

We also shared views on an issue which would seem unimportant, and yet certainly not! How about keeping offices as new as the first day, even though it is decades later? Offices are like websites, newsletters and documents; they are the window of an institution or a law firm. It is part of the image we convey to clients and also to colleagues who join our organization, in addition to being a pleasant place where we spend more than half of our lives. It also touches on management and finances. The image of a firm must be maintained with care and regularity.

In summary, the group appreciated the exchange of views not only relating to professional matters but also practical matters which just as much a part of our lives.

Congratulations!

OGEMID Awards 2012, Special 10th Birthday

OGEMID Awards: ArbitralWomen is proud to share with its readers that ArbitralWomen and three of its members Beata Gessel, Chitra Radhakishun and Lucy Greenwood, were shortlisted, and ArbitralWomen finish as 1st runner-up for the Diversity Award (see <http://www.transnational-dispute-management.com/ogemidawards/> for the results). Congratulations to all winners!

The Center for the Study of Dispute Resolution at the University of Missouri School of Law is proud to announce that Professor S.I. Strong has been named as a U.S. Supreme Court Fellow for the 2012-2013 term.