

ARBITRAL WOMEN

AN EXCITING END TO 2018!



President's Column

This has been a very busy quarter for women in dispute resolution with a record-number of 27 events reported in this edition of the Newsletter, thanks to the excellent coordination work undertaken by board member **Maria Beatriz Burghetto**. The subject matter of the events is quite varied, including diversity issues and unconscious bias seminars, damages in arbitration, the launch of the Equity Project by Burford Capital, arbitrating technology-related disputes and use of technology in arbitration, celebration of the 60th Anniversary of the New York Convention, the 'Great Debate' over *ad hoc* versus institutional arbitration, and the celebration of ArbitralWomen's 25th anniversary in various cities.

Many thanks to all of you who supported and participated in our 25th Anniversary events in New York and Paris in November 2018. We are preparing a 'special edition' newsletter dedicated to capturing the highlights of those November 2018 events, which include the Diversity Dividend Conference – Moving from Bias to Inclusiveness in International Arbitration, the launch of the ArbitralWomen Diversity Toolkit, the Jubilee Gala Dinner in New York, the launch of the second edition of the Women Pioneers in Dispute Resolution and the 25th Anniversary Dinner in Paris at Le Thoumieux – the birthplace of ArbitralWomen! That special edition newsletter is being prepared in December 2018 with the aim to finalize and circulate in January 2019.

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ArbitralWomen thanks all contributors for sharing their stories.

Social Media

Follow us on Twitter @ArbitralWomen and our LinkedIn page: AW 25-Jubilee hashtag #AW25th

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Dana MacGrath, Karen Mills, Mirèze Philippe, Erika Williams Affef Ben Mansour, Maria Beatriz Burghetto, Gaëlle Filhol, Sara Koleilat-Aranjo, Amanda Lee, Vanina Sucharitkul

We invite anyone who attended those Jubilee events to please submit a quote or comment that we can include in the special edition newsletter!

On behalf of the Board of ArbitralWomen, we wish all of you a joyous holiday season and happy New Year!



*Dana MacGrath, Sidley LLP
ArbitralWomen President*

WOMEN LEADERS IN ARBITRATION: DANA MACGRATH

Dana MacGrath on the New Generation of International Arbitrators

We spoke with Dana MacGrath, of counsel to Sidley Austin’s International Arbitration and Commercial Litigation and Disputes practices, about changes in the dispute-resolution landscape and developing a more diverse crop of arbitrators.

Q: What has changed in the world of arbitration since you began your practice?

Since I entered [international arbitration] in the late ‘90s, technology has had a major impact on the way arbitration is handled. It has allowed the procedures to become much more efficient. It allows video conference testimony and people to attend hearings that they otherwise could not attend if they needed to be present in person. It has improved the management of evidence in the arbitral proceedings and allows the tribunal to have easy access to the evidence it needs to write its award.

Arbitration is also increasingly accepted as a dispute resolution mechanism in areas where historically court litigation was preferred. For example, we have seen exciting changes at the intersection of intellectual property disputes and arbitration. IP disputes often involve highly confidential, proprietary information. That material sometimes must be reviewed in an electronic safe room with multiple levels of security, and cannot be printed. Technological advancements now make it possible to access highly confidential material electronically during a confidential arbitration hearing to present to the tribunal during witness examination or at closing arguments. It’s not like your hands are tied and the evidence you need is unavailable because only a small number of people with access to the safe room can see it. You can empower the tribunal to see evidence during the hearing confidentially through the use of technology.

Q: It must be gratifying to have been elected as President of ArbitralWomen. Share with us a bit about the organisation.

Yes, it is a tremendous honor to lead ArbitralWomen, a leading non-profit organisation that promotes women and diversity in international dispute resolution. It has a broad global membership with about 1,000 members across 40 countries. We organise events around the world. We have mentoring programs for both seasoned and young members of the arbitration community. The organisation just celebrated its 25th anniversary with a diversity conference and gala dinner in New York on November 8, 2018. We held an anniversary dinner in Paris on November 22, 2018 – 25 years to the day from the organisation’s inception in 1993. We just launched the ArbitralWomen Diversity Toolkit – a training program aimed at understanding and overcoming biases. It is an exciting time for the organisation and I feel fortunate to be a part of its leadership.

Q: Would you say there is particular bias in arbitration—or is it similar to the diversity challenges we see across the larger legal landscape?

Historically in the world of international arbitration, there have been some repeat players in the role of arbitrator. There’s been a longtime perception – not unfounded in some respects – that the arbitration world has been dominated by the “pale, male, stale” arbitrators. There’s now a concerted effort to address this in a variety of ways. One is the relatively recent compilation of statistics on gender and other aspects of those who sit as arbitrators. The initial data, from around 2015, showed that the percentage of women on arbitral tribunals was far lower than 15 percent. The statistics on the makeup of arbitral tribunals was compiled initially by the International Chamber of Commerce and now most arbitral institutions gather such information and make it publicly available.

In recent years, we have seen incremental changes for the better in terms of the diversity of arbitrators. So the discussion now focuses on how these changes are being achieved and what more can be done. In large measure, credit is given to the arbitral institutions themselves, which are making a concerted effort to have women considered and appointed as arbitrators. Where institutions have the ability to appoint an arbitrator – as

opposed to when a party appoints the arbitrator directly – we see institutions increasingly appointing women.

We now need to educate the arbitration users – law firm clients – about the need for and benefits of diverse arbitrators on arbitral tribunals. There are many younger diverse arbitrators who are less known to clients. We want to help these diverse arbitrators increase their profile and visibility so that clients have confidence as to their experience and are willing to appoint them to tribunals.

This is actually consistent with what we hear from clients who want increased diversity among the counsel team handling their arbitrations. In RFPs, they often indicate that they want a proposal that demonstrates a diverse counsel team because diversity is an important value of the organisation. Those same clients need to learn about the diverse arbitrators, as well and why they are as qualified as the smaller pool of less diverse arbitrators who traditionally were appointed repeatedly. Increasingly clients are asking for this information: “You’re telling us there’s all these diverse arbitrators who are just as good. Who are these arbitrators? Tell me more.” So that’s what we’re doing now.

Q: In thinking about your time with Sidley’s arbitration practice, what stands out for you in terms of the firm’s culture?

One thing that I found at Sidley – and I’ve been here about five years – is that no matter what the issue is, there’s someone at Sidley who knows that niche area of law or subject matter. They will make the time to get on the phone with you and walk you through it or help on the matter. That’s one thing I’ve been really struck by. No matter how unfamiliar, and maybe bizarre your question is – you know, the client asks, XYZ – and you reach out to people at Sidley, “Does anyone know about X?” You’ll inevitably get back an email saying, “I know all about X.” It makes you appreciate that you’ve really got a tremendous depth of experience at the firm to count on.

(Excerpted from an interview with Dana MacGrath available on the website of Sidley Austin LLP on www.sidley.com/en/ourstory/ourstorieslanding/dana-macgrath)

EVENTS

There have been a number of events over the last few months. Our members have provided a few highlights from these events to share with you.

ArbitralWomen panel in Peru: Women in Arbitration: How to deal with Unconscious Bias? on 30 May 2018 in Peru

On 30 May, 2018, in parallel with the Latin American Arbitration Conference (CLA) held in May 2018 in Cusco, Peru, two of our members from Peru, **Carla De Los Santos** and **Diana Gárate**, hosted a panel together with Rebaza, Alcázar & De Las Casas law firm from Lima. The panel was named: ‘Women in Arbitration: How to deal with Unconscious Bias?’. The panel discussed the way in which unconscious bias operates in the legal profession, and specifically in the context of international arbitration.

The panelists were national and international arbitrator practitioners. They were **José Feris** (partner at Squire Patton Boggs, Paris), **Cecilia Azar** (partner at Galicia abogados, Mexico), **Maribel Aparicio** (senior associate at Bullard, Falla, Ezcurra law firm, Lima), **Andrea Kay Bjorklund** (ArbitralWomen member, and professor at McGill University in Canada), **Roger Zavaleta** (partner at Rebaza, Alcazar and De las Casas law firm) and **Diana Gárate** (ArbitralWomen member and senior associate at Rebaza, Alcazar and De las Casas law firm).



L to R: Diana Gárate, Maribel Aparicio, Cecilia Azar, Karina Zambrano, Jose Ricardo Feris, Andrea Kay Bjorklund, Roger Zavaleta

The panelists discussed how unconscious bias refers to the attitudes or stereotypes that affect our understanding, perception, actions and decisions in an unconscious manner. They pointed out that studies show that even people who consciously aim to behave without prejudice still possess hidden preferences, prejudices and/or stereotypes—developed over the course of a lifetime—that impact the way they navigate both daily life and the workplace.

The final takeaway was that these unconscious biases, and the behaviors and decisions to which they lead, can have far-reaching consequences in organisations, often disadvantaging those subjects to negative unconscious biases, and preventing organisations from maximizing the potential of their workforce and fully leveraging opportunities for success.

Submitted by Carla De Los Santos, ArbitralWomen members, Senior Associate, Simons Abogados, Peru and Diana Gárate, ArbitralWomen member, Senior Associate, Rebaza, Alcázar & De Las Casas, Peru

ArbitralWomen and Equal Representation in Arbitration Pledge Breakfast: “Gender Differences in Professional Relationship and Unconscious Bias at the Nomination of an Arbitrator” on 18 September 2018 in Salvador, Brazil

On 18 September 2018, on the occasion of the 17th International Arbitration Conference of the Brazilian Arbitration Committee (CBAr), ArbitralWomen and the Equal Representation in Arbitration Pledge organised a breakfast in Salvador, Brazil. For an hour and a half, panelists and the audience had the chance to debate aspects regarding gender equality at law firms and for the appointment of arbitrators.



L to R: Isabela Lacreta, Marcela Tarré, Mauricio Almeida Prado, Maria do Céu Marques e Rosado

At the beginning, **Ana Carolina Weber**, ArbitralWomen Member, made a quick introduction of the event, which was organised with the help of **Helena Coelho, Ligia Maura Costa, Isabela Lacreta** and **Vanessa Winkler**. Ana Carolina mentioned the importance of ArbitralWomen and the Pledge in promoting discussions aiming at achieving a better balance among men and women representation in the arbitration world and presented the sponsors of the event, whom are all leading women with their own arbitration practice. Their sponsorship allowed not only the organisation of the breakfast, but also the organisation of an article contest among young female law students. The organising committee received over ten articles and selected among them the first and second places, **María Eduarda Carames** and **Giulia Campello Costa**, respectively, who had part of their expenses to attend the CBAr Conference covered. Following this presentation, the winner of the contest, **María Eduarda**, had the opportunity to read to the audience her winning article, entitled “The Future is Female – Pode o Futuro da Arbitragem também ser Feminino?”.

Vanessa Winkler introduced the members of the first panel, **Gisela Mation, Marcelo Levitinas** and **Julio Neves**, and explained that they would enact two scenes, which happen frequently at law firms: the first, in which a male associate and a female associate receive feedback and ask for a pay increase to the male partner; and the second in which three partners discuss the promotion of a female associate or a male associate to the senior associate position.

The scenes were enacted to highlight common gender differences and problems, which may appear in situations like those. For example men interrupting women; women being criticized for wanting to pick up her child from school, although she works long hours afterwards; the partner willing to mentor the male associate and not being as receptive towards the female associate’s difficulties; among many others.

Based on the reaction of audience members, it was apparent that they instantaneously identified themselves with these situations. After these scenes, the audience was very participative in asking questions to the panelists, such as what can be done in practice to avoid discrimination of female lawyers at the moment of the promotion. A few members of the audience also shared

similar situations, which they had gone through themselves, including being fired for being pregnant.

The second panel, which was presented and moderated by **Isabela Lacreta** and **Helena Coelho**, was composed of **Marcela Tarré**, **Maria do Céu Marques Rosa** and **Mauricio Almeida Prado**. Their theme was gender unconscious bias at the appointment of an arbitrator. They enacted one scene with several parts. First, the two female lawyers discussed a list of potential arbitrator candidates to present to the male partner, one of them defending the female candidate and the other one criticizing her. Thereafter, the male partner heard the characteristics of both candidates, and although they were equally qualified and the female arbitrator had even more experience in the subject matter of the arbitration, he decided to choose the male arbitrator. Lastly, the male partner calls another male lawyer, who has originally suggested the candidates' names, and comments on the choice of names in a very gender biased way.

Once again, the audience, which was composed largely of arbitration practitioners, reacted and commented in a way that showed they recognized those problems from their own practice.

Although it was acknowledged that there is still a long road towards gender equality in arbitration, audience members highlighted the importance of these events to facilitate awareness and combat discrepancies in the arbitration world.

The fact that the breakfast had a different format, with enacted scenes, made it extremely popular with over seventy attendees. It was also referred to as a huge success at the CBar Conference.

Submitted by Ana Carolina Weber, ArbitralWomen Member, Eizirik Advogados, Brazil and Vanessa Winkler, ArbitralWomen member, Associate, Mattos Filho, Verga Filho, Marrey Jr. e Quiroga Advogados

ICCA-ASIL Task Force on Damages Breakfast at the IBA Annual Conference on 9 October 2018 in Rome

On 9 October 2018, at the occasion of the IBA Annual Conference in Rome, the ICCA-ASIL Task Force on Damages (Task Force) held a one-hour seminar on its ongoing work. The panel was composed of co-chair **Gabrielle Nater-Bass**, Task Force members **Hilary**

Heilbron QC, **Kathleen Paisley**, **Adriana San Román**, **Thierry Senechal** and Rapporteur **Stefanie Pfisterer**.



L to R: Adriana San Román, Thierry Senechal, Kathleen Paisley, Gabrielle Nater-Bass, Stefanie Pfisterer, Hilary Heilbron QC

The Task Force, established in December 2016, was tasked with addressing an issue that, despite its importance, is nevertheless often overlooked in the field of international arbitration: quantification of damages. To further the aim of providing practitioners with a starting point on the topic of damages, the Task Force developed a web-based application (**Web App**).

At the breakfast seminar on 9 October 2018, the panel discussed the genesis and purpose of the project: to create a free resource for international arbitration practitioners across the globe, and serve as a basic guide on the core concepts in damages, especially on tricky or even undecided issues. Furthermore, the panel demonstrated through the prototype version of the Web App, how the Web App can assist practitioners to strengthen their understanding of various concepts related to damages, identify thorny issues, and locate sources for further research.

The seminar was attended by over 80 participants.

Submitted by Gabrielle Nater-Bass, ArbitralWomen member, Partner, Homburger, Zurich, Hilary Heilbron QC, ArbitralWomen member, Brick Court Chambers, London and Stefanie Pfisterer, ArbitralWomen member, Senior Associate, Homburger, Zurich

Launch of The Equity Project at Somerset House on 15 October 2018 in London

On 15 October 2018, Burford Capital and ArbitralWomen organised a launch event for The Equity Project, a ground-breaking Burford initiative to help close the gender gap in law by providing an economic incentive for change through a \$50 million pool of capital earmarked for financing commercial litigation or arbitration matters led by women.



L to R: Aviva Will and Wendy Miles

The event was held at the iconic Somerset House in the Navy Board Rooms overlooking the Thames, with cocktails, canapés and thought-provoking conversation.

Five Equity Project Champions were in attendance to help spread the word: **Sophie Lamb QC** of Latham & Watkins, **Sue Prevezer QC** of Quinn Emanuel, **Sophie Nappert** of 3VB and OGEMID, **Noradèle Radjai** of Lalive and **Wendy Miles QC** of Debevoise & Plimpton. All accomplished lawyers who have demonstrated a commitment to the issue of gender equity, these women have pledged to use their extensive networks and creative talents to support The Equity Project and the effort to narrow the gender gap.

As The Equity Project's founder, I introduced the event, reflecting the impetus for the project—that the percentage of women equity partners at top law firms is still less than 19% despite equal numbers of women entering the legal profession as associates.

The Equity Project is a simple economic incentive to encourage law firms to put women in lead positions on high-value matters and to arm women lawyers with the financial support to pursue new business. By putting capital front and centre, Burford will challenge firms to

give women credit they are due in originating and or litigating the cases they fund. I noted that even in the very early days of its launch The Equity Project has already led to scores of requests for financing and other success stories.

It was fantastic to see such a great collection of incredibly accomplished women and men from firms, chambers and companies across the city, gathered together to learn more about this exciting initiative and to celebrate women in law more broadly.

Submitted by Aviva Will, ArbitralWomen member, Senior Managing Director, Burford Capital, New York

The Time is Now! - ICC World Business Women on 17 October 2018 in Paris

The Time is Now event organised at ICC Headquarters encouraged ICC staff to publicly express their support for gender balance. Alongside leadership and staff, ICC Secretary General **John W.H. Denton AO** committed the world's largest and most representative business organisation to greater diversity at external and ICC organised events. The event was moderated by World Business Women (**WBW**) committee member **Sophie Tomlinson**.

Organised and hosted by WBW, a staff-led initiative launched in 2013 that aims to unite ICC's diverse range of expertise while promoting gender balance and equal opportunities, the event saw the launch of ICC's Gender Balance Pledge. Motivation for the Pledge stems from the recognition that ICC can do better by taking active steps to secure equal representation at its conferences. This includes refusing, where possible, to speak on any male-only or highly gender-imbalanced panels at external events. ICC also pledged to empower younger professionals by providing public speaking guidance and inviting them to speak.

ICC staff and leadership from the Knowledge Solutions Department to the Court of Arbitration spoke throughout the event about their commitment to gender balance and the importance of capitalising on ICC's position to lead by example within the business and policy making community. WBW committee member **José Godinho** encouraged change by stressing that speakers at ICC events and ICC representatives tend to be male despite the fact that this is not representative of the demographic of ICC staff and its network.

Acknowledging that diversity is essential, Godinho highlighted how diverse panels improve the quality of discussions and provide broader views. Calling on ICC to maximise on its rich and unique network, WBW founder **Elizabeth Thomas-Raynaud** emphasised the benefits of connecting female leaders, experts and entrepreneurs within the ICC network to guarantee opportunities for all.



L to R: Sylvie Mostyn-Dignan, Sophie Tomlinson, Jodie Shaw

The Time is Now event also took the opportunity to celebrate ICC's progress on equal opportunities. On 1 July 2018, ICC International Court of Arbitration became the first arbitral institution in the world to reach gender parity with 83 female and 83 male Court Members. **Alexis Mourre**, President of the Court, emphasised the significant progress that the ICC International Court of Arbitration has made with regards to gender parity under his leadership. Highlighting that 7 out of 11 of the ICC Court case management teams are managed by female counsel, Mourre advocated for greater gender balance across the arbitration community and stressed that ICC needs to continue on this path and lead by example through educating others.

WBW called on the valuable expertise and experience of Founding Co-President of ArbitralWomen **Mirèze Philippe**, throughout the process of writing the ICC Gender Balance Pledge and during its launch. Philippe emphasised how the topic of gender diversity had gone from an item of little importance to becoming high on the agenda over the past ten years. Praising ICC as part of this change, Philippe went on to add that, up until 2003, only 1-6% of ICC Court Members were women, rising to 10-16% up until 2015, then to 23% from 2015 to

2018, before reaching parity in 2018. She described this significant shift as a new period of momentum in which ICC can be a model to other organisations. Encouraging ICC to build on this current momentum, she emphasised that there was still a lot to do but that all actions make a difference.

Looking ahead to the tangible reality of the Pledge for ICC's future, Denton reassured staff that he wanted to be held accountable for future change. He committed to transparency on the issue of gender diversity, adding that when opportunities arise to rethink existing structures within the organisation, an increase in gender diversity should be on the agenda. Denton concluded the event by positively endorsing the initiative as well as everyone who had worked to make the event a success.

The event concluded with the signature of the ICC's Gender Balance Pledge by ICC leadership team and ICC staff (click [here](#) for further information).

Submitted by Jodie Shaw, WBW Committee Member and Sylvie Mostyn Dignan, WBW Committee Member

TechArb and ArbTech: Arbitrating technology-related disputes and the use of technology in arbitral proceedings on 18 October 2018 in London

On 18 October 2018, Young ArbitralWomen Practitioners (**YAWP**) co-hosted an event on arbitration and technology, together with the LCIA Young International Arbitration Group (**YIAG**) and the Silicon Valley Arbitration and Mediation Center young professionals group (**SVAMC-YP**). The event was co-chaired by **Claire Morel de Westgaver** (Bryan Cave Leighton Paisner, London), **Anya George** and **Annabelle Möckesch** (both Schellenberg Wittmer, Zurich).

The first panel, which addressed arbitration of technology-related disputes, was moderated by **Kate Wilford** (Hogan Lovells, London), with panelists **Kathleen Paisley** (Ambos NBGO, Brussels), **Adrian Howes** (Nokia, London) and **Simon Maynard** (Three Crowns, London). The panel explored reasons why arbitration has not been more widely used for arbitration of technology-related disputes to date. In particular, although licensing agreements may contain arbitration clauses, where a dispute involves issues such as the validity or infringement of patents, which are national rights, the rights holder will often prefer to have the issues

determined by a national court and therefore be reluctant to consent to arbitration. The panel went on to explore ways in which arbitration could be made more attractive for such disputes. These included the need for arbitrators with specialised knowledge of the technology sector; adopting procedural steps such as holding an early hearing to educate the tribunal on the technical issues in dispute; ways of making the most of technical expert evidence; possible approaches to the assessment of damages; and the role of arbitral institutions in assisting parties to identify potential arbitrators with the requisite background understanding of the relevant technology.

Despite the obstacles that had been identified, the panelists were in agreement that there will be significant growth in arbitration of technology-related disputes in the future. Particular growth areas predicted by the panel included the licensing of standard essential patents and data security breaches in the business-to-business context.



L to R: Simon Maynard, Adrian Howes, Kathleen Paisley, Kate Wilford

The second panel addressed the use of technology in the arbitral process and the impact of new technologies on arbitration as an industry. The panel was moderated by Paul Cohen (4-5 Gray's Inn Square Chambers, London and the West Coast), with panelists **Hanna Roos** (Quinn Emanuel, London), **Clément Lesaëge** (Kleros, Lisbon) and **Rebecca Wardle** (Bryan Cave Leighton Paisner, London). The core topics were artificial intelligence, cybersecurity and blockchain arbitration.

The panel explored how artificial intelligence is being used in dispute resolution. An example came from document production where predictive coding and machine learning are helping lawyers to conduct more targeted and cost-efficient document reviews, essential

through an iterative dialogue between the lawyer and the software.

Cybersecurity threats were thought to pose a systemic risk to arbitration. The discussion focused on the draft ICCA-CPR-NYCityBar Cybersecurity Protocol for International Arbitration, which provides a framework for agreeing upon necessary but not excessive security measures at the outset of an arbitration.

Blockchain arbitration is now offered for example by Kleros as a commercial service which aims at a fast and secure dispute resolution process. The discussion focused particularly on the differences between a blockchain dispute resolution service and high-value and high-complexity arbitrations, and whether their paths would converge.

Submitted by Kate Wilford, ArbitralWomen Member, Counsel, Hogan Lovells, London, and Hanna Roos, ArbitralWomen member, Counsel, Quinn Emanuel Urquhart & Sullivan, London

Commerciality in International Arbitration in Melbourne on 18 October 2018

On 18 October 2018, ArbitralWomen held a breakfast event at Corrs Chambers Westgarth in Melbourne during Australian Arbitration Week 2018.

Approximately 40 guests arrived early, to be welcomed by **Bronwyn Lincoln**, Partner at Corrs Chambers Westgarth. **Erika Williams**, ArbitralWomen board member and Senior Associate at McCullough Robertson then said a few words about ArbitralWomen before introducing the panelists.

The facilitator for the morning's discussion on 'commerciality in international arbitration' was **Donna Ross**, ArbitralWomen member, Donna Ross Dispute Resolution, who did a splendid job of keeping the panelists on their toes by asking various questions of how they achieve commerciality in their different practices.

Pip Murphy of Vannin Capital, brought the perspective of a third party funder and spoke about achieving commerciality for both parties – the claimant and the funder. Pip spoke of her learning curve in the due diligence phase of considering a new case and how she now considers the quantum of a matter before doing in depth research into the liability aspect of the case.

Jo Delaney, ArbitralWomen member, Partner at Baker McKenzie gave an arbitration practitioner’s perspective and raised the importance of cultural considerations when trying to achieve a commercial resolution of a dispute. Jo also raised the often touted recommendation of teaching front end lawyers the importance of a well drafted dispute resolution clause at the beginning so that if a dispute arises, the path to resolving the dispute is commercially sensible.

John-Henry Eversgerd, Senior Managing Director at FTI Consulting brought an expert’s perspective to the discussion and suggested that clients seeking expert reports have the control to ensure a commercial approach to such reports is taken. Clients should consider whether a \$10,000 report will achieve the outcome they require and forego the expense of a more expensive report that may be more than what is necessary.



L to R: Jo Delaney, Erika Williams, Pip Murphy, John-Henry Eversgerd, Bronwyn Lincoln, Donna Ross

We are sure the audience enjoyed these insights from the different perspectives of a third party funder, arbitration practitioner and expert.

Submitted by Erika Williams, ArbitralWomen board member, Senior Associate, McCullough Robertson, Brisbane

ArbitralWomen panel in Peru: How to encourage diversity in arbitration?: the appointment of women and young arbitrators on 22 October 2018 in Peru

During the Semana Arbitral del Instituto Peruano de Arbitraje – IPA (Arbitral Week), organised by the Peruvian Institute of Arbitration, held from 22 to 26 October 2018 in the General Secretariat of the Andean Community in Lima, two of our members from Peru, **Carla De Los Santos** and **Diana Gárate**, hosted a panel together with Equal Representation in Arbitration Pledge. The panel was named: “How to encourage diversity in arbitration?: the appointment of women and young arbitrators.”



L to R: Alejandro Manayalle, Elina Mereminskaya, Carla De los Santos, Juan Luis Avendaño, Kathy Ames, Lucía Olavarria

The panelists were national and international arbitrator practitioners. They were **Elina Mereminskaya** (Wagemann & Cia from Chile), **Kathy Ames** (Winston & Straw from Washington DC), **Lucía Olavarria** (ERA Pledge representative, from Baker Mckenzie from Peru), **Carla De Los Santos** (ArbitralWomen member, associate at Simons Abogados from Peru), **Alejandro Manayalle** (Partner at Rodrigo, Elías y Medrano from Peru) and **Juan Luis Avendaño** (Partner at Miranda & Amado from Peru).

The panelists discussed diversity in international and domestic arbitration, and how the arbitral community may encourage it, through the appointment of women and young arbitrators.

Regarding women arbitrators, the panelists discussed if it is advisable to take specific actions to promote the participation of women in arbitration such as the implementation of gender quotas. Even though some

panelists were in favor and others were against gender quotas, the discussion was enriching due to the different points of view and perspectives of the panelists. Furthermore, all the panelists agreed that more exposure of current women arbitrators is crucial to increase gender diversity in arbitration.

Regarding young arbitrators, the panelists discussed the current challenges that Peruvian law firms face in order to mentor young arbitrators (both women and men).

Submitted by Carla De Los Santos, ArbitralWomen member, Senior Associate, Simons Abogados, Peru and Diana Gárate, ArbitralWomen member, Senior Associate, Rebaza, Alcázar & De Las Casas, Peru

Fourth Sarajevo Arbitration Day ‘Investment Arbitration in Bosnia and Herzegovina – Lessons Learned and Path Forward’ on 24 October 2018 in Sarajevo

The Association ARBITRI hosted its fourth annual arbitration conference on 24 October 2018 at Hotel Europe, Bosnia and Herzegovina (BiH). This is now a traditional project of the Association, which aims to promote arbitration among the business and legal community in BiH and provide a platform for networking between local and international practitioners in the field.



Audience at the Fourth Sarajevo Arbitration Day

The topic of the Fourth Sarajevo Arbitration Day conference was: ‘Investment Arbitration in Bosnia and Herzegovina: Lessons learned and the path forward’. An emphasis was on efficient managing of investment projects in BiH, especially in the context of complex construction and energy projects, while having in mind the need for capacity building to guide and implement

the said projects. This conference is a step toward preparing practitioners, arbitrators, and other interested parties for the necessary changes.

The conference gathered experienced experts in the field of international arbitration who discussed topics which are relevant to the BiH market. In four panels, the speakers firstly discussed the current investment climate in BiH, the current trends and path forward. The second discussion was focused on challenges and best practices in infrastructure disputes, followed by a debate on energy, infrastructure and other concession granting agreements, and arbitration. The discussion ended with a workshop on practical aspects of investment arbitration.

Working languages of the conference were English and Bosnian/Croatian/Serbian, and the organisers provided simultaneous interpretation. The Conference was covered by several media, such as N1, FTV, FENA, and TV SA. The Fourth Sarajevo Arbitration Day was made possible through the generous support of the Association’s partners and sponsors.

Full Report from the Conference is available [here](#).

Submitted by Nevena Jevremovic, Manager, IACCM and President and Co-Founder, Association ARBITRI, Bosnia and Herzegovina

UN Day Lecture on the 60th Anniversary of the New York Convention in Australia on 24 October 2018

On 24 October 2018, nine events were held simultaneously across the states and territories in Australia by the organisation of the UNCITRAL National Coordination Committee for Australia (UNCCA). ArbitralWomen was represented at the Brisbane and Canberra events with **Erika Williams**, ArbitralWomen board member and Senior Associate at McCullough Robertson, speaking at the event held in Brisbane, and ArbitralWomen member Dr **Dalma Demeter**, Assistant Professor of Law at the University of Canberra and Deputy Chair of UNCCA, speaking at the event held in Canberra.

The Brisbane event was chaired by the Honourable Justice **Roger Derrington** who welcomed attendees and insightfully described the New York Convention as a tool that oils the machinery of international trade.

Professor **Khory McCormick** was the key speaker and provided the audience with some very interesting behind the scenes information as to how a convention such as the New York Convention may have been negotiated. After showing a clip celebrating the 60th anniversary of the New York Convention from the www.newyorkconvention1958.org website, Professor McCormick regaled us on his involvement in the development of the Convention on the Enforcement of International Settlement Agreements Resulting from Mediation, which will be known as the Singapore Mediation Convention.

Erika Williams then recounted the history of the New York Convention including the 1923 Geneva Convention and 1927 Geneva Protocol. Erika then presented some eye-opening maps contrasting the countries which are members of the New York Convention and hence in which arbitral awards are enforceable with the 36 countries with which Australia has reciprocal arrangements in place for the straightforward enforcement of foreign judgments.

Justice Derrington then hosted a riveting question and answer session focusing on the future of international arbitration in Australia.



L to R: Hon. Justice Roger Derrington, Erika Williams and Khory McCormick

The Canberra event, held at the newly refurbished and modernised ACT Supreme Court, was chaired by the Honourable Justice **Chrissa Loukas-Karlsson**. Justice Loukas-Karlsson opened the event in front of an audience composed of legal professionals, government representatives and students. UNCCA Deputy Chair, Dr Dalma Demeter from the University of Canberra was the lead Canberra speaker and **Ian Govey AM**, Executive

Director of ACICA, provided the final commentary for the evening.

The three speakers covered a wide range of topics on dispute resolution more broadly, discussing the anniversary of the New York Convention in the context of current developments in mediation and investor-state dispute settlement (**ISDS**) as well. With the future Singapore Convention aiming to provide the global recognition and boost to mediation that the New York Convention provided to arbitration over the past decades, and developments traditionally fluidly transpiring between arbitration, ISDS and mediation, the past and current trends in regulation in either of these fields could not be discussed in isolation.

Accordingly, the presenters analysed the TCL Air Conditioner case in which the High Court of Australia confirmed and reinforced the pro-arbitration approach by rejecting the constitutional challenge to a provision in the Australian *International Arbitration Act 1974* (Cth) based on the UNCITRAL Arbitration Model Law Article 35. The panel also discussed the claims brought by Philip Morris Asia against Australia's tobacco plain packaging legislation in a range of fora and leading to changes in government policy regarding ISDS.

The Canberra event ended with a Q&A from the audience on arbitration related issues, including Asian developments relevant for Australian-Chinese trade relationships.



L to R: Dr Dalma Demeter, Hon. Chrissa Loukas-Karlsson, Ian Govey AM

Submitted by Erika Williams, ArbitralWomen board member, Senior Associate, McCullough Robertson, Brisbane and Dr Dalma Demeter, ArbitralWomen member, Assistant Professor of Law at the University of Canberra and Deputy Chair of UNCCA

ASA below 40 and Young ISTAC Joint Seminar on ‘Dos and Don’ts when Agreeing to Arbitrate: Swiss and Turkish Perspectives’ on 26 October 2018 in Geneva

On 26 October 2018, a half-day seminar on ‘Dos and Don’ts when Agreeing to Arbitrate: Swiss and Turkish Perspectives’ has been co-organised by ASA below 40 and Young ISTAC. The event took place at the Geneva Chamber of Commerce & Industry (CCIG) in the afternoon and it was followed by drinks.

Each panel consisted of two speakers and one moderator. The two speakers of each panel opened the session with a short presentation of about fifteen minutes. The speakers presented in their preliminary remarks the Turkish and Swiss approaches on each of these topics. The presentations were then followed by interactive discussions amongst the participants.

Olivier Mosimann (Co-Chair of ASA below 40 and Kellerhals Carrard, Basel) and **Esra Ogut Oehri** (Young ISTAC Foreign Affairs Committee and Peter & Partners, Geneva) introduced the event and delivered the welcome speech. In their opening remarks, they emphasized the close connection between Turkish and Swiss law and introduced the Istanbul Arbitration Center (ISTAC) to the Swiss audience. Following the welcome remarks, **Valérieane Oreamuno** made a brief introduction on behalf of the Swiss Chambers’ Arbitration Institution (Counsel, SCAI, Geneva).

The first panel was composed of **Değer Boden** (Boden Law Firm, Istanbul) as the moderator, along with **Daniel Durante** (Patocchi & Marzolini, Geneva) and **Defne Zeynep Sirakaya** (Cerrahoğlu Law Firm, Istanbul) as speakers. The panelists discussed the selection of the seat, the availability of interim reliefs, arbitrability, as well as enforcement issues to be considered under Swiss and Turkish law when entering into an arbitration agreement.



L to R: Daniel Durante, Değer Boden and Defne Zeynep Sirakaya

The second panel on ‘Deadlock clauses, Multi-tier dispute resolution clauses, Joint-Venture Pitfalls’ was moderated by **Stefanie Pfisterer** (Homburger, Zurich). The panelists were **Aileen Truttmann** (CMS, Geneva) and **Doğan Eymirlioğlu** (Balcioglu Selçuk Akman Keki Attorney Partnership, Istanbul). In this second session, the panelists focused on the common mistakes and difficulties faced in practice and addressed the key points to remember at the drafting stage of multi-tier dispute resolution clauses/escalation clauses under both legal systems.



L to R: Aileen Truttmann, Stefanie Pfisterer and Doğan Eymirlioğlu

Both sessions have been followed by fruitful discussions with insightful contributions from the audience. The topics discussed included the common questions surrounding the interpretation of the arbitrability criteria, deadlock clauses and the critical issues to be considered when drafting/implementing the multi-tier dispute resolution clauses into agreements under Turkish and Swiss law.

Submitted by Esra Ogut Oehri, Arbitral Women Member, Young ISTAC Foreign Affairs Committee, Peter & Partners, Geneva

The Great Debate – Ad Hoc vs. Institutional Arbitration on 29 October 2018 in New York

The Chartered Institute of Arbitrators New York Branch and Canada Branch jointly organised, together with Sidley Austin LLP, “The Great Debate – Ad Hoc vs. Institutional Arbitration.”

The debate took place at the New York office of Sidley Austin LLP and was broadcast live via videoconference to four cities in Canada, including Montreal (Borden Ladner Gervais LLP), Toronto (Arbitration Place), Calgary (McCarthy Tetrault LLP) and Vancouver (Blake Cassels Graydon LLP). Close to 100 arbitration practitioners,

arbitrators, in-house counsel and academics attended the debate in New York.

Dana MacGrath (ArbitralWomen President, Sidley Austin LLP) delivered welcome remarks and introduced **Thomas Halket** (CIArb Deputy President and Chair of the CIArb New York Branch), who delivered introductory remarks and thanked Sidley Austin LLP for hosting the debate and the CIArb Canada Branch for its help in organising the event.

Sophie Nappert (International Arbitrator, London) moderated the debate. **Louis B. Kimmelman** (Sidley Austin LLP, FCIArb) pleaded in favor of institutional arbitration. **William G. Horton** (Commercial Arbitrator, Toronto, FCIArb) pleaded in favor of ad hoc arbitration. A spirited debate ensued.

Kimmelman stressed the important role played by institutions in international arbitration. He argued that institutions provide a common ground and consistent rules for disputes involving people from different legal cultures and regimes. Institutions have been at the forefront of introducing innovations and addressing new challenges in international dispute resolution through revisions to their rules and initiatives on matters such as cybersecurity and diversity.



L to R: Dana MacGrath, Benno Kimmelman, Sophie Nappert and William Horton

Horton emphasized that ad hoc arbitration is used successfully in many areas of international business and is a prominent or dominant form of arbitration in many countries. He put emphasis on the exclusive focus of ad hoc arbitration on the individual case. He highlighted that in ad hoc arbitration significant weight is placed on the desires of the parties as to the process and generally produces very satisfactory results, often more quickly and cost effectively than institutional arbitration.

The debaters addressed a number of specific issues, including arbitration clause drafting, tribunal formation, interim relief, available procedures, financial arrangements with the tribunal and the availability of scrutiny. Kimmelman argued that institutional arbitration provided superior solutions on all of these points. Horton argued that on most points the same benefits can be achieved by using an existing set of ad hoc arbitration rules and specifying an institution as an appointing authority.

No vote was taken before or after the debate. The unanimous audience reaction was that the debate was engaging, thought-provoking and very informative.

Submitted by Dana MacGrath, ArbitralWomen President, Counsel, Sidley Austin LLP, New York

ArbitralWomen-Chartered Institute of Arbitrators Seminar on Workplace Discrimination on 30 October 2018 in Hong Kong

On 30 October 2018, ArbitralWomen and the East Asia Branch of the Chartered Institute of Arbitrators (**CIArb EAB**) jointly organised a seminar on ‘Skills that Make a Difference – Navigating Discrimination in the Workplace’ hosted at the offices of Debevoise & Plimpton in Hong Kong. Moderated by **Jennifer Lim** of Debevoise & Plimpton, the panelists were **Mary Thomson**, barrister at Pacific Chambers and second female Chair of the CIArb EAB in its 46-year history; **Anny Wong**, independent arbitrator and mediator; **Tim Robbins**, Chambers Director at Arbitration Chambers; and **Yoko Maeda**, partner at City-Yuwa Partners and alternate member of the International Chamber of Commerce (**ICC**) International Court of Arbitration.



L to R: Yoko Maeda, Mary Thomson, Tim Robbins, Anny Wong and Jennifer Lim

The event kicked off with a screening of videos from ArbitralWomen's recently launched Diversity Toolkit, which is designed to provide practical assistance to promote and increase diversity in the workplace. The videos, which were inspired by real-life scenarios encountered by female arbitration practitioners, illustrated situations where women faced discrimination at work and provided a springboard for meaningful discussions on ways to address unconscious bias.

Mary Thomson discussed the CI Arb EAB's initiatives, including its diversity committee and lists of female conveners in CI Arb EAB Chapters. **Anny Wong** spoke of her experience as a woman working in the information technology sector and discussed leadership styles and cultural differences. **Tim Robbins** spoke about heteronormativity and assumptions made towards LGBTI people, and highlighted the importance of educating oneself on these issues. **Yoko Maeda** discussed diversity in the context of Japan, and spoke of the ICC Court's decision to increase the number of female court members. Questions from participants steered discussions towards the active role that institutions and corporations have to play in taking initiatives to promote diversity, and the importance of education and upbringing to foster changes in attitude.

Submitted by Charlotte Lelong, Associate, Debevoise & Plimpton, London

International Dispute Settlement in the Trump Era on 31 October 2018 in Washington

On 31 October 2018, a very well-attended panel discussion was held at The George Washington University Law School (**GW Law**) in Washington, DC.

Kiran Nasir Gore, ArbitralWomen member and Professorial Lecturer in Law at GW Law, introduced the event, reflecting that regardless of one's own view on the matter, there is no doubt that the Trump Administration has dramatically changed the playing field for U.S. foreign policy and introduced an altered geopolitical landscape that is impacting the world both today, and for the foreseeable future'. This is particularly evident in international dispute settlement, where the Trump Administration's approach to diplomacy, foreign policy, and bilateral and multilateral dispute resolution calls into question the generally accepted role of

international institutions. Against this backdrop, the panelists presented their views on recent developments.

Arsalan Suleman, Counsel at Foley Hoag and former U.S. Department of State's Acting Special Envoy to the Organization of Islamic Cooperation, explained the recent re-centering of foreign policy strategy and decision-making to within the White House (rather than the State Department). The White House is focused on nationalism and sovereignty, with a preference for bilateral dispute resolution over multilateral options. These shifts create the optics of 'winning' and 'losing' and limit the tools and forums that are often used to further diplomatic goals.

Eloise Obadia, a specialist in investment law and Consultant to the World Bank Group, provided insightful textual analysis of the dispute resolution chapter of the new United States–Mexico–Canada Agreement (**USMCA**). She took a light-hearted approach to add some levity to what she deems a very serious shift in the international dispute resolution climate toward 'protectionism' and increased regulation by the U.S. as a sovereign. She concluded that the USMCA reflects the 'beginning of the end' of investor-state dispute settlement because the U.S. is markedly pulling away from this forum.

Ting-Ting Kao, Associate at White & Case, discussed the U.S.'s recent imposition of Section 232 tariffs, their challenge and defense in World Trade Organization (**WTO**) proceedings, and policy ramifications going forward. She explained that such broad invocation of Section 232 is unprecedented and the U.S. has defended its approach through the national security exception of the General Agreement on Tariffs and Trade, arguing that its invocation is non-justiciable. She hypothesized that if the U.S. were to follow through on its threat to withdraw from the WTO entirely, this could undermine the institution as a whole.



L to R: John Tyler Knoblett, Arsalan Suleman, Eloise Obadia, Ting-Ting Kao, Farshad Ghodoosi

Farshad Ghodoosi, Assistant Professor of business law at Morgan State University, discussed the retreat of multilateral agreements, the “American First” approach, and the trend toward nations being self-judging in their actions. He explained that this all reflects a withdrawal from ‘transnationalism’. Yet, because globalism and the free flow of capital will continue, we will see more bilateral treaties and extraterritorial application of laws, including sanctions. Sanctions result in limited (if any) private right of action. Taken together, these developments create concerns regarding conflict of laws, uncertainty at the international level, and difficulty in private dispute resolution.

We will continue to watch developments in each of these areas with great interest.

The event was co-organised by GW Law’s International & Comparative Law Program, the International Arbitration Student Association, and the International Law Society.

Submitted by Kiran Nasir Gore, ArbitralWomen member, Professorial Lecturer in Law at GW Law

‘Managing Parenthood in the context of an international practice’ event on 1 November 2018 in Frankfurt

Young ArbitralWomen Practitioners (**YAWP**) organized together with Hengeler Mueller the event ‘Managing Parenthood in the context of an international practice’ on 1 November 2018 at Hengeler Mueller’s offices in Frankfurt. The event was co-chaired by **Melissa Magliana**

(Partner at LALIVE in Zurich, YAWP Steering Committee member), **Annabelle Möckesch** (Associate at Schellenberg Wittmer in Zurich, YAWP Steering Committee member) and **Liliane Djahangir** (Senior Associate at Hengeler Mueller in Frankfurt), and supported by DIS40 and ICDR Young & International. It attracted around 40 arbitration practitioners.

Viola Sailer-Coceani (Partner at Hengeler Mueller) gave the introductory remarks, reflecting on the particular challenge of being a parent and, at the same time, working in a law firm managing files, clients, associates and other partners. A challenge that gets even more demanding when you work in international arbitration where files and clients take you to different parts of the world, away from home and your family, for days or even weeks for meetings or hearings.

The panel of speakers consisted of **Olga Hamama** (Principal Associate at Freshfields Bruckhaus Deringer in Frankfurt), **Philipp Hanfland** (Partner at Hengeler Mueller in Frankfurt), **Heidi López Castro** (Principal Associate at Uria Menéndez in Madrid) and **Diane Manz** (consultant at brandung | coaching & consulting in Frankfurt). The discussion was moderated by Zürich Bär & Karrer Partner **Nadja Jaisli**.



L to R: Heidi López Castro, Diane Manz, Philipp Hanfland, Olga Hamama, Nadja Jaisli

The speakers actively took part in insightful discussions on a variety of topics including: communicating a pregnancy to the law firm; preparing for parental leave; returning from parental leave; balancing work and family commitments; career tracks for arbitral mothers; specific steps that law firms may take to improve in the area of women retention.

Nadja Jaisli opened the floor by her observation that female lawyers, before leaving for their maternity leave, often are worried and haunted by questions like ‘What

will they do without me? I'm the only one who's read the documents for this case.' or 'How much do they expect me to work while I'm on maternity leave (or before I start maternity leave)? What if I need to rest?' or 'What about my career perspectives? How can I successfully combine the role as a lawyer with that of a parent?'

The perfect timing of communicating a pregnancy and the preparatory steps for the required absence may be challenging. For the law firm, parental leave may mean the absence of a valued member of the team; a mother-to-be may fear to be overlooked when important cases are being assigned.

All speakers agreed that early communication to colleagues and clients is beneficial for expectation management. From a logistic point of view, a law firm being notified early in the process is likely to find it easier to organise a smooth transition of files from one lawyer to another and re-allocate work among team members. In a reassuring note and maybe contrary to a popular belief among lawyers, the panelists explained that, in their experience, everyone, i.e. even the most important team members, may be replaced for a while with a little organisation and forethought.

When approaching the end of parental leave, the idea of returning to work may feel like a daunting challenge. Women especially seem to often question their ability to combine the role as a lawyer with that of a parent. Unnecessarily so it seems when listening to the individual experiences of the speakers. It is particularly important to be well organised from the outset, to organise your life and prepare yourself for hazards – but it is not by no means an impossible task.

Although recognising the importance to focus on a newborn during parental leave, the speakers noted that parents may feel more comfortable to not be completely secluded from office life and, if so wished by the parents, to stay in touch with colleagues.

Back from parental leave, work might feel different to before. A young parent may fear asking for more challenging tasks given actual or perceived time constraints – or others may make assumptions about the appetite for any such tasks. In the latter case, such situations should be addressed with the team straight on. A parent returning from parental leave must feel appreciated, only this will make her/him develop the commitment needed.

Maternity frequently coincides, or clashes, with a critical point in a woman's career: women are biologically encouraged to give birth at the same time that their careers require the most commitment of time and energy. During the time that women are out of the office on maternity leave, their male counterparts continue to move ahead and demonstrate their commitment to the firm. Is there an 'optimal' point in time to have children from a career point of view? Probably not, most agreed. Being a parent while practicing in international arbitration will have its challenges at any point in time during a career. But it is in the interest of both the firm and the lawyer to find a way to make it work and a good firm will provide the flexibility and support that is needed.

Submitted by Liliane Djahangir, ArbitralWomen member, Senior Associate, Hengeler Mueller, Frankfurt

13th Annual Fordham International Arbitration Conference on 2 November 2018 in New York City

The annual Fordham International Arbitration Conference took place in New York City on 2 November 2018.

The full-day conference was co-chaired by **Edna Sussman** (Independent Arbitrator and ArbitralWomen member) and **Louis B. Kimmelman** (Sidley Austin LLP) and included a keynote address by **Hilary Heilbron QC**, Brick Court Chambers and ArbitralWomen member on The Impact of Cultural and national Differences on Recognised Norms in International Arbitration. There were five separate panels on topics including (1) GDPR-International Arbitration Meets Data Protection: Practical Guidance for Compliance; (2) The Public Policy Defense Under the New York Convention; (3) A New Rigor in the Approach to Damages in International Arbitration: the New ICCA-ASIL Damages Web App; (4) The Singapore Convention: The New York Convention for Mediation? (5) Corruption and Illegality in International Arbitration.

At least one woman served as a panelist or moderator on every panel. There were ten female speakers: **Nadja Alexander** (Singapore International Dispute Resolution), **Catherine Amifar** (Debevoise & Plimpton), **Denise Backhouse** (Littler Mendelson), **Sandra Gonzalez** (Ferrere Abogados), **Hilary Heilbron QC** (Brick Court Chambers), **Edna Sussman** (Independent Arbitrator), **Jennifer Vanderhart** (Analytics Research Group), **Ana**

Vermal (Proskauer Rose), **Angeline Welsh** (Matrix Chambers), and **Katia Yannaca-Small** (Independent Counsel and Arbitrator).



L to R: Edna Sussman and Louis B. Kimmelman

Approximately 200 arbitrators, practitioners, academics and students attended the conference, which was followed by a networking reception.

Submitted by Dana MacGrath, ArbitralWomen President, Counsel, Sidley Austin LLP, New York

YCAP 2018 Fall Symposium in conjunction with ICC YAF on 8 November 2018 in Ottawa

Lucy Greenwood, International Arbitrator, ArbitralWomen member and former ArbitralWomen board member, gave the key note address at the Young Canadian Arbitration Practitioners (YCAP) 2018 fall symposium in conjunction with ICC Young Arbitrators Forum (YAF) on 8 November 2018 in Ottawa.

The Symposium was entitled 'Parallel Proceedings and Transparency in Investor-State Arbitrations.' There were two interactive panels, comprised of:

Panel #1: Parallel Proceedings

Alison FitzGerald, Counsel - Norton Rose Fulbright (Ottawa)

Michael Kotrly, Senior Associate - Freshfields (London)

Hugh Meighen, Senior Associate - BLG (Toronto)

Margaret Clare Ryan, Senior Associate - Shearman & Sterling (London)

Panel #2: Transparency

Stephanie Forrest, Associate - Wilmer Hale (London)

Myriam Seers, Senior Associate - Torys (Toronto)

Heather Squires, Counsel - Global Affairs Canada (Ottawa)

Elizabeth Whitsitt, Professor - University of Calgary (Calgary)

The panels debated topical issues in the field.

Lucy Greenwood's key note address, which was enthusiastically received by the audience, focused on the way in which the international arbitration community has historically risen to the challenges it has faced. Lucy gave examples of how the community had largely succeeded in addressing the issue of time and cost and gave an upbeat and inspiring speech about the efforts made by the community to address diversity, highlighting the progress made in relation to the under-representation of women in our field and crediting ArbitralWomen and the Pledge with much of this progress. Lucy reminded the audience that arbitration in its present form is still a young industry. She noted 'Rather than a mafia, in fact we are a small community working in a young and developing field, making mistakes along the way but also identifying and rectifying those mistakes where we can'. She highlighted the need for training in diversity and inclusion and noted that one study of law students shows that it is easy to counter our unconscious biases once we are aware of them. The ArbitralWomen Toolkit™ will focus on raising awareness of unconscious bias and Lucy said she was a real proponent of this type of training. However, she cautioned that it is not always as easy as we think it might be to shrug off our ingrained and subconscious associations. Lucy noted that it was an exciting time to be a young practitioner in the investment treaty and commercial arbitration world, but that 'In the sea of grey hair of international arbitrators, it is easy to forget that we are a young industry and need time to grow and develop'.

Submitted by Lucy Greenwood, ArbitralWomen member, International Arbitrator

The Challenge of Achieving Diversity in International Arbitration on 12 November 2018 in New York

The Chartered Institute of Arbitrators' Young Members' Group (YMG) held a panel event entitled 'The Challenge of Achieving Diversity in International Arbitration' on

12 November 2018, generously hosted by the New York International Arbitration Center and the American Arbitration Association.

The distinguished panel included **Kabir Duggal** (Senior Associate at Arnold and Porter, lecturer at Columbia Law School), **Lindsay Gastrell** (Legal Counsel, ICSID), and **Michael Rodriguez** (Associate at Arnold and Porter). The panel was chaired and moderated by **Amanda Lee** (ArbitralWomen board member, Consultant at Seymours, YMG Chair) and discussed the importance of improving diversity in international arbitration, especially in arbitrator appointments. The speakers addressed three areas influencing arbitrator appointments: institutions, law firms, and clients.

Kabir Duggal began the session by providing an overview of the role of gender and national diversity in international law in general, and in arbitration more specifically. Acknowledging the positive steps taken towards diversity in recent years, Duggal considered that there is still a long way to go. He explained that in today's world, diversity has become one of the main components of success in any enterprise or professional field, and from a business perspective, professional fields and businesses that account for different genders and different ethnicities tend to increase their legitimacy in the market. It is therefore only normal that arbitration catches up to the rest of the world.

Lindsay Gastrell affirmed that institutions are at the forefront of achieving diversity. She provided insights into the measures taken by ICSID and other international arbitration institutions to achieve diversity. ICSID, for example, has incorporated gender awareness into its best practices. Gastrell also specified that ensuring representation from diverse regions and economies is one of the goals of ICSID and other arbitration institutions, and it will continue to be a main focus. She then identified certain methods by which law firms and counsels could contribute to increasing diversity in arbitrator appointments.

Michael Rodriguez explained that diversity is a pillar of international arbitration. According to Rodriguez, whether it is gender-based diversity or geographical-based diversity, the different processes of thought combined with the different experiences can together bring about better results in any domain. This is especially applicable to arbitration, a field of law that predominantly exists internationally, where the

existence of diversity is even more crucial to its successful practice. Rodriguez raised the point that the benefits of diversity might not be seen if one looks at cases individually, but the benefits are clear if one looks at the bigger picture.



L to R: Amanda Lee, Michael Rodriguez, Kabir Duggal and Lindsay Gastrell

A lively question and answer session followed, after which Amanda Lee thanked the speakers and attendees for their thoughtful contributions to the debate and invited them to enjoy the reception, generously sponsored by the CI Arb's New York Branch.

Submitted by Myriam Khedair, LLM Candidate at Columbia Law School, New York

Skills and Cultures: The Road Ahead for International Arbitration on 12 November 2018 in Atlanta, Georgia

ArbitralWomen members were out in force at recent arbitration events in Atlanta, Georgia. The Atlanta International Arbitration Society hosted a well-attended two day conference on 'Skills and Cultures: The Road Ahead for International Arbitration' at which a number of members spoke. The Chartered Institute of Arbitrators also held its biennial congress to coincide with the Atlanta events. The CI Arb Congress gathers representatives from all 39 branches across the globe to discuss strategy for the CI Arb.

During the first afternoon, The ATIAS Conference featured Tertulias – engaging roundtable discussions led by regional experts. Tertulias serve informative and social goals – by the end of the session, each participant should have found a new person with whom to discuss the issues, hopefully at one of the receptions. Local law

students served as the “Reporters” for the Tertulia sessions and presented their summaries during the formal dinner. The summaries, below, are based on their reports.

The Africa Tertulia: with 77 arbitration centers in Africa, and many countries having adopted or currently incorporating international arbitration into their constitutions and laws, the outlook for arbitration in Africa is positive! Still, users must become confident in newer and less established African arbitration centers, as perceptions of corruption (rather than actual corruption), and path-dependency are keeping users away. (Reporter: **Heather Kuhn** (Georgia State, JD '19).



L to R: Klaus Peter Berger, Huawei Sun Zhong Lun, Hilary Heilbron QC, Glenn Hendrix, Lucy Greenwood, Stephen P. Younger, Jan Schaefer

The Americas Tertulia: there is no singular ‘American approach’ in the Americas. This is important because arbitrator and advocate professional responsibility and legal expectations differ and are shaped initially by one’s legal education. When confronted with differing ethical standards, practitioners in the Americas treat their local bar admission rules and mandatory legal requirements as binding, while assigning a secondary priority to soft-law codes of ethics, like the IBA Guidelines on Party Representation in International Arbitration. (ArbitralWomen participation: **Katherine Simpson**) (Reporter: **Randy Williams** (Emory University, JD '19)

The Asia and Australia Tertulia: cultural differences exist within the Asia and Australia region, as well as broadly between East and West. In Asia, relationships cannot be ignored and, even in international arbitration, the ideal impartial mediator and arbitrator is one who the parties trust and with whom they have developed a relationship. (Reporter: **Sameer Saboungi**, Emory University, JD '21)

Europe and Russia Tertulia: In Europe and Russia, the use of discovery to substantiate a case is rare because

parties are responsible for substantiating their own cases with their own evidence. Panelists explained that, generally, discovery is not permitted in international arbitration and that it is even viewed as contrary to the aim of settling the dispute in an efficient manner. Parties should address document production in the arbitration clause or during the case management conference. (ArbitralWomen Participation: **Carita Wallgren-Lindholm**) (**Rosari Sarasvaty**, University of Georgia, LLM '19))

Ann Ryan Robertson gave an engaging after dinner speech on the first evening – taking delegates on a journey into the space of the inter – an intercultural and inter-generational dialogue that engaged the cultural spaces of others. There, every joke landed. Every story found resonance. And every cultural anecdote broke just enough ice to let the guests get to know each other better.

The Conference continued the next day, with sessions on the in-house counsel’s perspective on international arbitration, cross-cultural approaches to taking evidence, advocacy in international arbitration, damages and ethical considerations. **Carita Wallgren-Lindholm** participated in an active and diverse panel considering the different approaches to taking evidence across various jurisdictions and **Lucy Greenwood** and **Hilary Heilbron QC** discussed oral advocacy in arbitration hearings with a mixed panel of arbitrators from China, the US and Germany. (ArbitralWomen Participation: Carita Wallgren-Lindholm, Lucy Greenwood and Hilary Heilbron QC)

Olufunke (Funke) Adekoya gave an inspiring lunchtime address, which the delegates applauded with a standing ovation. Funke spoke on the role of an international arbitrator as a ‘global citizen’. She said the same traits that make a global citizen are the hall marks of a good international arbitrator; noting that a respect for diversity and cultural differences was more important than the ability to communicate in a foreign language. Being a global citizen is the result of a particular mindset rather than a defined skill set, so recognising and celebrating our differences, not our commonality is the hallmark of a global citizen as well as a good international arbitrator.

She noted that the theme of the AtIAS Conference – ‘Skills and Cultures: The Road Ahead for International Arbitration’ was an ideal opportunity to ask ourselves

whether diversity matters in international arbitration. The diverse nature of international arbitration disputes means that as an arbitrator goes about his/her business, he/she is likely to encounter cultural disparity issues arising out of the location of the proceedings, the reasons for the dispute, the age and nationality of the participants, among other issues. In these circumstances having an ‘open’ mind to cultural differences is an important trait in the dispute resolution process. Her view was that a diverse range of ethnic and national backgrounds among tribunal members could assist them in better understanding the issues at stake in a dispute.

She concluded her speech by noting that any pre-conceived notions or prejudices on the part of the arbitrator will impact upon his/her ability to view the issues at stake in a balanced manner, quoting Benjamin Franklin, ‘If everyone is thinking alike, then no one is thinking’. (ArbitralWomen Participation: Funke Adekoya)

Ambassador **David Huebner** delivered the annual Alexander lecture at the conclusion of the conference. Entitled Technology, Transparency, and Diversity: Existential Challenge or Basic Hygiene, the engaging lecture considered the myriad challenges facing arbitration today. The audience was transfixed as Ambassador Huebner began his remarks with a traditional Maori welcome, then continued with a thought-provoking discussion of the use of artificial intelligence in arbitration, the lack of transparency in our field and concluded with an inspiring discussion of the need to be more inclusive in our attitudes to our industry. ArbitralWomen members will be particularly delighted to hear about Ambassador Huebner’s focus on diversity. Ambassador Huebner made a plea to retire the phrase ‘pale, male and stale’ as giving a static snapshot of a situation without properly addressing the nuances of a more inclusive society. As the first openly gay Ambassador in the Obama administration, Ambassador Huebner noted that his life in ‘Ivy League academia, white-shoe law practice, American politics, diplomatic service, and neutral practice as a matter-of-factly out gay man in an interracial marriage’ had afforded him a useful vantage point and shaped his views on inclusion. He identified the initiatives in the field to address diversity and inclusion but also recognized that there was no comprehensive, coordinated plan for cultivating a broadly inclusive professional field. Ambassador Huebner particularly acknowledged the tremendous efforts

ArbitralWomen has made in relation to the under-representation of women in our field.

Submitted by Lucy Greenwood, ArbitralWomen member, Arbitrator, United Kingdom, Katherine Simpson, ArbitralWomen member, Arbitrator, Michigan, and Olufunke (Funke) Adekoya, ArbitralWomen member, Partner, Aalex, Lagos

Opportunities & Threats of China-Latin American Disputes on 12 November in Miami

Kim Rooney, a Hong Kong barrister from Australia moderated a panel discussion that embraced many facets of the investment and infrastructure activity by Chinese stakeholders in the Latin American region.

Laura Pinheiro of the Brazilian firm, LAPA Advogados Associados, shared details on the treaties made by Latin American governments with China. Interestingly, the two countries which have received the highest levels of Chinese investment and trade, Brazil and Venezuela had no treaty with China at the time of that high level of economic activity. Laura, together with Ecuadorian lawyer, **Rodrigo Jijón** of the law firm, Bustamance & Ponce reviewed the very high level of infrastructure development in the region, followed by an introduction by **Sally Harpole**, an independent arbitrator based in San Francisco and Hong Kong regarding the Chinese governmental policy which underlies infrastructure projects worldwide, the Belt & Road initiative.

Rodrigo explained the typical contract problems which have arisen in some cases in Ecuador. All three speakers shared views on cultural considerations relating to Chinese parties with activity in the Latin American region, as well as the appropriate approach to dispute resolution. The importance of negotiation and mediation and informal, pragmatic solutions were emphasized, while recognizing that the Chinese have a long history of using arbitration when formal legal dispute resolution methods are needed.

Submitted by Sally Harpole, ArbitralWomen member, independent arbitrator, San Francisco

16th ICC Miami Conference on International Arbitration on 11 to 13 November 2018 in Miami

On 12 November 2018, together with **Edna Sussman** and coordinated by **Klaus Peter Berger** and **Patricia Peterson**, before the launching of the ICC Conference, **Cecilia Azar** participated in an advanced seminar focuses on the question as to whether, and if so how, international arbitrators should seek to promote or facilitate an amicable settlement of the parties' dispute.



L to R: Cecilia Azar, Edna Sussman and Klaus Berger

This issue was examined from various angles, including the differing approaches within the common law and civil law traditions and the much-debated question for more efficiency in arbitration in relation to time and costs. Techniques for the direct and indirect promotion of amicable settlements in international arbitration were analysed from both the arbitrators' and the users' perspectives. Throughout the seminar, participants were presented with case studies and encouraged to share their views and experiences with leading professionals in this field.

The seminar included a simulation of a settlement conference, giving participants the unique opportunity to gain an understanding of the potential benefits and risks associated with this technique. Practical issues related to the drafting of consent awards were also discussed, including problems arising in the day-to-day practice of the ICC International Court of Arbitration. One of the most interesting conclusions of the seminar was witnessing the wide differences between the civil law and the common law approaches towards this issue, as well as the dissimilarities between several national legal traditions, particularly between Germany and Latin American countries.

ICC Conference:

Cecilia Azar, together with **Sabina Sacco**, **Stephan Adell** and under the splendid moderation of **Ana Serra**, participated on 13 November 2018 in the panel "Shutting down businesses: when a party to an arbitral proceeding goes impecunious, bankrupt or insolvent".

The panel elaborated on the following aspects and situations: (i) Impecuniosity and the State Court's approach as to the validity of the arbitration agreement and (ii) The effects of insolvency or bankruptcy process in the arbitration proceedings; and (iii) The problem of qualification of the objection and determination of the applicable law.



L to R: Sabina Sacco, Stephan Adell, Ana Serra and Cecilia Azar

The panelists discoursed on questions regarding the extraterritorial effects of the arbitration clause among state courts, to what extent the arbitration should be terminated, and whether the arbitration continues and whether the powers of the arbitrators are limited by such processes. The discussion turned out to be very interesting and gave rise to challenging interventions from the audience providing the conference with examples of cases where this kind of legal and factual situations occur.

Submitted by Cecilia Azar, ArbitralWomen member, Partner, Galicia Abogados, S.C., Mexico

CEA40 – DIS40 Seminar on 'The Interaction between State Courts and Arbitral Tribunals – A Story of Love and Hate' on 15 November 2018 in Barcelona

On 15 November 2018, CEA40 and DIS40 co-organised a seminar on 'The interaction between state courts and arbitral tribunals – A story of love and hate'. The seminar

took place in the Barcelona offices of Cuatrecasas and coincided with the ADR Days Barcelona 2018.

Opening remarks were delivered by **Cesar Rivera** (Partner at Cuatrecasas Barcelona), **Patricia Saiz** (Associate Professor at ESADE Law School Barcelona and Co-chair of CEA40) and **Markus Altenkirch** (Senior Associate at Baker McKenzie Frankfurt and Co-chair of DIS40) before an audience of about 40 participants who had bravely defied the heavy showers in Barcelona.

The panel discussion was kicked off and moderated by **Irene Arranz** (associate at Cuatrecasas Barcelona) who explained the Q&A format and introduced the three panelists, **Vanessa Foncke** (Partner at Jones Day Brussels), **Sebastien Kneisel** (Partner at Borris Hennecke Kneisel Cologne) and **Emma Morales** (Managing Associate at Linklaters Madrid). The leading questions for the discussion covered nearly all fields of possible interaction between state courts and arbitral tribunals, ranging from the taking of evidence, the appointment of arbitrators, requests for interim relief, anti-suit injunctions, the enforcement of arbitral awards and other tribunal decisions and annulment requests. The discussion also covered the functioning of the state courts dealing with arbitration related matters and distinctive trends in the panelists' respective jurisdictions (Belgium, Germany and Spain), giving the audience a comprehensive point of comparison.

In their conclusions, Vanessa Foncke and Sebastien Kneisel agreed that the differences between Belgium and Germany in this respect remain limited and the relationship between the Belgian/German state courts and arbitral tribunals could best be described as one ranging between cordial indifference and love. On the Spanish side, Emma Morales concluded upon a co-habitation relationship, with the exception of specific Spanish courts that have recently shown some distrust towards arbitration but which will –hopefully– only turn out to be simple growing pains.



L to R: Vanessa Foncke, Sebastien Kneisel, Irene Arranz, Emma Morales

The audience actively contributed questions and comments both during and after the panel discussion. Main focus points during the subsequent Q&A session were the issue of forum shopping and the Achmea case.

The seminar concluded with a reception kindly offered by Cuatrecasas while it had finally stopped raining.

Submitted by Vanessa Foncke, ArbitralWomen member, Partner, Jones Day, Brussels and Emma Morales, ArbitralWomen member, Managing Associate Linklaters, Madrid

Seventh Annual Damages in International Arbitration Conference on 15 November 2018 in London

On 15 November 2018, Juris Conferences organised an event entitled 'Seventh Annual Damages in International Arbitration Conference - Looking Back, Looking Forward: Evolution and Trends', hosted by Bryan Cave Leighton Paisner in London. **Lord Hoffman** opened the event by delivering a keynote speech considering the principles of damages that have emerged from the Chorzów Factory case. The event was moderated by **James Searby** (FTI Consulting), **Loukas Mistelis** (Queen Mary University), **Irmgard Marboe** (Vienna University) and **Rory Walck** (Global Financial Analytics LLC). The event comprised of four different panels.

Vikki Wall of Haberman Ilett was a speaker on the first panel: 'Looking Back – 90 Years Since the Publication of Chorzów Factory'. Vikki outlined that in a recent study by

Haberman Ilett, that considered publically available ICSID awards since 2005, in the vast majority of cases, the date of expropriation was chosen as the appropriate valuation date and that the date of the award as the valuation date was rarely proposed. In addition, she outlined that approximately 75% of the time, the ex ante approach to valuation was adopted. Vikki also described the use of tribunal appointed experts and explained that in all publically available ICSID cases since 2005, it was only in 8 cases that the tribunal appointed its own expert and this was in addition to the party appointed experts. However, she also noted the benefits of party input with respect to the experts including that it can solve the criticism of experts being ships passing in the night.

Sabine Konrad of McDermott Will & Emery presented on the second panel: ‘Looking Forward – Empirical Trends and Addressing Needs of Counsel and Tribunals’. Sabine explained the shortcomings of the ex ante approach to valuation with respect to the expert reports. She explained that the ex ante approach may mean that the expert report is made at the time of the Statement of Claim/Memorial and that the report therefore does not look at the fact the price of the asset has risen or decreased. She explained that this can mean that in reality the award will be ‘in different galaxies’ and that ‘ex post is the better method but also the far more expensive method’.

Hilary Heilbron QC of Brick Court Chambers was a speaker on the third panel: ‘Looking Back – The Allocation of Costs in International Investment Arbitration’. Hilary described the award of costs as an ‘uncertain expression of human decision making’. She explained the different approaches that can be taken with respect to the allocation of costs in international arbitration stating that the tribunal has ‘a broad canvas to pick from’. She explained that the trends have changed from a larger proportion of cases where each party pays its own costs to more tribunals ordering that costs follow the event with some apportionment. Hilary concluded that the cases demonstrate that an order for costs remains ‘uncertain and unpredictable’ and that it is the tribunal’s view of the particular circumstances that prevails. **Adriana San Román** of Wöss & Partners also discussed the allocation of costs in international investment arbitration and touched upon this topic from a Mexican law perspective.



Hilary Heilbron QC

Sophie Lamb QC of Latham & Watkins was a speaker on the fourth panel: ‘Looking Back and Forward – Ask the Experts: Q&A Sessions with Leading Experts’. Sophie summarised the debate on whether investor claimants should have a choice as to which valuation date to use and the use of ex ante and ex post facto data in that connection sparked in particular by the dissent in *Quiborax v Bolivia*. Sophie also commented on the use of tribunal appointed experts including the Sachs protocol whereby the parties contribute to the list of experts from which the tribunal makes an appointment. **Roula Harfouche** of Accuracy also participated in the panel discussion and described the different models and approaches to valuation, country risk, and pre-award interest. Roula also emphasised the benefits of engaging an expert as early as possible. **Gladys Bagasin** of Hanotiau & van den Berg was also a speaker on the third panel in which she discussed expert advocacy and the independence of party appointed experts.

Submitted by Eleanor Scogings, Associate, Latham & Watkins, London

Note about the III Oxford Symposium on Comparative International Commercial Arbitration on 16 November 2018 in Oxford

The third edition of the Oxford Symposium on Comparative International Commercial Arbitration was once again organised by **André Luís Monteiro** (Andrade & Fichtner), **Felipe Sperandio** (Clyde & Co) and **João Ilhão Moreira** (University of Oxford), together with the Commercial Law Centre of the University of Oxford, the

Oxford International Arbitration Society, and Educa Foundation.

After the welcoming address of **Louise Gullifer QC** (University of Oxford) and Dr Monteiro, **Lord Mance** delivered the Keynote speech. Lord Mance started his speech by saying that the hallmark of arbitration is party autonomy. He also discussed the relevance of the law of different jurisdictions to the legality of the arbitration agreement (e.g., the law of the place of enforcement). According to him, from the perspective of English law, a tribunal that does not consider mandatory laws of the seat will be liable to have its award set aside. He ended with a reference to the European Court of Justice's (ECJ) decision on the Achmea case and its possible implications on pending and future investment arbitration proceedings within the European Union.

Later, Sperandio introduced the speakers of Panel I 'Arbitration: The View from the Client'. Sperandio started by asking the panelists about strategies when negotiating dispute resolution and applicable law clauses. **Karl Hennessee** (Airbus) gave the example of a dispute resolution contract that read that the dispute would be resolved by the Tribunal de Commerce of Paris under the ICC Rules and in English. He noted that it is important to make a choice between litigation and arbitration to avoid uncertainty. In relation to the negotiation of arbitration agreements, **Thalita Fernandez** (VTTI Energy Partners) noted that the client often needs advice from external counsel. **Ivan Apsan** (BHP Billiton Brasil) agreed that support of external counsel often is required, particularly in jurisdictions where the company has a small legal team. From the panel's perspective, combining in-house and external counsel works very well. Hennessee added that learnings of the past have been put together recently by Airbus as a policy to help in negotiating arbitration agreements. When drafting clauses, Hennessee stated that he prefers short dispute resolution clauses, referring to President J.F. Kennedy's quote '[l]et us never negotiate out of fear [b]ut let us never fear to negotiate'. Fernandez agreed, recommending that dispute resolution clauses should be kept simple because one can always sit to negotiate if one wants to. **Kai-Uwe Karl** (GE Renewables) agreed, noting that he uses simple clauses providing for mediation followed by arbitration. As to the applicable law, Karl noted that the dispute resolution clause is more important than the applicable law clause. Indeed, clients would feel more comfortable with an experienced

tribunal applying a foreign law but not with a foreign court applying its own law, particularly in jurisdictions with corruption problems. When discussing the use of arbitral institutions located in non-typical international arbitration hubs, **Sophie Nappert** from the floor added that it is important to do proper due diligence with arbitral institutions. She mentioned that, for example, she did not know the BM&F/Bovespa's arbitral institution but was very satisfied with its services. Ms Fernandez added that sometimes even if there is no flexibility to negotiate dispute resolution clauses, it is still possible to get insurance covering certain risks, which could level the playing field. When choosing arbitral institutions, Hennessee noted that Airbus prefers institutions that look for feedback from users to improve their services like the ICC, the ICDR, the LCIA, and now the SIAC. He added that other aspects that clients look for are provisions on emergency arbitrators, fast-track proceedings, and joinder of parties. Summing up, Airbus looks for institutions with the right balance between foreseeability, flexibility, and accessibility. Subsequently, Sperandio asked whether ad hoc arbitrations would be less costly than institutional arbitrations. Hennessee stated that ad hoc arbitration only appears to be cost-saving. Sperandio then asked what clients expect from external counsel. **Martim della Valle** (former head of litigation AB-inBev) said that it is important to charge less and try to manage the case in an efficient manner, including with a good choice of arbitrators. In relation to fees, Apsan said that establishing a cap is important and noted that sometimes there is an internal budget for dispute resolution. Hennessee also noted that it is common to adopt alternative fee arrangements, while understanding the type of firm one is dealing with and their incentives. Ms Fernandez also said that it is typical to cap work for different phases. When asked by Sperandio what clients expect from arbitrators, Hennessee stressed that he wants courageous arbitrators, who would make tough decisions even if adverse to his client.



Participants in the III Oxford Symposium

Ilhão Moreira then introduced the topic of Panel II “Regulating Arbitrators: The Role of Arbitral Organisations.” **Flavia Bittar** (former President of the Brazilian Arbitration Committee – CBAr) started by distinguishing non-profit organisations like the Brazilian Arbitration Committee from organisations that provide arbitration services. She noted that non-profit organisations can play an important role to provide solutions to new challenges. Ms Bittar illustrated these new challenges by referring to concerns that ‘winter is coming’ to arbitration, raised by **Gary Born**, as well as to the ‘due process paranoia’, referred to by **Bernardo Cremades**. She concluded by saying that arbitral organisations should not regulate arbitrators but educate them in regard to best practices adopted worldwide. **Charles Brown** (former President of the Chartered Institute of Arbitrators – CI Arb) considered the topic from the CI Arb’s perspective. He referred to CI Arb’s Code of Professional and Ethical Conduct (2009) which is two pages long and policed by a committee enforcing it very strictly. **Sofia Martins** (IBA Arbitration Committee Officer) started her presentation by referring to the four layers of who decides if an arbitrator is independent and impartial, that is, arbitrators, parties, arbitral institutions, and State courts. She discussed who was supposed to decide the concepts of independence and impartiality, highlighting the importance of guidelines, codes and practical guides prepared by professional arbitral organisations. **Luiz Aboim** (White & Case) then discussed, among other matters, the initiatives of the ICC and LCIA, referring to their respective notes on arbitration practical guidance and best practices. He concluded by stressing that arbitrators should perform their duty as service providers to the parties.

Daniel Levy (Enyo Law) introduced the topic of Panel III ‘Biggest Challenges for Oil and Gas Arbitration’. **Wendy Miles QC** (Debevoise & Plimpton) referred to the work of the ICC Task Force on Climate Change and the relevance of its work for oil and gas arbitration. **Beata Gessel-Kalinowska vel Kalisz** (Gessel) discussed the implications of the ECJ’s findings in *Achmea on Energy Charter Treaty*-based, oil and gas arbitration. Nappert then moved on to the topic of gas-pricing disputes. According to her, gas pricing disputes often relate to long-standing relationships. Accordingly, parties tend to prefer open-ended language when drafting their contracts. Furthermore, it is common for parties to carry on doing business together even after going through arbitration proceedings and being notified of the arbitral award. She concluded by sharing some lessons with the audience, such as knowing what the price review process seeks to achieve. Next, **Sergio Mannheimer** (Andrade & Fichtner) spoke about oil and gas cases. As background, he referred to the amendment to the Brazilian Arbitration Law including express provisions on arbitration with the State and State entities (Article 2, Paragraph 3). Subsequently, he discussed an arbitration involving oil and gas production in Espírito Santo State, Brazil. Petrobras instituted an ICC arbitration making a request for provisional measures to suspend quarterly payments. The National Petroleum Agency instituted parallel State court proceedings seeking an injunction to suspend the arbitration, which was granted at second instance. In conflicts of jurisdiction proceedings instituted by Petrobras, the Brazilian Superior Court of Justice affirmed the competence of the ICC arbitral tribunal.

Panel IV on the ‘Impacts of Artificial Intelligence on Arbitration’ was moderated by **Ana Gerdau de Borja Mercereau** (Derains & Gharavi). She opened the panel by referring to the “Turing Test”, developed in 1950 by **Alan Turing** (who was an English mathematician and computer scientist), defining artificial intelligence as a machine’s ability to behave intelligently. She noted that, for purposes of this Panel, the speakers would consider arbitration interfaces with the following technologies: (1) big data and predictive analytics: that is, using advanced data analytics methods to extract value from very large data sets; (2) blockchain technology: that is, peer-to-peer networks of computers (called “nodes”) scattered across the globe, recording data not easily altered retroactively; and (3) machine learning: that is, machines improving their own codes by themselves. The panellists discussed

the use of these technologies in arbitration and their advantages and disadvantages in light of efficiency, transparency, coding errors and human mistakes, ethics, hacking and sensitive information. **Geneviève Helleringer** (University of Oxford and ESSEC) started the discussion by providing an introduction to smart contracts and discussing why and how arbitration clauses should be included in these contracts. **Christian Leathley** (Herbert Smith Freehills) then discussed the role of artificial intelligence in helping third party funding in arbitration, including its use in the assessment of cases, whether they should be funded, chances of success, and how much risk in aggregate can be packaged and syndicated to other funds. **Carlos Alberto Carmona** (Marques Rosado Toledo Cesar & Carmona and University of São Paulo) then covered possible reactions from arbitrators and parties to the use of technology in arbitration, concluding that technology will be used to help arbitrators and counsel rather than to replace them. Last but not least, **Hugh Carlson** (Three Crowns) discussed the commercial implications of artificial intelligence developments for international arbitration. According to Carlson, artificial intelligence will not significantly disrupt international arbitration by displacing junior associates in the next 10-15 years as opposed to litigation. He arrived at this conclusion based on the following observations: (1) the type of artificial intelligence required to trigger such disruption is still some ways off; (2) insufficient data publicly available when compared to litigation; (3) international arbitration consists of a relatively small market when compared to litigation, so it is less appealing to artificial intelligence investors.

The closing speech was given by **José Emilio Nunes Pinto** (former Vice-President of the ICC Court), who addressed issues and challenges that arbitration practitioners are facing and will probably face in the future. First, Nunes Pinto discussed whether the traditional features of arbitration such as confidentiality, efficiency and speed are still valid today. In relation to confidentiality, he wondered if it was still possible to keep arbitration confidential in instances like the class arbitration instituted against Petrobras by hundreds of minority shareholders. In relation to speed and efficiency, he referred to the adoption of expedited procedures and their success among arbitration users, noting that parties have adopted them even when the amount in dispute was far beyond the ICC rules' limit. He highlighted the

need for counsel to work towards greater efficiency, advising counsel to “be short, be simple, be human,” citing the book “Plain Words – A Guide to the Use of English.” He concluded by noting that arbitration practitioners should listen carefully to the urges of arbitration users. By referring to the discussions conducted in Panel I (‘Arbitration: The View from the Client’), Nunes Pinto highlighted that clients are looking for courageous arbitrators, who do not shy away from having to render tough decisions. From his perspective, such courage could help fighting so-called ‘due process paranoia’.

Submitted by Ana Gerdau de Borja Mercereau, ArbitralWomen member, Associate, Derains & Gharavi, Paris and Ana Carolina Dall’Agnol, Associate, PLMJ Advogados, Lisbon

ICC Conference on Hardship & Force Majeure in Paris on 29 November 2018

The 38th ICC Institute Annual Conference on Hardship and Force Majeure in International Contracts took place on 29 November 2018 at the Marriott Champs Élysées Hotel. The Chairman of the ICC Institute of World Business Law, **Yves Derains**, gave the opening statement, and underlined that force majeure and hardship are institutions at the heart of the very notion of contract as they allow the balancing of two basic, old principles: *pacta sunt servanda* and *rebus sic stantibus*. The Co-Chairs of the ICC Institute and editors of the ICC Dossier on Hardship and Force Majeure in International Commercial Contracts: Dealing with unforeseen events in a changing world, **Fabio Bortolotti** and **Dorothy Udeme Ufot SAN**, moderated the morning and afternoon sessions, respectively.

Marcel Fontaine began the conference with his presentation on the evolution of the rules on hardship, focusing on the first study on hardship clauses conducted by a working group of academics and lawyers in 1975, with the purpose of elaborating regular chronicles on the practice of international contracts.



L to R: Ramy Bassily, Dominique Brown-Berset, Dorothy Udemé Ufot SAN, David Brown

A panel composed of **Delphine Jacquemont**, **Pietro Galizzi** and **Abhijit Mukhopadhyay** then presented on contract adaptation by courts or arbitrators from a business perspective. They explained the importance of incorporating effective hardship and force majeure clauses into contracts, in order to make room for negotiations in case of disputes and, if negotiations fail, to allow adaptation of the contract by a third party. On the latter issue, Jacquemont emphasized that parties must clearly indicate their intention as to the trigger and scope of revision. This was a perfect transition for **Pascale Accaoui Lorfing** to give an overview of the current realities and perspectives on adaptation of international contracts by arbitrators. She advised on the interplay between legal and contractual provisions on hardship.

Following this session, **Christoph Brunner** discussed two recent ICC cases illustrating the rules on force majeure and the approach taken by arbitral tribunals. **Dominique Brown-Berset** and **David Brown** then discussed the civil-law and common-law approaches to drafting force majeure clauses. This was followed by a presentation on the approaches to force majeure and hardship in the Middle East and African countries, by **Ramy Bassily** and **Emilia Onyema**, respectively.

The ICC is currently reviewing its 2003 model Force Majeure and Hardship Clauses. **Filip De Ly** provided an overview of the 2003 clauses, and **Ercüment Erdem** covered the new draft clauses (to be finalized in 2019). The Working Group is still welcoming views and comments on the draft clauses at this stage.

The afternoon session was concluded with the presentations of Professor **Klaus Peter Berger**, who referred to two ICC cases to illustrate the relationship between a contractual force majeure clause and the rules of the applicable law, and of **Mercédeh Azeredo da Silveira**, who focused on situations in which economic sanctions prevented a party from performing its obligations. She discussed whether economic sanctions could be a ground for exemption from liability for non-performance or could warrant an adaptation of the contract.

If a main message can be discerned from the conference, it is that negotiators should overall, devote time to details relating to hardship and force majeure at the earliest possible stage; in choosing the law applicable to their contracts, verify the contents of the rules on change of circumstances; and depart from the provisions of that law in their contracts (where possible, as some are mandatory), in case they are not satisfied. Model clauses reflecting international principles can be of great use.

Submitted by Elizabeth Oger-Gross, ArbitralWomen member, Partner, White & Case LLP, Paris, Fabiana Pardi Otamendi, Associate, White & Case LLP, Paris and Yutty Ramen, Associate, White & Case LLP, Paris

ArbitralWomen panel in Paris: Market, legislation and trends in mediation and alternative dispute resolution methods in France and Latin America on 6 December 2018 in Paris

On 6 December, 2018, one of ArbitralWomen's board members, **Maria Beatriz Burghetto**, who co-chairs the Paris Bar's Latin America Open Commission, moderated one of the panels at a conference on mediation and other ADR methods in France and Latin America, which was opened by **Laurence Kiffer**, French arbitration specialist and Member of the Board of the Paris Bar. The conference was well attended and took place at the Auditorium of the Paris Bar's headquarters. Maria Beatriz delivered the presentation of an experienced Argentinean mediator, **Marcela Caniffi**, who was not present, but who had prepared a thorough presentation on the Argentinean mediation and ADR regime and current status: In Argentina, since 1995, recourse to mediation is compulsory prior to the hearing of a claim by the courts in all civil and commercial matters (with

some exceptions, such as interim measures, probate, insolvency, etc.) and parties must be represented by an attorney.



L to R: Fernanda Louro, Prof. Michèle Guillaume-Hofnung, Sophie Henry, Gustavo Cuevas, Maria Beatriz Burghetto

By contrast, France has so far rejected this compulsory mediation model, as **Michèle Guillaume-Hofnung** stressed, although a bill currently under study by Parliament adopts such compulsory model. Guillaume-Hofnung also referred to some pervasive confusion in French law between mediation and conciliation and called for a more active participation by attorneys and society in general, especially in France and Latin America, which are all civil law jurisdictions with laws based on the Napoleonic Codes, in promoting and developing mediation and other ADR methods. **Gustavo Cuevas**, a Chilean attorney, spoke about mediation in Chile, where, despite the fact that there is no unifying law on the subject, mediation is widely practiced in various areas, including in matters where the Chilean state is involved (although Mr Cuevas wondered whether some of these procedures could actually be called mediations, given that the ‘mediator’ is appointed by the government). **Fernanda Louro**, a Brazilian attorney currently working as in-house in Paris, presented the Brazilian regime and concluded that mediation in her country is a valid alternative to the extremely lengthy judicial proceedings and, as such, it should be further encouraged. Lastly, **Sophie Henry**, on behalf of the Paris Center for Mediation and Arbitration (**CMAP**) presented some statistics on mediation in France, in particular under the CMAP rules, and also advocated for it as a very useful tool for companies and individuals.

The second round table, moderated by **David Lutran**, French lawyer and mediator, featured **Alya Ladjimi**, Deputy Manager at the ICC International Centre for ADR, who spoke about the Centre’s experience with Latin

American parties in international mediation, **Alicia Domínguez Contreras**, in-house lawyer with ENGIE and accredited mediator, of Dominican Republic origin, who gave details about a successful mediation in which her company took part and **Isabelle Vaugon**, French lawyer, partner at FIDAL and accredited mediator, who also referred to successful mediations in which she has taken part as counsel or mediator. Lastly, **Jean-Michel Jacquet**, with the Swiss Graduate Institute of International and Development Studies, who represents France at the UNCITRAL Working Group II (Dispute Settlement), gave a short presentation of the objective and main points of the Convention on the Enforcement of International Settlement Agreements (the “Singapore Mediation Convention”) and corresponding Model Law, whose drafts were approved on 26 June 2018 by UNCITRAL. The draft Convention is expected to be signed in Singapore in mid-2019.



L to R: Isabelle Vaugon, Alicia Domínguez Contreras, Alya Ladjimi, David Lutran

Submitted by Maria Beatriz Burghetto, ArbitralWomen Board member, Of-counsel, JA Cremades & partners, Paris, France

The Future is Female – Can the Future of Arbitration be Female too?

Maria Eduarda Carames was announced as the winner of an article contest among young female law students. As winner of the contest, Maria Eduarda’s winning article is published in this ArbitralWomen Newsletter. Congratulations Maria Eduarda.

I heard from a professor, in the only class taught by a female professor which mentioned arbitration, that international arbitration was ‘male, pale and stale’. This expression, so often used and well-known, seems to describe a distant reality of high-powered disputes, men in suits and international contracts. In reality, it describes

a much more familiar setting – the experience and challenges faced by young female students and professionals interested in learning about arbitration and putting their knowledge into practice, but who frequently feel dislocated in such an environment.

Lack of diversity is an issue that pervades most areas of the law and, notably, arbitration, which is still perceived as an elitist and exclusive field. This characteristic manifests itself in the industry both horizontally and vertically, meaning that it encompasses gender, ethnical, age, national origin, and language discrimination which can be identified in every stage of professional life – from college to arbitral tribunals, including law firms and companies. Many theories have attempted to decipher this phenomenon which is backed by actual data, especially when it comes to gender diversity. In Brazil, according to Arbitration and Mediation Center of the Chamber of Commerce Brazil Canada (CAM-CCBC), in 2017, out of 191 arbitrators nominated for arbitral tribunals, only 43 were female¹.

Even though the lack of gender diversity in arbitration is attributed by some to the ‘supply’ side – i.e., there are few women in leadership positions who are apt to participate in arbitral proceedings as arbitrators or attorneys – it is vital to acknowledge that the ‘demand’ side is the main culprit for disengaging young students, denying opportunities to qualified professionals and overlooking renown female arbitrators. Students and lawyers are early on faced with obstacles in the industry due to the sheer fact that they are women. One of these obstacles – initially identified in international arbitration but also self-evident in domestic proceedings – is the so-called “invisible college”², which is the select group of elite professionals who quietly influence and shape arbitration. This select group, composed by a large majority of men, is not immune to unconscious biases –

psychological mechanisms that make us admire, value and prioritize abilities displayed by people like ourselves. All these factors converge to make it much more challenging for a woman to ascend in a career in arbitration.

In the early stages of a successful career, lack of gender diversity must not be overlooked, under penalty of talented women never achieving their full potential or abandoning the possibility of dedicating their professional lives to arbitration. Seemingly harmless situations, such as being the only woman in a classroom or having no female instructors may exclude and discourage students. Mentorship programs, women-only networking events and seminars that bring successful female practitioners to universities can be effective in building bridges with role models – women who have already led a challenging yet successful path – who can motivate and inspire young students.

¹ SCOCUGLIA, Livia. CAM-CCBC aprova resolução para aumentar número de árbitras. *JOTA*. Mar 28 2018. Available at: <<https://www.jota.info/justica/pascoa-cam-ccbca-prova-resolucao-para-aumentar-numero-de-arbitras-28032018>>. Accessed on Aug 11 2018.

² FRANCK, Susan D. The Diversity Challenge: Exploring the “Invisible College” of International Arbitration. *Columbia Journal of Transnational Law*. v. 53, pp. 429-506, 2015. Available at: <<https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1488&context=wluofac>>. Accessed on Aug 8 2018.

NEWS ON THE YOUNG ARBITRALWOMEN PRACTITIONERS (YAWP)

As we ring in 2019, let's welcome the 2018-2021 YAWP Steering Committee

Young ArbitralWomen Practitioners (**YAWP**), initiated by ArbitralWomen's former Vice-President, **Gabrielle Nater-Bass**, partner at Homburger in Zurich, is the under-40 subgroup of ArbitralWomen. ArbitralWomen members under 40 are de facto members of YAWP and encouraged to participate in the activities organised by YAWP.

In 2016, ArbitralWomen unveiled the first young group for female dispute resolution practitioners, a support group and networking platform for women below the age of 40 who are seeking to address challenges arising in the early stages of their practice.

The inaugural YAWP Steering Committee chaired by Nater-Bass played a vital role in establishing YAWP as a leading young female arbitration practitioner organisation.

This year, the year of ArbitralWomen's 25th Anniversary, ArbitralWomen and YAWP begin a new era at the forefront of the promotion of equal representation of women and diversity in international dispute resolution. This year began with ArbitralWomen's Jubilee celebrations around the world and it ends with the selection of the new YAWP Steering Committee for the next 3 years, the members of which we announced to our membership in early December.

In my role as Chair of the YAWP Steering Committee, along with the YAWP Board Director, Amanda Lee, I am delighted to congratulate the geographically diverse members of the YAWP Steering Committee for 2018-2021. I am particularly honoured to chair the YAWP for this mandate, as I am sure they will devote time and effort in making YAWP a force of change among our younger generation:



Aanchal Basur is a partner with the Law Offices of Panag and Babu and chairs the arbitration practice from the firm's New Delhi office. Aanchal's practice focuses on international commercial arbitration. She was awarded the Angela Merkel DAAD Scholarship to obtain her LLM from the Europa-Institut, Germany and is admitted to the bar in India.



Cherine Foty is an Associate at Jones Day's Paris office where she focuses on international commercial and investment treaty arbitration. She holds a J.D. from The George Washington University Law School in the United States and an LL.M. from the Sorbonne Law School in Paris which she obtained as a Fulbright Scholar. She is a member of the New York and Paris Bars.



Montserrat Manzano is partner of the Dispute Resolution practice at Von Wobeser y Sierra, Mexico City and is specialized in international commercial and investment arbitration. She is admitted to practice in Mexico and holds an LL.M. degree from the University of Cambridge.



Annabelle Möckesch is an associate in the International Arbitration Group of Schellenberg Wittmer in Zurich. Her main areas of practice include international commercial, investment and sports arbitration. Annabelle is a German-qualified lawyer and a co-chair of DIS40.



Anna Vorotyntseva is an associate at White & Case in Moscow and focuses on international arbitration. Anna is qualified to practice law in the Russian Federation. She also obtained an LL.M degree from University College London



Katie Hyman is Counsel at Akin Gump Strauss Hauer & Feld LLP, Washington D.C. and a member of the international arbitration and commercial litigation practice. She is admitted to the Law Society of England and Wales as well as to the New York bar.

ArbitralWomen thanks retiring YAWP Steering Committee members **Kate Brown de Vejar**, partner at Curtis, Mallet-Prevost, Colt & Mosle in Mexico City, **Yoko Maeda**, partner at City-Yuwa Partners in Tokyo, **Melissa Magliana**, partner at Lalive in Zurich, **Claire Morel de Westgaver**, associate at Bryan Cave Leighton Paisner in London and **Emilia Vidak Gojkovic**, associate at King & Spalding in London for their hard work and dedication during the first two years of YAWP.

As we hurtle towards the New Year, I am delighted to inform you that the 2018-2021 YAWP Steering Committee looks forward to further growing and developing YAWP’s activities around the world.

YAWP has enjoyed a very productive first mandate, with a great number of events on all continents and is planning a great number of events all around the world. Among its future events, the YAWP Steering Committee plans to organise mentoring programmes and skill-building seminars to effect real change for more diversity in our profession. Our activities will continue to address issues affecting young female practitioners such as gender diversity, work-life balance and the under-representation of women in the higher echelons of dispute resolution.

Stay tuned on events and activities on our website. We look forward to working with you in 2019!

Submitted by Asoid García-Márquez, Vice-President, of ArbitralWomen and Chair, YAWP Steering Committee

MEMBERS ON THE MOVE AND DISTINCTIONS

ArbitralWomen is pleased to announce the following recent moves and distinctions of our members.



Ania Farren has joined Arbitrators at 10 Fleet Street, based in London. She is the first female arbitrator to do so. Ania has been appointed as an arbitrator by both institutions and parties. In addition to her work as an

arbitrator, Ania currently works as Managing Director at Vannin Capital. She was previously a partner in the International Arbitration group at Bryan Cave Leighton Paisner. She has over 15 years’ experience as counsel specialising in international arbitration, both commercial and investment treaty, with a particular focus on energy related disputes.



Annabelle Möckesch, a member of the Steering Committee of YAWP, has been appointed as Co-Chair of DIS40, the German Institute of Arbitration’s under-40 group. Annabelle is an associate in the Dispute Resolution Group at Schellenberg Wittmer in Zurich. She has acted as

counsel and tribunal secretary in arbitrations under a variety of arbitration rules and in a wide range of sectors and represented parties in arbitration-related matters before Swiss courts. Annabelle is admitted to the German Bar.



Anna Kozmenko has been promoted to partner in the Dispute Resolution and Sports Groups at Schellenberg Wittmer with effect from 2019. Qualified in Russia and having practiced in Russia, France and the US, Anna represents states and private entities in high profile international disputes, including complex litigations,

commercial and investment arbitrations. She also sits as an arbitrator. Anna is recognised as a Future Leader in Arbitration by Who's Who Legal and is an Adjunct Professor at the University of Arkansas School of Law.

and sovereigns in investment treaty disputes before ICSID and other arbitral institutions, as well as clients in commercial arbitrations across a variety of industries.



Dana MacGrath, President of ArbitralWomen, has been elected to the partnership of Sidley Austin LLP with effect from January 1, 2019. Dana has significant experience advising in respect of international arbitration and litigation in aid of the arbitration process and sits as an arbitrator. Dana serves as co-chair of the CPR Institute Non-Administered

Arbitration Rules Revision Committee and is an adjunct professor of law at Brooklyn Law School. She is the immediate former co-chair of Y-ADR and the former chair of the Arbitration Committee of the Association of the Bar of the City of New York. Dana has been recognized as a leading international arbitration practitioner by Chambers USA, Who's Who Legal: Arbitration, Latinvex and Expert Guides' Guide to the World's Leading Experts in Commercial Arbitration.



Anya George has been promoted to partner at Schellenberg Wittmer with effect from 2019. Qualified in Switzerland and England and Wales, Anya represents states, state-owned entities and private companies in complex multi-jurisdictional disputes

under different laws and across a wide range of sectors. Anya serves as Co-Chair of the LCIA YIAG and is recognised as a Future Leader in Arbitration by Who's Who Legal and as a Rising Star in Commercial Arbitration by LMG Expert Guides.



Hanna Roos has joined Quinn Emanuel Urquhart & Sullivan LLP, London, as of counsel. Hanna was previously an associate at Latham & Watkins and Freshfields Bruckhaus Deringer, London. Hanna is

qualified as an English Solicitor-Advocate and specialises in high-value international arbitrations and litigations in a variety of sectors, particularly energy, pharmaceuticals, and life sciences. Hanna is recognised as a future leader by Who's Who Legal: Arbitration in 2018 and 2019 and is a member of the ICCA-CPR-New York City Bar Working Group on Cybersecurity in Arbitration (CPR arm). At Latham, Hanna helped to establish and lead the global Parent Lawyers Group and to oversee the London office's award winning pro bono initiatives.



Ariella Rosenberg has been promoted to senior attorney at Cleary Gottlieb Steen & Hamilton with effect from January 2019. Ariella is trilingual and admitted to the Bars of New York and Paris. Based in Paris, Ariella represents investors



Janet Walker has been presented with the Canada Branch of the Chartered Institute of Arbitrators' annual award for distinguished services to arbitration. Janet has chambers in Toronto at Arbitration Place, in London at

Outer Temple Chambers, and in Sydney, Australia. She is a professor of law and past associate dean of Osgoode Hall Law School. Janet has been recognized regularly in legal directories for her skill as an arbitrator since 2010, including in Who's Who Legal Canada, Who's Who Arbitration and Chambers & Partners.



Jennifer Glasser has been promoted to partner at White & Case LLP in New York with effect from 1 January 2019. Qualified in New York, Jennifer represents corporate clients in institutional and ad hoc arbitrations

involving common and civil laws, as well as sovereigns in investor-State disputes. Jennifer is co-editor of The CPR Corporate Counsel Manual for Cross-Border Dispute Resolution, Vice Chair of the Arbitration Committee of the International Institute for Conflict Prevention and Resolution and a member of CPR's Cybersecurity Task Force.



Julie Bédard has been appointed as Co-Chair of the IBA Arbitration Committee. Julie is head of Skadden, Arps, Slate, Meagher & Flom LLP's International Arbitration Group for the Americas. Julie concentrates her practice on complex international litigation and

arbitration and also advises companies and boards in internal investigations and regulatory matters. Julie is recognised by Chambers Global, Chambers USA, Global Arbitration Review's International Who's Who of Commercial Arbitration, Chambers Latin America and The Best Lawyers in America, amongst others.



Julie Raneda has been promoted to partner at Schellenberg Wittmer's international arbitration group in Singapore with effect from 2019. Admitted to the Bars of Switzerland and Singapore, Julie specializes in international commercial arbitration and has acted

as counsel before international arbitral tribunals in a broad range of disputes and under many different laws. Julie is recognised as a Future Leader in Arbitration by Who's Who Legal and serves as Chair of the Swiss Arbitration Association South East Chapter. She is co-founder of the Women's Business Society (WBS), established in Geneva in 2012.



Maria Vicien Milburn has been appointed Judge on the Administrative Tribunal of the European Bank for Reconstruction and Development. She is the former General Counsel of UNESCO in Paris and Director of

the General Legal Division of the United Nations in New York. She has also been appointed by the Government of Argentina to the WTO list of panelists on the Dispute Settlement Board. Maria has been involved in dispute resolution for more than thirty five years, when she commenced her career at the Secretariat of UNCITRAL.



Noiana Marigo has been recognized as a 2018 International Arbitration MVP by Law360. Noiana is a partner in Freshfields' international arbitration group and co-head of the firm's Latin America practice. Based in

New York, Noiana is civil and common law trained and has acted as counsel and arbitrator in more than 45 high-stakes, cutting-edge commercial and investment treaty arbitrations. She has been ranked as one of the top 100 female lawyers specializing in Latin America.

an arbitrator. Valeria is also a member of the drafting committee of the ICC Bulletin in Dispute Resolution and the ICC Task Force on Emergency Arbitrators and serves as a representative in Brazil of The Pledge. Valeria is recognised by Chambers Latin America and Who's Who for her expertise.



Samaa Haridi has been appointed as a Vice Chair of the IBA Arbitration Committee for a second-year term. Samaa is a partner at Hogan Lovells LLP, based in New York, and regularly sits as an arbitrator in international disputes. Samaa is trilingual and a member of the New York, California,

and England & Wales bars. Samaa is recognised by Chambers USA, Chambers Global and The Legal 500 for her expertise in international arbitration and by Who's Who Legal: Thought Leaders – Arbitration 2018.



Valeria Galíndez has been appointed as a Vice Chair of the IBA Arbitration Committee. Valeria is a partner at Valença Galíndez Arbitration in São Paulo. She was previously counsel at Uría Menéndez. Valeria has acted as counsel in

numerous commercial cases, especially related to construction and corporate disputes, and sits regularly as

MARK YOUR AGENDAS

The following events will be held in various locations worldwide. Save the dates and follow us on our website for further information on such events and others that we regularly add.

Date	Venue	Event
20-21 December 2018	Cairo	ICC YAF Middle East, North Africa & Turkey Regional Conference
10 January 2019	Paris	Cycle des Ateliers de pratique arbitrale du Comité Français de l'Arbitrage (CFA): <i>Les mesures provisoires dans l'arbitrage</i>
17 January 2019	Amman	ICC Jordan Arbitration Day
18 January 2019	Phoenix	Schiefelbein Global Dispute Resolution Conference
21 January 2019	Paris	AFA (Association Française d'Arbitrage) Training: Cross-Examination of witnesses
24-25 January 2019	Houston	6th ITA-IEL-ICC Joint Conference on International Energy Arbitration
30 January 2019	Geneva	Young ICCA-WIPO Seminar on IP Arbitration
31 January 2019	Geneva	3rd SCAI (Swiss Chambers' Arbitration Institution) Innovation Conference
1 February 2019	Geneva	ASA Annual Conference 2019
7-13 February 2019	Paris	14th ICC International Commercial Mediation Competition
14 February 2019	Paris	Comité Français de l'Arbitrage (CFA): <i>Le contrôle par le juge de l'absence de contrariété de la sentence à l'ordre public : le passé, le présent, le futur</i>
22 February 2019	Paris	6th ICC Investment Pre-Moot
24-27 February 2019	San Jose	X CAI Costa Rica: Analysis of the last decade, lessons, tendencies and challenges
28 February 2019	Washington, DC	International Institute for Conflict Prevention and Resolution (CPR)'s 2019 Annual Meeting

ARBITRALWOMEN INDIVIDUAL & CORPORATE MEMBERSHIP

Time to renew your ArbitralWomen Membership for 2019.

↪ ArbitralWomen website is the only hub offering a database of **female practitioners in any dispute resolution role including arbitrators, mediators, experts, adjudicators, surveyors, facilitators, lawyers, neutrals, ombudswomen and forensic consultants**. It is regularly visited by professionals searching for dispute resolution practitioners.

↪ The many **benefits** of ArbitralWomen membership are namely:

- * Searchability under **Members Directory** and **Find Practitioners**: therefore please complete all criteria under your profile
- * Highlight/promote your speaking engagements in our **Events section** if you speak at an event organised or co-organised by ArbitralWomen
- * Visibility under **Publications** once your articles have been added under My Account / My Articles
- * Showcase your news and events in ArbitralWomen **Newsletter**
- * Exposure on the **News** page if you contribute to any dispute resolution related news and ArbitralWomen news
- * Exclusive opportunity to contribute to ArbitralWomen's section under **Kluwer Arbitration Blog**
- * Ability to obtain **referrals** of dispute resolution practitioners
- * **Networking** with other women practitioners

↪ We encourage female practitioners to join us either individually or through their firm. Joining is easy and takes a few minutes: go to '[Apply Now](#)' and complete the application form.

↪ **Individual Membership: 150 Euros.**

↪ **Corporate Membership:** ArbitralWomen Corporate Membership entitles firms to a discount on the cost of individual memberships. For **650 Euros** annually (instead of 750), firms can designate up to five individuals based at any of the firms' offices worldwide, and for each additional member a membership at the rate of **135 Euros** (instead of 150).

Over forty firms have subscribed a Corporate Membership: [click here for the list](#).

↪ ArbitralWomen is globally recognised as the leading professional organisation forum for advancement of women in dispute resolution. Your continued support will ensure that we can provide you with opportunities to grow your network and your visibility, with all the terrific work we have accomplished to date as reported in our Newsletters.

↪ ArbitralWomen membership has grown to approximately one thousand, from over 40 countries. Forty firms have so far subscribed for corporate membership, sometimes for as many as 30 practitioners from their firms.

Do not hesitate to contact membership@arbitralwomen.org, we would be happy to answer any questions.

ARBITRALWOMEN ACTIVITIES, SERVICES & BENEFITS

ArbitralWomen enjoys a global presence in dispute resolution

- ✓ **Networking & Events:** we encourage our members to participate in and organise networking events in their respective countries and we assist them in doing so. Some of our regular events are informal, such as the SpeedNet events; others are more formal, such as Gala Dinners, conferences and breakfast panels. Firms and organisations wishing to co-organise events or have their events supported can contact us at events@arbitralwomen.org.
- ✓ **Increasing equality of representation at conferences:** some of our work involves encouraging conference organisers to increase equality of representation on speaking panels. Under-representation is often unintentional. We recommend or nominate women who are as experienced and reputable as men, if not more so.
- ✓ **Young ArbitralWomen Practitioners (YAWP):** inclusion, collaboration and knowledge-sharing are vital for bridging generational gap in dispute resolution. YAWP provides a forum in which young women practitioners can share experiences and practical advice on how to advance women's careers and accelerate their success.
- ✓ **Members Directory:** one of our goals is to showcase our members by increasing their visibility in the dispute resolution community. This is the objective of the Members Directory webpage which is increasingly used as a reference tool for appointments and referrals.
- ✓ **Find a Practitioner:** we provide a dedicated multi-search tool to find dispute resolution practitioners and speakers.
- ✓ **Mentorship:** members provide mutual beneficial support to each other through our mentoring programmes. These very successful programmes are examples of how more experienced members generously share experiences with other members so that the role of women in the field can continue to grow and strengthen.
- ✓ **Moot Competition Support:** we provide financial aid to support and promote the participation in moot competitions of law student teams consisting of at least 50% women, who might otherwise not be able to participate.
- ✓ **Publications:** we provide opportunities to enable our members to make valuable contributions to the publication of reports in our [Newsletter](#), on our [News](#) webpage, and on the [Kluwer Arbitration Blog](#), as well as in special publications such as the TDM Special Issues. Members can also upload their articles onto their profiles on the website and publicise matters of interest, expertise and skill.
- ✓ **Periodic Alerts:** we keep our membership informed of [events](#) and [news](#) in dispute resolution through periodic alerts.
- ✓ **Cooperation:** we cooperate with kindred organisations and programmes, such as the Pledge for Equal Representation in Arbitration www.arbitrationpledge.com and the Global Pound Conference www.globalpoundconference.org. Firms and organisations that wish to co-partner or cooperate with ArbitralWomen can write to contact@arbitralwomen.org.
- ✓ **Projects:** since promotion of women in dispute resolution is our primary underlying goal, we are committed to assisting members with projects that are in line with our objectives.
- ✓ **Gender Equality and Diversity:** we contribute to raising awareness about and promoting gender equality and diversity in a variety of ways.
- ✓ **Champion for Change:** we acknowledge the support of our male colleagues around the world by awarding a Champion for Change Award to men who have furthered the goals of ArbitralWomen and have supported women in the field of dispute resolution.
- ✓ **Training and Competitions:** we publish information about dispute resolution programmes, scholarships, training and competitions. You can send information to contact@arbitralwomen.org.
- ✓ **Job Offers:** we publish professional opportunities in the dispute resolution or legal field. You can send your offers to contact@arbitralwomen.org.

Questions? If you have any queries please contact us at contact@arbitralwomen.org

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ARBITRALWOMEN BOARD

Executive Committee

Name	Role on the Board	Nationality(ies)	Country of Residence
Dana MacGrath <i>Partner at Sidley Austin, New York</i>	President, Events regional director North America	USA	USA
Asoid García-Márquez <i>In-house counsel at UNESCO, Paris</i>	Vice President, Chair of YAWP	Mexico	France
Louise Woods <i>Partner at Vinson & Elkins, London</i>	Secretary, Parental mentorship, Newsletter/News, Events regional director Europe	UK	UK
Juliette Fortin <i>Managing director at FTI Consulting, Paris</i>	Treasurer, Moot, UNCITRAL	France	France
Marily Paralika <i>Associate at White & Case, Paris</i>	Communications, Social media, Events coordinator	Greece	France
Karen Mills <i>Founding Member and International Counsel KarimSyah Law Firm, Jakarta</i>	Executive Editor, Mentorship, Moot Funding	USA	Indonesia
Louise Barrington <i>Independent arbitrator, Canada & HK</i>	Co-founder, Events regional director Asia & North America	Canada, UK	Canada, HK
Mirèze Philippe <i>Special counsel, Secretariat of ICC International Court of Arbitration, Paris</i>	Co-founder, Cooperation, Membership, Website	Lebanon, France	France

Board of Directors

Name	Role(s) on the Board	Nationality(ies)	Country of Residence
Affef Ben Mansour * <i>Of Counsel at Savoie Arbitration, Paris</i>	Newsletter/News, Parental Mentorship, Moot	Tunisia, France	France
Laurence Burger * <i>Partner at Landolt & Koch, Geneva</i>	Cooperation, Marketing/Sponsoring	Switzerland	Switzerland
Maria Beatriz Burghetto * <i>Of counsel at JA Cremades & Asociados, Paris</i>	Legal Services, Newsletter/News	Argentina, Spain	France
Valentine Chessa <i>Partner at Castaldi Partners, Paris & Milan</i>	Events coordinator & regional director, Kluwer	France	France
Diana Droulers * <i>Partner at Droulers & Asociados, Caracas</i>	Events regional director South America, UNCITRAL	Venezuela, France	Venezuela
Gaëlle Filhol * <i>Partner at Betto Seraglini, Paris</i>	Legal Services, Membership, Newsletter/News	France	France
Elena Gutiérrez García de Cortázar <i>International Arbitration Lawyer and Independent Arbitrator, Professor at law, Paris & Madrid</i>	Events regional director South America, Social media	Spain, Guatemala	France, Spain
Alexandra Johnson * <i>Partner at Bär & Karrer AG, Geneva</i>	Membership, Marketing/Sponsoring, Events regional director Europe	Jamaica, Switzerland	Switzerland

Name	Role(s) on the Board	Nationality(ies)	Country of Residence
Sara Koleilat-Aranjo * <i>Senior associate at Al Tamimi & Co, Dubai</i>	Events regional director MENA, Kluwer, Newsletter/News	Lebanon, France	Dubai (UAE)
Amanda Lee * <i>Consultant at Seymours, London</i>	YAWP, Mentorship, Website, Newsletter/News	UK	UK
Alison Pearsall <i>Legal counsel, Paris</i>	Mentorship, Parental mentorship, UNCITRAL	USA	France
Ileana Smeureanu <i>Associate at Jones Day, Paris</i>	Kluwer, UNCITRAL, Events regional director Europe	Romania, USA	France
Vanina Sucharitkul * <i>International arbitrator, Senior Lecturer at Université Paris Descartes, Paris</i>	Events regional director Asia, UNCITRAL, Newsletter/News	Thailand, USA, France	Paris, Bangkok
Erika Williams <i>Senior associate at McCullough Robertson Lawyers, Brisbane</i>	Newsletter, Events regional director	Australia	Australia

Advisory Board

Name	Role on the Board	Nationality(ies)	Country of Residence
Lorraine Brennan <i>JAMS arbitrator & mediator, New York</i>	Advisory	USA	USA
Dominique Brown-Berset <i>Partner, Brown&Page, Geneva</i>	Advisory	Switzerland	Switzerland
Gabrielle Nater-Bass <i>Partner, Homburger, Zurich</i>	Advisory	Switzerland	Switzerland