

ArbitralWomen Newsletter



Uniting and promoting women in dispute resolution

www.arbitralwomen.org

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President's Column

In this edition, we feature a report on Women's Initiatives in their Workplace regarding the female mentoring programme at Israeli law firm Gornitzky & Co. and the firm's active participation in other diversity initiatives, report on events that took place in 4Q2021, and, importantly, **celebrate the 50th edition of the ArbitralWomen Newsletter!**

The ArbitralWomen Newsletter initiative was launched by ArbitralWomen Co-Founder and Board member **Mirèze Philippe** in 2009 and the first edition was published in January 2010.

In the early years of the ArbitralWomen Newsletter, Mirèze Philippe worked closely with ArbitralWomen Founding Member **Deborah Miller Slate**, who acted as lead Director responsible for the Newsletter initiative from 2010-2014. Thereafter, **Gillian Carmichael Lemaire** took over as lead Director of the Newsletter for the period 2014-2016. She was succeeded by **Joachim Delaney** and **Erika Williams**, who took over as Newsletter Committee Co-Directors from 2016-2018. **Mirèze Philippe** continued to work closely with the Directors leading the Newsletter Committee and invested substantial time and effort from 2010 through the end of 2018.

Following the election of the 2018 Board, **Erika Williams** took over as sole lead Director of the Newsletter. By this time, the Newsletter had expanded substantially – so much so that it had become extremely long and ArbitralWomen started to move some of its contents to its other media platforms, such as News about ArbitralWomen Members. During the 2018 Board Term, **Maria Beatriz Burghetto** joined Erika Williams as Co-Director to help manage the ever-increasing amount of work.

During the 2018 Board Term, the News Committee expanded its scope to fully take over reporting on Member News, sharing such news in both email News Alerts and our dedicated ArbitralWomen webpage [News about AW Members](#). This allowed the Newsletter Committee to focus on its main content, which typically includes an interview of a leading woman in arbitration and ADR, initiatives in the workplace to promote women, and reports on events around the world involving ArbitralWomen members. Additionally, some



Dana MacGrath, ArbitralWomen President and Independent Arbitrator

editions of the Newsletter report on the Moot teams funded by ArbitralWomen and/or its corporate member firms, and on the UNCITRAL sessions attended by ArbitralWomen representatives.

Sometimes we issue 'Special Editions' on a specific topic, for example [Newsletter No. 28](#) dedicated to **Inspiring Keynotes** by leading women, [Newsletter No. 31](#) dedicated to reporting on ArbitralWomen's **Jubilee Events in 2018** prepared by **Mirèze Philippe**, and [Newsletter No. 37](#) dedicated to celebrating the **Arbitration Weeks in the**

4th Quarter of 2019 right before the pandemic.

In the 2020 Board Term, **Erika Williams** and **Maria Beatriz Burghetto** continue to serve as Co-Directors leading the Newsletter Committee, which is comprised of several Board members under the Co-Directors and supported also by an Editorial team. We have also engaged a graphic designer to modernise the presentation of the Newsletter content.

It takes a village to prepare each ArbitralWomen Newsletter, and it is an incredibly valuable aspect of ArbitralWomen's mission to promote women and diversity. Not only does each Newsletter edition raise the profile of many women and diversity initiatives deserving of recognition, but our Newsletters preserve the rich history of ArbitralWomen and its members in a way that social media and modern digital platforms cannot. It is also one of ArbitralWomen's central marketing tools.

If you want to know the history of ArbitralWomen and the progress of women in arbitration and ADR over the past 10 years, just review the [Newsletters](#) dating back to 2010. You will see that it has been an incredible journey, memorialised by truly dedicated women in their role as Newsletter Directors.

Congratulations and thanks to all who have dedicated many hundreds of hours to making it possible for ArbitralWomen to share, through its Newsletters, the activities of its members and the incremental progress of women in arbitration and ADR as we inch closer and closer toward gender parity.

*Dana MacGrath
ArbitralWomen President*



Left to right: Mirèze Philippe, Deborah Miller Slate, Gillian Carmichael Lemaire, Joachim Delaney, Erika Williams, Maria Beatriz Burghetto

Women's Initiatives In Their Workplace

Gornitzky & Co.'s Mentoring Programme & other Initiatives in Israel



Participants of the Gornitzky 2021 mentoring programme

Established in 1938, Gornitzky & Co. has pioneered quality legal services since before there was a State of Israel and today is one of Israel's leading law firms. Alongside legal professionalism, social responsibility is one of the core values that define Gornitzky's organisational culture. ArbitralWomen member **Nuna Lerner**, a Partner in the International Arbitration and Transnational Litigation team, is one of those forging the path towards impactful change in eliminating the gender gap at Gornitzky and in the Israeli legal community at large.

Gornitzky began to analyse its desired retention and growth trajectories in its most recent years of substantial growth. By 2019 the firm acknowledged that making specific changes to ensure gender equality was crucial for its future growth and success,



Nana Lerner at the December 2021 Advocating for Change event at Gornitzky's offices

and, during this learning process, the firm realised that it had the potential and hence the responsibility to make a positive change within its own four walls and nationwide in the Israeli business community in which it is well rooted.

As part of Gornitzky's commitment to accelerate its efforts towards a more equal environment, it leads a series of projects to promote gender equality within the firm and in the legal landscape and Israeli business ecosystem.

Led by **Nitsan Litwak**, the firm's VP Projects and the individual responsible for the firm's diversity and inclusion initiatives, and supported by the Executive Committee and the firm's CEO **Adi Nahmias**—an empowering leader and one of the few female CEOs in the Israeli legal community—the team is tasked with uncovering and working towards removing the obstacles facing women



Participants of December 2021 Advocating for Change event at Gornitzky's offices

and levelling the playing field. Some of the work in which the firm is engaged in this space includes:

- **Gornitzky's mentoring programme** – a first-of-its-kind, in-house, annual mentorship program that connects female lawyers with female executives of Israel's leading companies from a wide range of sectors and industries, including Israel's Electric Company, Delek Group, and hotel giant Fattal-Israel. Twelve pairs of carefully matched senior executives and junior partners/senior associates embark on a practical self-development journey that focusses not only on which steps can help advance a mentee but also how to accomplish them. The mentors and mentees for the 2022-2023 cycle of the mentoring programme are expected to be announced in March 2022.
- **Women2Women** – W2W was founded under the Alumni Association of 8200, the Israeli Defence Forces elite intelligence unit against the backdrop of less than 20% of directors and CEOs in Israeli corporations being female, despite the fact that 50% of the 8200 unit members and university students are women. Gornitzky is the only law firm that promotes and sponsors the

non-profit organisation by creating content and programmes to support its goals.

- **Shavot** – this non-profit organisation provides empowerment programming, mentorship, and workshops for Israeli teenagers. Gornitzky supports this vital cause year-round, exposing the teens to different career paths to inspire them to pursue any future their hearts desire, by offering intimate group meetups between the firm's lawyers and middle school and high school students around the country to discuss the current gender gap.

Importantly, reducing the gender gap is not just a 'feel good' move for Gornitzky, but a concrete commitment to promote the changes necessary for women to grow and thrive as the firm continues to expand. As a leading law firm, Gornitzky is proud of the progress it has made thus far, surpassing its most recent goal and increasing the number of female partners from 21% in 2019 to 26% in 2022. Gornitzky is currently generating its goals for the near future.

In addition, the firm is hosting a series of events to promote diversity in the workplace. On 21 December 2021, Nuna Lerner hosted a group of leading female partners from top law firms

around the country at Gornitzky's offices in collaboration with the [Advocating for Change](#) forum. The group enjoyed a networking workshop, discussed gender inequality and barriers in law firms and examined practical solutions to reduce the gender gap in order to make senior roles and partnership more accessible to the next generation of female lawyers. The forum gathers throughout the year focussing on developing soft commercial skills to promote women in the workplace and helping them fully utilise their abilities and potential to shape their path in a predominantly male-led field.

Upcoming events include: a Young Female Practitioners breakfast on 9 February 2022 that Nuna will host with **Samantha Nataf**, the Israeli ICC Court member, bringing together students, interns and young associates looking to take their first steps in arbitration; and a Female Practitioners in Arbitration event during [Tel Aviv Arbitration Week](#). Further details of these events will be shared with ArbitralWomen members.



Gornitzky & Co.

Submitted by Adv Nuna Lerner, ArbitralWomen member and Partner, Gornitzky & Co., Tel Aviv, Israel

Reports on Events

Campaign for Greener Arbitrations Global Workshop, 'Shaping the Future of Greener International Arbitration Conferences and Training', on 5 October 2021, by Webinar



The North America Sub-Committee of the [Campaign for Greener Arbitrations](#) held a virtual event, 'Shaping the Future of Greener International Arbitration Conferences and Training Workshop' on 5 October 2021. The event was generously hosted by Arbitration Place. Global Arbitration Review and ArbitralWomen acted as media supporters.

The virtual event started with a series of short keynotes sharing perspectives on virtual events during the pandemic and takeaways to apply to the international arbitration field going forward. Keynote speakers included ArbitralWomen member **Lucy Greenwood** (International Arbitrator & Founder of Campaign for Greener Arbitrations) followed by ArbitralWomen member **Deborah Enix-Ross** (Debevoise & Plimpton and President of the American Bar Association), **Roger Martin** (Strategic Advisor to CEOs), **Mathias Posch** (President & Chairman, International Conference Services), **Lara Nicholls** (Senior Legal Counsel, Shell International) and **James (Jim) Reiman** (Principal, Reiman ADR).

It was noted that prior to the pan-

dem, the American Bar Association (ABA) had been organising approximately 700 live in-person programmes a year. Once the pandemic hit, in 2020, the ABA organised approximately 1,200 online or virtual programmes. Before the pandemic, the ABA had been drawing roughly 10,000 registrants a month. By contrast, in June and July 2020 (peak pandemic periods), ABA programme registrants had increased to approximately 100,000 registrants a month. This subsequently levelled off to about 45,000 a month. These statistics demonstrate the significant increase of attendee engagement in virtual programming generally, as well as an increase in programming.

After the keynotes, there were three virtual networking sessions during which participants brainstormed on ways to shape the future of greener international arbitration conferences and training programmes. The networking sessions were sorted into the following topics:

1. economics and training;
2. diversity, inclusion and networking, and

3. technology and practical issues.

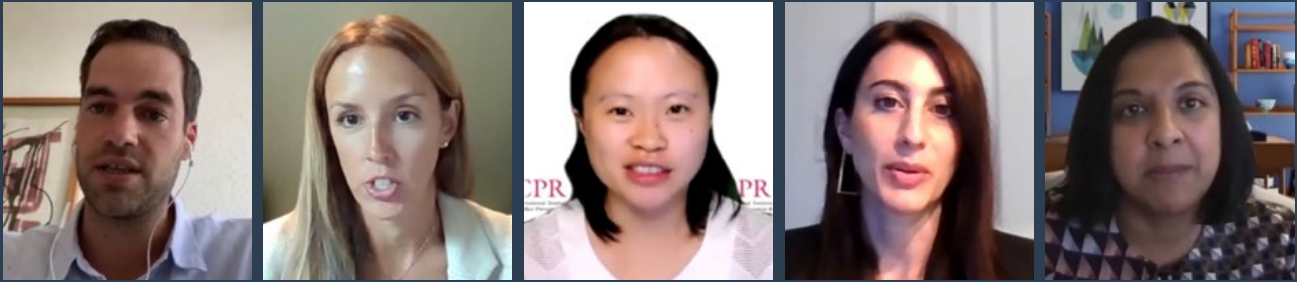
More than 80 participants from around the world representing more than 60 organisations participated in the workshop and networking breakout sessions, including representatives of arbitral institutions, law firms, in-house counsel, academia, non-profit organizations and other stakeholders in the international arbitration field.

The key takeaways from the workshop will be shared by the North America Sub-Committee in early 2022, together with video recordings of the Keynotes. Stay tuned for more information on the learnings from this programme on making international arbitration conferences and training more environmentally friendly.

Members of the virtual event Organising Committee included **Olivier André**, **Barry Leon**, **Brian Briz**, **Mia Levi**, **Dana MacGrath**, **Laurence Marquis** and **Jeffrey Zaino**.

Submitted by Dana MacGrath, ArbitralWomen President and Arbitrator, MacGrath Arbitration, New York, NY, US

How to Work Effectively with Your In-House Counsel, on 6 October 2021, by Webinar



Left to right: Daniel Huth, Megan Westerberg, Elizabeth Chan, Brittany Mouzourakis and Hemma Lomax

As part of the 2021 CPR

International Conference, CPR's Young Leaders in Alternative Dispute Resolution Steering Committee (Y-ADR) presented a panel on 'How to Work Effectively with Your In-House Counsel'.

The panel was moderated by Y-ADR's Steering Committee Member, ArbitralWomen Board member, and Associate at Three Crowns, **Elizabeth Chan**, in Hong Kong. Speakers included **Daniel Huth**, Legal Counsel of Global Litigation Europe & MENA for Shell in London; **Hemma Lomax**, Senior Corporate Counsel, Integrity and Compliance at Snap Inc., in California; **Brittany Mouzourakis**, Counsel-Litigation at Detroit's General Motors LLC, and **Megan Westerberg**, Assistant General Counsel at Eisai U.S. in New Jersey.

The panel focussed on providing advice for young practitioners on developing business relationships and working with in-house counsel.

On the subject of effective pitching to the client, one panellist advised that young practitioners at the pitch table should project confidence, passion, and knowledge of the subject. Another panellist explained that the presence of diverse junior practitioners at the pitch table underscores the law firm's commitment to workforce diversity, which is an important criterion for many in-house counsel in selecting outside lawyers.

To raise visibility, the panellists encouraged young practitioners to find a few moments around the pitch to greet the potential clients, build

rapport and to get to know the client. Young practitioners should take the initiative to interact with in-house counsel directly to create face-time opportunities, such as offering to buy in-house counsel a coffee to network.

In addition to finessing interpersonal skills, young practitioners also must learn how companies approach risks, including the practices that they put in place to avoid, mitigate, and remediate risk.

The panellists elaborated that if young practitioners are cognisant of the principles of risk control, they will have a holistic view and better understanding of the company, putting those practitioners in an excellent position to help companies resolve conflicts and to move past impasses.

The panellists also cautioned that in-house lawyers and company executives do not necessarily approach risk and compliance in the same way.

Young practitioners should be mindful of the collaboration dynamics between inside and outside counsel

so that they can contribute accordingly. When an arbitration or legal proceeding launches, the initial step is for the internal and external counsel to determine the appropriate questions to ask, the respective roles, and the documents to be collected in order to develop a case strategy.

Since inside counsel may receive hundreds of emails per day, the communication must be concise and easy to digest. Such communications should lay out options, make a recommendation, and explain the relevant reasoning.



A recording of the
webinar is available here

This article was first published in Mediate, as part of the CPR Speaks Blog, and has been reprinted (in shorter form) with permission.

Submitted by Mylene Chan, Founders Fellow, Mediators Beyond Borders International, Pittsburgh PA, US



PANEL 3:

Y-ADR PRESENTS:

HOW TO WORK EFFECTIVELY WITH YOUR IN-HOUSE COUNSEL

MODERATOR:

Elizabeth Chan - Three Crowns; Y-ADR Steering Committee, UK

PANELISTS:

Daniel Huth - Legal Counsel, Global Litigation Europe & MENA, Shell, UK

Hemma Lomax - Senior Corporate Counsel, Snap Inc., USA

Brittany Mouzourakis - Counsel, General Motors, USA

Megan Westerberg - Assistant General Counsel, Eisai, USA

Mega Disputes, Expansion of International Arbitration Centers, and a Renewed Interest in Shariah Law as a Foundation of Applicable Law in the MENA Region, Inaugural World Arbitration Update, on 12 October 2021, by Webinar



Left to right: Meagan T. Bachman, Munia El Harti Alonso, Mohamed Abdel Wahab, Cherine Foty, Sara Koleilat-Aranjo

The World Arbitration Update

gathered counsel, academics and governmental experts around the latest developments in [Africa](#) and the [Middle East North Africa](#) (MENA) in the field of dispute resolution.

Moderator **Meagan T. Bachman** (Crowell & Moring) kickstarted the WAU MENA panel by pinpointing the specificities of the region, ranging from:

- i. business-related characteristics, with projects, most often construction, that trigger mega disputes;
- ii. trade-related, as a link between Asia, Africa and Europe,
- iii. political, due to the shifts in regional regimes and alliances; and
- iv. legal, as the legal framework of the region comprises civil law, common law and Shariah law.

Presenter **Munia El Harti Alonso** (Xstrategy) illustrated these characteristics by reference to decisions such as [Petroleum Development v. Sheikh of Abu Dhabi](#), [Aminoil v. Kuwait](#), [Salini v. Morocco](#). Additionally, she mentioned the following recent developments:

- i. the [Memorandum of Understanding between the ICC and the Union of Arab Banks](#), furthering the collaboration between 450 Arab banks and other financial institutions in arbitration and ADR;
- ii. the [opening of the ICC's 5th case management office in Abu Dhabi](#); and
- iii. the [2019 ICC Report on Financial Institutions and International Arbitration](#), which includes a section on Islamic finance disputes.

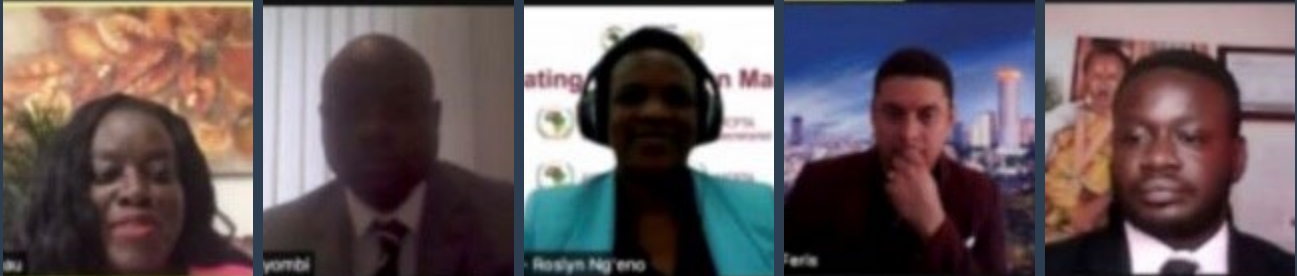
Another development is the Arab Spring, which generated a dramatic increase in arbitration cases filed against Arab States. ArbitralWomen Board member **Cherine Foty** (Covington & Burling) discussed the trends associated with substantive claims and defenses arising out of these events and their potential relevance in light of the Covid-19 crisis, such as necessity ([Union Fenósa Gas v. Egypt](#), [Strabag v. Libya](#)), breaking of the causal link defense ([Olin v. Libya](#)), force majeure ([Gujarat v. Yemen](#), [General Dynamics v. Libya](#)), the State's right to improve workers' wages ([Veolia Propreté v. Egypt](#)) and corruption and fraud ([Nurol v. Libya](#), [Sorelec v. Libya](#)).

Following the dissection of complex disputes, ArbitralWomen Board member **Sara Koleilat-Aranjo** (Al Tamimi & Co.) discussed interim remedies and the powers of the Curial Courts in support of arbitration proceedings in MENA. Interim or provisional measures are codified under various systems of law: civil law, common law and Shariah law principles applied by jurisdictions in the region, including in the recent national legislation on arbitration in Bahrain, Saudi Arabia and in the United Arab Emirates. The landmark 2016 DIFC Court judgment in [Multiplex Constructions LLC v. Elemec Electromechanical Contracting LLC](#) notably granted the first ever anti-suit injunction in the DIFC Court context, and the 2018 judgment of the Cairo Court of Appeals in [Doosan v. Damietta Port and Kuwait Gulf Link Port](#) recognised an interim order by an ICC arbitral tribunal. Those decisions show a fairly recent positive trend in safeguarding the practical utility of interim measures.

Submitted by Munia El Harti Alonso, Xstrategy, Mexico City, Mexico; Catalina Bizic, ArbitralWomen member, Counsel at Morgan Lewis, Frankfurt, Germany, and Maroua Alouaoui, Université Paris I-Panthéon Sorbonne, Paris, France



World Arbitration Update: Influencing the Future of the Investor-State Dispute Settlement System through the Investment Chapter of the African Continental Free Trade Area Agreement (AfCFTA), on 12 October 2021, by Webinar



Left to right: Rose Rameau, Chrispas Nyombi, Roslyn Ng'eno, Jackwell Feris and John Nyanje

The first edition of the Washington Arbitration Update (WAU) took place on 11-15 October 2021. **Rose Rameau**, Managing Partner of RAMEAU INTERNATIONAL LAW in Washington D.C, moderated the panel titled 'Influencing the Future of the Investor-State Dispute Settlement System through the [Investment Chapter of the African Continental Free Trade Area Agreement \(AfCFTA\)](#)' on 12 October 2021. Panellists included Professor **John Nyanje** (Africa Nazarene University), **Jackwell Feris** (Cliffe Dekker Hofmeyr), Professor **Chrispas Nyombi** (University of Derby), **Roslyn Ng'eno** (Senior Investment Expert to the AfCFTA Secretariat) and **Leyou Tameru** (I-Arb Africa).

The panel was based on a recent paper published by Rose Rameau, JD, LLM, FCI Arb, titled '[The Pan-African Investment Code as a Model for Negotiation on the Investment Protocol to the Agreement Establishing the African Continental Free Trade Area](#)'. **John Nyanje** set the stage by presenting the African experience in investment arbitration from a historical perspective. He surveyed the outlook of Investor-State Dispute Settlements (ISDS) in Africa and how colonisation plays a significant role in how the continent as a whole deals with investor-states disputes, especially under the first-generation Bilateral Investment Treaties (BITs).

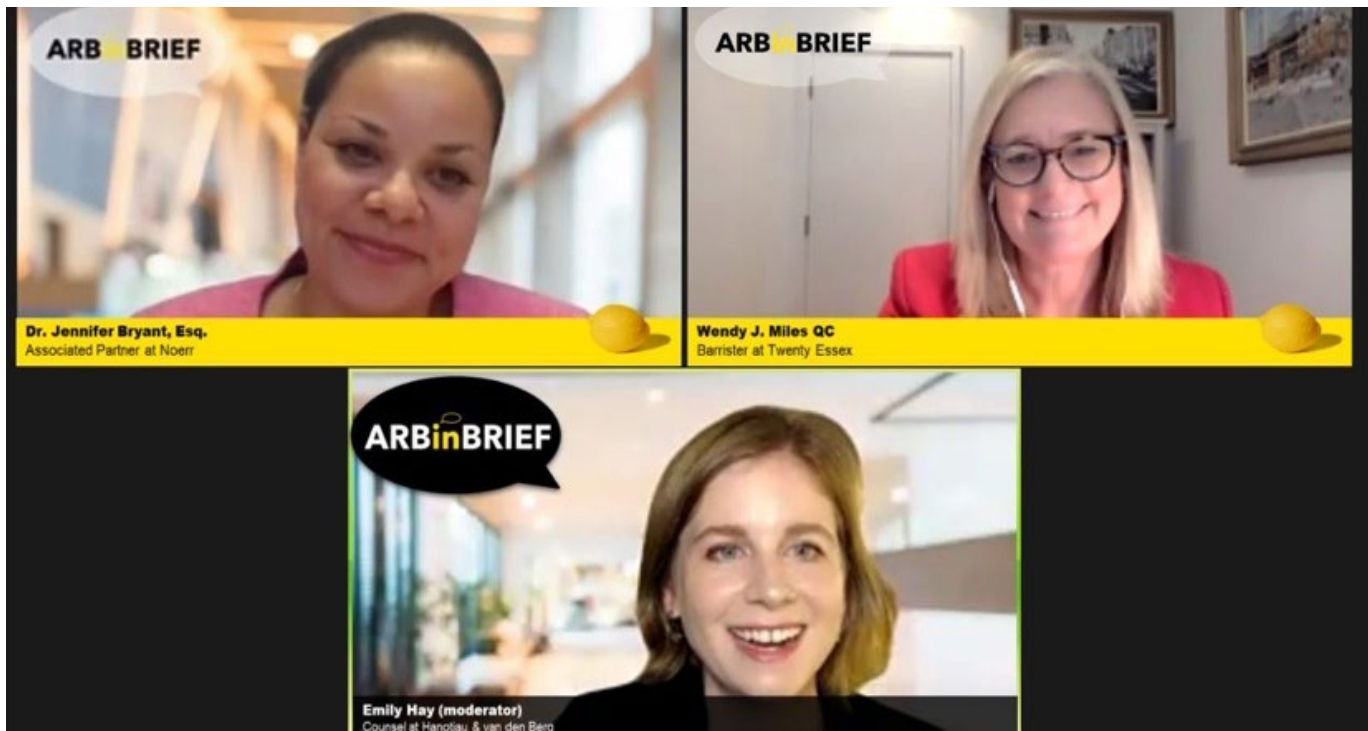
Leyou Tameru questioned the legitimacy of ISDS and argued that, given that EU Member States can no longer bring ISDS claims against each other, perhaps African States could terminate their intra-African BITs as well. **Jackwell Feris** shared the South African (SA) perspective by confirming that SA has not embraced ISDS, but can still live with a relative part of it by modifying or eliminating key provisions such as the Most-Favoured-Nation (MFN) Clause or the Fair and Equitable Treatment (FET). Meanwhile, **Chrispas Nyombi** shared some of his research concerning an African Investment Court. According to Professor Nyombi, 'The Africa We Want', as expressed in the African Union Agenda 2063, requires us to reimagine, *inter alia*, the dispute settlement processes in Africa and take a bold step towards formulating a system that would capture African realities without compromising on the interests of both States and the private sector. Professor Nyombi, therefore, advocates for a Pan African Investment Court system to be introduced under the AfCFTA. **Roslyn Ng'eno**, AfCFTA negotiator and Senior Expert on Investment, explained why 54 African countries formed the AfCFTA treaty, including foreign investment promotion and the international rule of law. She further explained that a rejection of ISDS in AfCFTA is not foreseen in the treaty and that the Treaty relies

on a number of instruments include, among others, the [Common Market For Eastern and Southern Africa \(COMESA\) Treaty](#), and the [Pan-African Investment Code](#).

The 2021 WAU's Circle of Law Firm included RAMEAU INTERNATIONAL LAW, Sidley Austin LLP, Zulficar & Partners Law Firm, King & Spalding, Claviger Law Group, CMS, Crowell & Moring LLP, and Xstrategy, Business | Investment | Arbitration; WAU's Circle of Experts included NERA Economic Consulting, Charles River Associates, Compass Lexecon, AlixPartners, and Mintz Group; as well as the legal finance firms Nivalion AG, Validity Finance, LLC, and Statera Capital, LLC. WAU's supporting organizations included, among others, ArbitralWomen, International Centre for Settlement of Investment Disputes (ICSID), R.E.A.L. – Racial Equality for Arbitration Lawyers, Washington Arbitration Week, Center for International Investment and Commercial Arbitration (CIICA), The East Africa International Arbitration Conference, (EAIAC), Nairobi Centre for International Arbitration (NCIA), and Bahrain Chamber for Dispute Resolution BCDR-AAA.

Submitted by Rose Rameau, ArbitralWomen Board member, Partner, RAMEAU INTERNATIONAL LAW, Washington D.C, US

ARBinBRIEF Season One, Episode One, on 13 October 2021, by Webinar



Top to bottom, left to right: Dr. Jennifer Bryant, Wendy Miles QC, Emily Hay.

ARBinBRIEF is an initiative that offers practical video guides on hand-picked arbitration issues while showcasing diverse arbitrator talent.

Over the course of ten episodes in the first season, ARBinBRIEF is moving through the lifecycle of an arbitration. Episode One took place on 13 October 2021. It focussed on arbitrator appointments and featured a discussion between **Wendy Miles QC** (Twenty Essex) and **Dr Jennifer Bryant** (Noerr) moderated by ArbitralWomen member and ARBinBRIEF Co-Founder **Emily Hay** (Hanotiau & van den Berg).

The top ten takeaways from Episode One about arbitrator appointments were:

Getting your first appointment

1. Get to know the case managers at your local arbitral institution.
2. Learn about these institutions' arbitrator appointment processes.
3. Get to know your peers at events and through work as counsel.

Arbitrator Disclosure

4. Be aware that different institutions frame disclosure standards differently.





5. For arbitrators: if you are spending time wondering whether you should disclose a fact, it is probably an indication that you should do so. That way the parties have the full picture.

Arbitrator Appointments

6. Institutions may vet arbitrator candidates to check for requisite qualities, and in particular, for their availability to take on the case.
7. Qualities to look for when choosing a chair: reliability, ability to have a good working relationship, arbitration experience (including previous experience as counsel, secretary, or arbitrator), specialist knowledge in the substantive issues at stake, and availability to work on the case.
8. Co-arbitrators' relationship with the parties nominating them varies. It is generally acceptable for parties to let their nominated arbitrator know their preferences for chair candidates.
9. Working with your co-arbitrator to select a chair: it helps to discuss together to find common ground over potential names. These names can then be proposed to the parties.

10. With more complex arbitrations, a rank-and-strike system or short/long lists may be useful.

ArbitralWomen is a proud supporter of ARBinBRIEF.

The ARBinBRIEF series is divided into seasons consisting of 10 episodes each. Each episode features a 15-minute live conversation between two arbitrators that is recorded, followed by a (not-recorded) 15-minute audience Q&A. The episodes air every fortnight on Wednesdays. The recorded conversation is then shared as part of a library of video guides on [ARBinBRIEF's YouTube Channel](#)  and the [Delos Dispute Resolution website](#) . To keep up to date on ARBinBRIEF, follow it on [LinkedIn](#) , and to sign up for future episodes visit www.arbinbrief.com .



You can watch Episode One on YouTube [here](#).

Submitted by Emily Hay, ArbitralWomen Member, ARBinBRIEF Co-Founder, Counsel, Hanotiau van den Berg, Brussels, Belgium



Australian Arbitration Week



ACICA

Australian Arbitration Week 2021
took place from 18 to 23 October 2021 with over twenty
events conducted virtually across Australia and with
participants from around the world

The principal conference, co-hosted by the Australian Centre for International Commercial Arbitration (ACICA) and the Chartered Institute of Arbitrators Australia took place on Monday, 18 October 2021, with the theme 'New and Emerging Norms in International Commercial Arbitration'. There were 8 panels, featuring 21 female speakers, including contributions from ACICA President **Georgia Quick** and Secretary-General of ACICA **Deborah Tomkinson**.



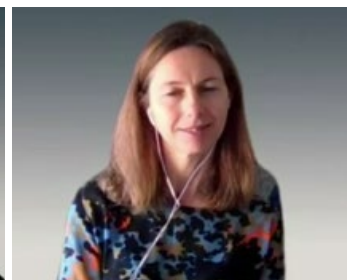
Judith Levine during Session One

International Arbitration's Role in Climate Change, on 18 October 2021, by Webinar

The conference opened with the session 'International Arbitration's Role in Climate Change'. ACICA Vice President and independent arbitrator, ArbitralWomen member **Judith Levine**, chaired the session, exploring what

the imperative of climate action will mean for cross-border investments and business and what role international arbitration might play in the transition to a green economy. She recalled recent ground-shifting developments in the legal and political landscape in the weeks leading up to the panel, including China's pledge to stop building coal-fired power projects abroad, Vanuatu's

stated intention to seek an advisory opinion from the International Court of Justice on future generations' right to be protected from climate change, recent climate litigation cases including orders to the French government to repair ecological damage and prevent further increasing emissions by the end of 2022, announcements by the Business Council of Australia expressing support



Left to right: Bob Carr, Nicola Swan, Stuart Bruce and Ilona Millar during Session One

for strong climate action, the NSW premier's announcement of a strategy to attract over AUD \$80 billion of private investment in the hydrogen industry and commitments due to be expressed by the Australian government to take to COP26 in Glasgow.

Addressing those developments at a geopolitical level, diplomatic negotiations of the key international instruments, and what the need for urgent climate action needs for international business was former Australian foreign minister and Professor of Industry in Climate and Business at the University of Technology Sydney, the Honourable **Bob Carr**.

ArbitralWomen Member, and head of international law at Chapman Tripp in New Zealand, **Nicola Swan**, discussed commercial arbitration to assist in the energy transition, the use of arbitration

to resolve disputes arising out of climate related regulatory change and in the context of facilitating sustainability linked loans. She also addressed what questions boards are asking on climate risk management and how those are being informed by litigation and arbitration of climate disputes.

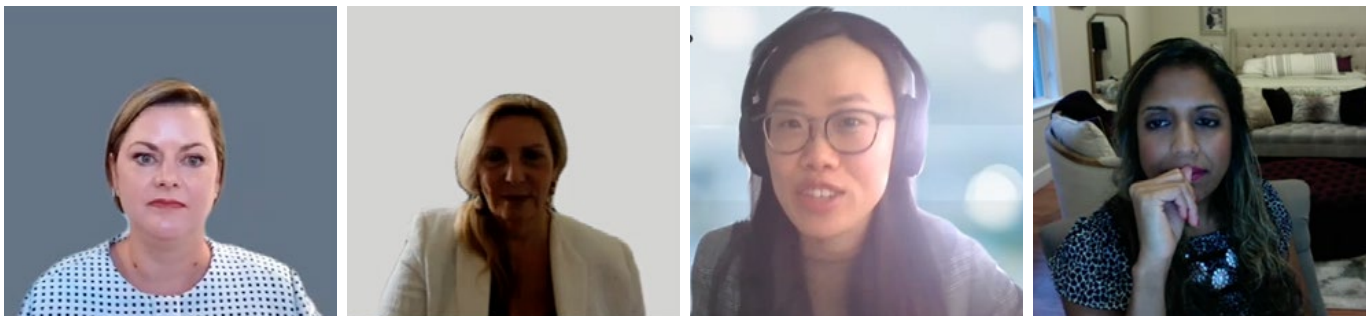
Judith Levine then gave a brief overview of the ways in which climate change issues had arisen in the context of investor-State treaty arbitration before handing over to **Stuart Bruce**, Director in the Climate Risk and Decarbonisation Strategy team at KPMG in London. He addressed the use of counterclaims by States in environment-related investor-State treaty arbitration, including jurisdictional, procedural and substantive challenges in bringing such counterclaims, and

examples of some treaties which have special provisions of relevance. Stuart also discussed the use of science generally in climate disputes and the rule of the IPCC AR6 findings in particular.

Finally, **Ilona Millar**, a Partner at Baker McKenzie in the Environmental Markets Practice in Sydney, spoke about carbon markets disputes. She provided an overview of carbon markets and emission reduction purchase agreements (ERPAs) and the types of disputes that have already arisen under these types of arrangements and that will likely continue to arise. She also provided an update on Article 6 of the Paris Agreement.

Submitted by Judith Levine, Independent Arbitrator, Levine Arbitration, Sydney, Australia

New and Emerging Norms: Diversity, the New Normal on 19 October 2021, by Webinar



Left to right: Erika Williams, Donna Ross, Alexandra Zhu, Rekha Rangachari

On 19 October 2021, during Australian Arbitration Week, ArbitralWomen held its annual breakfast meeting entitled 'New and Emerging Norms: Diversity – The New Normal'.

Before putting questions to each panellist, the moderator, ArbitralWomen Board Member **Erika Williams**, Independent Arbitration Practitioner at Williams Arbitration, first highlighted progress in gender equality by [ArbitralWomen](#) and the [Equal Representation in Arbitration Pledge](#) (ERA) and pointed out the need to also improve diversity in ethnicity, socioeconomic status, age and geography.

Rekha Rangachari, Executive Director of the New York International Arbitration Center (NYIAC) and

ArbitralWomen Board Member, addressed diversity and inclusion from the New York perspective.

As Rekha explained, NYIAC is an organisation supported by law firms and other players in international commercial arbitration, and not an institution. NYIAC is a platform for arbitration thought leadership and communications across law firms and organisations globally. Last year, NYIAC created a diversity and inclusion policy, which also helps younger practitioners voice their perspectives.

She then spoke about the impetus for [Racial Equality for Arbitration Lawyers](#) (R.E.A.L.) and its role in the diversity landscape, which is to promote racial equality in arbitration and build conversations on issues of racial and intersectional diversity,

with a focus on access and advocacy. The organisation was established against the backdrop of race issues in the United States on Martin Luther King Day January 2021. It has offered more than 70 scholarships since its launch.

ArbitralWomen Board member **Donna Ross**, principal at Donna Ross Dispute Resolution, deems that women can get an edge and are more visible with the use of technology and virtual conferences, since traditionally they have had to juggle multiple roles. And as the primary carers, women are typically better versed in social media and through home-schooling due to the pandemic.

Donna addressed the question of whether virtual hearings present an opportunity to really change the game

by stating that women can use their flexibility and adaptability to improve the arbitral process, which is no longer considered cost-effective by many. More women setting up their own arbitration practices and heading up institutions coupled with more women participants and speaking in virtual conferences around the world can be a game changer. Donna encouraged women to speak up at events even if unsure of themselves to enhance their visibility.

She concluded with a novel idea to overcome the pre-conceived notion that men make better arbitrators: why not have nominees for a tribunal provide an anonymous curriculum vitae so the choice of the tribunal members will be

based on experience rather than gender or age, as has been done in other industries.

Alexandra Zhu, Senior Associate at Clifford Chance, wrapped up the session sharing her experience on how virtual hearings have enabled younger practitioners—who, pre-pandemic, were rarely able to attend in-person hearings—to upskill, by observing oral advocacy. She added that being able to press mute and get advice when speaking is another advantage and that younger practitioners who tend to be more tech savvy, can also add value in the 'new normal'. Importantly, she posited that virtual hearings can improve perceptions around diversity

and parity as all participants are on a level playing field.

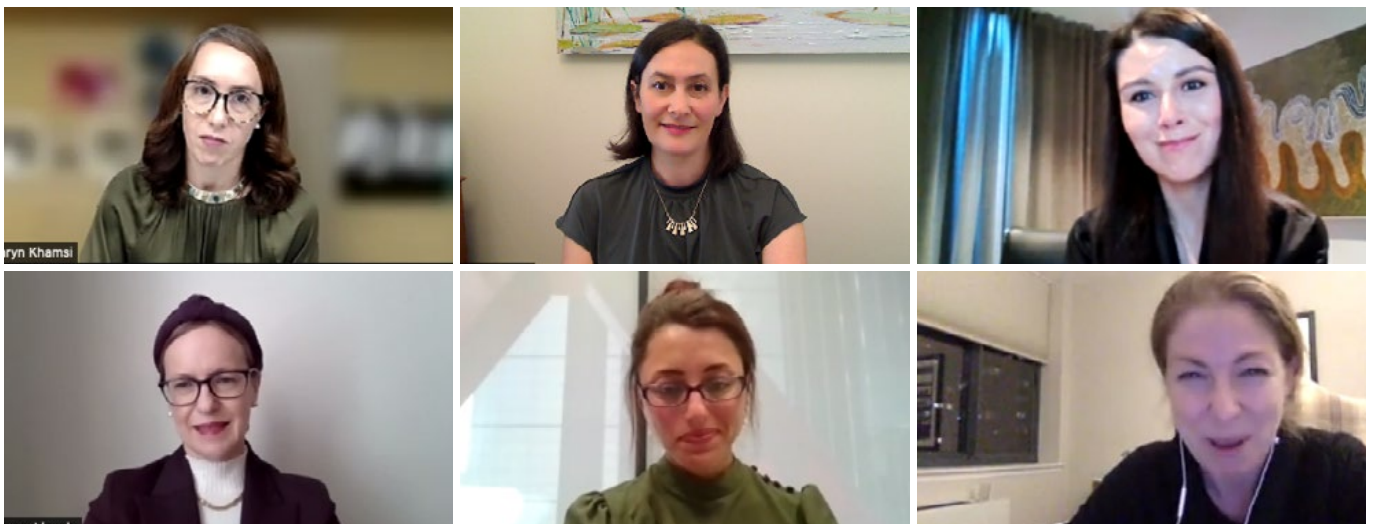
Alex then gave a lively overview of the many virtual initiatives targeting younger practitioners that provide networking opportunities and access to training as well as professional support such as [Careers in Arbitration](#) and many others.



The webinar is available to view here.

Submitted by Donna Ross, ArbitralWomen Board member, Principal, Donna Ross Dispute Resolution, Melbourne, Australia

Arbitrating Environmental Disputes in a World Facing Climate Change, on 19 October 2021, by Webinar



Top to bottom, left to right: Kathryn Khamsi, Judith Levine, Nastasja Suhadolnik, Bronwyn Lincoln, Louise Camenzuli, Lisa Sachs

Day 2 of Australian Arbitration

Week started with another climate-focused panel, hosted by Corrs Chambers Westgarth (Corrs) on the topic of 'Arbitrating Environmental Disputes in a World Facing Climate Change'.

The moderators were Corrs partners and ArbitralWomen members **Bronwyn Lincoln** and **Nastasja Suhadolnik**.

Dr **Louise Camenzuli** of Corrs began discussions by providing an overview of current Australian and international litigation on climate change. She highlighted the role of domestic courts in driving policy in this space, recalling that environmental claims have been

based in human rights claims, torts, actions against commercial entities giving certain affected individuals or groups of individuals a right of action, challenges to project approvals and appeals that relate to emissions, contractual disputes arising out of energy transition and climate related events, and actions against companies and directors for breach of fiduciary duties. Litigation is becoming more strategic as plaintiffs attempt to prompt legislative action. While arbitration has limited ability to generate law reform, it still plays an important role for seeking financial redress.

Independent Arbitrator and ArbitralWomen member **Judith Levine**, then provided an overview of where environmental and climate change issues have arisen in commercial, investor-State and inter-state arbitration. She noted disputes under international commercial contracts arising in connection with projects for mitigation, adaptation and technology and referred to sample arbitration clauses in the model contracts of the Green Climate Fund and International Emissions Trading Association. She also set out what the green transition will mean for changes in government policy how regulatory and legislative changes

have led to, and will lead to, investor-State arbitrations both in the green energy sector (such as the Spanish solar cases) and claims in the emissions-intensive industries (including against Canada and the Netherlands). She touched on some key inter-state decisions relevant to sustainable development, sea-level rise, and the obligation to protect the marine environment, as well as dispute provisions in the Paris Agreement and recent moves to seek an ICJ advisory opinion.

Lisa Sachs, the Director of the Columbia Center on Sustainable Investment in New York then queried the appropriateness of using ISDS for environmental matters. She referenced the modernisation of the Energy Charter Treaty and the changing nature of energy disputes, and spoke of the tension that may arise when regulations and state court decisions may lead to interference with economic interests. She reflected that as it stands, inves-

tor-state dispute settlement is not designed to assist environmental goals. Judith Levine also addressed ways in which states might resist ISDS claims on environmental grounds, including jurisdictional challenges, defences on the merits, and via counter-claims.

Kathryn Khamsi spoke on Emissions Trading Schemes and the role of arbitration in addressing disputes arising from these legal frameworks. Disputes can vary from regulatory disputes where states are involved and private disputes between commercial parties as a result of trading. She explained the different ways and relationships that could lead to domestic litigation or international arbitration and predicted a proliferation of disputes as more states impose these schemes.

Judith Levine was asked whether bespoke arbitral rules are needed. She mentioned the PCA Rules, IBA Climate Justice Report and ICC Taskforce and outlined the different ways of adapting

existing arbitral rules for environmental disputes, such as through technical expertise, transparency measures and fast-track timelines. As trends for the future, she observed an increase in the number of contract disputes from the green energy sector, the greening of the arbitration process itself, and greater activity from South Pacific nations.

Australian Disputes Centre associate **Cheryl Ang** described the session as 'an inspiring call to action' that 'will be increasingly relevant in the years to come.'



Click here to view a recording of the webinar.

Submitted by Judith Levine, Independent Arbitrator, Levine Arbitration, drawing also on material from Australian Disputes Centre blog [🔗](#), post by Special Rapporteur – Cheryl Ang.

The NRF Hypothetical: Perspectives on Current Issues in International Commercial Arbitration, on 19 October 2021, by Webinar



Left to right: Aaron Rofkahr, Tamlyn Mills, Abhinav Bhushan, Judith Levine

Norton Rose Fulbright hosted a 'Hypotheticals' session based on a dispute arising from Blueprint LLC, a pulp and paper company incorporated in a hypothetical country with laws similar to that of France, and Vellum Forestry Limited, a state-owned company specialising in forestry activities and incorporated in a country with laws similar to that of the US. Blueprint and VFL entered a joint venture to develop remote forests in Vellum, and encountered several obstacles and delays, leading to the deterioration of

the relationship and Blueprint commencing ICC arbitration.

This discussion was moderated by Norton Rose Fulbright Partner **Dylan McKimmie**.

Giving the institutional insight was former ICC counsel **Abhinav Bhushan**. Providing the perspective of the claimant's in-house counsel was Chevron lawyer **Aaron Rofkahr** and the respondent's external counsel was played by ArbitralWomen member **Tamlyn Mills** of Norton Rose Fulbright. Independent arbitrator and ArbitralWomen member,

Judith Levine provided the perspective of the tribunal.

The first obstacle was an arbitrator challenge. Aaron Rofkahr, spoke about factors to consider when an arbitrator has a considerably closer connection to one party than the other. Given the importance of the selection of the arbitrator, the parties needed to consider what circumstances create risks or conflicts, and whether there was a necessity to place protective walls.

Tamlyn Mills discussed the tactical side of deciding whether to challenge an

arbitrator. Abhinav Bhushan considered the difference between an objection and a challenge in the arbitration process and suggested the need to look at the timeline of when a challenge is confirmed. Judith Levine discussed what input arbitrators had in the challenge process, and the different strategies as to what one should say and what one should not say. She noted differences in who decides challenges depending on the institutional rules. As to relationships with experts she referenced the *Eiser v Spain* case and the extensive disclosure obligations under the proposed ICSID/UNCITRAL Code of Conduct.

The panellists then looked at the procedural considerations at play when

there is a joinder request after the case has started. Next they discussed privilege claims when parties are from jurisdictions that have different rules on legal professional privilege. The IBA Rules provide some guidance, and in similar cases to the hypothetical, tribunals have opted to 'give the parties the benefit of whichever of the potentially applicable rules provides the greatest measure of protection'. Other practicalities and efficiencies related to document production were then addressed.

The panellists also reflected on how arbitration practice has adapted to the Covid-19 pandemic. They discussed tools available to address the problem, in the hypothetical, of the government

witness unavailable to testify on the hearing day via video from a location with poor internet connection. The speakers made predictions about the continued use of virtual hearings for procedural hearings, and merits hearings and some of the procedural fairness issues that had arisen and how they had been addressed in hybrid hearings, as well as practical tips for the new kind of 'time zone' jetlag experienced by participants, especially in the Pacific rim.

Submitted by Judith Levine, Independent Arbitrator, Levine Arbitration, drawing also on material from the Australian Disputes Centre blog [🔗](#), post by Special Rapporteur – Helen Lin.

Career Pathways in International Arbitration, on 20 October 2021, by Webinar



Left to Right: Lydia Law, Kristian Maley, Chester Brown, Judith Levine, Julia Dreosti and Imogen Kenny

Day 3 of Australian Arbitration

Week included a Career Pathways session sharing panellists' diverse professional experiences to highlight the breadth of available opportunities.

Kristian Maley of Clifford Chance moderated. Professor **Chester Brown** of The University of Sydney and barrister at 7 Wentworth shared the perspective of academia and the independent bar. ArbitralWomen member **Julia Dreosti** of Clifford Chance shared her perspectives on private practice, including large and boutique practices. ArbitralWomen member and independent arbitrator **Judith Levine**, shared insights on having a practice as an arbitrator, as well as her experience at intergovernmental organisations and Biglaw. **Imogen Kenny** of Herbert Smith Freehills shared her experience as tribunal secretary. **Lydia Low** shared insights as in-house counsel acting on large-scale international arbitration matters. Each panellist gave a brief overview

of their own career journeys.

Imogen Kenny spoke about the role of tribunal secretaries which is similar to that of a Judge's Associate, in assisting the Tribunal with complex matters. There are typically two components: administrative, involving document management and liaising with parties, and substantive, which could include research, drafting procedural orders and summarising parties' submissions. The best pathway to get started as a tribunal secretary is to establish a relationship with an arbitrator, or a barrister or law firm partner wearing an arbitrator hat. Show your interest naturally with enthusiasm about arbitration and positive relationships with individuals in the profession will help.

Judith Levine shared tips on securing your first arbitrator appointment (likely a small case and appointment from an institution). As you become more experienced and well-known for high quality work, you will start being approached by

parties directly, or appointed by other arbitrators. Ser recommended making yourself known to the ICC National Committee, and actively contributing to the young professional bodies of arbitral institutions. Judith advised gaining experience at a law firm, at an arbitral institution, and/or as a tribunal secretary, before jumping into an arbitrator role. She loves the variety of work and types of cases, with different colleagues, governing laws and industries and the intellectual stimulation this variety has offered her. There is great autonomy and flexibility that comes with being an arbitrator, and a nice blend of independence and collegiality. It is a fun career without a use-by date.

Chester Brown spoke on the opportunities that a career in arbitration provides for new experiences. First, in terms of interacting with individuals from different countries and business cultures, Chester touched on the value of participating in the Vis Moot, and how it requires you to

adjust to different methods of persuasion to communicate with arbitrators from different jurisdictions. Second, Chester spoke on the diversity of experience and flexibility he has been able to maintain in his career, free to pursue his passions in international and investment law, while working as a barrister and interacting with bright young legal minds.

Julia Dreosti shed insight into the advantages of working in private practice. She spoke on the opportunities to gain insights into all sorts of

industries, work side by side with clients in her capacity as a risk management advisor and peacemaker, as well as the opportunities to be inspired by your surrounding team, inspire your juniors and help them grow. She also indicated her appreciation for working across different cultures, and that her career also provides flexibility to put on the hat of an academic and publish papers.

The panellists were divided on whether it is better to be an expert in international arbitration first and fore-

most or expert in a substantive area of law. They agreed, however, that openness to experience is an essential trait for a successful career in international arbitration and all stressed the importance of experience working abroad.

Submitted by Judith Levine, ArbitralWomen member, Independent Arbitrator, Levine Arbitration, Sydney, Australia drawing also on material from the Australian Disputes Centre blog , post by Special Rapporteur – Caroline Xu.

ACICA45 Practicalities of Procedure, on 20 October 2021, by Webinar

On 20 October 2021, as part of Australian Arbitration week, ACICA45 presented a workshop on 'Practicalities of Procedure' which addressed elements of a procedural order including practical considerations for an arbitration hearing.

The event was moderated by ArbitralWomen Board member **Erika Williams**, Independent Arbitration Practitioner, Williams Arbitration and was delivered in two segments, separated by break out room sessions.

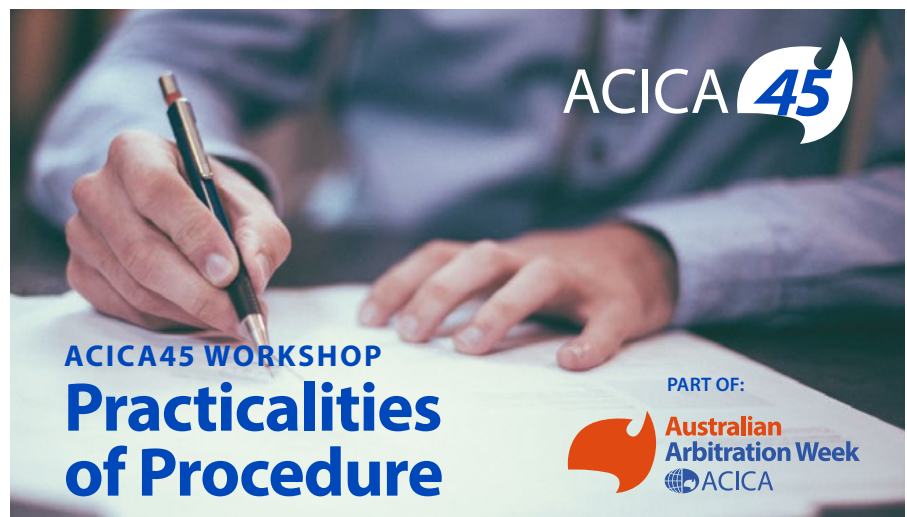
The first session was led by **Guillermo Garcia-Perrote**, Senior Associate, Herbert Smith Freehills and **Graham Topp**, Quantum Expert and Head of Diales Oceania. Issues considered included the pros and cons of a terms of reference, the pleadings versus memorials debate that is experienced in Australia, bifurcation and disclosure. Graham provided his insights as an expert as to what experts would like to be consulted on when parties are negotiating procedural orders.

In the second session, **Lucy Zimdahl**, Senior Overseas Practitioner, Allens and **Imogen Kenny**, Solicitor, Herbert Smith Freehills provided practical insights into the elements of a procedural order that affect the conduct of the hearing. Issues covered included orders pertaining to the translation of documents, time allowance in chess-clock hearings when interpreters are required and the use of a tribunal secretary.

The webinar was hosted by Law in Order. **Joshua Rizk**, ehearings Lead Consultant at Law in Order expertly managed the swooshing of attendees

into separate break out sessions and returning them to the main webinar. Joshua also provided us with his insight

into considerations for procedural orders regarding virtual hearings including the virtual conferencing platform, evidence



With sometimes unexpected and often far-reaching implications, practitioners should not underestimate the importance of the 'humble' Procedural Order No. 1. Join ACICA45 for a war story fuelled workshop on negotiating your Procedural Order, including:

- the anatomy of a Procedural Order;
- the age-old debate: pleadings vs. memorials;

- when to bifurcate;
- discovery dilemmas;
- forms of expert evidence;
- common pitfalls when negotiating your Procedural Order; and
- how to tailor procedure to your client and their objectives.

SPEAKERS INCLUDE:



Chris Holland
Senior Associate, King & Wood Mallesons



Erika Williams
Counsel, Australian Centre for International Commercial Arbitration



Graham Topp
Quantum Expert and Head of Diales Oceania



Guillermo Garcia-Perrote
Senior Associate, Herbert Smith Freehills



Imogen Kenny
Solicitor, Herbert Smith Freehills



Lucy Zimdahl
Senior Overseas Practitioner, Allens

Date: Wednesday, 20 October 2021

Time: 10am to 12pm (AEDT)

WEBINAR

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According to the Special Rapporteur, Stefano Salani on the Australian Disputes Centre [Australian Arbitration Week 2021 Blog Post](#) ,

'The panel provided practical recommendations as to how to approach

Procedural Orders to achieve the best outcomes for the client. Moreover, [participants] had the opportunity to listen to arbitrators and tribunal secretaries share their 'war stories' in the field of international arbitration. One of the main takeaways from the workshop was that practitioners should not underesti-

mate the importance of the Procedural Order, which can have unexpected and far-reaching implications.'

Submitted by Erika Williams, ArbitralWomen Board member, Independent Arbitration Practitioner, Williams Arbitration

Introduction to the ACICA Rules 2021, on 21 October 2021, by Webinar

Throughout 2021, ArbitralWomen Board member **Erika Williams**, Counsel, ACICA and Independent Arbitration Practitioner, Williams Arbitration, rolled out the animated enactment of an arbitration proceeding using the newly published ACICA Rules ('Rules') in five capital cities throughout Australia with a mix of hybrid and virtual events. The Roadshow culminated in a final webinar held on 21 October 2021 during Australian Arbitration Week.

Participants in the final Roadshow were primarily based in Sydney. This event was hosted by **Edwina Kwan**, King & Wood Mallesons, and moderated by **Gitanjali Bajaj**, DLA Piper. The participants were **Mark Dempsey SC**, 7 Wentworth Selborne, (acting as claimant's counsel), **Damian Sturzaker**, Marque Lawyers (acting as respondents' counsel), the Hon. Dr. **Kevin Lindgren AM QC** (acting as arbitrator), **Tom McDonald**, Vannin Capital (acting as third-party funder) and Erika Williams, on behalf of ACICA.

To illustrate how the changes to the Rules would operate in practice, the panellists played a role in international arbitral proceedings governed by the ACICA Rules 2021, using a hypothetical scenario involving the termination of a contract for the supply of coal between the claimant, an Australian Steel making company, and the respondents, a Chinese purchaser that acts as an intermediary and on-sells Australian coal and its Chinese parent company, which had provided a guarantee. The purchaser terminated the contract based on misrepresentation of the quality of the coal. The claimant then commenced

arbitration against the purchaser under the contract and the parent company under the guarantee.

The panels' interactive approach was successful in demonstrating the practical effect of key amendments to the Rules, which have been adopted to reflect developments in international best practice and to further enhance the arbitration experience for all users. In particular, the event focused changes to the Rules for improved online practices developed during COVID-19, the expanded scope for consolidation and multi-contract arbitrations including the addition of the ability to commence a single arbitration in respect of disputes under multiple contracts and the ability to consolidate arbitrations when the parties to the arbitrations are not the same, effective case management,

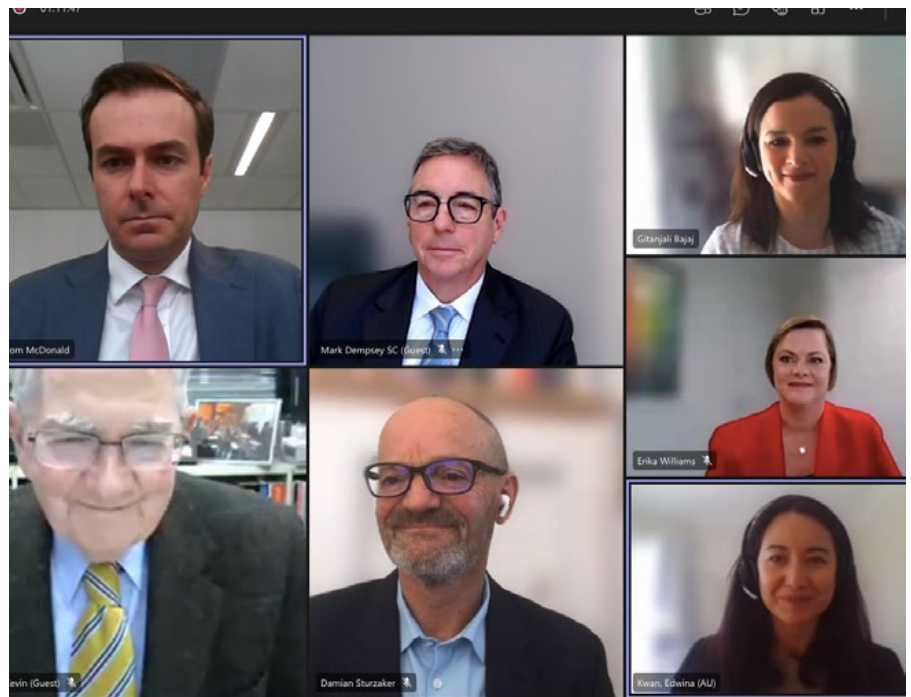
increased institutional supervision of tribunal appointments, the requirement that Tribunals raise alternative dispute resolution methods and a time frame for the rendering of an arbitral award, and disclosure of third-party funding arrangements.

The overall feedback from the audience was that this scenario style event was a fun and entertaining way to demonstrate the amendments to the ACICA Rules.



A recording of the webinar
is available here.

Submitted by Erika Williams, ArbitralWomen Board member, Independent Arbitration Practitioner, Williams Arbitration



Top to bottom, left to right: Tom McDonald, Mark Dempsey SC, Gitanjali Bajaj, the Hon. Dr Kevin Lindgren, Damian Sturzaker, Erika Williams, Edwina Kwan



Breaking Down Barriers: An Interactive Workshop on Cross-Cultural Communication in International Arbitration, on 20 October 2021, by Webinar



Top to bottom, left to right: Dr Mary Howard, Kirsten Teo, Nivvy Venkatraman, Elizabeth Chan, Olena Perepelynska, Stuti Gadodia and Susie Abdel-Nabi

On 20 October 2021, Young ArbitralWomen Practitioners (YAWP) and the Asian International Arbitration Centre's Young Practitioners' Group (AIAC YPG) jointly held an engaging workshop on 'Breaking Down Barriers: An Interactive Workshop on Cross-Cultural Communication in International Arbitration'. The primary aim of the workshop was to provide the participants with an overview of the broad range of cross-cultural issues that are commonly encountered in international arbitration, as well as providing them with some tips and ideas on how to navigate such issues when they arise in practice.

Opening remarks for the workshop were provided by ArbitralWomen Board member and Co-Director of YAWP, **Elizabeth Chan** (Associate, Three Crowns LLP), who provided a snapshot of the role and initiatives of ArbitralWomen and YAWP. The session was then handed over to ArbitralWomen member **Nivvy Venkatraman** (Senior International Case Counsel, AIAC) who moderated the lively 60-minute panel discussion. The panel featured ArbitralWomen members **Olena Perepelynska** (Partner, Integrites), **Susie Abdel-Nabi** (Partner, Clyde & Co), **Stuti Gadodia** (Associate, Freshfields Bruckhaus

Deringer) and **Kirsten Teo** (Director (Events and Memberships) and Global Lead Ambassador, Arbitrator Intelligence), as well as Dr **Mary Howard** (International Arbitrator, ENG Legal), all of whom shared their insights and experiences working across different geographic regions.

Mary Howard touched on her PhD research on cross-cultural differences in international arbitration and emphasised the need to be attuned to the vulnerabilities of the participants in an arbitration, including the importance of knowing and understanding witnesses and the impact of culture on human behaviour and reactions.

StutiGadodia and Kirsten Teo provided examples of certain cross-cultural differences they had encountered during the early stages of their career and how they navigated such issues. They also focussed on the topic of cross-examinations and shared their tips for civil law practitioners who are required to conduct a cross-examination in an international arbitration proceeding.

Olena Perepelynska and Susie Abdel-Nabi thereafter focussed on the cultural sensitivities people should be aware of when conducting disputes in the CIS and Middle Eastern regions. They also analysed the dif-

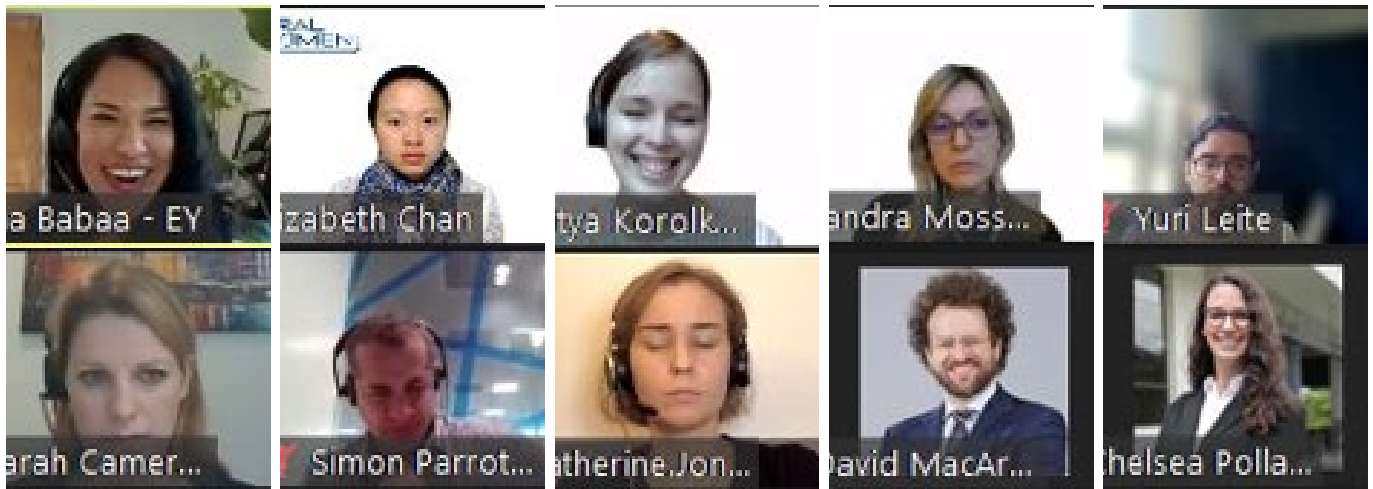
ferent approaches to oral and written submissions in civil law and common law jurisdictions and the strategies practitioners could adopt to address such differences (i.e. pleadings versus memorials and tailoring the delivery of oral submissions to suit the background of the arbitral tribunal).

The discussion then turned to other cross-cultural issues practitioners should be mindful of, including the different standards of proof in common law and civil law jurisdictions; issues relating to agency and powers of attorney; the different approaches to the production of documents and 'without prejudice' settlement negotiations; matters relating to the simultaneous interpretation of documents, oral submissions and confidentiality rules; the relevance of pre-contractual negotiations; and the different approaches to admitting ambush evidence.

The panel discussion was followed by a 30-minute interactive session where the participants had the opportunity to review certain prescribed scenarios with the panellists in order to put the theory covered into practice.

Submitted by Nivvy Venkatraman, Senior International Case Counsel, Asian International Arbitration Centre, Kuala Lumpur, Malaysia

The impact of Covid-19 on the assessment of damages, on 20 and 21 October 2021, by Webinar



Top to bottom, left to right: Sanaa Babaa, Elizabeth Chan, Ekaterina (Katya) Korolkova, Sandra Mossios, Yuri Leite (participant), Sarah Cameron, Simon Parrott

In October 2021, EY's Claims & Disputes team hosted the second workshop in the series titled 'Demystifying quantum and expert evidence' in collaboration with the Equal Representation in Arbitration Pledge Young Practitioners Subcommittee (YPSC) and ArbitralWomen, and with the support of the Rising Arbitrators Initiative and Racial Equality for Arbitration Lawyers.

The topic of the workshop was 'The impact of Covid-19 on the assessment of damages' focussing on the approaches experts may take, faced with the uncertainties caused by the COVID-19 pandemic, to quantify damages in a disrupted market. As ArbitralWomen Board member and YPSC Member **Elizabeth Chan** (Three

Crowns) put it '...damages may be one of the technically most difficult parts of a case, but also one of the most important to clients. We wanted to give aspiring arbitrators the skills to navigate complex and competing quantum claims'.

The discussion was centred on a specially developed loss of profit case study where the period of loss bridged the pre-pandemic and pandemic periods. During the interactive plenary session and two workshops, the participants had the opportunity to compare and contrast different approaches taken by opposing experts and discuss both commonly accepted approaches to assessment of damages and the complexities created by Covid-19.

Participants from multiple countries joined the session and brought

diverse experiences creating a highly interactive and insightful Q&A round. Participants shared their thoughts from the perspective of arbitrator and counsel, relating to dealing with uncertainty brought by Covid-19. Feedback from the participants showed that the session proved to be extremely useful and highlighted that the workshops worked 'extremely well', were effective and informative.

The EY presenters and workshop leads were: **Matt Fritzsche, Sanaa Babaa, Simon Parrott, Sarah Cameron, Sandra Mossios, Ekaterina (Katya) Korolkova** and **Marion Lespiau**.

Submitted by Ekaterina Korolkova, ArbitralWomen member, Assistant Director, Ernst & Young, London, UK

Growth and Opportunity in Latin American ADR: The Arbitral Process and Beyond, 20 October 2021, Virtual

On 20 October, 2021, JAMS, the ABA International Law Section – International Mediation and International Arbitration Committees, and the Miami International Arbitration Society (MIAS) hosted a webinar on **Growth and Opportunity in Latin American ADR: The Arbitral Process and Beyond**. ArbitralWomen

was a proud supporter of this event which was attended by people in 22 countries.

Hernando Otero, International Arbitrator and Mediator and Fellow at the Center on International Commercial Arbitration at the American University College of Law, kicked off the event with welcome notes and the intro-

duction of the first session. Damali Peterman, International Arbitrator and Mediator with JAMS, interviewed Mercedes Tarrazón, international mediator and arbitrator at Dispute Management S.L. in Spain. Mercedes described herself as a 'multilingual dispute resolver who assists parties in finding solutions', and shared her expe-



Top to bottom, left to right: Cecilia O'Neill, Margaret Poppe, Mercedes Tarrazón, Macarena Letelier, Angelica Perdomo, Rebeca Mosquera, Damali Peterman, Sherman Humphrey, Hernando Otero

periences on the arbitral process throughout Latin America, the potential for diverse dispute resolution mechanisms, and perspectives on future trends. One takeaway tip for boosting arbitration was including a carefully drafted dispute resolution clause in contracts.

The second panel was moderated by Rebeca E. Mosquera, ArbitralWomen Board member and

Senior Associate at Akerman LLP. Speakers included Macarena Letelier, Secretary-General at Santiago Arbitration and Mediation Center in Chile; Cecilia O'Neill, the Dean of Universidad del Pacifico's Law School and Member of the International Arbitration Center of AmCham Peru and Angélica Perdomo, International Arbitration Attorney at Bogota

Arbitration and Conciliation Center in Colombia. discussed the state of ADR in Chile, Colombia and Peru, and then moved to a discussion of different ADR mechanisms used in these jurisdictions.

The webinar recording and the program materials, including the panellists' bios, articles written by the panellists, and additional resources are available [here](#).

JAMS extended a special thanks to its partner organization, ArbitralWomen, and to its supporting organizations Center for Arbitration and Conciliation, Bogota Chamber of Commerce; Centro de Arbitraje y Mediación, Cámara de Comercio de Santiago de Chile; and Centro Internacional de Arbitraje, AmCham Peru for their support and participation in this webinar.

Submitted by Sherman Humphrey, Senior Global Practice Manager at JAMS, Miami, Florida, US, and Margaret Poppe, Senior Global Practice Coordinator at JAMS, Washington D.C., US

Cybersecurity and data protection in international arbitration, on 21 October 2021, by Webinar

On 21 October 2021, ICC Belgium organised a webinar on cybersecurity and data protection in international arbitration. This multidisciplinary webinar focussed on the importance for arbitrators and participants in an arbitration proceeding to audit the IT tools they use for the exchange of documents and for virtual hearings. The aim was to share practical tips with the attendees from legal and technical perspectives.

After an introduction on the topic by **Jean-Pierre Fierens**, Partner, Strelia, **Olivier van der Haegen**, Partner, Loyens & Loeff, highlighted the background and the framework of virtual hearings since the outbreak of the Covid-19 pandemic. He addressed the responses from the arbitral community aimed at making remote hearings work, for example by drafting guidance notes (e.g., ICC Commission Report on Information

Technology in International Arbitration and the CEPANI Checklist for Remote Hearings) and amending institutional rules to confirm the possibility of arbitral tribunals imposing remote hearings. He outlined the importance of cybersecurity as a topic tackled by the arbitral community and its responses to limit

the cyber risks. While commenting on the results of the 2021 Arbitration Survey from Queen Mary University of London, Olivier was of view that remote hearings are likely to last and pointed out that some arbitration institutions (e.g., SCC, VIAC, CEPANI) have already upgraded the security of their digital



infrastructures to address the arbitral community's concerns with respect to cyberattacks.

Dodo Chochitaichvili, ArbitralWomen member and Partner, Ariga, addressed the liability aspects of cyber risks. She stressed that all participants in an arbitration proceeding must understand data security threats which can cause reputational harm and regulatory penalties, and which can be a direct threat to the fair, neutral and orderly process of arbitration. Dodo outlined different sources of the obligation to protect the data and avoid intrusion (such as ethical responsibilities, data protection regulations, rules from arbitration institutions, contractual security obligations between the participants in an arbitration proceeding), concluding

that cybersecurity is a 'shared responsibility' as any breach may affect all participants in an arbitration. She then addressed the liability of a service provider, the liability of the arbitrators and the parties, and concluded with some considerations on cyber insurance.

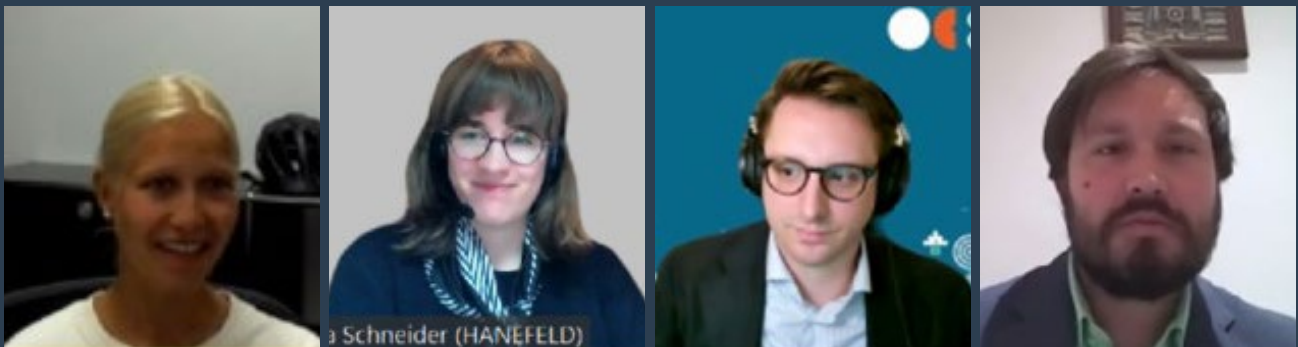
Stéphanie De Smedt, Counsel, Loyens & Loeff, examined the many facets of data protection and privacy. She considered that EEA-based arbitrators will generally be (joint) data controllers under the GDPR. Such qualification entails cybersecurity related responsibilities under the GDPR, such as the obligation to ensure appropriate security of personal data, the obligation to notify data breaches to local data protection authorities and/or data subjects and the responsibility for engaging reliable (sub)

processors. Stéphanie drew attention to some main points on these obligations for the tribunal as data controller. In addition, she provided a useful analysis and comparison of privacy terms of specific IT tools and shared recommendations from a data protection perspective.

Finally, the cybersecurity technical expert of the panel, Lisa de Wilde, Incident Response Coordinator, Northwave, addressed concrete examples of cyberattacks and provided technical recommendations on how to act in cases of phishing, credential leak, data theft and publication to have a safe digital journey.

Submitted by Dodo Chochitaichvili, ArbitralWomen member, Partner, Ariga, Brussels, Belgium

'How to Succeed as a Junior Arbitration Lawyer', on 26 October 2021, by Webinar



Left to right: Eileen Löbig, Viktoria Schneider, Duncan Gorst and Michael Neumeier

Germany Very Young Arbitration Practitioners (Germany VYAP), a new initiative under the umbrella of the Global VYAP Network, held its virtual kick-off event, titled 'How to Succeed as a Junior Arbitration Lawyer' on 26 October 2021. Germany VYAP aims to establish a sustainable, diverse, supportive and inclusive network of young and aspiring arbitration practitioners with up to five years of post-qualification experience, as well as trainee lawyers and law students interested in a career in international arbitration in Germany.

The interactive event involved **Michael Neumeier**, Deputy Counsel

at the International Chamber of Commerce (ICC) in Paris, as well as the chairs of Germany VYAP, namely **Eileen Löbig**, Associate at the Frankfurt office of Allen & Overy, **Viktoria Schneider**, Associate at the Hamburg office of HANEFELD, and **Duncan Gorst**, Senior Associate at the Munich office of Osborne Clarke. In front of a diverse and international audience, which reflects the young arbitration scene in Germany, the speakers shared their very personal experiences and advice on how to tackle the life of a junior arbitration lawyer.

The conversation started off with

the speakers reminiscing about what led them into international arbitration, thereby explaining why they chose their respective paths and what kind of work these paths entail. In doing so, they equally covered the work in arbitral institutions, arbitration boutique firms and international law firms. They also discussed different work profiles that junior lawyers may encounter in international arbitration, such as case manager, junior counsel and administrative secretary, and noted the challenges to start out as foreign lawyer in Germany.

Further into the event, the discussion evolved around practical tips on

the daily work-life of a junior arbitration lawyer. In that regard, it became readily apparent how important it is for junior lawyers to connect with their peers, given that the challenges each of them face are generally very similar. Apart from the daily work-load and the (often self-inflicted) pressures associated therewith, all speakers remembered their struggles with writer's blockage, Murphy's Law ('Everything takes longer than you think'), learn-

ing how to communicate with teams and superiors, how to prioritise, and how to suppress the urge of taking on too much work in an endeavour to prove themselves. Most fundamentally, however, no junior arbitration lawyer should ever underestimate the value of their own work. As experience shows, even (ostensibly) minor tasks may be important in the larger picture and junior arbitration lawyers should always be mindful that their team and

their partners indeed rely on their work.

In the spirit of another fundamental piece of advice that the speakers gave to the audience, namely the importance of posing questions, the event closed with a Q&A session.

Submitted by Viktoria Schneider, ArbitralWomen member, Associate HANEFELD, Hamburg Germany and Eileen Löbig, Associate, Allen & Overy, Frankfurt, Germany

Celebrating Equity Project expansion: An initiative to advance diversity in disputes, on 27 October 2021, in New York City, NY, US

On 27 October 2021, Burford

Capital hosted a launch event to celebrate the second phase of The Equity Project, the award-winning Burford initiative that provides an economic incentive to promote diversity in the business of law. The project was first launched in 2018 with a USD 50 million pool of legal finance capital to back arbitration and litigation led by women.

With USD 56.7 million committed in phase one as of 2020, The Equity Project has now been expanded with a further USD 100 million for matters led by female and racially diverse lawyers. Furthermore, as part of its commitment to provide an economic incentive for change, upon the successful resolution of Equity Project funded matters, Burford will commit a portion of its profits to organisations that promote lawyer development for female and racially diverse lawyers.

With its expansion, The Equity Project also recruited new Champions, each committed to further driving diversity and change within the field of law. Nearly half of Burford's Equity Project Champions are high-profile arbitration specialists. Continuing and newly recruited Champions include **Brenda Horrigan**, Independent Arbitrator, **Keith J. Harrison**, Partner & Co-Chair, Crowell & Moring, **Maria Eugenia Ramirez**, Partner, Hogan Lovells, **Sue Prevezer QC**, Independent Arbitrator, Brick



Aviva Will

Court Chambers and the Hon. **Daniel Winterfeldt MBE QC**, Managing Director, Jefferies. The event was attended by law firm partners, senior finance professionals, DEI leaders and specialists in the arbitration space.

The event took place at New York's historic Yale Club on its private rooftop terrace. The night commenced with speeches by Co-Chief Operating Officer **Aviva Will** and Chief Marketing Officer **Liz Bigham**, who both celebrated the successful development of the initia-

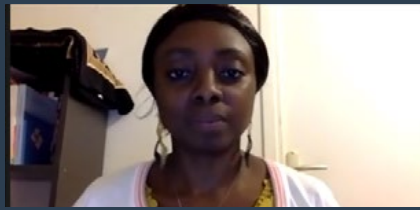
tive and stressed the importance of continuing the work towards a diverse and equitable future in law. This is now more important than ever, as the pandemic placed new stressors on women and diverse lawyers in the workplace and led to a mass exodus of women in employment overall.

Diversity has and always will be good for business. As Aviva Will [noted](#) , Burford handles thousands of commercial disputes annually, yet startling few are led by female and racially diverse lawyers. By providing an economic incentive, law firms are encouraged to place women and racially diverse lawyers front and center. This in turn allows the lawyers to take on high-value cases and build their books of business. Burford has already made a multi-million dollar commitment under the newly expanded Equity Project to a matter led by a female in-house lawyer and a racially diverse outside litigation team for a Fortune 100 company.

The event was a great success, and it was fantastic to see so many distinguished guests attend in-person to celebrate and learn more about the initiative.

Submitted by Aviva Will, ArbitralWomen member, Co-Chief Operating Officer, Burford Capital, New York and Liz Bigham, ArbitralWomen member, Chief Marketing Officer, Burford Capital

ERA Pledge Francophone Africa events, on 28 October and 8 December 2021, by Webinar



28 October event: Top to bottom, left to right: Bintou Boli Djibo, Sylvie Beboni Ebongo, Gisèle Stephens-Chu, Aminatou Akobe & Marie-Andrée Ngwe

As part of its efforts to promote women practitioners on the African continent, the Africa Sub-committee of the ERA Pledge has been hosting a series of events highlighting practitioners from a range of Francophone African jurisdictions. The first of these events, on 28 October 2021, on the topic of arbitration and ADR in the OHADA region, featured **Marie-Andrée Ngwe** (Cabinet Ngwe Marie-Andrée, Cameroon), **Bintou Boli Djibo** (President of the Association of African arbitration and mediation centers and Permanent Secretary of the Arbitration, Mediation and Conciliation Center of Ougadougou, Burkina Faso) and **Aminatou Akobe** (Cabinet CT Avocats, Cameroon), with moderation from Pledge ASC member **Sylvie Bebohi Ebongo** (HBE Avocats). The

issues discussed ranged from recent developments in OHADA arbitration law, the development of mediation, both self-standing and in conjunction with arbitration, and the impact of the pandemic on arbitral centres in the region, to the challenges faced by young practitioners seeking to build a career in arbitration in Francophone Africa.



A recording of the event is available here.

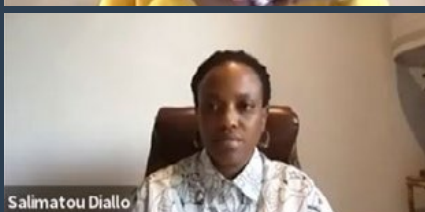
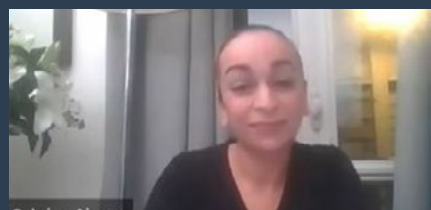
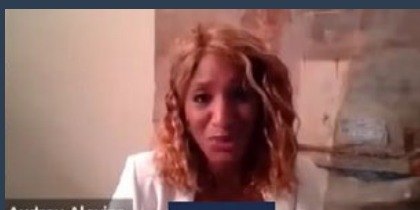
The second event, on 8 December 2021, focused on disputes in the energy, natural resources and infrastructure sectors in Francophone Africa. It featured a panel including **Audrey Alevina** (Alevina & Partners,

Gabon), **Sabrina Aïnouz** (Squire Patton Boggs, Paris, and ICC Court member for Algeria), **Salimatou Diallo** (ADNA law firm, Guinea) and **Sally El Sawah** (El Sawah Law and Junction, Cairo and Paris), with ArbitralWomen Board member and Pledge Steering Committee member **Gisèle Stephens-Chu** (Stephens Chu Dispute Resolution). Topics discussed included recent regulatory and other developments impacting energy and mining projects that could potentially trigger disputes (such as FX controls, ESG and local content requirements), the implications of domestic public law for the arbitrability of disputes relating to public projects and the way African States organise their defence in such disputes.



A recording of the event is available here.

Submitted by Gisèle Stephens-Chu, ArbitralWomen Board member and Founder, Stephens Chu Dispute Resolution, Paris



8 December event: Top to bottom, left to right: Sylvie Beboni Ebongo, Audrey Alevina, Sabrina Aïnouz, Salimatou Diallo, Gisèle Stephens-Chu & Sally El Sawah

Diversity in Arbitration: We've come this far, is it far enough? on 29 October 2021, by Webinar



Left to right: Andrea Utasy Clark, Kent Phillips, Louise Barrington, Jennifer Wu, Hazel Tang.

On 29 October 2021, during Hong Kong Arbitration Week, Pinsent Masons hosted a webinar titled: 'Diversity in Arbitration: We've come this far, is it far enough?'

The speakers consisted of ArbitralWomen's co-founder **Louise Barrington**, as moderator and, on the one hand, **Hazel Tang**, Counsel at the ICC International Court of Arbitration, partnered with **Andrea Utasy Clark**, Senior Associate at Pinsent Masons, who argued for the motion that enough has been done to date to promote diversity. The opposing side consisted of **Kent Phillips**, Partner at Hogan Lovells International LLP, and ArbitralWomen member **Jennifer Wu**, Senior Associate at Pinsent Masons who had been tasked to argue against it.

The session was opened by Louise Barrington, with a poll on the proposal: 'This House believes that members of the arbitration community have made enough efforts to promote diversity among arbitration counsel and arbitrators'. Participants were asked to give their views on this statement and, unsurprisingly, a resounding majority disagreed with the statement.

Hazel started the debate by examining

- Who has contributed to the promotion of diversity and inclusion;
- What has been done to improve it, and
- How these efforts have contributed to an increase in diversity.

She observed that over 4,800 firms and individuals have signed up to the ERA Pledge with many publications and workshops run to address the issues identified.

Andrea went on to address the risks to the movement of doing too much too soon, which could bring about some serious consequences. She said that three factors need to be considered to ensure the movement keeps going forward to bring about an authentic change, rather than a short-lived artificial change. These factors are:

- Fatigue – brought about by doing too much too soon.
- Doubt – doubting one's ability if one identifies a person of diversity. Wondering, 'Are they just part of a "tick box" exercise?'
- Resentment – from those who do not identify as a person of diversity.

Andrea finished her argument by saying that the current steps that have been taken are enough and, with the building blocks in place, real change can slowly be brought about.


Jennifer, arguing against this, presented some very interesting statistics on the appointment of panels. Arbitral appointments through institutions historically give rise to the highest ratio of female appointments (for example, in 2019, 36.5% of SIAC's appointees were women). In contrast, party-appointed arbitrators show the lowest ratio of female appointees to a panel. HKIAC's 2019 stats show that only 15.6% of the appointees were female.

Quoting an article in Time.com, Jennifer noted that we are still 135 years away from bridging the gender gap. She observed there are four main barriers that exist, barring women from achieving gender equality and they are common across the corporate environment. She

explained how in the arbitral appointment selection process specifically, most women become excluded and the same names are shortlisted each time.

Kent then took the floor and observed how this came about, largely due to the language used when looking at selection of candidates and how everyone likes to 'play it safe'. He observed, most importantly, that risks must be run to get to where we want to go. This is true in many scenarios, as change cannot be brought about without stepping out of the norm and breaking free of the cycle to bring about a true and sustainable change. Kent surmised that we must also become much more inclusive earlier in the process and start including more juniors and females as advocates and in more challenging roles, to give them greater capacity and thus ultimately creating a more diverse pool of talent.

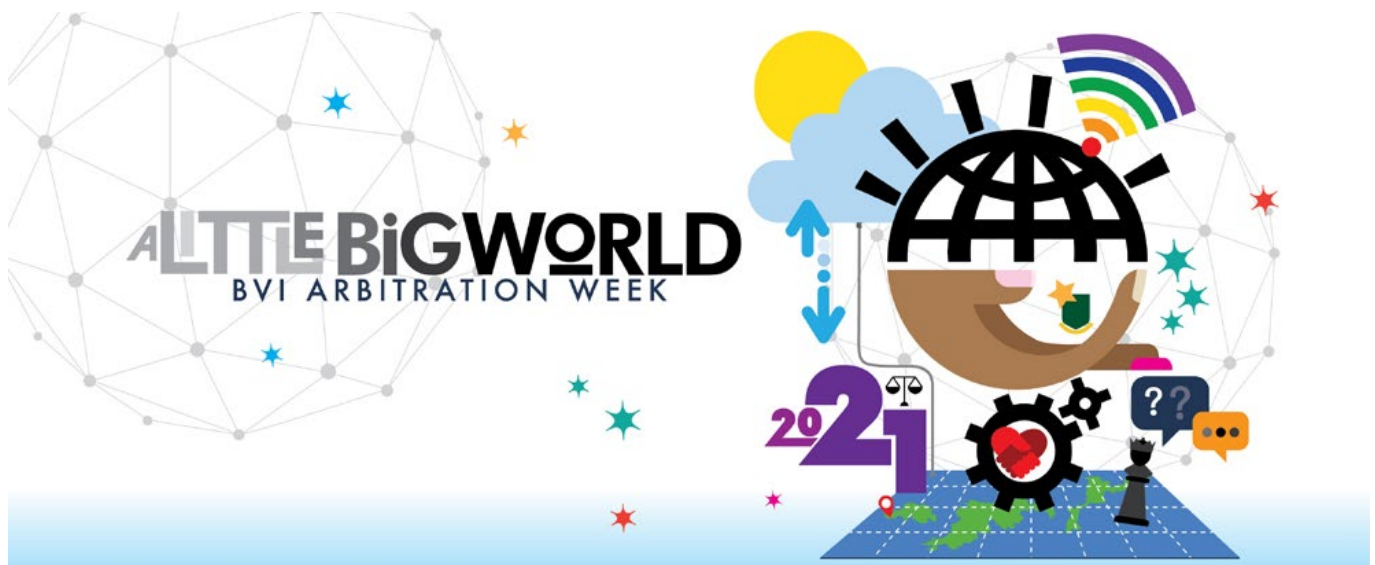
After the arguments were finished, a second poll was taken and a few members of the audience had changed their opinion, with a 20% in favour of us having gone far enough for now, and 80% against. The session ran for 90 minutes in total and was very well received, with a 'speed networking' session after the debate.

Louise Barrington closed the session by summing up the arguments and spoke about the [ArbitralWomen Diversity Toolkit](#) , which has been devised to help address the gender imbalance.

A link to the webinar is [here](#) .

Submitted by Alix Povey, ArbitralWomen member, Practice Development Manager, Pinsent Masons, Hong Kong

2021 British Virgin Islands Arbitration Week, on 1 to 5 November 2021, by Webinar



The BVI International Arbitration Centre (BVI IAC) Hosted Virtual 2021 BVI Arbitration Week (2021 BVI AW)

From 1 to 5 November 2021, the BVI IAC organized the 4th edition of the BVI Arbitration Week. The hybrid conference, 'A Little Big World,' examined the interconnectivity of international arbitration within the scope of a global economy. The diverse panels participated remotely, with the exception of a few moderators and speakers who participated from the BVI IAC's premises in Road Town, Tortola.

'Our world's extensive interconnectivity often makes our vast planet feel quite small,' said BVI IAC CEO **Francois Lassalle**. 'Since the beginning of the Covid-19 pandemic, legal professionals and businesses have shifted operations on a global scale from conference rooms to virtual communications. Expanding globalization, surging growth in global supply chains, and widespread technology adoption make our big world feel more intimate'

Day 1

On 1 November 2021, Day 1 of the 2021 BVI AW, the first panel, was moderated by **Nicholas Burkill** and **Hana Doumal**, who also acted as speakers, together with **Anneliese Day QC**, **Dancia Penn OBE QC** and **Toby Landau QC** and focused on 'BVI Arbitration, the Caribbean Alternative,' a session sponsored by the BVI Arbitration Group. The panellists

provided an overview of the framework for arbitration in the BVI as well as its advantages as an arbitration seat.

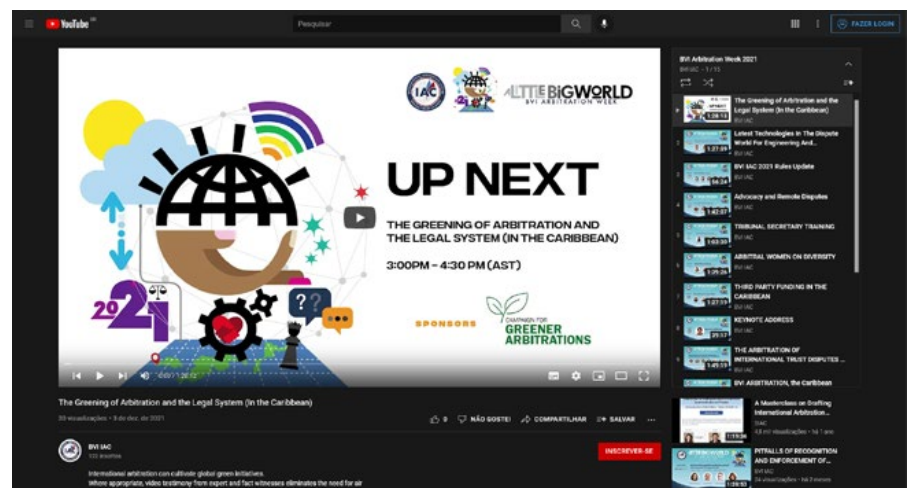
The second session of BVI AW, was sponsored by the Caribbean ADR Initiative (CADRII). **Baria Ahmed** (moderator), **Shan Greer** and **Hana Doumal** (speakers) focused on Tribunal secretaries and provided a general overview of Appendix 3 of the 2021 BVI IAC Arbitration Rules on Tribunal Secretaries as well as of the training co-organized by the BVI IAC and CADRII to be held in 2022.

The last session of Day 1 of the BVI AW, sponsored by the Campaign for Greener Arbitration, was presented by **Dancia Penn OBE QC**, **Damian Croker**, the Hon. **Barry Leon**, **Karima Sauma**, **Tanya Goddard** and **Ruggles Ferguson**, and focused on 'The Greening of Arbitration and the Legal System in the Caribbean.'

Day 2

Day 2 of BVI AW started with a session on 'Third-party Funding in the Caribbean,' where **Dana McGrath**, **Yasmin Mohammad**, **Tamika Davis** and **Peter Ferrer** exchanged views on TPF in the region. This session was followed by a session sponsored by Caribbean Arbitrators & the International Trust Arbitration organization on 'The Arbitration of International Trust Disputes: A dispute Resolution Opportunity for the Caribbean,' presented by **Dancia Penn OBE QC**, the Hon. **Barry Leon**, **John Bender TEP**, **David Brownbill**, **Gilead Cooper QC**, **Ben Giaretta** and **Steven Kempster**.

The first afternoon session, co-moderated by **Janette Brin** and **Hana Doumal**, together with **Louise Barrington**, **Dana**





Left to right, top to bottom: Hana Doumal, Dana MacGrath, Louise Barrington and Rekha Rangachari

MacGrath and Rekha Rangachari, was sponsored by ArbitralWomen.

The session sought to raise more awareness and spotlight the necessity of having more diversity in international arbitration. It highlighted the fact that while there has been much progress on gender diversity with the help of organisations such as ArbitralWomen, geographical, cultural and racial diversity still fell behind, and pointed out what can be done to change mindsets and get on track.

The panellists, all ArbitralWomen Board members, provided their views on the intersectionality of diversity issues in international arbitration. They shared personal experiences through their career journeys and insisted on the importance of inclusion, mentorship and networking to achieve diversity in international arbitration.

The Hon. **Dame Janice M. Pereira, DBE, LL.D.**, the first female Chief Justice of the Eastern Caribbean Supreme Court, presented the Fourth Dr. J.S. Archibald QC Memorial Lecture, a hybrid event where attendees were able to watch the Lecture at the BVI IAC.

Day 3

Day 3 of the BVI IAC started with a panel comprised of the BVI IAC Rules Amendment Committee: **Christine Artero, Sherlin Tung, Victor Bonnin Reynes, Thomas Granier** and Hana Doumal, who moderated the session. **Chiann Bao** is

also a member of the Committee. The panellists introduced the 2021 BVI IAC Arbitration Rules, which entered into force on 16 November 2021.

The following session was sponsored by the Russian and CIS Network and examined the 'Pitfalls of Recognition and Enforcement of Investment Treaty Awards.' **Jane Fedotova** moderated a panel comprised of **Sophie Lamb QC, Timothy Nelson** and **Denis Parchajev**.

The last session of Day 3, sponsored by Quantum Global Solutions, focused on 'Latest Technologies in the Dispute World for Engineering and Construction Projects,' where **Ignacio Palacios, Karen Gough, Rob Valenta** and **Alexander Voigt** exchanged their views on the topic.

Day 4

Day 4 of the BVI IAC started with a Welcome Address by the Premier Honorable **Andrew A. Fahie**, and was followed by the Keynote Address of BVI IAC provided by the Hon. **Dawn J. Smith**, Attorney General of the British Virgin Islands.

The following session focused on 'The In-House Counsel Perspective in International Arbitration,' where **Arabella di Iorio** (moderator), **Maria Irene Perruccio, Sebastián Partida** and **Sébastien Ribac** shared their respective experiences as in-house counsel.

In the afternoon of Day 4, Hana Doumal moderated a panel comprised

of **Mairée Uran Bidegain, Analía Gonzalez** and **Cameron Miles** on 'Investor-State arbitration in the Caribbean and Latin America.'

Day 5

The first session of Day 5 of the BVI IAC focused on 'Climate Change & Arbitration' **Wendy Miles QC, Prof. Diane Desierto, Prof. Stephen Minas** (all connecting from Glasgow where they were participating to the COP26), as well as **François Lassalle** and **Olivier André** (moderator) exchange their views on this hot topic. This session was followed by a session on 'Advocacy and Remote Hearings,' presented by **David Kasdan, Murray Smith QC, Tammi Pilgrim, Alex Hall Taylor QC** and **Natalie Reid**.

Before the closing remarks of BVI IAC CEO François Lassalle, the BVI IAC and the Chartered Institute of Arbitrators (CI Arb) signed a Memorandum of Understanding (MoU). **Ann Ryan Robertson, Bryan J. Branon, Miles Weekes, Tameka Davis, Hana Doumal** and **Francois Lassalle** participated to the signing ceremony.



Sessions of the 2021
BVI IAC are available.


Submitted by Hana Doumal, ArbitralWomen member, Registrar, BVI International Arbitration Centre, Tortola, British Virgin Islands

Modernisation of Investment Treaty Arbitration: Amendments to the ICSID Arbitration Rules, on 2 November 2021, by Webinar



Top to bottom, left to right: Byung-Chol Yoon, Sungjean Seo, Jae Hee Suh, Young Shin Um, Chester Brown, Joongi Kim, and Matthew Hodgson

On 2 November 2021, Allen & Overy and Kim & Chang co-hosted a webinar titled 'Modernisation of Investment Treaty Arbitration: Amendments to the ICSID Arbitration Rules', as part of the Seoul ADR Festival 2021. The webinar featured a diverse group of experts in the field of investor-State dispute settlement (ISDS), including practitioners, academics and a government representative from the Ministry of Justice of Republic of Korea: Professor **Chester Brown** (University of Sydney Law School), **Matthew Hodgson** (Partner, Allen & Overy), Professor **Joongi Kim** (Yonsei Law School, Korea), **Young Shin Um** (Ministry of Justice, Republic of Korea), and **Byung-Chol Yoon** (Partner, Kim & Chang).

The first panel was moderated by **Sungjean Seo** (Senior Foreign Attorney, Kim & Chang) and focussed on the amendments relating to transparency, delays and mechanisms for challenging arbitrators. **Jae Hee Suh** (Senior Associate, Allen & Overy) moderated the second panel, which covered procedural tools relating to bifurcation, provisional measures and costs. The panellists considered the extent to which the proposed amendments to the ICSID Arbitration Rules (as set out in [Working Paper No.5](#) , June 2021)


codify or reform the existing practice, and provided practical insights on current issues in ISDS.

The speakers welcomed the proposed amendments on transparency, particularly the greater scope for publication of awards, orders, and decisions by ICSID, the clearer framework for participation of non-disputing parties, and the right of non-disputing treaty parties to make submissions on matters of treaty interpretation. The proposed changes were seen as a significant step in the right direction, in that they respond to the calls for greater transparency in ISDS, while striking a sensible balance between competing interests.

The speakers noted that the proposed provisions concerning bifurcation, provisional measures, and allocation of costs, which provide non-exhaustive lists of factors to be considered by tribunals when making such orders, are broadly consistent with the existing practice in ICSID arbitration. Therefore, previous authorities are likely to provide guidance for future tribunals applying these provisions.

The speakers agreed that the new standalone provision for security for costs is likely to make it easier for parties to obtain an order for security for

costs in the future, since it clarifies that the applicable standard for granting security for costs –which requires tribunals to consider all relevant circumstances, including the relevant party's ability and willingness to comply with an adverse decision on costs, the effect of providing security on a party's ability to claim or counterclaim, and the conduct of the parties– is independent of the general standard for granting provisional measures (which requires urgency and necessity).

ICSID [published an updated Working Paper No.6](#)  on 12 November 2021, shortly after the webinar, and plans to table the proposed rules for a vote of approval in early 2022. The proposals discussed in the webinar remain largely unchanged in the latest Working Paper. Once approved, the amended ICSID rules will usher in the most significant changes to the ICSID procedure since the inception of ICSID over 50 years ago.

Submitted by Jae Hee Suh, ArbitralWomen member; Steering Committee Member of Young ArbitralWomen Practitioners (YAWP); Senior Associate, Allen & Overy, Singapore, and Jia Min Lim, Trainee Solicitor, Allen & Overy, Singapore.

Climate change and Green Arbitration: Need for Adaptation, on 5 November 2021, in Ibadan, Nigeria, and by Webinar



Left to right: Foluke Akinmoladun, Cherine Foty, Samuel Mbiriri Nderitu, Lucy Greenwood and Rotimi Aju

The Annual Conference of the Chartered Institute of Arbitrators Nigeria Branch [🔗](#), themed 'Future perfect: Securing Africa's ascent on the global ADR stage', was held physically at the Hall of Grace Jogor Event Centre, Ibadan, Nigeria, and virtually from the 3, to 5 November 2021. The conference commenced with the Young Members Group Conference on 3 November and the next two days consisted of an opening session, two plenary sessions, eight parallel sessions and one Oxford style debate.

Two ArbitralWomen members, **Lucy Greenwood**, Principal, Greenwood Arbitration, and **Cherine Foty**, Senior Associate, Covington & Burling LLP, were speakers on the panel titled: 'Climate change and Green arbitration: – Need for adaptation'. The other speaker of the panel was **Rotimi Aju**, Partner at CLP Legal, and **Samuel Mbiriri Nderitu**,

Independent Arbitrator, Partner at Mbiriri Ngugi & Company Associates, moderated the session.

The panel session examined the aims and objectives of the [Campaign for Greener Arbitrations](#) [🔗](#) and how it can enhance the development of greener arbitration in Africa and Nigeria, in particular. Lucy Greenwood, founder of the campaign, spoke on managing arbitration in an eco-friendly manner through the story and history of the campaign, the [Green Pledge](#) [🔗](#) and the [Green Protocols](#) [🔗](#). Cherine Foty gave a cursory overview of the provisions of the Pledge and the protocols, along with the progress made on their objectives while Rotimi Aju addressed how Green Arbitration can be adapted in Nigeria or African-seated arbitrations.

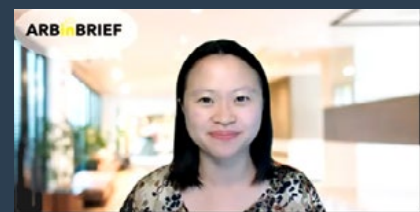
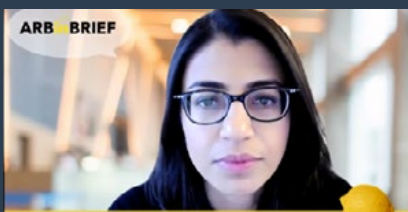
The 90 minutes' session highlighted the Green Protocols and their emphasis

on critical areas where changes in the behavioural practices of arbitration practitioners could have the largest impact in substantially reducing carbon emissions. In conclusion, the panel encouraged the arbitration community to:

- i. Sign on to the Green arbitration Pledge and Protocols,
- ii. individually and corporately adopt cleaner forms of energy,
- iii. reduce or eliminate long-haul travel and
- iv. minimise waste, for example by eliminating hard copy filings altogether.

Submitted by Foluke Akinmoladun, Session coordinator for the Green Arbitration Panel at the CIArb (UK)(Nig)'s Annual Conference – November 2021; Managing Solicitor, Trizon Law Chambers, Lagos, Nigeria

ARBinBRIEF Episode 3 on Case Management Conferences, on 10 November 2021, by Webinar



Left to right: Preeti Bhagnani, Suzanne Rattray, Elizabeth Chan

ARBinBRIEF is a new initiative launched in October 2021 that offers practical video guides on handpicked arbitration topics while showcasing diverse arbitrator talent. During its first season, there are ten 30-minute epi-

sodes, each featuring two arbitrators.

Episode 3 took place on 10 November 2021, featuring ArbitralWomen members **Suzanne Rattray** (Partner, Rankin Engineering Consultants, Zambia) and **Preeti**

Bhagnani (Partner, White & Case, New York), and moderated by ArbitralWomen Board member **Elizabeth Chan** (Associate, Three Crowns, Hong Kong). The episode dealt with Case Management

Conferences (CMCs). Top tips on conducting CMCs shared by the speakers included:

Organising the CMC

1. Circulate a detailed agenda for the CMC beforehand, covering all procedural issues (including, for example, interim relief or costs).
2. Consider inviting the parties, and not only their counsel, to attend the CMC, as this may help to clarify the parties' expectations of the arbitrator/the arbitral process.
3. Request a summary outline of each side's claims and requests for relief before the CMC.

Achieving efficiency through the CMC

4. Request that the parties agree on a list of issues to be decided, or submit separate lists that the arbitrator can consolidate. Consider the appropriate timing for the submission of such (a) list(s).

5. Ask the parties to clarify the relationship between intended expert evidence and the list of issues. Expert evidence not answering any of these issues may result in unrecoverable wasted costs.
6. Raise and discuss whether there are any potentially dispositive issues which can be resolved early.
7. Consider possible bifurcation options (for instance, into jurisdictional and merits stages, or into liability and quantum phases). Approach the issue carefully to avoid implying any prejudgement.

Options for amicable settlement

8. Encourage the parties to explore settlement options among themselves, even as early as the initial CMC. Consider building in a 'pause' in the procedural timetable for the parties to attempt settlement (subject to the parties' request or consent).
9. Parties should be aware of options

for using a combination of mediation and arbitration (as is allowed by some institutional rules).

10. Any participation in settlement discussions as an arbitrator requires careful handling: the parties should agree beforehand, for example, that this does not give rise to procedural unfairness or loss of jurisdiction in the arbitration.

ArbitralWomen is a proud supporter of ARBinBRIEF. See the ArbitralWomen press release [here](#). For more information about ARBinBRIEF, you can also visit [ARBinBRIEF's website](#), and follow ARBinBRIEF on LinkedIn [here](#).



Click here to watch Episode 3 on YouTube.

Submitted by **Elizabeth Chan**, ArbitralWomen Board member, YAWP – Young ArbitralWomen Practitioners Co-Director, ARBinBRIEF Co-Founder, Hong Kong

DUBAI ARBITRATION WEEK

Navigating the current challenges of arbitration in the UAE, on 14 November 2021, in Dubai

On 14 November 2021, Watson

Farley & Williams (Middle East) LLP (WFW) held a joint seminar at local law firm Horizons & Co in Dubai as part of the 2021 edition of Dubai Arbitration Week. At this event, ArbitralWomen members **Charlotte Bijlani** (Partner) and **Soraya Corm-Bakhos** (Counsel), both of WFW, together with leading local advocate **Ali Al Zarooni**, of Horizons & Co, discussed the current challenges of arbitration in the UAE.

Charlotte Bijlani welcomed the approximately 60 attendees to the event and introduced the topic. She looked back at the history of arbitration in the UAE and where it stands today. She discussed whether Dubai is truly a global arbitration hub, considering



Charlotte Bijlani

Queen Mary University of London's 2021 [International Arbitration Survey](#), which, for the first time, listed Dubai as the 10th preferred seat of arbitration, surpassing well-known seats, such as Vienna or Washington. Charlotte Bijlani provided an insight into all the positive recent legislative changes in the field of arbitration in the UAE, in particular the issuance of [Federal Arbitration Law No. 6 of 2018](#)



Soraya Corm-Bakhos

[\(FAL\)](#) and Cabinet Decision No. 57 of 2018 (Cabinet Decision). She reminded the audience how the long-awaited FAL, which came into force in June 2018, represents a welcome improvement to the previous arbitration-specific provisions in the UAE Code of Civil Procedure. She discussed how the FAL, largely modelled after the UNCITRAL Model Law, signalled a clear shift towards an increasingly

arbitration-friendly policy in the UAE. The FAL encourages the use of modern means of communication and technology and the role of the Court of Appeal in arbitration-related issues.

Advocate Ali Al Zarooni then spoke about how to navigate the remaining challenges of arbitration in the UAE, including persistent issues around the validity of arbitration agreements and awards before the local courts. He discussed recent decisions of the Dubai and Abu Dhabi Courts of Cassation regarding capacity to arbitrate, enforceability of arbitration agreements incorporated by reference (including to FIDIC general conditions of contract) and requirement for awards to be signed on all pages.

Soraya Corm-Bakhos then provided insight on other procedural challenges,

including the absence of provisions on consolidation under the FAL and the lacunas of the current Dubai International Arbitration Centre (DIAC) Rules in relation to joinder and consolidation. She also addressed the persistent issue of recoverability of counsel and other parties' costs in DIAC arbitrations, including the recent decisions of the Dubai Court of Cassation under the FAL on that issue. Soraya Corm-Bakhos also discussed [Dubai Decree No. 34 of 2021 \(Decree 34\)](#), one of the hot topics of the 2021 edition of Dubai Arbitration Week. Effective from 20 September 2021, Decree 34 abolished the [Emirates Maritime Arbitration Centre \(EMAC\)](#) and the DIFC Arbitration Institute, leading to the abolishment of the [DIFC-LCIA](#), the sister organisation of the London-based

LCIA. Decree 34 essentially provides for the consolidation of all arbitration proceedings into a 'new' [DIAC](#) with improved governance rules and a new Court of Arbitration. Decree 34 grants DIAC a period of six months to effectively take over the abolished centres and comply with its new Statute which accompanied the issuance of Decree 34. Soraya Corm-Bakhos discussed the impact of Decree 34 on pending arbitration proceedings and future disputes. All three panellists then engaged with the audience on the far-reaching implications of Decree 34 on the arbitration landscape in Dubai and the Middle East.

Submitted by Soraya Corm-Bakhos, ArbitralWomen member, Counsel, Watson Farley & Williams, Dubai, UAE

Dubai and MENA Stories-Career Pivots, Opportunities and Challenges in International Arbitration, on 17 November 2021, in Dubai, UAE and by Webinar

On 17 November 2021, ArbitralWomen held its flagship event as part of the 2021 edition of the Dubai Arbitration Week. The event, titled 'Dubai and MENA Stories – Career Pivots, Opportunities and Challenges in International Arbitration' and preceded the eponym New York edition that was hosted by ArbitralWomen as part of the New York Arbitration Week.

Sara Koleilat-Aranjo, ArbitralWomen MENA Lead Director, Partner at Al Tamimi & Company and Member of the ICC International Court of Arbitration, delivered the opening remarks and set out a brief history of ArbitralWomen and what the association has done in the MENA region and beyond, in terms of promoting women in arbitration and international dispute resolution.

The event brought together a diverse group of men and women arbitral practitioners in Dubai to discuss their trajectories in their careers, the different pivot changes that have shaped their careers and the challenges they have faced along the way. The keynote speaker, **Linda Fitz-Allan**, Registrar and Chief Executive Officer, Abu Dhabi Global Markets Court,

opened the discussion by sharing her career path from Sydney as a partner at a law firm, to working as an in-house counsel for an insurance company in New York, to finally getting into her current role at ADGM Courts.

Linda's message emphasised the need to never limit one's career path. She highlighted the need to always be adaptable and resilient in one's career by pointing out that there is no such thing as 'the end of your career, no such thing as a sunset because you work'. The event was then handed over to Dr **Affef Ben Mansour**, ABM Avocat Paris, Member of the ICC International Court of Arbitration and ArbitralWomen Board member, who moderated a panel of the four main speakers of the day, tasked to share their career trajectories, in particular different pillars and shifts in their journey.

Lindy Patterson, QC 39 Essex Chambers, shared her journey starting out in a Scottish law firm and making mid partner in the late '80s when there were few female partners in law firms, to becoming Queen's Council, which back then was quite unusual for women, and finally deciding in her later years

to concentrate on a neutral role as an arbitrator. The takeaway point was to always consolidate on one's practice before moving on to something else.

Rana Shashaa, Partner, Deloitte Middle East, noted of her challenges as a first Arab speaking female partner in the forensic field in the region. Rana encouraged attendees to keep experimenting until one finds what one is passionate about.

Robert Stephen, Registrar, DIFC-LCIA Arbitration Centre, highlighted the need to take every opportunity that comes one's way. He shared his journey from leaving a career path to partner in a law firm and taking an opportunity to move abroad and join an institution. 'If given an opportunity in your career, take a step back and seriously consider it', he encouraged the attendees.

Sari Maddah, Senior Legal Counsel, Dubai Healthcare City Authority, reminded the audience to always remember to prove themselves whether in-house or in a law firm. The well-attended event ended on a high note as the audience equally had the opportunity to share their experiences and

thanked the organisers for a well-coordinated event.

Sara Koleilat-Aranjo closed the insightful discussion by thanking the speakers and participants who joined the event in person but also virtually, including ArbitralWomen President **Dana C. MacGrath** and ArbitralWomen Board

members **Juliette Fortin**, **Mirèze Philippe** and **Rekha Rangachari**. The event ended on a high note by Lady Hale, who noted: 'The law should be all about justice, fairness, and equality. If the judiciary doesn't look as if it's practicing equality, it may not be practicing fairness, and it may not be practicing justice'.

A networking cocktail reception was held subsequently at the Al Tamimi & Company offices and sponsored by Deloitte Middle East.

Submitted by Laureen Fredah, Intern, Al Tamimi & Company, Dubai, UAE

The Launch Event of the MENA Sub-Committee of the Campaign for Greener Arbitrations: Moving Towards Environmentally Sustainable Practices in the Region, on 18 November 2021, in Dubai, UAE



Left to right: Antonin Sobek, Alec Emmerson, Sean D. Yates, Fatima Balfaqeeh, Khushboo Shahdadpuri, Alex Bevan

On 18 November 2021, as part of this year's edition of Dubai Arbitration Week, Al Tamimi & Company, with the support of the DIFC-LCIA Arbitration Centre, hosted the launch of the [MENA Sub-Committee of the Campaign for Greener Arbitrations](#). The event brought together practitioners, experts, and arbitrators from the region to exchange ideas regarding potential avenues to transition into more sustainable practices.

The event was kicked off by ArbitralWomen member **Antonia Birt** (Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP), who reflected on the role of the [Campaign for Greener Arbitrations](#) in helping law firms meet their sustainability targets and easing the community's transition to net zero. She concluded her introductory remarks by highlighting the role of the MENA Sub-Committee in creating much-needed awareness within the region. In his keynote, **Essam Al Tamimi** (Chairman, Al Tamimi &

Company) addressed the UAE's efforts for sustainability. He also emphasised that law firms could be at the forefront of forming task forces that tackle the reduction of carbon footprint arising from their day-to-day operations. The keynote was followed by an engaging panel discussion, expertly moderated by **Alex Bevan** (Partner and Global International Arbitration Practice Group Leader, Shearman & Sterling LLP).

Fatima Balfaqeeh (Independent Arbitrator and Managing Director, RKAH Legal Consultancy) drew attention to the role of arbitrators in accelerating digitalisation of arbitral proceedings. She stressed that arbitrators could assist in shifting from in-person to virtual hearings by removing procedural barriers. **Alec Emmerson** (Independent Arbitrator) raised concerns over the applicability of some of the suggestions in the [Green Protocols](#). He called into question the viability of the [Model Green Procedural Order](#) due to its length and level of

detail. Alec also indicated that paper submissions might sometimes be preferable to electronic ones. **Antonin Sobek** (Counsel, DIFC-LCIA Arbitration Centre) highlighted the salient role of arbitral institutions in driving sustainable change in the international arbitration community. He opined that institutions could encourage parties and tribunals to adopt the Green Protocols from the outset of proceedings and help parties identify 'green' arbitrators for appointments. **Sean D. Yates** (General Counsel, China State Construction Engineering Corporation (Middle East)) pointed out that international companies are increasingly inclined to adhere to sustainability standards as a pillar for strategic growth. He also stated that initiatives such as the Campaign for Greener Arbitrations could help companies achieve their net-zero pledge while emphasising that all stakeholders must make critical commitments. The launch event was concluded with **Khushboo Shahdadpuri** (Senior Associate, Al Tamimi & Company), who commented on finding the right balance between the inconvenience of alternative sustainable practices vis-à-vis the harmful impact that our traditional practices cause to the environment and the inherent duty of social consciousness that all stakeholders of the arbitration community have towards making arbitrations greener.

Submitted by İpek İnçe (Associate, Gedik & Eraksoy), Istanbul, Turkey, and Antonin Sobek (Counsel, DIFC-LCIA Arbitration Centre), Dubai, UAE

New York Arbitration Week

In-House Counsel's Virtual Roundtable on Use of ADR in the Oil and Gas Industry, on 15 November 2021, by Webinar



Top to bottom, left to right: Edward Diggs, F. Teresa Garcia-Reyes, Eric Tuchmann, Suzana Blades, Eugene J. Silva II, Kevin Feeney

The AAA-ICDR hosted a webinar titled 'In-House Counsel's Virtual Roundtable' as part of New York Arbitration Week 2021, which focussed on the use of alternative dispute resolution in the oil and gas industry. The panel was moderated by AAA-ICDR Senior Vice President and General Counsel **Eric P. Tuchmann** and featured in-house counsel **Suzana Blades** (ConocoPhillips), **Edward Diggs** (Bechtel Energy), **Kevin Feeney** (Shell Oil Company), **F. Teresa Garcia-Reyes** (Baker Hughes) and **Eugene J. Silva II** (Exxon Mobil Corporation). ArbitralWomen President Dana MacGrath was on the New York Arbitration Week 2021 Organising Committee and oversaw the preparation of this programme. The panel discussed their views and approaches

to participating in and conducting international oil and gas arbitrations and mediations.

There has been significant disruption and price drops in the energy field over the last 18 months because of the pandemic, although the energy sector is now recovering. However, notwithstanding energy price fluctuations during the early part of the pandemic, the number of claims did not increase noticeably. *Force majeure* notices were exchanged, but formal disputes did not materialise. With the recovery of gas prices, there is an expectation that the energy sector wants to get back to business and try to settle outstanding disputes amicably. In the construction area of the energy sector, there was also an uptick in *force majeure* notices at

the beginning of the pandemic but the number of actual claims has not increased materially. Supply chain problems associated with the pandemic are of greater impact for projects beyond the procurement phase, resulting in disruption and related claims being filed but not necessarily going forward.

Panellists then exchanged perspectives on in-person and virtual hearings. It was noted that the virtual hearing technology now being used had been around for some time at the AAA-ICDR, although it was not in significant demand before the pandemic. Many found virtual mediations to be more effective than in-person, due to reduced travel costs and the ability to schedule quickly. Long virtual hearings are draining and motivate

New York Arbitration Week

parties to try to reach a settlement, if possible. As for arbitrations, virtual hearings work well, particularly for smaller, shorter cases. For larger cases, virtual hearings are useful for procedural issues. Some expressed a preference for in-person evidentiary hearings. Others noted that even for larger complex cases, while there was early reluctance to proceed virtually, more parties are now agreeing to hold virtual evidentiary hearings.

Panellists then discussed their positive experiences with virtual mediations. All were proponents of mediation generally, noting that stakeholders in the energy business welcome commercially-oriented exits to disputes. Litigation is a last resort.

Panellists then discussed arbitrator

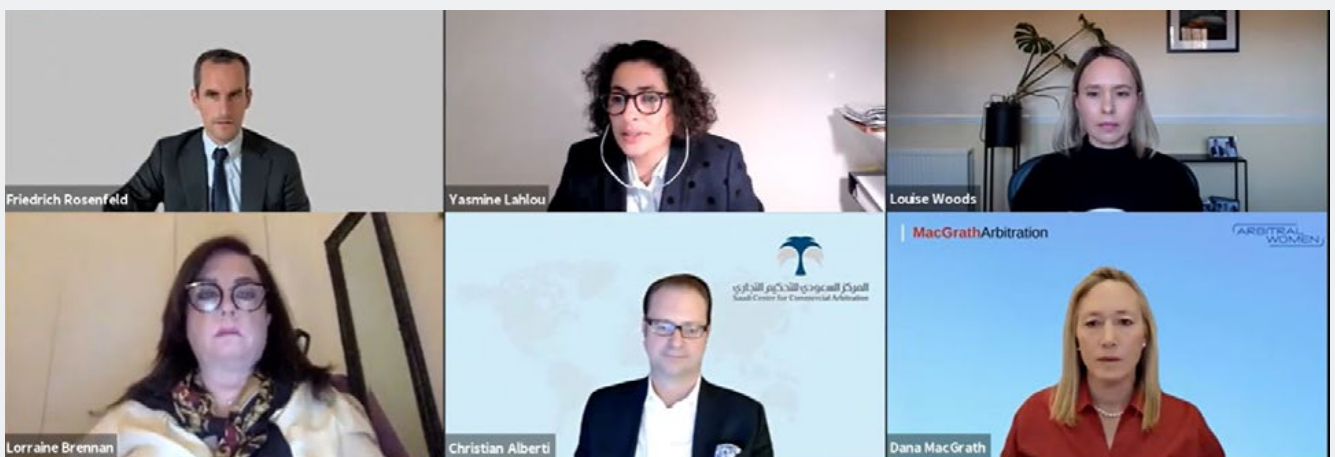
selection. Some expressed concern that the next generation of arbitrators lack the experience needed for complex cases. One of the greatest challenges for the development of younger arbitrators is that arbitration users need to be more flexible in whom they select and select younger attorneys who are still developing their careers and expertise. Corporate counsel has a duty to develop the next generation as well. In some of the smaller and medium cases, corporate counsel can appoint lesser-known arbitrators. Additionally, in-house counsel should communicate to outside counsel that they expect a diverse arbitrator list. Arbitral institutions have a role to play in suggesting and promoting women and diverse candidates so they can

obtain experience and develop a record of accomplishment. It takes deliberate action to develop the next wave of diverse arbitrators. Rising new arbitrators work very hard and dedicate the time needed to these cases. The AAA-ICDR encourages diverse candidates to apply to its international panel each year and the selection of these new arbitrators with fantastic credentials.


A recording of this programme is available [here](#) , and Kluwer Arbitration Blog's full coverage of New York Arbitration Week is available [here](#) .

Submitted by Dana MacGrath, ArbitralWomen President and Independent Arbitrator, MacGrath Arbitration, New York City, NY, US

New York Stories: Career Options, Opportunities, and Challenges in International Arbitration, on 17 November 2021, by Webinar and Virtual Networking Events



Top to bottom, left to right: Friedrich Rosenfeld, Yasmine Lahlou, Louise Woods, Lorraine Brennan, Christian Alberti, Dana MacGrath

ArbitralWomen was a proud supporting organisation of **New York Arbitration Week 2021**  that included a full week of programming by the AAA/ICDR, ICC, ASIL, SIAC, New York City Bar Association, Columbia Law School, King's College London and

Three Crowns, ArbitralWomen, CI Arb New York Branch and NYIAC, YIAP and NYIAC, CPR, JAMS, SVAMC and Fordham Law School.

ArbitralWomen hosted a virtual panel discussion on 'New York Stories: Career Options, Opportunities,

and Challenges in International Arbitration', focussed on career options and opportunities, as well as the challenges faced by international arbitration practitioners. Speakers shared virtual stories about their professional paths and career transitions.

Panellists included **Chris Alberti, Lorraine Brennan, Dana MacGrath, and Friedrich Rosenfeld.** The panel was moderated by **Yasmine Lahlou and Louise Woods.**

Louise Woods introduced the panel with words by the famous poet, Robert Frost:

*'Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.'*

Speakers noted that with globalisation, arbitration has expanded across the world, and that increased diversity in the business community calls for a diverse arbitration community. Additionally, due to technological advancements, virtual hearings and meetings are more common, and this has afforded younger practitioners opportunities to launch initiatives, access mentoring opportunities, and participate in virtual webinars.

Panellists emphasised the importance of senior practitioners and arbitrators giving back to the arbitration community through coaching, mentoring, sponsoring and sharing advice. Speakers also highlighted the importance of networking among all levels, including peer to peer networking. Panellists also encouraged younger practitioners to join committees and activities relevant to their areas of interest and to be actively engaged participants.

Finally, speakers encouraged younger practitioners to periodically 'check-in' with themselves about the status of their career and, if appropriate, dare to change, even at the risk of failure. A professional journey involves planning, together with periodic reflection on its development. Sometimes 'taking the road less traveled' and being entrepreneurial can reap wonderful professional rewards. Consider looking



for a practice area in line with your interests that is underrepresented and develop a niche expertise in that area.

The ArbitralWomen event concluded by sharing ways to increase diversity in international arbitration, such as providing younger arbitration lawyers with advocacy opportunities, involving younger lawyers as tribunal secretaries, and providing younger lawyers visibility to arbitral institutions. Speakers noted that diversity extends beyond gender and acknowledged there is much work still to be done to achieve diversity in arbitration.

ArbitralWomen also held two virtual networking events as part of NYAW21. These ArbitralWomen events

were planned by ArbitralWomen Global Events Co-Director **Rekha Rangachari** and US Regional Events Director **Yasmine Lahlou**. The recording can be accessed [here](#)

For more information on this event and others during NYAW21, see [Kluwer Arbitration Blog](#) posts between 6-10 December 2021, including the post about the ArbitralWomen and YIAP programmes, [here](#)

Submitted by Dana MacGrath, ArbitralWomen President and Independent Arbitrator, MacGrath Arbitration and Co-Chair of Arbitration Pledge USA Sub-Committee, New York USA

New York Arbitration Week

NYIAC and CIArb Programme on Getting it Right: How Arbitrators, Counsel, and Institutions Can Improve the Quality of the Arbitral Process, on 17 November 2021, by Webinar



Top to Bottom, left to right: Benno Kimmelman, Rekha Rangachari, Richard Ziegler, Elliot Polebaum, Anne Marie Whitesell, Joseph Neuhaus, Dyalá Jiménez Figueres, Eduardo Silva Romero, Steven Skulnik, Gabrielle Kaufman-Kohler, Adriana Braghetta, Janet Walker, Martin Gusy

During New York Arbitration Week 2021, the New York International Arbitration Center ('NYIAC') and the New York Branch of the Chartered Institute of Arbitrators ('CIArb') hosted two virtual panels dedicated to the theme of 'Getting It Right in International Arbitration'.

The first panel addressed how arbitrators, counsel and institutions can improve the quality of the arbitral process. The panel was moderated by ArbitralWomen member **Gabrielle Kaufmann-Kohler** and included as panellists **Adriana Braghetta**, **Dyalá Jiménez Figueres**, **Joseph Neuhaus** and **Elliot Polebaum**. Each panellist proposed a method to improve the arbitral process for panel discussion. Methods proposed included (a) a list defining the key legal issues early in the proceedings to focus counsel on the main points of resolution; (b) circulation

of draft procedural orders to parties that resolve interim, non-final issues rather than holding oral hearings; (c) continuing education for arbitrators in core substantive areas of law that arbitrators often encounter; and (d) increased use of motion practice to cull bad claims and focus the hearing on the main issues.

The second panel focussed on the *functus officio* doctrine, which prevents arbitrators from clarifying or correcting an arbitration award after it is issued. The panel was moderated by **Richard Ziegler**, and panellists included **Martin Gusy**, **Eduardo Silva Romero**, ArbitralWomen members **Janet Walker** and **Anne Marie Whitesell**. Panel members debated whether the *functus officio* doctrine should remain in its current state or be reformed. At the conclusion of the debate, panellists considered a New York City Bar Association's Arbitration Committee Report of 2021

which proposes to expand the grounds on which an award can be revised, subject to the following four characteristics (1) provide an opt-in to these expanded grounds at the beginning of the proceeding; (2) allow an award to be corrected when there is an error or misapplication of fact or law; (3) impose time limitations to seek revision; and (4) require fee-shifting based on the success or failure of an application for revision. Some panellists expressed reservations about adopting the proposal and a healthy debate ensued.

A recording of the programme is available [here](#) and Kluwer Arbitration Blog's full coverage of New York Arbitration Week is available [here](#).

Submitted by Dana MacGrath, ArbitralWomen President and Independent Arbitrator, MacGrath Arbitration, New York City, NY, US



Reflections on Arbitral Assumptions, on 19 November 2021, by Webinar



Top to bottom, left to right: Jeremy Lack, Laura A. Kaster, Edna R. Sussman, Deborah Masucci, Kathleen Paisley, Dilyara Nigmatullina, Prof. Thomas J. Stipanowich

Fordham University School of Law held its annual conference on international arbitration and mediation on the final day of New York Arbitration Week 2021. ArbitralWomen member **Edna Sussman** served as co-chair of the full-day virtual conference together with **New York International Arbitration Center** (NYIAC) Chair **Benno Kimmelman**. The title of the conference this year was 'Reflections on Arbitral Assumptions'.

This year's conference included a keynote address by **Neil Kaplan**, an indisputably important leader of the arbitration community who has served as a successful advocate, judge, arbitrator, teacher, and mentor to arbitration practitioners globally. He has challenged the arbitration community to improve the ways arbitration hearings are conducted. He introduced what has become known as the '**Kaplan Opening**' to help counsel and tribunals focus early on the key issues in the case and thereby streamline the arbitration process. In his keynote address, Neil did what he does so well: he shared some ideas on what can be done to get to the heart of disputes more quickly and resolve them more effectively, such as using mid-arbitration reviews and mediation pauses

and encouraging arbitrators to produce more focussed and shorter awards.

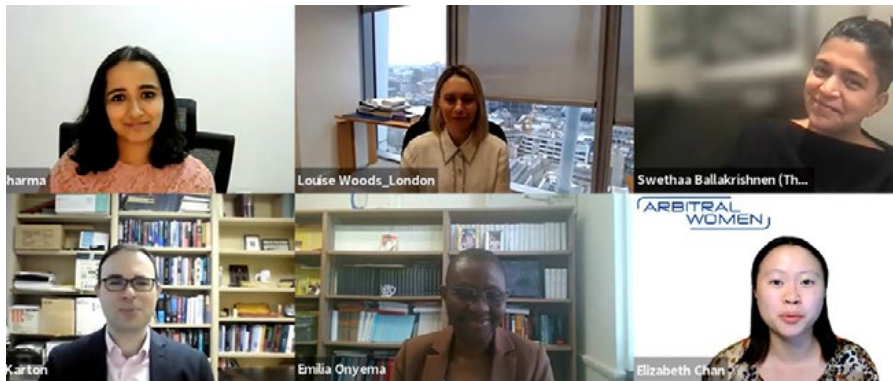
Second, there was the panel on mixed mode dispute resolution, which refers to combinations of different dispute resolution processes (e.g., adjudicative processes, such as litigation and arbitration, with non-adjudicative processes, such as conciliation or mediation). The **Mixed Mode Task Force** is a combined effort by the **International Mediation Institute (IMI)**, **College of Commercial Arbitrators (CCA)** and the **Straus Institute for Dispute Resolution at Pepperdine School of Law**. Following the introduction of its work at the Fordham Conference in 2020, at this year's Fordham conference, the Mixed Mode Task Force released the publication of the techniques it has developed to craft innovative processes tailored to user needs for both dispute avoidance and resolution. The panel offered practical guidance on subjects rarely discussed, including for example steps an arbitrator can take to foster settlement and whether and how to organise communications between mediators and arbitrators. The work product of the Task Force (both working documents and reports) can be accessed [here](#).

The theme for New York Arbitration Week 2021 was 'Getting it Right'. Two panels addressed this issue from different perspectives. One panel examined the issue of how the doctrine of *jura novit curia* applies in international arbitration and what the relationship is between arbitrators and the law to be applied in resolving parties' disputes. This panel looked at how arbitrators determine what law must be applied in a specific case, how far arbitrators can exceed the legal analysis provided by the parties and the degree of flexibility arbitrators have with respect to the remedy to be awarded. The second panel examined how technology impacts the arbitral process, especially how technology is changing what we want and what we need from an international arbitration centre and how technology can enable counsel to organise and process voluminous data to tell a compelling story to the tribunal.

More information about the Fordham Conference including the video replay is available [here](#).

Submitted by Dana MacGrath, ArbitralWomen President and Independent Arbitrator, MacGrath Arbitration, New York City, NY, US

Intersectionality of Race, Culture and Gender in International Arbitration: Lessons from Interdisciplinary Scholarship, on 18 November 2021, by Webinar



Top to bottom, left to right: Umika Sharma, Louise Woods, Swethaa Ballakrishnen, Joshua Karton, Emilia Onyema and Elizabeth Chan

On 18 November 2021, Young ArbitralWomen Practitioners (YAWP) and Vinson & Elkins, with the support of Equal Representation in Arbitration Young Practitioners Sub-Committee, Racial Equality for Arbitration Lawyers (R.E.A.L), Careers in Arbitration and Transnational Dispute Management (TDM), organised a webinar titled 'Intersectionality of Race, Culture and Gender in International Arbitration: Lessons from Interdisciplinary Scholarship'. The webinar had a distinguished panel of academics and practitioners who shared their perspectives on expanding the present debate on different types of diversities and their intersections.

Elizabeth Chan, ArbitralWomen Board member, gave the opening remarks for the webinar and kick-started the discussion by emphasising the need to broaden the discussion on different forms of diversities. The moderator, **Umika Sharma**, PhD researcher, National University of Singapore, opened the session by inviting the speakers to draw on their research on various aspects of diversities within and outside of international arbitration.

Dr **Joshua Karton**, Associate Professor and Associate Dean for Graduate Studies and Research at the Queen's University Faculty of Law, Canada, started the discussion by setting out a framework for thinking about the different dimensions of diversity, a four-dimensional framework which broadens the horizons of the prevail-

ing discussions on the topic. Dr Joshua Karton built this framework by focussing on four key ideas:

- i. diversity in the service of equity and equality within the profession,
- ii. diversity in the service of fairness to the parties,
- iii. diversity in the service of legitimacy of the arbitration system and, lastly,
- iv. diversity in the service of high-quality decisions.

ArbitralWomen member Dr **Emilia Onyema**, Professor of International Commercial Law at SOAS University of London, raised pertinent issues about African engagement in international arbitration. Her presentation focussed on race and also broadly on the geographical dimensions of the role of African practitioners. Key takeaways from it were the empirical findings illuminating the reasons behind African underrepresentation and what can be done about it. Dr Emilia Onyema also talked about the [African Promise](#), which seeks to increase the number of Africans appointed as arbitrators, especially in arbitrations connected with Africa, in order to achieve a fair representation as soon as practically possible. She also highlighted other initiatives like the [Arbitration Fund for African Students](#) (AFAS), the [African Arbitration Association](#), and the ICC's [Hold the Door Open initiative](#).

Dr **Swethaa Ballakrishnen**, Assistant Professor of Law (and, by

courtesy, of Sociology, Asian American Studies, and Criminology, Law and Society, for their substantial contributions to these departments) at the University of California, Irvine, raised many interesting ideas that were novel to the arbitration community. Dr Ballakrishnen's research on the link between intention and outcome in different contexts was thought-provoking and engaging and posed many pertinent questions that the arbitral community should actively think about, i.e., What can we change, and what cannot be changed about the diversity discourse on gender? How do we move forward on engagement on diversity if there are deeply embedded implicit biases in the systems and spaces of which we are a part of?

ArbitralWomen Board member **Louise Woods**, Partner at Vinson & Elkins in London, provided thoughtful commentary from a practitioner's perspective on all the presentations. She actively engaged with the academic ideas as an experienced practitioner and posed interesting questions that helped shape various practical ways of improving diversity in international arbitration and the potential directions in which future discourses on diversity can progress.

The most interesting aspect of this webinar was the consistent challenges to the prevailing ways in which the arbitral community perceives diversity-related issues and how the time is ripe to add more nuance to this discussion by engaging with ideas beyond the typical sources of scholarship on diversity in international arbitration.



A recording of this webinar is available here.

Submitted by Umika Sharma, NUS Graduate Scholar at the National University of Singapore, Singapore

Dublin International Arbitration Day 2021, on 19 November 2021, in Dublin, Ireland



Top to bottom, left to right: Carine Dupeyron, Dana McGrath, Eva Kalnina, Judith Levine, Patricia Shaughnessy, Susan Ahern

It was with great pleasure for organisers Arbitration Ireland that the 9th [Dublin International Arbitration Day](#) (DIAD) returned as an in-person event in 2021. DIAD welcomed leading arbitration lawyers to discuss across five sessions, a variety of topical international arbitration issues including a significant cohort of ArbitralWomen members.

Session 1 – *Achieving Diversity in International Arbitration* saw ArbitralWomen President **Dana McGrath** beam in from NYC to discuss what organisations, like ArbitralWomen, do to achieve visibility for diverse members of the arbitral community. She opined that working collectively to promote diversity of all kinds is the best way to achieve further diversity. ArbitralWomen member **Patricia Shaughnessy** then spoke about the formation of the [International Council for Commercial Arbitration \(ICCA\) Cross Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings](#), its objectives, actions taken and gave an insight into its data driven annual report which reports on data, highlights key issues and concludes with strategies and actions lawyers, law firms, companies and conference organ-

isers can undertake to alter the dial.

The Honourable Mr Justice **David Barniville** (Court of Appeal of Ireland) chaired Session 2 – *Europe: What's In Store for International Commercial Arbitration?* ArbitralWomen member **Eva Kalnina** discussed environmental issues as they arise in arbitration and noted that climate change challenges are equally legal challenges. The EU has goals in place to fight climate change and has introduced measures such as carbon tax to achieve them. She noted potential disputes that could arise in this context, including tax, WTO and commercial disputes. ArbitralWomen member **Carine Dupeyron** discussed the May 2021 judgment of the ECHR in [BEG S.P.A. v Italy](#) and the lessons arising from it. She emphasised that, while the decision classically confirmed that commercial arbitration is independent from State courts, for the ECHR, presenting recourses before domestic courts suffices to, again, involve States, which then are deemed responsible for what has been decided by their courts in these recourse proceedings.

Session 3 looked at whether a Common Code of Conduct for Arbitrators Necessary while Session 4 considered whether Witness

Statements in International Arbitration are worth the paper they are written on and Session 5, chaired by The Honourable Mr Justice **Mark Sanfey** (High Court of Ireland) was structured as a high speed 'Hot Topics' session with seven speakers. ArbitralWomen member **Judith Levine** spoke about the ethical dimensions of arbitrator resignations. She noted that while there is no universal code of ethics, arbitrators are understood to have an implied duty to perform the function for which they are appointed, and not resign during the course of the arbitration without good cause. ArbitralWomen member **Susan Ahern** spoke about expedited arbitration in a live sports context at the [ad hoc division of the Court of Arbitration for Sport](#) (CAS). She explained the CAS jurisdiction encapsulated any dispute falling ten days before the Olympic Games up to the conclusion of the Games and also mentioned the [CAS Anti-doping division](#) and its procedures, speaking from her experience at the 2020 Tokyo Olympic Games.

Submitted by Susan Ahern, ArbitralWomen member, Barrister & Independent Arbitrator, Bar of Ireland and Executive Committee Member Arbitration Ireland, Dublin, Ireland

Sustainable Diversity in International Arbitration, on 20 November 2021, by Webinar



International Conference
Sustainable Diversity in Arbitration
November 20, 2021

Organized by the Research Unit
"Decolonizing Arbitration. How to Promote a Fair
and Culturally Sensitive use of Commercial and
Investment Arbitration",
Nagoya University



On 20 November 2021, the Decolonizing Arbitration Unit [↗](#) of the Nagoya University [↗](#) hosted the Conference on Sustainable Diversity in International Arbitration, virtually, bringing together international arbitration academics and practitioners from around the world to discuss diversity in international arbitration. The innovative conference considered all forms of diversity—demographic, legal, cultural, and philosophical—and investigated how best to develop an international arbitral order that sustains and promotes

diversity.

Professor **Dai Yokomizo**, Vice Dean of the Nagoya University Graduate School of Law, delivered the opening remarks, followed by an introduction to the Decolonizing Arbitration Research Unit from its Director, Professor **Giorgio F. Colombo**. The conference was divided into seven sessions, during which 26 panellists, including ArbitralWomen members **Elena Bezelgues** and **Roopa Mathews**, presented their papers.

Elena Bezelgues spoke about cultural competences among arbitration

practitioners in Germany and CIS countries (Belarus, Russia, Ukraine, Kazakhstan). Roopa Mathews addressed diversity and inclusion in counsel teams with a focus on gender, ethnicity and legal qualifications.

All participants discussed numerous other topics, including the role of institutions in promoting diversity, regional and national perspectives on diversity, and the case of ad hoc arbitration.

A selection of the papers from the conference will be published in an edited book in 2022.



Click to access the recordings
of the conference.

Submitted by ArbitralWomen members Elena Bezelgues, Advokat, Partner at BEZELGUES, Berlin, Germany, and Roopa Mathews, Associate at LALIVE, Zurich, Switzerland

VIAC Rules Revision 2021 – Perspectives from Hungary, on 23 November 2021, in Budapest, Hungary

On 23 November 2021, the Hungarian Arbitration Association together with the Vienna International Arbitral Centre (VIAC) [↗](#) and the Hungarian Bar Association co-hosted an in-person conference in Budapest entitled 'VIAC Rules Revision 2021 – Perspectives from Hungary' to present the revised [VIAC Rules of Arbitration and Mediation 2021](#) [↗](#) and the new [VIAC Rules of Investment Arbitration and Mediation 2021](#) [↗](#).

VIAC is without any doubt the leading arbitral institution for the settlement of cross-border business disputes involving parties from Central and Eastern Europe, including Hungary. Therefore, the conference attracted considerable interest from the Hungarian legal community and was well attended despite the wors-

ening Covid-19 pandemic situation.

The conference opened with an address by **Veronika Korom** (President of the Hungarian Arbitration Association, ESSEC Business School/Queritius), followed by a keynote address by **András Szecskay** (Vice-President of the Hungarian Bar Association/Szecskay).

The first panel was dedicated to Austro-Hungarian cooperation in the field of economic relations and arbitration with contributions from **Jürgen Schreder** (Austrian Trade Commissioner, Budapest) and **Éva Horváth** (Former President of the Arbitration Court of the Hungarian Chamber of Commerce and Industry).

The second panel focussed on commercial arbitration and featured ArbitralWomen member **Alice**

Fremuth-Wolf (VIAC Secretary-General) who gave an overview of VIAC's history, the VIAC Secretariat's work, the special features of VIAC arbitration and the main changes to the VIAC Rules of Arbitration and Mediation adopted in 2021. This presentation was followed by a round-table discussion with Hungarian arbitration practitioners **Miklós Boronkay** (Szecskay, Budapest) and **Milán Kohlrusz** (BKTP, Budapest) and VIAC Board member **Alexander Petsche** (Baker & McKenzie, Vienna) on the differences and distinctive features of VIAC arbitration, compared to arbitrations conducted under the Rules of the Arbitration Court of the Hungarian Chamber of Commerce and Industry. Noting the geographical proximity and cultural similarities between Vienna



Left to right : Miklós Boronkay, Alexander Petsche, Milán Kohlrusz and Veronika Korom



Alice Fremuth-Wolf addressing the audience

and Budapest, the panel concluded that both institutions offer fast, flexible and cost-effective dispute resolution solutions that are well suited to the needs of parties from the region.

The third panel looked at investment arbitration and started off with an overview of the new, stand-alone VIAC Rules of Investment Arbitration and Mediation 2021 by **Enikő Horváth** (Dechert, Paris). It was followed by a presentation on the aims and challenges of Hungary's BIT policy by **Szabolcs Nagy** (Hungarian Ministry of Foreign Affairs/ Permanent Representation of Hungary to the EU),

who also commented on the effects of Hungary's EU membership, the UNCITRAL WG III reform efforts and the appearance of new generation BITs on Hungary's treaty negotiation strategy. **Dávid Kőhegyi** (DLA Piper, Budapest) summarised Hungary's experience with investment arbitration, both as a host State and as a home State of foreign investment.

The active participation of the audience allowed for a lively and interactive discussion with the panellists. Alice Fremuth-Wolf and Alexander Petsche invited the Hungarian audience to get involved in VIAC's activities and to

apply to the VIAC List of arbitration practitioners.

The conference ended with a cocktail reception where participants had the opportunity to network and to continue the discussion in a relaxed setting. In light of the success of the conference, it was agreed that more similar events bringing together the Austrian and Hungarian arbitration communities would be held in the near future.

Submitted by Veronika Korom, Professor at ESSEC Business Law, Paris, and Partner at Queritius, Paris, France – Budapest, Hungary

SOAS Seventh Arbitration in Africa Conference, on 23-24 November 2021, by Webinar

On 23-24 November 2021, SOAS

University of London and the Casablanca International Mediation and Arbitration Centre co-hosted the seventh edition of the SOAS Arbitration in Africa conference. Originally scheduled to take place in Casablanca, the conference had to move online but was nonetheless a great success, with a great many participants from across Africa and other regions. ArbitralWomen members speaking at the conference included Professor **Emilia Onyema** (SOAS) (who chaired the conference), **Gisèle Stephens-Chu** (Stephens Chu Dispute Resolution) and Dr **Nagla Nassar** (Nassar Law).

The theme of this year's conference was 'Navigating the Interests of African States in International Arbitration and Mediation'. The events on Day 1 began with a keynote speech from the General Counsel of the African Union, Ambassador Dr **Namira Negm**, on the settlement of dis-

putes arising out of the African Continental Free Trade Agreement (AfCFTA). Namira Negm discussed how arbitration could be used to settle inter-State disputes under the AfCFTA, emphasising the need for African arbitral centres and practitioners to seize the opportunities and provides and ensure the entire disputes process remains within the African continent. Subsequent panels discussed (1) how the AfCFTA might support the continent's socio-economic goals, highlighting the need for greater economic and regulatory harmonisation and integration, and (2) reforming bilateral investment treaties to allow States to strike the right balance between investment protection and promoting their developmental goals (including supporting local industries and protecting the environment). The day also included presentations of the [Equal Representation in Arbitration Pledge](#) and the [Green Pledge](#).

On Day 2, after a first panel discussing the lessons African States should draw from ISDS awards, the focus of the conference moved to the increasing promotion of domestic and cross-border mediation both by States and institutions – including the presentation of a new survey on the use of mediation in Africa by **Fatma Ibrahim**, Mediation Special Adviser at the [Cairo Regional Centre for International Commercial Arbitration](#), as well as various tools and strategies adopted at the State and institutional level to help avoid disputes or settle them amicably.



Click here for the recordings of the events and panels.

Submitted by Gisèle Stephens-Chu, ArbitralWomen Board member and Founder, Stephens Chu Dispute Resolution, Paris, France

Investment Arbitration Basics, from a Hong Kong Perspective, on 24 November 2021, by Webinar



On 24 November 2021, ArbitralWomen member **Elizabeth Chan** presented a webinar to the alumni of the [Chinese University of Hong Kong \(CUHK\) Faculty of Law](#), providing an overview of Investor-State Dispute Settlement (ISDS), with a particular focus on ISDS issues relevant to Hong Kong.

In her overview of ISDS, Elizabeth spoke about three aspects of ISDS. First, she described the international legal framework that allows international investment arbitration to exist, painting a brief history of how States have used international investment agreements (IIAs) as a way to attract foreign direct investment. She also

referred to the global network of bilateral investment treaties (BITs) and treaties with investment provisions, and their proliferation in recent history. Second, she discussed common investor protections found in IIAs and the types of remedies that ISDS can offer investors. She also described the types of investors that have most frequently used ISDS, as well as identified industry sectors where ISDS is commonly used and the types of investments that are typically protected. Finally, she described recent and ongoing reforms of the ISDS system.

Readers may have been surprised to learn about the many connections ISDS has to Hong Kong. For example:

The first known investment treaty claim was brought by a Hong Kong-registered company under the [Sri Lanka-UK BIT](#) in [Asian Agricultural Products Ltd v Republic of Sri Lanka](#).

One of the most well-known ISDS cases is [Philip Morris Asia Limited v The Commonwealth of Australia](#), which involved a challenge to Australia's plain-packaging laws for tobacco products. This arbitration was brought under the (earlier) [Australia-Hong Kong BIT](#).

The 2019 [Hong Kong-United Arab Emirates BIT](#) is one of the first BITs to introduce mandatory conciliation, where the State may require the investor to engage in mandatory conciliation before they can obtain recourse to arbitration.

Elizabeth concluded the webinar by encouraging everyone to learn more about ISDS and to engage in conversation about the relevance of ISDS to Hong Kong/Mainland China and other Chinese-speaking parts of the world.

A recording of the webinar is available [here](#).

Submitted by Elizabeth Chan, ArbitralWomen Board member and YAWP – Young ArbitralWomen Practitioners Co-Director, Hong Kong

For a Few Dollars More – Correction, Interpretation and Additional Awards, on 25 November 2021, by Webinar

ARBIT, an association of Italian arbitration lawyers, organised a webinar on the correction and interpretation of arbitral awards and additional awards. The event was held on the eve of the [Annual Conference of the Milan Chamber of Arbitration](#).

The webinar was opened by **Carlo Santoro**, Co-Chair of ARBIT, and moderated by **Maria Theresia Roerig** and

Michele Sabatini (both Co-Chairs of ARBIT). The panellists, **Ginta Ahrel** (Westerberg & Partners, Stockholm), **Stefan Rützel** (Gleiss Lutz, Frankfurt), **Diego Brian Gosis** (GST, Miami) and ArbitralWomen member **Maria Hauser-Morel** (HANEFELD, Paris) offered their practical experience in both commercial and investment arbitration and from the perspec-

tives of their respective jurisdictions.


Despite best efforts of arbitral tribunals, mistakes in awards may still happen, rendering the procedure for the correction and interpretation of arbitral awards and the issuance of additional awards necessary. In ICC arbitrations, the scrutiny process (i.e., the ICC Court's review of draft awards, under [Article 34 of the ICC Arbitration Rules](#)) is very



thorough, and mistakes or omissions are certainly less common in ICC awards. Still, mistakes or ambiguities may still occur in ICC arbitrations as well as in any given arbitration proceedings.


While under most rules and national laws parties may request a correction or interpretation, not only with respect to the dispositive but also to the body of the award (the reasoning), parties contemplating initiating a correction or interpretation procedure should consider whether a mistake or lack of clarity in the body of the award has a real impact on the final result of the case and/or might be potentially relevant at the stage of the enforcement, recognition or set-aside proceedings. While tribunals may, under most institutional rules and national laws, take

the initiative and correct or clarify their own award, it rarely occurs in practice. In the vast majority of cases, it is one of the parties moving for correction or interpretation.

Regarding requests for additional (supplemental) awards, it has been stressed that this possibility concerns only cases where the tribunal failed to rule on a claim, but not an argument or a defence. It was noted that the ICC recently amended its Arbitration Rules, which now explicitly provide for the possibility of additional awards being rendered ([Article 36\(3\)](#) ) , but this rarely happens in practice.

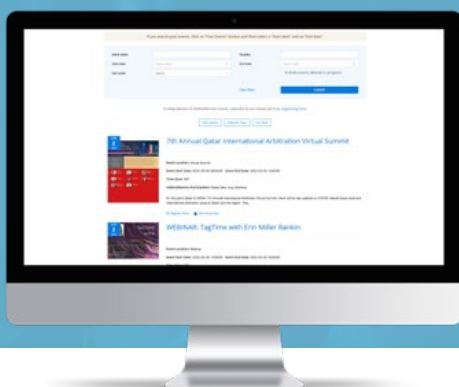
The panellists then discussed whether relatively short time limits to file applications for correction, interpretation or additional awards

set by institutional rules and national arbitration laws (ranging from 15 to 30/45 days from receipt of the award) were sufficient for the parties to spot errors, ambiguities or omissions. It was noted that, in some cases, parties may agree on the admissibility of a belated application.


Finally, the panellists discussed the specificities of the post-award remedies available under the ICSID Arbitration Rules and how said rules ([Rules 50-54](#) ) differ in many respects from the rules of other institutions in matters of correction, interpretation and supplementation of awards.

Submitted by Maria Hauser-Morel, ArbitralWomen member, counsel, HANEFELD, Paris, France

ArbitralWomen is Committed to Promoting Its Members!



ArbitralWomen is committed to promoting the speaking engagements of its members on social media if we receive the following information at least 14 days in advance of the speaking engagement:

1. Title of event
2. Date and time
3. Whether the event has gender parity
4. Names of all ArbitralWomen Members (please check ArbitralWomen Members Directory )
5. Venue or format / platform
6. How to register / registration link
7. Flyer
8. Short summary of event

WASHINGTON ARBITRATION WEEK WAW

Washington Arbitration Week (2nd Edition)

Pairs of Practitioners – Affecting the Pipeline and Paving the Way – Panel in Collaboration with ArbitralWomen, on 30 November 2021 (hybrid event)

ArbitralWomen and the Washington Arbitration Week (WAW) Organising Committee continued their tradition of collaboration, putting on a joint event at Washington Arbitration Week focussing on female arbitration practitioners. This year's panel, titled 'Pairs of Practitioners – Affecting the Pipeline and Paving the Way', featured three pairs of Washington, D.C.-based practitioners made up of a senior and established leader in the field who has worked closely with and paved the way for an up-and-coming rising star:

- **Marney Cheek & Clovis Trevino** (Covington & Burling LLP)
- **Jim Boykin & ArbitralWomen member**

Shayda Vance (Hughes Hubbard & Reed)

- ArbitralWomen members **Rachael Kent & Danielle Morris** (Wilmer Hale)

The event was organised and moderated by ArbitralWomen Board member **Cherine Foty**, who recently relocated to Washington, D.C. WAW Co-Founder **José-Antonio Rivas** gave a few opening remarks and ArbitralWomen member **Ashley Riveira** provided a brief introduction on behalf of Crowell & Moring, the firm hosting the hybrid event.

The three pairs shared their personal experiences of affecting change in the pipeline of diverse representation and paving the way for a new generation of practitioners. At the start of the panel, the established leaders commented upon their experiences promoting and support-

ing excellent individuals of the younger generation, their concrete initiatives to create opportunities for their successful career progression, the difficulties they encountered in doing so and the relationship with their more junior counterparts. The younger practitioners commented upon the importance of the leaders' support and discussed the specific creation of opportunities in paving the way for career progression, highlighting the specific leadership roles they were able to take on and the important skills which were cultivated and encouraged in order for them to establish themselves. The pairs also discussed how they dealt with diversity on arbitral panels, within their firm structures, and how clients have increasingly responded to calls for greater diversity. The perspectives varied based on the slightly different career stage of



Top to bottom, left to right: Cherine Foty, Clovis Trevino, Marney Cheek, Rachael Kent, Danielle Morris, Shayda Vance and Jim Boykin

each of the speakers: young partner, special counsel, and senior associate.

The pairs then compared experiences – discussing what they were able to do for the rising stars that they, as a young practitioners, did not have done for them. The one male-female pair discussed gender dynamics, exploring how both male and female leaders can have a significant impact on younger female practitioners. The young practitioners highlighted their specific experiences with obtaining leadership roles which enhance, not pigeonhole, their linguistic and cultural skills and the importance of creating a

360-degree diverse team. Lastly, the panelists and audience members weighed in on the diversity of arbitral panels and how having women on counsel teams has had an impact and established long-lasting best practices in relation to the nomination of diverse arbitrators.

The event was followed by a series of discussions both in person and in virtual break-out rooms, exploring the topics raised on the panel. A networking session with refreshments was kindly hosted by Crowell & Moring at the end of the event.

In addition to this panel, ArbitralWomen also supported the

entire week of WAW events, and a number of ArbitralWomen members participated as speakers on other panels: ArbitralWomen Board member **Rose Rameau**, ArbitralWomen members **Marinn Carlson**, **Gaela Gehring Flores**, **Munia El Harti Alonso**, **Kiran Gore**, **Patricia Cruz Trabanino**, **Christine Falcicchio**, **Isabel Santos Kunsman**, and **Anne Marie Whitesell**.

Submitted by Cherine Foty, ArbitralWomen Board member, Senior Associate, Covington & Burling LLP, Washington DC, US

Washington Arbitration Week, Ethics in International Arbitration: Is it time for an International Code of Ethics? on 1 December 2021, by Webinar



Left to right: Ignacio Torterola, Ben Love, Daniel Muller, Rose Rameau, and Todd Weiler

Ben Love (Boies Schiller Flexner)

moderated the panel titled 'Ethics and International Arbitration: Is it Time for an International Code of Ethics?' and panelists included ArbitralWomen Board member **Rose Rameau**, Managing Partner of RAMEAU INTERNATIONAL LAW in Washington D.C., **Ignacio Torterola** (GST LLP), **Todd Weiler** (Independent International Arbitrator) and **Daniel Muller** (FAR Avocats).

The webinar focussed on answering the following questions: Is the formation of an international regulatory body and a set of rules regulating ethical conduct of arbitrators and counsel in international arbitration necessary? Would a soft-law approach be more appropriate? What ethical rules are currently applicable to arbitrators, counsel and experts in international arbitration, and what body should implement them? Are they also bound by these or similar rules in their home bar? What are the appropriate standards for challenging counsel

and experts? What does international jurisprudence offer in this topic? (e.g., *Chevron v. Ecuador*).

Rose Rameau's presentation was based on a recent paper that she published in February 2021, titled: '[Ethics in International Arbitration: Can International Institutions Resolve a Universal Code of Conduct for all Participants in the Proceeding?](#)' [🔗](#) She presented the Spanish Arbitration Club's [2019 Code of Best Practices in Arbitration \(CPB\)](#) [🔗](#) which, she argued, is perhaps a precursor of a universal code of conduct, because the CPB covers all the participants in arbitration proceedings. Ignacio Torterola and Todd Weiler highlighted the importance of ethical conduct for the continued confidence and legitimacy of the arbitral process, by providing specific ICSID disclosure for arbitrators and relevant recent cases. Daniel Muller agreed with Rose Rameau's presentation on the issues regarding lawyers' ethical

conduct as they are usually dealt with in each lawyer's respective jurisdiction, where he or she practices, and he further provided additional examples under the French (civil law) legal system. While all arbitrators are not necessarily lawyers, the issue concerning the regulation of an arbitrator's ethical conduct becomes an issue of whether the arbitrator's conduct should be regulated at all and if so, by whom? The panel noted recent initiatives of the International Centre for Settlement of Investment Disputes (ICSID) and the United Nations Commission on International Trade Law (UNCITRAL) teaming up on the issue of Investor-State Dispute Settlement (ISDS) Reforms by releasing the [draft Code of Conduct for Adjudicators in Investor-State Dispute Settlement](#) [🔗](#).

Submitted by Rose Rameau, ArbitralWomen Board member, Partner, RAMEAU INTERNATIONAL LAW, Washington D.C, USA

The Evolution of Dispute Resolution from a Courtroom to a Computer Screen, Federal Bar Association, on 1 December 2021, by Webinar



Jo Colbert Stanley



Ava J Borrasso



Suzanne H. Segal

A panel comprised of arbitrators presented 'The Evolution of Dispute Resolution' to the Federal Bar Association on 1 December 2021. The panel was organised by **Bryan Branon**, Chartered Institute of Arbitrators Regional Relationship Manager for the Americas. **Jo Colbert Stanley**, Stanley Legal Services, moderated the panel, comprised of former United States Magistrate Judge and current arbitrator, mediator and special master, the Honorable **Suzanne H. Segal** (Ret.), of Signature Resolution, and ArbitralWomen member **Ava Borrasso** FCI Arb, arbitrator and counsel of Ava J Borrasso, P.A., Miami, Florida.

The programme addressed the transition from in-person hearings to remote court and arbitral proceedings as expedited due to the Covid-19 pandemic. Judge Segal (Ret.) addressed ADR in the federal courts and the

variety of mechanisms available throughout the district courts, including referral to mediation or arbitration. She also addressed the long-term role of electronic court proceedings, including the continuing but diminishing use of remote proceedings for civil trials. Notably, the presentation took place in advance of the emergence of the Omicron variant in the U.S. Some court measures have receded to remote proceedings in light of that occurrence.

Ava Borrasso FCI Arb addressed the evolution of remote proceedings in arbitration, providing stats from the AAA-ICDR with respect to virtual events taking place from 1 March 2020 through 22 October 2021, which included nearly 15,000 events and more than 8,300 cases. The statistics are available on the AAA-ICDR website. She also addressed institutional responses to the pandemic in dealing with logistical issues, includ-

ing those provided by the LCIA, ICC and CPR. Technology guidelines and protocols for remote hearings were addressed, including the just released [Chartered Institute of Arbitrators' Practice Guideline of the Use of Technology in International Arbitration](#).

The programme concluded with a discussion led by Jo Colbert Stanley on the benefits and challenges of remote proceedings. Some of the benefits addressed included flexibility, the furtherance of environmental policy, and increased opportunities to include a broader and more diverse range of practitioners, while challenges continue with security of proceedings, maintenance of confidentiality and equal access to various tools.

Submitted by Ava Borrasso FCI Arb, ArbitralWomen member, Ava J Borrasso, P.A., Miami, Florida, USA

Workshops on Financial reporting fraud in international arbitration, on 7 and 9 December 2021, by Webinar

In December 2021, the Mazars Litigation and Arbitration team, in partnership with Young ArbitralWomen Practitioners and the Equal Representation in Arbitration Pledge Young Practitioners Subcommittee, hosted two interactive workshops titled 'Financial reporting fraud in international arbitration'.

Experts from the Mazars Litigation and Arbitration team have been instructed in a variety of cases in arbitration, not just financial reporting fraud but also damages and other forensic accounting issues.

The workshops featured opening remarks from ArbitralWomen Board

member **Elizabeth Chan** and a panel of six speakers from Mazars who shared their insights from acting as experts in a range of fraudulent financial reporting cases.

The Mazars speakers highlighted that the level of attention paid to financial statement fraud appears to be higher than ever and used their extensive experi-

Financial reporting fraud in international arbitration

Workshop provided by Mazars' Litigation and Arbitration team in partnership with

December 2021

 Chris Drewe Partner	 Fiona Frith Director	 Darya Oglezneva Director
 Laura Powell Assistant Manager	 Lucy Rothwell Director	 Patricia Moroney Associate Director

ence across a range of sectors to address some of the topics they commonly find themselves debating with counsel and, on some occasions, arbitral tribunals.

Fiona Frith, Director, set the context and introduced what defines a misstatement in financial statements as fraud rather than error. The workshops then moved on to some key accounting concepts, including how the Mazars experts have seen these used in arbitration.

Laura Powell, Assistant Manager, discussed whether materiality can be used as a line of defence, referring to a recent award in which the tribunal disregarded arguments relating to whether items were material, and instead

focussed on whether the misstatements were intentional.

Darya Oglezneva, Director, covered the role of the auditor, including a case study in which the claimant put forward its audited financial statements as being reliable evidence to support its case. It later came to light that the auditor had subsequently withdrawn its audit opinion, having been made aware of material misstatements in the financial statements and based on this, a Court of Appeal overturned the initial award.

Next, **Lucy Rothwell**, Director, used an arbitration matter where a Mazars Partner was instructed as accounting expert to demonstrate the impact of a

difference between the legal form and economic substance of a transaction. In this instance, an investigation into the documentation relating to the transaction revealed that the substance of the transaction was different to the legal form, and this resulted in a fundamental change to the accounting requirements.

Patricia Moroney, Director, demonstrated that nearly every area of a set of financial statements requires some level of estimation and judgement and highlighted the difficulty that experts can face when trying to challenge that an estimate was intentionally wrong. Patricia also went on to discuss the accounting decisions of the parties after the fraud is identified, an argument which can be used in nearly every arbitration involving alleged financial statement fraud.

Chris Drewe, Partner, then presented an insightful section on perspectives from the testifying expert. A key takeaway from Chris was how useful the Conceptual Framework for Financial Reporting can be in explaining the concepts that underlie the preparation and presentation of financial statements to arbitral tribunals.

Submitted by Laura Powell, Assistant Manager, Crisis and Disputes, Mazars, London, UK

ARBinBRIEF Episode 5 on Conducting Virtual Hearings as a Sole Arbitrator, on 8 December 2021, by Webinar

On 8 December 2021, ARBinBRIEF organised and hosted the fifth episode of Season One, titled 'Conducting Virtual Hearings as Sole Arbitrator'. The aim of the virtual conference was to highlight the importance of virtual hearings in arbitration proceedings, as well as the particularities, difficulties or the tribunal's powers with respect to this matter.

The event was moderated by **Ibukunoluwa Owa** (Founding Member ARBinBRIEF, Visiting Foreign Lawyer at WilmerHale) and the episode featured **Luminita Popa**, FCI Arb (ArbitralWomen member, ICC Court

member, Managing Partner at Suci, Popa si Asociatii) and **Kate Apostolova** (Senior Associate at Freshfields Bruckhaus Deringer).

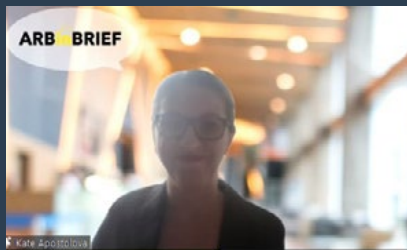
Luminita Popa kicked off the discussion and asked Kate Apostolova what her experience was with virtual hearings and whether she thought this is a trend that will continue. Kate Apostolova stressed that her personal experience with virtual hearings was very good and that, following the Covid-19 pandemic, they are here to stay. She highlighted that she had the same understanding of case's facts and that she did not share popular

beliefs with regard to arbitrator's difficulties while taking witnesses' or experts' testimonies. Luminita Popa pointed out that this should be fundamentally based on a good planning and detailed organisation.

Kate Apostolova further noted that there are several difficulties while conducting a virtual hearing as a sole arbitrator, amongst them the fact that all of the prior preparation falls on you. She noted that her good experience regarding virtual hearings stems from her planning ahead of time, in order to make sure there are no technical problems during the hearing.



Luminita Popa



Kate Apostolova



Ibukunoluwa Owa

As to those cases where parties who do not agree to hold a virtual hearing, Kate Apostolova urged to consider the following factors: the reason for the virtual hearing, the content of the hearing, whether there may be any technical difficulties and any potential delay. In this regard, in one of her cases (which occurred during Covid-19 lockdown), she was constantly in touch with the parties and, after a two-month delay, she suggested that a virtual hearing should be held, to which

both parties agreed. She underlined the importance of rules of arbitration that expressly provide for the tribunal with authority to decide whether to hold virtual hearings, such as the ICC or the Delos Rules of Arbitration.

Finally, Kate Apostolova highlighted the advantages of virtual hearings, amongst which there are: saving time and costs for the parties; saving time for the arbitrators, and promoting Green Arbitration, due to the reduction in flights and shift from paper to online hearing

bundles, which results in lower carbon footprint. She emphasised the importance of agreeing on certain rules for the hearing ahead of time and also the possibility to adopt institutional guidelines and practice notes, such as the SIAC's and the ICC's protocols for virtual hearings or ACICA's ADR procedural order.

Submitted by Luminita Popa, ArbitralWomen member, ICC Court member, Managing Partner at Suci, Popa si Asociatii, Bucharest, Romania

Advice to our younger selves: What we wish we had known earlier in our careers, Swiss VYAP Launch Event, on 8 December 2021, by Webinar

8 December 2021 marked the

launch of the Switzerland Very Young Arbitration Practitioners (Swiss VYAP), a new chapter of the Global VYAP network. There are currently 22 chapters of the Global VYAP network around the world in Africa, Asia, Europe, North America and South America. The VYAP network aims to support students and arbitration practitioners in the early stages of their careers.

The Swiss VYAP launch event started with an introduction to Swiss VYAP from **Konrad Staeger** (Associate, Schellenberg Wittmer), opening remarks from **Philippe Bärtsch** (Managing Partner, Schellenberg Wittmer), followed by a panel discussion with ArbitralWomen member **Catherine Kunz** (Partner, LALIVE) and **Sebastiano Nessi** (Counsel, Schellenberg Wittmer). The panel discussion was moderated by **Paula Meléndez** (Sustainable Development Manager, Terminal Investments Limited)



and ArbitralWomen member **Roopa Mathews** (Associate, LALIVE).

The discussion centred on themes relevant to junior practitioners, including how to approach networking at the outset of one's career, practical tips for maintaining relationships with peers during busy periods, the role of mentors

and sponsors, and the importance of gaining experience outside of one's home jurisdiction. Following the panel discussion, **María Eugenia Piacquadio** (Associate, Curtis, Mallet-Prevost, Colt & Mosle) announced the launch of Swiss VYAP's mentoring programme.

The event concluded with a virtual networking session which enabled the panellists, Swiss VYAP members and attendees to meet and interact in small groups.

For more information on future events and programmes, visit the Swiss VYAP [website](#).

Submitted by the co-founders of Swiss VYAP: Konrad Staeger (Associate, Schellenberg Wittmer), María Eugenia Piacquadio (Associate, Curtis, Mallet-Prevost, Colt & Mosle), Paula Meléndez (Sustainable Development Manager, Terminal Investments Limited) and Roopa Mathews, ArbitralWomen member (Associate, LALIVE)

19th ICC Miami Conference: ICC YAF Panel, on 14 December 2021, in Miami, Florida, US



Left to right: Marie-Isabelle Delleur, Javier Jaramillo, Rebeca Mosquera, Alvaro Awad, Estefania Ponce, Orlando Cabrera & Claudia Salomon

The ICC YAF: Youthquake: how arbitration will change when the new generation leads at the occasion of the 19th ICC Miami Conference on International Arbitration, took place at the Mandarin Oriental Hotel, in Miami, on 14 December 2021.

ArbitralWomen Board Member **Rebeca Mosquera**, together with **Alvaro Awad**, moderated this ambitious panel on how millennials are changing arbitral practices. The speakers addressed a series of thought-provoking arbitration-related topics, including how technology can optimise arbitral procedures, communication and teamwork with co-counsel, the tribunal and experts; the promotion of amicable dispute resolution; the accuracy of fact witnesses' memory

in international arbitration; and the influence of common law adversarial models of litigation in Latin America.

The session began with opening remarks by **Katherine Lievano**, Head of Latin American Chapter of the ICC YAF.

ArbitralWomen Member **Marie-Isabelle Delleur** spoke about the necessary advocacy skills for the new generation of lawyers, including the ability to navigate cultural specificities, for instance to address arbitrators from different legal backgrounds, language skills, the importance of diversity and the ability to make the most of tech tools. She insisted on the need for young lawyers to be creative and develop new techniques for both oral and written advocacy, including alternatives to the Redfern

Schedule for document production and alternatives to lengthy oral and written submissions. Marie-Isabelle was joined by **Rebeca Mosquera** and **Alvaro Awad**, as moderators, and **Estefania Ponce**, **Javier Jaramillo**, and **Orlando Cabrera Colorado**, as co-panellists.

The conference was followed by a networking reception and dinner.

Submitted by **Rebeca E. Mosquera**, ArbitralWomen Board member, ICC YAF Representative North America, Senior Associate in International Arbitration and Litigation at Akerman LLP, New York, USA & **Marie-Isabelle Delleur**, Senior Associate in International Arbitration at Clifford Chance, Paris, France

It Is Hard to be What You Cannot See: Driving Innovation Through Diversity and Inclusion, on 14 December 2021, in Miami, US

At the December 2021 ICC Miami Conference on International Arbitration in Latin America, ICC held a joint diversity panel together with the **Equal Representation in Arbitration Pledge**, ArbitralWomen, and **WWA-LatAm**. ICC International Court of Arbitration President **Claudia Salomon** delivered introductory remarks and served as moderator of the panel. **Cecilia Alemany**

Billorou shared the perspective of **UN Women**. **Eric Franco** spoke about why diversity and inclusion is sound strategy in the business world. **Cindy Rayo**, as legal counsel of ISDS cases in Mexico, spoke about the types of actions required to promote diversity and inclusion in international arbitration.

The event was widely attended and a highlight of the ICC Miami conference!



News you may have missed from the ArbitralWomen News webpage

This section of the ArbitralWomen Newsletter reports on news posted recently on the ArbitralWomen News webpage that readers may have missed.

Excellent Attendance at the ArbitralWomen Virtual Annual General Meeting on 1 February 2022!

3 February, 2022

ArbitralWomen held its Annual General Meeting (AGM) virtually on Tuesday, 1 February 2022, attended by women from all over the world.

Board Secretary **Gaëlle Filhol** called the meeting to order at 16:00 GMT, 17:00 CET.

President **Dana MacGrath** gave introductory remarks, noting that her term as President will conclude on 30 June 2022, and took a moment to reflect on her time as President. She shared that it has been an honour to lead ArbitralWomen through some very difficult times, not the least of which has been the global pandemic, and that the Board maximised the ArbitralWomen platform to support women during this challenging period

while continuing ArbitralWomen's usual programming in different, innovative ways. ArbitralWomen could not have achieved all that it has without a fabulous team of ArbitralWomen Directors, Members, and allies.

In the past four years, the ArbitralWomen Executive Committee took significant steps to modernise the governance of ArbitralWomen, including most recently the preparation of the 2022 ArbitralWomen By-Laws. At the same time, the Board expanded ArbitralWomen's presence globally, augmented ArbitralWomen's programmes, and launched new programmes even during the pandemic. ArbitralWomen has tried to embrace more deliberately the new generation of women in arbitration.

Additionally, ArbitralWomen partnered with many other organisations to promote diversity in ADR and has supported other, relatively new, diversity organisations and initiatives in their efforts to launch successfully.

Dana concluded her remarks by noting that ArbitralWomen will celebrate its 30th anniversary in November 2023 and her hope is that we will all join in celebrating ArbitralWomen's rich history of promoting women and diversity at our 30th anniversary celebrations. Finally, she shared that she was extremely proud of how ArbitralWomen continues to thrive and wished the future leadership team of ArbitralWomen much success.

Next, Vice President **Louise Woods** presented on the ArbitralWomen 2022 By-Laws.



Louise explained that the 2022 By-Laws are the culmination of several months of work by the By-Laws Amendment Taskforce, which she led herself as Vice President, and thanked the Taskforce (which included volunteer members of the ArbitralWomen Executive Committee, Board and Advisory Council) for their comments and suggestions. She noted that the amended By-Laws have been accessible to ArbitralWomen Members on the website portal since 12 January 2022.

She explained that the amendments were aimed at three main goals:

1. to build on recent improvements to ArbitralWomen's governance,
2. to improve, clarify and streamline certain processes, and
3. to record in the By-Laws policies and procedures that already existed in practice.

She then walked members through the specific amendments and summarised the key revisions.

Thereafter, she took questions and comments, and the issue of approval and adoption of the 2022 By-Laws was put to a vote, with an overwhelming majority—in fact unanimous—vote in favour of approval and adoption of the new By-Laws.

Next, several members of the Board

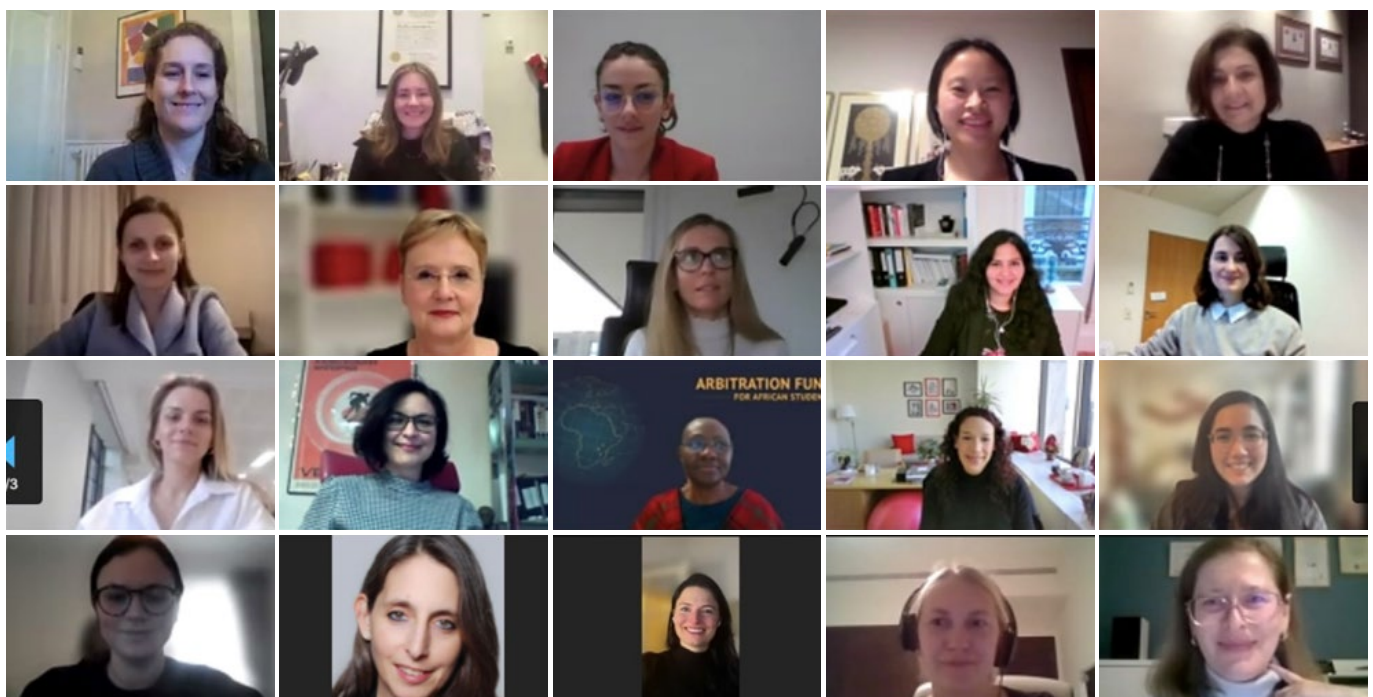


of Directors reported on the work of their committees in 2021. **Juliette Fortin** reported on her work as Treasurer and on the finances of the organisation. **Rekha Rangachari** reported on the work of the Cooperation Committee and Global Events. **Maria Beatriz Burghetto** reported on the work of the Newsletter team. **Gisèle Stephens-Chu** reported on the revamped Parental Mentorship Programme. Dana MacGrath reported on the News Committee's work. **Amanda Lee** reported on social media. **Elizabeth Chan** reported on the work of YAWP and the selection of the new 2022 YAWP Steering Committee. All 2021 Committee Reports will be made available to members in due course together with minutes of the 2022 AGM.

After the reports by Directors on their committees' work, President Dana MacGrath provided a high-level overview of the 2022 Board election process and shared a slide that illustrated the key dates of the process, which appears below. More information regarding the 2022 Board election process will be shared with the ArbitralWomen Membership in due course.

At the close of the meeting, members participated in a networking session, at which new ArbitralWomen members were invited to introduce themselves.

Several other members shared news and their areas of expertise at the networking session. The event concluded at 19:30 CET.



Insider View of the Revamped ArbitralWomen Parental Mentorship Programme



Co-Organisers of the ArbitralWomen Revamped Parental Mentorship Programme: Left to right: Louise Woods, Gisèle Stephens-Chu, Katie Hyman

2 February, 2022

Since its kick-off session in

December 2020, the revamped Parental Mentorship Programme, led by Board members **Louise Woods**, **Gisèle Stephens-Chu** and YAWP Steering Committee member **Katie Hyman**, has been holding group discussions by videoconference every two months. The forum is a support network for parents and prospective parents providing ArbitralWomen members with the opportunity to discuss the specific concerns and challenges of parenting while maintaining and developing an international arbitration career. The content of the discussions is confidential among meeting participants to encourage an open discussion and a free exchange of ideas.

The group meetings are small enough that each participant has an opportunity to share her individual experiences and provide a comfortable atmosphere to connect.

Kathryn Siebke has attended several of the sessions and thoroughly enjoys the solidarity the programme provides. 'As a mother of three and partner in a law firm, my life is a constant balancing act where I often feel that a barrier needs to be set between the two — those whom I work with should not be bothered with my obligations at home, and my family life should not be impacted by my career,' Kathryn

Siebke commented. 'Obviously this is not a feasible reality, even more so in these pandemic times. The Parental Mentorship Programme is a wonderful outlet to discuss the aspects of being a working mother that are unique to the international arbitration field, and offers support for those tough decisions that sometimes need to be made. It is also a pleasant networking opportunity in an informal setting to really get to know other working mothers around the world and the ways they have managed the work-life balance.'

Rikki Stern, who has also attended several of the sessions, highly recommends the programme. 'The Parental Mentorship Programme is a unique forum in which participants can have honest conversations about the challenges of balancing a highly demanding profession with motherhood,' Rikki Stern explained. 'The Programme allows participants to share creative solutions, and has debunked many of the myths as to what is required for success.' Stern notes that she 'always leaves the sessions feeling inspired by the examples of the Programme's participants, who are leading highly successful careers in international arbitration while also having a full family life.'

Another participant, **Monika Prusinowska**, has especially enjoyed a variety of perspectives offered by other Programme participants: 'We all face similar challenges as working mothers,

but we may also have different ways of approaching them. The exchange of experience among those attending the sessions has exposed me to a variety of solutions to the issues I currently cope with in terms of my professional and private life transition. It is often more difficult to see options just by yourself. I leave each session feeling inspired and simply stronger.'

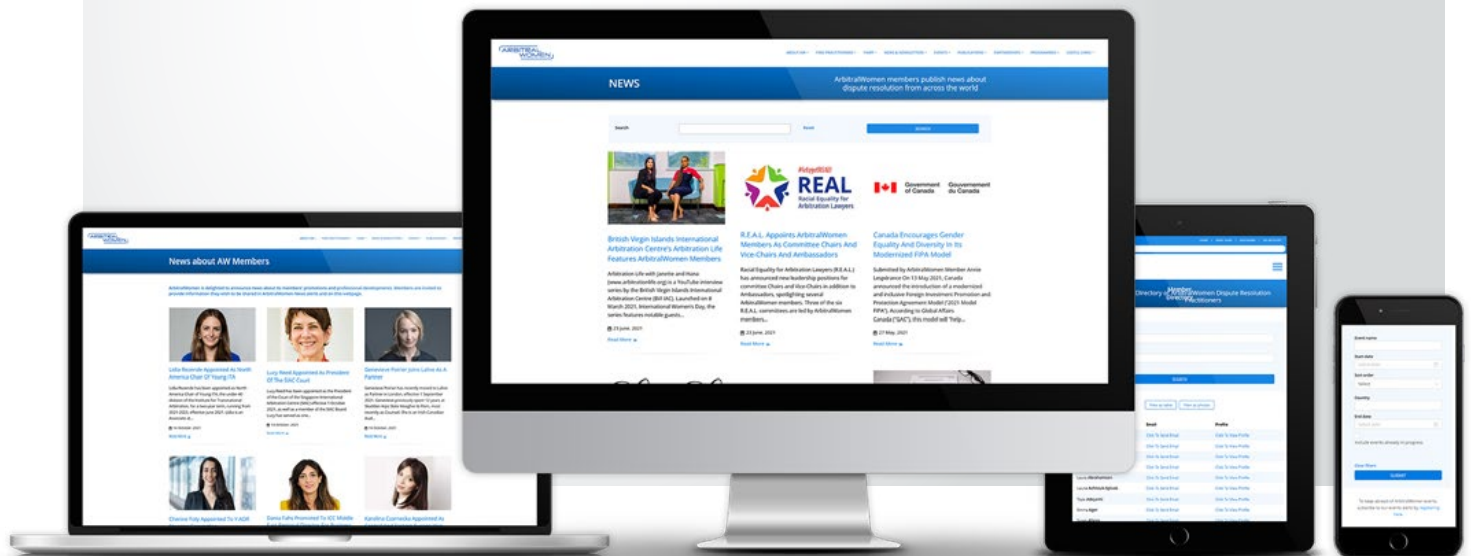
Gisèle Stephens-Chu notes that 'the programme allows women of different nationalities and cultural backgrounds to connect, share their experience and support each other. The challenges of parenting and pursuing a career in international arbitration are global, and there is much to learn from colleagues across the globe on how to raise children in the new normal.'

The next Parental Mentorship event will take place on **3 March 2022, at 9am GMT**. For our next event, we welcome **Dilber Devitre**, who replaces Katie Hyman as YAWP Steering Committee member. Growing interest in the revamped Parental Mentoring Programme has increased the number of new ArbitralWomen members joining the organization, as the programme is only open to ArbitralWomen members.

If you are a member of ArbitralWomen and wish to participate or have suggestions on how to further optimise the programme, please reach out to **Louise Woods**, **Gisèle Stephens-Chu** or **Dilber Devitre**!

Keep up with ArbitralWomen

Visit our website on your computer or mobile and stay up to date with what is going on. Read the latest [News](#) about ArbitralWomen and our [Members](#), check [Upcoming Events](#) and download the current and past issues of our [Newsletter](#).



ArbitralWomen Initiatives Shortlisted for the GAR Pledge Award 2022!

ArbitralWomen is honoured that our Revamped Parental Mentoring Programme and our Collaboration with Dispute Resolution Data (DRD) have both been shortlisted for the GAR Pledge Award. For more information on our Parental Mentoring Programme, see above article on page 46. For more information on our Collaboration with DRD, please visit our [News Page here](#).

ArbitralWomen congratulates all initiatives shortlisted for GAR Awards 2022! We also honour and thank everyone who has contributed to advancing gender parity and diversity in arbitration in their own way regardless of whether they have received an award nomination.

Together we collectively make the difference that achieves meaningful progress.

ArbitralWomen thanks all contributors for sharing their stories.

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AW Activities at a Glance: [click here](#)

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ArbitralWomen Individual & Corporate Membership

ArbitralWomen's 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 [Member Directory](#) and [Find Practitioners](#)
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- Visibility on the [News about AW Members](#) to announce news about members' promotions and professional developments
- Ability to **obtain referrals** of dispute resolution practitioners
- **Networking** with other women practitioners
- Opportunity to participate in ArbitralWomen's various programmes such as our [Mentoring Programme](#)

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 40 practitioners from their firms.



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