

# ArbitalWomen Newsletter



*Uniting and promoting women in dispute resolution*

www.arbitalwomen.org

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On 2 December 2019, several ArbitalWomen members based in Peru met for an end of year dinner to discuss and plan upcoming events for 2020!

## Happy International Women's Day 2020!

**Happy International Women's Day 2020 to all our Members and friends around the world!** It is a pleasure to issue our current Newsletter on IWD 2020 featuring many achievements and activities of women in dispute resolution across the globe. *(In an upcoming Newsletter edition, we will share reports on celebrations taking place today in honour of IWD 2020 – please send us your reports!)*

This edition of the Newsletter features an interview with high-profile engineer and international arbitrator **Dr. Patricia Galloway** conducted by ArbitalWomen Board Member **Vanina Sucharitul**, reports on dispute resolution events in November and December 2019, and news articles featured on ArbitalWomen's [News Page](#).

With respect to the event reports, ArbitalWomen members have reported on a wide array of international dispute resolution events that took place between November and December 2019. These events were held in disparate parts of the globe — **Abu Dhabi** (UAE), **Amsterdam** (The Netherlands), **Beijing** (China), **Chantilly** (France), **Chicago** (USA), **Dubai** (UAE), **Dublin** (Ireland), **Edinburgh** (UK), **Enugu** (Nigeria), **Geneva** (Switzerland), **The Hague** (The Netherlands), **Hong Kong** (China), **Houston** (USA), **Islamabad** (Pakistan), **Istanbul** (Turkey), **Kyiv**

(Ukraine), **Lima** (Peru), **London** (UK), **Lyon** (France), **Miami** (USA), **Minneapolis** (USA), **Moscow** (Russia), **Nancy** (France), **Nanning** (Guangxi, China), **New York** (USA), **Osaka** (Japan), **Oxford** (UK), **Paris** (France), **Recife** (Brazil), **St. Petersburg** (Russia), **Washington DC** (USA) and **Zagreb** (Croatia).

We also report on several events organised by or co-organised with ArbitalWomen, including an ArbitalWomen breakfast in collaboration with CEA Mujeres in Lima on **Advantages of Arbitration**, an ArbitalWomen event in China on **Becoming a Rising Star in International Arbitration**, a joint ICC-ArbitalWomen Breakfast in Miami on **Regional Diversity Issues in Latin America**, a reception in Miami co-organised by ArbitalWomen and Women Way in Arbitration and hosted by Greenberg Traurig: **Reception to Honour the Miami Launch of the ArbitalWomen Diversity Toolkit**, and a joint ArbitalWomen-33 Bedford Row event in London (UK) on **Expert Evidence in Arbitration**.

We thank the many ArbitalWomen members and friends who have submitted these reports.

Dana MacGrath  
ArbitalWomen President, Omni Bridgeway

# Women Leaders in Arbitration

## High-Profile Engineer Turned International Arbitrator

**Patricia Galloway** almost did not become an engineer. Although she grew up with a mother who told her she could be anything, Galloway realised this was not the case for many young and ambitious women like her. Galloway talks about the challenges as a woman to become an engineer and a renowned

arbitrator and how more women can break the glass ceiling. Trained as a civil engineer, in 2004, Galloway became the first female President of the American Society of Civil Engineers (ASCE), was appointed by President George W. Bush to the National Science Board (NSB) from 2006 to 2012, is director of the American

Arbitration Association (AAA), and was recently awarded “2019-One of the Most Influential Corporate Board of Directors” by Women’s Inc.

**Vanina Sucharitkul**, ArbitralWomen Board Member, recently caught up with Galloway to ask her a few questions.



**How did you get involved in engineering, which as you wrote in your article “Getting More Women into Engineering Requires Cultural Changes” is one of the most male-dominated fields?**

I grew up as a dancer. My first 16 years in life I was into dance, art, but also into hiking and the outdoors. As I was very much into liberal arts, I never dreamed of being technically inclined later. Though I enjoyed math, I never took calculus, physics or chemistry classes in high school, as in Kentucky it was not offered in the early 1970s, as in other higher education states, such as California and New York.

While a junior in high school, I was directed to leave my

biology class so I could attend “career day”. The lecture was held in a large auditorium where I sat on the very back row. The civil engineering professor from the University of Kentucky who spoke displayed a number of gorgeous renderings of buildings which, as an artist, caught my eye. I raised my hand and asked him if civil engineers prepared those renderings as part of their work. While I realise now they were probably

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*My first day on the job I was told by the Contractor that I was not allowed to go inside the tunnels, because women were bad luck!*



architectural renderings and not civil engineer drawings, he said, "Of course, and you as a woman would do well in the civil engineering and we desperately need more young women like you in the field". If you think about it, in 1974, this was quite a profound statement, especially from a man. I told my mother, who said it was a wonderful idea: "You can do anything you want, as long as you put your mind to it." I was excited and told my math teacher that I wanted to be a civil engineer. Her response: "It is a "bad idea", you will flunk out, you are not smart enough to be an engineer", although I was a straight A student. My counsellor was equally discouraging, telling me it was a "bad idea" and that I lacked the necessary aptitude. I wanted to prove them wrong.

At Purdue University, I started questioning myself whether I truly wanted to be an engineer, as I preferred a career that worked closely with people and would allow time spent outdoors. While I considered dropping out, my counsellor advised me to spend the next semester taking classes solely in construction and project management, which I loved and that renewed my passion in engineering but broadened that passion to include construction. I graduated with a civil engineering degree, with a dual major in structural design and construction management. In 1978, I accepted a job with CH2M Hill to work on a mega project. I have never looked back. Those two factors of having a professor encourage me and counsellor point me in the right direction were a turning point in my career.

### With a background in civil engineering, how did you get involved in dispute resolution?

I always had an interest in law. My first project was the US\$ 1.2 billion Milwaukee Water Pollution Abatement Program, the largest public works in the US at that time, commissioned due to a suit by the City of Chicago against the City of Milwaukee that it was polluting the waters of Lake Michigan that flowed down to the City of Chicago. The suit was upheld, and the work began taking nearly 10 years to complete. As Purdue University was one of the few universities at the time that offered construction management, I was assigned to the Project Management division. My first role was as a woman tunnel inspector, the first in the state. But the experience was shocking. My first day on the job I was told by the Contractor that I was not allowed to go inside the tunnels, because women were bad luck! While my Project Manager quickly came to my rescue, it was my first introduction as to how women were often viewed in the construction field at that time.

The job finished on time and budget. After my field assignment, I was assigned to the Project Controls Department. The Program was under contractual requirements to perform Critical Path Scheduling (CPM) and other Project Controls reporting, which was relatively new in the industry at that time. With my major in construction management, I developed CPM schedules, trained staff regarding project management and was asked to draft a scheduling manual for the Program. I was promoted to Programme Master Scheduler, reporting directly to the Programme Director and working with the legal staff.

*The engineering background has been tremendously helpful in understanding the technical issues of complex disputes involving megaprojects.*

I became fascinated with this aspect of the work, as I had to review a lot of contracts, ensure compliance and work with the legal team. I became a member of the ASCE Construction Management Committee and was asked to write a paper on the use of CPM to analyse scheduling delays. Knowing nothing about schedule delay, my supervisor introduced me to the President of a New York City company, the Nielsen-Wurster Group (NWG), who jointly wrote the paper with me, which we presented at an ASCE conference in 1980.

In 1981, I was asked by NWG to join the firm. By the mid-1980s, I had become an officer and owner of the Company and took the Company international. By the late 1980's we began to open several offices around the world, including Singapore, London, Sao Paulo and Rome. It was during that period, up until 2008, that I served as international expert witness in numerous international arbitration cases, mainly as scheduling and delay expert in megaproject construction and infrastructure projects, but also in other areas as well.

### How did you transition your career from being an expert to becoming an arbitrator?

I started my arbitration experience by becoming a member of the American Arbitration Association (AAA) in 1987 and



*The problem I see is that many young women do not enter the profession, as they see few role models and women leave the profession because they do not believe they have the support of their male colleagues.*

sat as arbitrator in very small cases. The advantage I had as international expert was meeting the best construction lawyers and arbitrators around the world. When I knew I was going to retire from my work as expert in 2008, I spoke with one of my mentors, arbitrator Doug Jones, about my interest in being an international arbitrator. Given that I had only been trained in engineering, he recommended that I broaden my training and education in international arbitration to hone my arbitration knowledge, particularly on arbitration law, procedural rules and the role of an arbitrator. He suggested that I go to Pepperdine University Law School, Straus Institute, where I obtained a Certificate in Dispute Resolution. During my international arbitration course, I had the opportunity to visit the LCIA and, while in London, met several women lawyers and arbitrators that encouraged me to join ArbitralWomen, which I did in 2009. Doug further encouraged me to join the Chartered Institute of Arbitrators (CI Arb) and obtain a Diploma in International Arbitration, which I did through the program at Oxford, Jesus College. The entire process took nearly four years to complete.

After that, I had my first international case within six months and the cases kept coming. With that experience, I was also able to apply for and obtained my Chartered Arbitrator certification from CI Arb. The engineering background has been tremendously helpful in understanding the technical issues of complex disputes involving megaprojects. In addition to serving as an arbitrator, I serve on several Dispute Review Boards, including the ICC, where I understand to be one of the first women to be appointed by the ICC to a Dispute Board. I credit Doug for his mentorship but, at the same time, I did not know any women I could turn to, as I had never appeared in front of a female arbitrator. So far, I have only sat on a case with another female arbitrator once and I feel more education is needed about qualified women and why more women should be considered in the appointment of arbitrators, as I have found that diverse panels often result in more broadened views in the deliberation process. This is a very important cause for me and mentorship from both men and women is also crucial in fostering women's careers.

**You also became the first woman President of the American Society of Civil Engineers (ASCE) in its 132-year history. Tell us more about your role.**

One of the major tasks that I undertook was to commission ASCE along with other engineering societies to publish a table-top book featuring prominent women engineers, both past and present, who contributed to different fields of engineering. The book, entitled, "Changing our World: True

Stories of Women Engineers," published by ASCE Press in 2006, serves as a great tool for guidance counsellors, not just in high school, but also for junior high school, to broaden the horizon to encourage young women to enter the engineering profession. The problem I see is that many young women do not enter the profession, as they see few role models and women leave the profession because they do not believe they have the support of their male colleagues. Over my career, I have given several lectures to organisations, universities and companies where I speak to women about my three C's to success: confidence, communication and commitment. I have also mentored several young women who are now doing great things in the construction and engineering industries. In addition, while a member of the NSB, I was asked to join the Science Channel Advisory Board of the Discovery Channel, where we recommended the increase in diverse hosts in their programming as ways to show role models and further the vision to young women and young people everywhere that engineering is a fun and meaningful career.

**How did you break the glass ceiling to become the first female President of the ASCE in 132 years?**

It was not easy. I actually ran four years prior and I was the first woman running at that time and we had the first African American running mate. I learned all my lessons on politics and had no idea that my counterpart had campaigned for years prior. He even offered me to step down in exchange for his support in the following term! I declined and it was a very close election.

I had a lot of encouragement from other sections to start my campaign the very next day for the following term and I did. I ran against a male counterpart again and this time I won in 2004. I took the role very seriously and stepped away from my job by taking a sabbatical for the first two years to concentrate on the role. This included supporting the agenda of the President; my main agenda was diversity and my second agenda was ethics of engineers.

It was a turning point as well, because now the ASCE has had five female presidents and nearly half of the local section officers are women. I believe that being the first female President has helped give other women the confidence to stand up for leadership positions.

**As Director of the American Arbitration Association (AAA) for 10 years now, can you tell us about any changes in trends and measures introduced to improve gender diversity?**

We take diversity very seriously. It is now a goal at the AAA to have each panel list be at least 20% diverse and its Panel of Arbitrators at the same goal. Currently the AAA has demonstrated that 93%, up from 87% in 2017, of its listed panels are diverse. In 2019, 29% of the lists submitted were diverse, up from 26% in 2017. Its Panel of Arbitrators as of 2019 is now 26.1% diverse. The International Center for Dispute Resolution (ICDR) follows the same process.



# Reports on Events

## Diversity in ADR: Swinging into Action! on 3 October 2019, in Abu Dhabi, United Arab Emirates



Attendees at the Abu Dhabi diversity event

**For the first time in the UAE,** ArbitralWomen and Chartered Institute of Arbitrators (CIArb), with the generous support of Shearman & Sterling, organized an event titled *Diversity in ADR: Swinging into Action!*. The event debuted with a round of mini golf for the attendees, followed by a panel discussion about diversity in ADR and the role of the key players in the industry and a networking event.

**Fatima Balfaqeeh**, ArbitralWomen member, Independent Arbitrator, moderated the discussion, and started the panel by providing an overview from the latest statistics of the ICC report about diversity and the milestones achieved during last year. **Leonora Riesenburger FCIArb**, Chair of the CIArb UAE Branch, had the pleasure to celebrate year on year achievements of the Institute following its signature of the Equal Representation in Arbitration Pledge in 2016, and regale the audience with latest statistics on gender representation in terms of membership and panel appointments, which are extremely encouraging. **Adam Peters**, Legal Counsel, Abu Dhabi Global Market (ADGM), shared the initiative taken by ADGM not only to promote female prac-

tioners but also young practitioners. He discussed that diversity is not only about gender, but also should include diversity of ages or professional backgrounds, and gave examples of cases he had seen where all the arbitrators were white males from the same foreign jurisdiction although the dispute was based on UAE domestic law.

**David Hume**, Senior Associate, Shearman & Sterling (Abu Dhabi), also added that law firms can do more to ensure diversity in their appointments and how it is important to convince their clients that the diversity will benefit their case. He listed all the measures that his firm is taking in this respect and acknowledged the types of difficulties that women are facing to have equal opportunities to their male peers.

**Sara Koleilat-Aranjo**, ArbitralWomen Board Member, Senior Associate, Al Tamimi & Company, reflected on the role of organizations such as ArbitralWomen to promote diversity. She acknowledged the almost inevitable existence of an unconscious bias, which is not just a commercial factor as it was in the past. Sara highlighted that diversity has now shifted to become a stand alone business issue and entities

should realize that, statistically and scientifically, they achieve better results with diverse counsel and tribunals. Despite ending on a positive note by highlighting the extensive efforts deployed by certain players, including leading arbitration centres such as the ICC and the LCIA, Sara emphasized that there is still a long way to go to achieve gender parity in international arbitration.

Lastly, the panellists ended their discussion by giving practical advice to female practitioners on how to support and promote themselves and how to play a proactive part by leaning into the process.

ArbitralWomen and CIArb are looking forward to having this event conducted annually to promote all types of diversity issues and provide a platform to all practitioners to benefit from them and to make themselves heard and known.

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Submitted by Fatima Balfaqeeh, ArbitralWomen member, Independent Arbitrator, Managing Director, RKAH Consultancy and Sara Koleilat-Aranjo, ArbitralWomen Board Member, Senior Associate, Al Tamimi & Company, and Catalina Bizic, Arbitration Intern, Al Tamimi & Company

## Long and Winding Roads of Arbitration on 1 November 2019 in Istanbul, Turkey



Front row: Paul Taggart and Olena Gulyanytska  
Left to right: Muhammet Bembeyaz, Yasemin Çetinel, Ebru Çetinel, Emel Özaltun, Selcen Can, Burcu Osmanoğlu, Anil Acar, Daniel Pascoe, Cihan Eren, Devran Demirkan, Viacheslav Blazhko, Salih Kartal

**On 1 November 2019, the** CI Arb European Branch Young Members' Group held their fourth *"Happy Arbitration Hours"* event in Istanbul, Turkey, with the participation of two guest speakers: Paul Taggart & Olena Gulyanytska.

With years of experience in the construction industry and dispute settlement in multiple jurisdictions, former president of the Dispute Resolution Board Foundation, **Paul Taggart**, presented his experiences with regards to the differences in the practice of arbitration in various jurisdictions, including China. He underlined the importance of

drafting a clear and strong arbitration clause to prevent any deadlock at the beginning of the dispute settlement proceeding, providing real life examples. He enlightened the audience about the challenges faced by counsel and arbitrators during the arbitration proceedings, as well as in the enforcement of the award. Paul further drew the audience's attention to the necessity of carefully reviewing the local laws and jurisprudence in order to avoid disputes in the future. His input included the differences in various local arbitration laws concerning the administration of arbitration and its effects on the enforceability of the award, involvement

of courts and interim measures. Paul also briefly introduced the audience to the dispute board mechanism and its place in the dispute resolution mechanism.

The discussion was facilitated with the involvement of both guest speakers as well as the audience.

Finally, there was an introduction to the Business Arbitration Scheme under CI Arb's Dispute Appointment Service (DAS) presented by Olena Gulyanytska. She emphasised that the scheme was designed as a fast, cost effective way of resolving small scale disputes (worth £5,000 to £100,000 in claim value) with a single arbitrator and a focus on written rather than oral proceedings.

The Happy Arbitration Hour event was followed by a cocktail reception where the audience had a chance to meet the guest speakers and share their experiences.

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Submitted by Olena Gulyanytska, ArbitralWomen member, FCI Arb Independent Counsel, London, United Kingdom; Burcu Osmanoğlu ArbitralWomen member, FCI Arb, Partner, Osmanoğlu Law Firm, Istanbul, Turkey; Ayse Selcen Can, ArbitralWomen member, ACI Arb, Associate, Cetinel Law Firm, Istanbul, Turkey

## DIS and CIETAC Seminar on early conflict resolution and efficiency in arbitration proceedings on 5 November 2019 in Beijing, China

**On the occasion of the China** Arbitration Summit 2019, a joint seminar was organised by DIS and CIETAC in Beijing on 5 November 2019 on early conflict resolution and efficiency proceedings in international commercial arbitration.

The seminar was moderated by **Joachim Glatter**, Independent Arbitrator,

Frankfurt am Main, with other panelists: **Song Dihuang**, Partner, Beijing Hui ZhongLaw Firm, **Dong Chungang**, Partner, Jing Tian Gong Cheng Law Firm, **Mao Huigang**, Partner, Shanghai Jinmao Law Firm, **Tom Christopher Proestler**, Counsel, CMS Hasche Sigle, Berlin/Hong Kong, **Ana Stanič**, Founder, E&A Law

Limited, London and **Rolf Trittmann**, Partner, Freshfields Bruckhaus Deringer LLP, Frankfurt am Main.

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Submitted by Ana Stanič, ArbitralWomen member, Director of E&A Law Limited, London, UK



## Belt & Road Arbitration Institutions Roundtable Forum on 7 November 2019 in Beijing, China



Left to right: Leng Sun Chan, Meng Gang, Ana Stanić, Raja Sajjad, Yu Tengqun, Qin Yuxiu

**CIETAC and world-renowned** arbitration institutions including the ICC, AAA, DIS, HKIAC, SCC, SIAC, CRCICA and VIAC organised the first ever Belt and Road Arbitration Institutions Roundtable Forum on 7 November 2019 in Beijing.

**Ana Stanić**, Director of E&A Law Limited and member of

ArbitralWomen, participated in the panel discussion on *Arbitration Serving Belt & Road Finance and Infrastructure Construction* which was moderated by **Leng Sun Chan**, Deputy Chairman SIAC. The other panellists were: **Meng Gang**, Deputy Director General of Law and Compliance, China Development Bank, **Rana Sajjad**, President of CIICA,

**Yu Tengqun**, Vice President & General Counsel of China Railway Group Ltd, and **Qin Yuxiu**, General Counsel of China State Construction Engineering Co., China.

Submitted by Ana Stanić, ArbitralWomen member, Director of E&A Law Limited, London, UK

## NYIAC Talks – A Debate on the Motion: “This House Believes that Arbitral Tribunals Should Regulate Ethical Conduct in International Arbitration” on 7 November 2019 in New York, USA



Left to right: Michael D. Nolan, Preeti Bhagnani, Joseph Neuhaus, George A. Bermann, Kiera S. Gans

**The New York International Arbitration Center (NYIAC)** organised a debate on the motion “*This House believes that arbitral tribunals should regulate ethical conduct in International Arbitration*” hosted by White & Case LLP. Speaking for the Proposition were **Preeti Bhagnani**, Partner at White & Case LLP, and **Michael D. Nolan**, Partner at Milbank LLP. Speaking for the Opposition were **George A. Bermann**, Jean Monnet University Professor of EU Law,

Walter Gellhorn Professor of Law and Director for the Center for International Commercial and Investment Arbitration at Columbia Law School, and **Kiera S. Gans**, Of Counsel at DLA Piper. The panel was moderated by **Joseph E. Neuhaus**, Partner at Sullivan & Cromwell LLP, with **Rekha Rangachari**, Executive Director at NYIAC, providing the opening remarks.

A focal point of the debate was whether arbitral tribunals should have the primary responsibility of regulating ethical conduct, or if such regulations should be left to arbitral institutions or

domestic licensing authorities.

For the Proposition, Preeti Bhagnani and Michael Nolan argued that arbitral tribunals are in the best position to address ethical violations that arise in an arbitration and should regulate them accordingly. Arbitral institutions are not suited to the task of adjudicating ethical violations, and leaving the enforcement of ethical norms to domestic licensing authorities would exacerbate fragmentation and inequality of arms.

In Opposition, George Bermann and Kiera Gans argued that while arbitral tribunals should take measures to

manage the case before them fairly and efficiently, requiring tribunals to police counsel's ethical conduct would be contrary to efficiency, transparency, accountability, due process and legitimacy. Arbitral institutions are better suited than tribunals to formulate and enforce ethical norms.

The opening speeches were followed by an interactive Q&A session, and a vote on the motion. The majority of the audience voted in favour of the Opposition.

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Submitted by Clemency Wang, Associate, White & Case LLP, New York, USA

## The Digitalisation Of Business Law: A 2-day symposium on 8 and 22 November 2019 in Lyon and Nancy, France, respectively



Left to right: Professor Cachart, Jean Luc Piotraut and Nathalie Potin

**Lyon Catholic University** (UCLy), Université de Lorraine (Nancy) and Université Lyon 2 Lumières organised a 2-day symposium on the digitalisation of business law on Friday 8 November at UCLy and Friday 22 November 2019 in Nancy.

The first day, at UCLy, focused on the emergence of new digital technologies in business law and highlighted that digitalisation is already a reality. The various speakers covered a wide spectrum of topics, including the protection of personal and confidential data, the use of blockchains and smart contracts in business law,

the impact of *legaltechs*, and the use of artificial intelligence in multiple areas of practice. The conclusions of the eminent speakers were that business law should adapt to the use of technology in the decision-making process for international transactions (blockchains and smart contracts) and in the practitioners' daily work (*legaltechs*, predictive justice, and ODR).

The second day, in Nancy, focused on the necessary reaction of business law to digitalisation. Speakers covered intellectual property related issues resulting from digitalisation, the works created by artificial intelligence, cyber-

crime and dispute resolution. The challenges in these new digitalised spaces and systems would include the fight against cybercrime in a digitalised business world but also the need to provide legal services using digital tools whenever they can increase speed and reduce costs while ensuring efficient justice to users.

**Professor Cachart** of Université de Lorraine and **Associate Professor Potin** of UCLy discussed the impact of digitalisation on domestic and international arbitration. Arbitrators and users often use digital tools to improve efficiency and reduce costs in arbitration practice. Users have options with online arbitration: e-arbitration or new services using blockchain arbitration. The future will tell if the virtual arbitrator will become a reality. The digitalisation of business law should not be equated with the reduction or disappearance of guarantees such as independence, impartiality or fair and equitable justice.

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Submitted by Nathalie M-P Potin ArbitralWomen member, Associate Professor at UCLy, PhD, solicitor of England & Wales (n.p.), admitted to the French Bar



## CIETAC lecture on arbitration in the energy sector on 8 November 2019 in Beijing, China

### In a lecture on Resolving

Energy Disputes at the Graduate School of Chinese Academy of Social Sciences, **Ana Stanič** (photo) discussed inter-state maritime boundary disputes concerning oil and gas, international commercial and investment disputes concerning energy projects, European Commission investigations concerning energy projects and WTO disputes.

Submitted by Ana Stanič, ArbitralWomen member, Director of E&A Law Limited, London, UK



## CIArb Young Members Group Annual Conference 2019 on 8 November 2019 in Edinburgh, United Kingdom



Left to right: Peter Anagnostou, Callum Murray, Marily Paralika, Owain Evans and Laura West

**During the 2019 Annual** Conference of the CIArb Young Members Group, speakers from around the world met in Edinburgh to discuss *"How to make arbitration better."*

The event opened with an address from CIArb President **Thomas Halket**, C.Arb, FCIArb, discussing current challenges in arbitration such as diversity, transparency, professional education and the use of technology, and explaining how CIArb is adapting to meet these challenges. Thereafter, **Lindy Patterson**

**QC**, FCIArb, an arbitrator, adjudicator and dispute board member operating out of 39 Essex Chambers in London, delivered a keynote address offering insight on possible ways to improve the arbitral process. She cautioned that what constitutes "improvement" is always in the eye of the beholder, so the buy-in of all stakeholders will be necessary to effect lasting change.

The first panel of the day, chaired by **Rahul Donde**, Counsel at Lévy Kaufmann-Kohler, concerned ways to improve the arbitration procedure.

**Fiona Cameron**, Partner at Gillespie Macandrew, discussed what arbitration practitioners can learn from recent developments in mediation. **Catherine A. Kunz**, ArbitralWomen member and Partner at Lalive, suggested ways to make disclosure more efficient by focusing on the burden of proof and imposing a concrete cost on dilatory discovery practices, and **Mélanie Riofrio**, Associate at Armesto & Asociados Árbitro discussed ways in which her firm is seeking greater efficiency both in arbitrator selection and in discovery through an alternative to the traditional Redfern Schedule.

The second panel, chaired by **Peter Anagnostou**, Senior Associate at DLA Piper and **Laura West**, Associate at CMS Cameron McKenna Nabarro Olswang, considered ways to improve construction arbitration. **Callum Murray**, Founder and CEO of Amigus, an Edinburgh based tech start-up, discussed his experiences as a user of construction arbitration and the ways in which Amigus uses technology to disrupt and improve the dispute resolution process. **Marily**

**Paralika**, ArbitralWomen Board Member and Partner at Fieldfisher, then discussed practical steps that party representatives and arbitral institutions can take to prevent disputes from escalating, and how to improve the arbitral process if escalation is unavoidable. Finally, **Owain Evans**, a Chartered Structural and Civil Engineer at William J Marshall & Partners, shared his experience as an independent expert in construction arbitration and suggested ways to make the expert evidentiary process more efficient and effective.

In the third panel of the day, **Athina Fouchard**, ArbitralWomen member and Counsel at Eversheds Sutherland, and **Sebastiano Nessi**, Counsel at Schellenberg Wittmer, chaired a discussion among key stakeholders in investment arbitration, discussing current issues such as the UNCITRAL Working Group III reform process and the implications for intra-EU investor claims following the landmark ruling in *Achmea*. They were joined by **Saadia Bhatti**, member of the ArbitralWomen Marketing Committee and Counsel at Gide Loyrette Nouel, **Jaroslave Kudrna**, Legal Advisor at the Ministry of Finance of the Czech Republic, and **Christel Tham**, Legal Counsel at the Permanent Court of Arbitration.

The final session of the day, chaired by Sebastiano Nessi and



Left to right: Rainbow Willard, Hafez Virjee, Meredith Craven, Naomi Briercliffe and Sebastiano Nessi

**Rainbow Willard**, ArbitralWomen member and Counsel at Chaffetz Lindsey, considered whether and under what circumstances arbitration is suitable for small claims. They were joined by panelists **Meredith Craven**, ArbitralWomen member and Associate at White & Case, **Naomi Briercliffe**, ArbitralWomen member and Senior Associate at Allen & Overy, and **Hafez Virjee**, President of Delos Dispute Resolution. The speakers discussed whether the expedited processes institutions offer for small claims are the most appropriate and efficient way to deal with smaller value claims, and ways in which lawyers, contract negotiators, and party representatives can adapt their practices to manage smaller-value claims more cost-effectively.

The conference was hosted by CMS Cameron McKenna Nabarro Olswang and sponsored by the CI Arb Scotland

Branch. Further information can be found at:



CI Arb YMG  
Conference 2019.



Photos on LinkedIn.



Photos on Facebook.

Submitted by Laura West, Chair of the CI Arb YMG Conference Planning Subcommittee and Associate at CMS Cameron McKenna Nabarro Olswang, Edinburgh, Scotland, United Kingdom and Meredith Craven, ArbitralWomen member, Associate, White & Case, Houston, TX, USA

## 17<sup>th</sup> ICC Miami Conference on International Arbitration on 10–12 November 2019 in Miami, Florida, USA

**During the 17<sup>th</sup> Annual ICC** Conference in Miami, ArbitralWomen members **Ina C. Popova**, Partner, Debevoise & Plimpton, New York and Paris, and **Kate Brown de Vejar**, Partner, DLA Piper, Mexico, spoke on the panel entitled “*The revision of final awards: when, if ever, is it acceptable?*,” moderated by **Josefa Sicard-Mirabal**, Independent Arbitrator and Adjunct Professor of Law, Fordham University.

Ina discussed whether one can

expect to see the introduction of appeals against arbitral awards in a civil law country, noting this year’s proposal to reform the Singaporean International Arbitration Act to include an opt-in mechanism similar to s. 69 of the English Arbitration Act 1996. She described various data points that do not suggest that this is what users actually want. The available statistics about s. 69 applications show that every year only a small number of

applications are filed, a fraction of them are granted, and even fewer prove successful. Moreover, the frequency of such applications appears to have remained more or less stable over the past ten years, even as the number of arbitrations seated in London has presumably risen. Although several arbitral rules in the United States provide for the possibility of appeal, there is little evidence that they have seen much uptake. The 2018 Queen Mary





Left to right: Kate Brown de Vejar, Felipe Ossa, Josefa Sicard-Mirabal, Eliseo Castineira and Ina C. Popova

survey also did not suggest that an appeal mechanism is what arbitration users actually want. Moreover, the audience was not aware of any civil law jurisdiction which currently had a similar mechanism. Nevertheless, the idea that oversight from a court might be necessary may reveal unease about whether arbitrators can be trusted to get things right, without reaching compromise solutions that are legally questionable. She concluded that participants should always conduct

themselves as if national courts were looking over their shoulder, because one day they might.

Kate, in turn, discussed the ICDR case *T. Co. Metals LLC v. Dempsey Pipe & Supply, Inc.* to illustrate how requests for clarification seeking the revision of an award have been dealt with in the past. Kate explained that the arbitrator in *T. Co. Metals* miscalculated the damages due to a misinterpretation of the evidence presented by the parties. Both par-

ties submitted applications to amend the award. The arbitrator issued an amendment order, finding that he had the power “to change conclusions based upon clerical errors.” The US District Court vacated the amended award on the basis that the arbitrator had exceeded his powers. The Court of Appeals ultimately reversed, holding that the arbitrator’s interpretation of his powers under the ICDR Rules was entitled to deference.

**Felipe Ossa**, Partner, Claro & Cia, Chile, and **Eliseo Castineira**, Partner, Castineira, France, also spoke on the panel. Felipe talked about the exceptional mechanisms available in Latin American countries to set aside awards and recent judicial developments on this issue in Argentina, Chile, Colombia and Peru. Eliseo analyzed the principal grounds for the revision of an international award - procedural fraud and discovery of new facts or evidence - and its differences with annulment actions.

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Submitted by Ina C. Popova, ArbitralWomen member, Partner, Debevoise & Plimpton, New York, USA; Kate Brown de Vejar, ArbitralWomen member, Partner, DLA Piper, Mexico City, Mexico; Julio Rivera Rios, Debevoise & Plimpton, New York, USA

## English Law Week on 11-14 November 2019 in St. Petersburg and Moscow, Russia

**English Law Week** was organised in partnership with the Bar Council of England and Wales, the British Embassy in Moscow, the Russian Federal Chamber of Lawyers, the Moscow Chamber of Advocates, the St Petersburg Chamber of Advocates, the Anglo-Russian Law Association, and the British Russian Law Association.

Over 340 delegates registered to attend events during the four-day conference, with over 100 attending each day in St Petersburg and Moscow. Speakers included **Jackie**



Left to right: Nadia Hubbuck and Andrey Panov

**Van Haersolte-van Hof**, Director General of the London Court of International Arbitration, **Trevor Lewis**, Director of the Department for International Trade, British Embassy, Moscow, **Lindsay Skoll**, Deputy Head of Mission at the British Embassy in Moscow, and a number of well-known English and Russian practitioners.

Expert panels of solicitors, barristers and Russian advocates addressed topics including Brexit, trends in personal and corporate structuring, English judgments

involving Russian parties, the use of English law in business transactions between or among Russian parties, sanctions, international arbitration and AI use in international arbitration. At the Oxford Union debate in St. Petersburg there was strong interest in continuing to use English law and England and Wales as a jurisdiction for cross-border contracts and disputes with a Russian element, despite Brexit.

One of the panels in St. Petersburg was dedicated to the developments in international arbitration. **Nadia Hubbuck**, a member of ArbitralWomen, Associate, Bryan Cave Leighton Paisner LLP, spoke about arbitrators' conflicts of interest and the fallout from the Haliburton case. The other panelists, who included **Julia Zagonek**, Partner at White & Case, and **Andrew Lenon QC** of One Essex Court, discussed the questions of how to get the best from

your arbitrator and whether it is a question of soft law, the arbitral institution involved, or just down to making the right choice at the outset.

The panelists shared their views on the selection of arbitrators and practical experience.

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Submitted by Nadia Hubbuck, ArbitralWomen member, Associate, Bryan Cave Leighton Paisner LLP, London, UK

## ICC-ArbitralWomen Breakfast on Regional Diversity Issues in Latin America on 12 November 2019 in Miami, Florida, USA



Left to right: Sandra Gonzalez, Dana MacGrath, Diana Garate, Rafael Villar Gagliardi

### On the occasion of the 2019

ICC Miami Latin America International Arbitration Conference, ArbitralWomen organised our traditional ICC-AW breakfast panel. This year, we discussed regional diversity issues in Latin America at the event titled "Should Regionalism Be On the Agenda?" Speakers included **Diana Gárate**, Senior Manager, EY Law (Perú), **Sandra González**, ArbitralWomen member, Partner, Ferrere Abogados (Uruguay) and co-founder of Women Way in Arbitration-LATAM (WWA-LATAM) and **Rafael Villar Gagliardi**, Partner, Demarest (Brazil). The panel was moderated by **Dana MacGrath**, ArbitralWomen President and Investment Manager and Legal Counsel, Omni Bridgeway.

The discussion about regional diversity in Latin America was very interactive, with a dynamic exchange among panelists and members in the audience. A few takeaways were that as gender diversity issues continue to pervade Latin America there is much work to be done. Many groups are organizing on the ground in Latin America, there are new groups such as WWA-LATAM and other organisations that are focused on changing the diversity issues in Latin America.

It was also highlighted that the gender diversity issues are connected to social and economic diversity challenges. Not everybody is coming from a school or background that makes them the obvious person to hire at the leading

law firm. Changes must be made so that people who are coming from different schools can be hired and trained and welcomed into the international arbitration community.

Another area of diversity that was highlighted was age diversity, that there is an under representation of young people in the arbitration space in Latin America. To respond to that issue, there are a number of young organisations that are working together across regions in Latin America to build a network of young people who are preparing to enter this industry and really make a meaningful difference to diversity in this community.

It was an inspiring discussion that continued well after the panel at breakout coffee sessions and other networking opportunities at the 2019 ICC Miami Latin America Conference.



Click to visit Women Way in Arbitration

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Submitted by Sandra Gonzalez, ArbitralWomen member, Partner, Ferrere Abogados and co-founder of Women Way in Arbitration-LATAM and Dana MacGrath, ArbitralWomen President, Investment Manager and Legal Counsel, Omni Bridgeway, New York, USA



## “Non-Lawyer Arbitrators, Expertise and Perspective” on 13 November 2019 in London, United Kingdom

The London branch of the Chartered Institute of Arbitrators hosted another joint event together with the London Maritime Arbitration Association (LMAA) this time addressing non-lawyer arbitrators, their expertise and perspective.

One of the panellists was ArbitralWomen member **Karina Albers** FCI Arb, International Arbitrator and accredited Expert at the Federal Court of New York, expert in leading cases in London, New York and Singapore. NGO representative at the United Nations Commission on International Trade Law (UNCITRAL), Member of the Baltic Exchange, the GMAA, the Expert Witness Institute and ICCA, aspiring full member of the LMAA, and a panel member of the SCMA Singapore, addressed the historic background of arbitration which was driven by non-lawyer arbitrators when arbitrators were industry peers especially chosen for their

expertise and experience in the subject matter of the dispute. A lesser known fact supporting this is that the very first arbitration statute was drafted by John Locke, a proud non-lawyer, in 1698.

**Miriam Goldby**, Reader in Law at Queen Mary University of London highlighted statistics of her research that non-lawyer arbitrators are as much in demand as lawyer arbitrators. She drew on her findings published in her book “The Role of Arbitration in Shipping Law”.

**James Clanchy** FCI Arb, Arbitrator, Solicitor at LexisPSL discussed the topic of the various ways in which arbitrators from professions and backgrounds outside the legal sector are being increasingly marginalised by institutional rules, legislation and regulations. His title “endangered species” raised concerns and also highlighted the great flexibility that *ad hoc* arbitration provides. It is the preferred form of arbitration amongst the maritime and commodity industry, as demonstrated by an annual average

of commenced cases of over 1700 in numbers under LMAA rules.

**Brian Williamson**, LMAA member, shared his vast experience as a master mariner and long standing international arbitrator focussing on disputes involving his speciality and hobby what effect weather has on speed and performance of vessels. For him, being an arbitrator is not a profession but his favourite hobby.

Submitted by **Karina Albers** FCI Arb, International Arbitrator, Mediator and an accredited Expert at the Federal Court of New York, expert in leading cases in London, New York and Singapore. NGO representative at the United Nations Commission on International Trade Law (UNCITRAL), Member of the Baltic Exchange, the GMAA, the Expert Witness Institute and ICCA, aspiring full member of the LMAA, and a panel member of the SCMA Singapore, London, UK

## Experts vs. Expertise – the added value of experts over in-house expertise in Amsterdam, the Netherlands on 13 November 2019

A ‘battle of experts’ is a frequent phenomenon in international arbitration. But what is the added evidentiary value of external party-appointed experts where the expertise is equally or better available in-house, or where such experts are not strictly necessary? Are external experts only cost-drivers or are they nevertheless useful and, if so, why?

These and related questions were at the heart of the debate held on 13 November 2019, organised by the Best Friends Firms at the offices of De Brauw Blackstone Westbroek. A panel consisting of **Galina Zukova**, independent arbitrator and founder of Zukova Legal, **Philipp Jäger**, legal advisor at GasTerra in Groningen, **Alan Rozenberg**,



Left to right: Laura Fadlallah, Galina Zukova, Alan Rozenberg, Anna Biasiolo, Philipp Jäger and Davine Roessingh

Vice President at Compass Lexecon in Madrid, **Anna Biasiolo**, senior associate at BonelliErede in Milan and **Laura**

**Fadlallah**, senior associate at Bredin Prat in Paris, discussed the added value of expert evidence, issues concerning the

independence and impartiality of experts and questions of mandate and arbitrator interference. The panel was moderated by **Davine Roessingh**, senior associate at De Brauw Blackstone Westbroek in Amsterdam.

After the opening remarks by ICC YAF representative **Roland Kläger** and **Martje Verhoeven-de Vries Lentsch**, partner at De Brauw Blackstone Westbroek in Amsterdam, the discussion amongst the panellists proved to be lively and sparked a strong participation from the audience as well. The panel elaborated on the driving forces behind the increased use of experts in

arbitration, not only on technical topics requiring outside expertise, but specifically on points where the required expertise was available in-house. The panellists debated whether an outside expert is more credible to tribunals due to her or his experience in arbitration and independence from the parties. Moreover, the panellists considered that outside experts may further add to the credibility and strength of a party's case when the expert is able to act as a sounding board for counsel and when the expert is able to challenge the party on the viability of its advocated position.

The panellists also shared their views on the role of arbitrators in the assessment of expert evidence, the necessity of tribunal-appointed experts and associated issues concerning the mandate of a tribunal-appointed expert. In all, it was an informative and entertaining afternoon with many new insights and perspectives. We thank the participants and attendees for this, and hope to meet again in the future!

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Submitted by Davine Roessingh, ArbitralWomen member, Senior Associate, De Brauw Blackstone Westbroek, Amsterdam, the Netherlands

## “Developments in International Arbitration: Keeping the Promises of a New Era” on 13 November 2019 in Minneapolis, Minnesota, USA



On 13 November 2019, **Steve Nelson**, Partner, Dorsey & Whitney LLP, **Camille M. Ng**, Deputy Counsel, ICC International Court of Arbitration (“ICC Court”), **Charles (“Chuck”) Ragan**, Independent Arbitrator based in Minneapolis and San Francisco, and **Dr. Katherine Simpson**, Independent Arbitrator based in Michigan and London, discussed the evolution of procedural tools and institutional practices in international commercial arbitration.

This breakfast event, entitled “Developments in International Arbitration: Keeping the Promises

of a New Era?” was sponsored by Dorsey & Whitney LLP, the ICC Court, and the United States Council of International Business. The panelists shared tips and offered insights about many new developments while discussing in detail:

1. arbitration agreements (and the perils of creative or hastily drafted “champagne clauses”),
2. the ICC Court’s expedited procedure provisions, and
3. professional responsibility.

On the latter subject, panelists noted that, where counsel are subject

to different ethical codes or rules of professional responsibility, some institutions or tribunals attempt to level the playing field by urging counsel from both sides to adhere to the same (*i.e.* stricter) professional responsibility rules. This may not be an available or even a complete remedy in all cases. Regardless of opposing counsel’s behavior or the tribunal’s wishes, however, the attorney’s home professional responsibility rules always apply. The panel created a short poem to reflect that observation:

*“Your law license binds you more than  
you will ever know,  
And its rules will follow you, wherever  
you may go.  
These jealous rules bind only you –  
Just break them once, and then you’re  
through!”*

— Inspired by “Wherever You Are  
My Love Will Find You”, by Nancy  
Tillman)

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Submitted by Katherine Simpson, ArbitralWomen member, Ann Arbor, US and London, UK



## Reception to Honour the Miami Launch of the ArbitralWomen Diversity Toolkit on 13 November 2019 in Miami, USA



Left to right: Luis Martinez, Dana MacGrath, Diana Droulers, Ana Lombardía Villalba, Angela Romero-Valedon, Rebecca Storrow and Angelika Hunnefeld

**Dana MacGrath**, President of ArbitralWomen, delivered welcome remarks. The ArbitralWomen Diversity Toolkit™ trainers on 14 November 2019 included ArbitralWomen Board members **Diana Droulers** and **Louise Barrington** together with ArbitralWomen member **Angelika Hunnefeld**.

It was a pleasure to join with so many diversity supporters at this festive evening following the close of the 2019 ICC Miami International Commercial Arbitration Conference.

Many thanks to Greenberg Traurig, LLP, Women Way in Arbitration – WWA LATAM and the AAA-ICDR team.

Submitted by Angelika Hunnefeld, ArbitralWomen member, Greenberg Traurig Shareholder, Miami, USA and Dana MacGrath, ArbitralWomen President, Investment Manager and Legal Counsel, Omni Bridgeway, New York, USA

**We had a wonderful turnout at** the ArbitralWomen and Women Way in Arbitration – WWA LATAM at the 12 November 2019 celebratory reception organized and hosted by Greenberg

Taurig LLP with the support of the American Arbitration Association-ICDR to celebrate the first ArbitralWomen Diversity Toolkit training in Miami at the AAA-ICDR taking place on 13 November 2019.

## YPAI Young Practitioners Seminar, on 14 November 2019 in Dublin, Ireland

**On 14 November 2019**, Young Arbitration Practitioners Ireland (YPAI) organised a Young Practitioners Seminar at the Dublin International Arbitration Centre. The event took place the evening before the Dublin International Arbitration Day, Ireland's leading conference on international arbitration organised by Arbitration Ireland.

After a Welcome Address by **Paul Gardiner SC**, President of Arbitration Ireland and **Sinéad Drinan BL**, Chair of YPAI, a first panel moderated by **Patrick Leonard SC** discussed "Regional Hot Topics". During a lively conversation, **Daragh Brehony** (Pérez-Llorca, Madrid) discussed the annulment of arbitral awards in Spain



Left to right: Patrick Leonard SC, Nadia Smahi, Jerry Healy, Gerard James and Daragh Brehony

on grounds of public policy, **Gerard James** (William Fry, Dublin) presented recent Irish case law on the finality of arbitral awards, **Jerry Healy** (Willkie Farr & Gallagher, London) talked about challenges to awards on the grounds of serious irregularity and **Nadia Smahi** (Bär & Karrer, Geneva) addressed the upcoming changes to the Swiss *lex arbitri*. Participants then asked the panellists numerous follow-up questions on these topics.

After a short coffee break, **Louis Flannery QC** (Stephenson Harwood, London), during an animated interview led by **Louise Reilly BL**, gave advice to young arbitration practitioners in relation to arbitrator

appointments (and how to get them).

The interview was then followed by a second panel on “Guerrilla Tactics”, again moderated by **Patrick Leonard SC**, which featured speakers **Niamh Leinwather** (Freshfields, Vienna), **Cameron Forsaith** (Eversheds Surtherland, London), **Rahul Donde** (Lévy Kaufmann-Kohler, Geneva) and **Anne Collins** (Clifford Chance, London). This panel was particularly interesting thanks to the speakers’ personal insights and war stories on guerrilla tactics in international arbitration, which gave some food for thought on how to retain and improve the efficiency of arbitral proceedings in such situations.

Last but not least, networking drinks

took place at the Distillery Building, where the world-renown Irish hospitality did not fail to live up to its reputation.

Altogether, the seminar was a success, thanks in large part to its engaged audience and to its meticulous organisation by the YPAI Committee and Arbitration Ireland, as well as the great attention to detail provided by **Rose Fisher**, Arbitration Ireland’s Executive Director.

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Submitted by Nadia Smahi, ArbitralWomen member, YIAG Regional Representative for Europe and Associate, Bär & Karrer, Geneva

## The Arbitrator Selection Puzzle: Putting the Pieces Together on 14 November 2019 in Chicago, USA



Left to right: Sarah Reynolds, Catherine Rogers, Lawrence Schaner and Camille Ng.

On 14 November 2019, for the second time, **Sarah Reynolds**, Partner at Mayer Brown, and **Soledad Galmarini O'Donnell**, Senior Litigation Counsel at Abbott, hosted the ICC and USCIB at Mayer Brown Chicago. The event included a panel discussion entitled: *Arbitrator Selection Puzzle: Putting the Pieces Together*. Additional speakers included **Camille Ng**, Deputy Counsel at the ICC in New York, **Catherine Rogers**, CEO at Arbitrator Intelligence and **Lawrence Schaner**,

founder at Schaner Dispute Resolution in Chicago.

The panel was moderated by Sarah Reynolds. She introduced the subject and explained typical arbitration selection processes (e.g., relying on networks and institutional lists) and considerations (e.g., when it makes sense to target former judges or industry experts as candidates). Catherine Rogers previewed her AI-based start-up technology and discussed how she expects AI and Arbitrator

Intelligence to disrupt traditional arbitrator selection methods, foster greater diversity among arbitrator candidates, and allow clients more precisely to target candidates. Lawrence Schaner presented ethical guidelines to consider when interviewing potential party-appointed arbitrators and Camille Ng walked the audience through the ICC’s arbitrator appointment processes.

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Submitted by Sarah Reynolds, Partner, Mayer Brown Chicago and Palo Alto, USA



## Panel session on Developments in Third Party Funding (5<sup>th</sup> IPBA Arbitration Day jointly hosted with Japan International Dispute Resolution Center – JIDRC), on 14 November 2019 in Osaka, Japan



Left to right: Aoi Inoue, Robert Rhoda, Ashish Kabra, Lars Markert, Cheng-Yee Khong, David MacArthur, Denis Brock and Suresh Divyanathan

The session was highly interactive and informative, thanks to the hard work of moderators **Aoi Inoue** and **Robert Rhoda**. Panelists **Denis Brock**, **Ashish Kabra**,

**Lars Markert**, **David MacArthur** and **Suresh Divyanathan** gave overviews of the legal status of third-party funding (TPF) and practical developments in their respective jurisdictions, i.e., Hong

Kong, India, Japan, Korea and Singapore. As a funder, **Cheng-Yee Khong** provided an introduction to TPF, practical tips on what funders look for and how to obtain funding, as well as views on regional/global trends in funding.

Issues such as TPF in investment arbitration, contingency fees, security for costs were addressed. Participants from Asia and Europe in the audience exchanged views with the panellists on different local practices.

Submitted by Cheng-Yee Khong, ArbitralWomen member, Associate Investment Manager, Omni Bridgeway in Hong Kong, China

## Who's Who Legal Future Leaders: Arbitration Conference USA on 14 November 2019 in Washington DC, USA



Left to right: Marinn Carlson and Lucinda Low

On 14 November 2019 in Washington DC, ArbitralWomen members **Marinn Carlson** of Sidley Austin and **Érica Franzetti** of Dechert co-hosted

'Who's Who Legal Future Leaders' inaugural "Arbitration Conference USA". The conference included a panel on new developments in investment treaty arbitra-

tration with ArbitralWomen member **Mallory Silberman** of Arnold & Porter as well as **Borzu Sabahi** of Curtis Mallet and **Patrick Pearsall** of Jones Day, moderated by **Érica**; a panel on U.S. Section 1782 discovery in aid of arbitration with **Emma Lindsay** of Withers Worldwide and **Dan Tan** of Dan Tan Law, moderated by **James Duffy** of Reed Smith; and a fireside chat with leading arbitrator **Lucinda Low** of Steptoe, interviewed by Marinn. The approximately 50 attendees also enjoyed a networking cocktail to conclude the program.

Submitted by Marinn Carlson, ArbitralWomen member, Global Arbitration, Trade & Advocacy Practice Co-Leader, Sidley Austin LLP, Washington DC, USA

## Small States, International Law and the Realisation of Rights on 14–15 November 2019 in London, UK

The annual small states conference, co-organised by WilmerHale, BIICL, and the Institute of Small and Micro States (ISMS) and supported by Brill and De Montfort University, brought together professionals, academics, NGO representatives, members of the diplomatic corps, and Government officials involved in the fields of law, the political, natural and social sciences, economics, and computer engineering. Speakers and participants, representing more than 30 countries discussed the challenges small states face when having to operate in the international arena and how they can navigate those challenges, for example, by relying upon civil society or NGOs. For the Arbitral Women audience Day 2 of the conference, which was devoted to international dispute resolution/international arbitration was of particular interest. The Deputy Chief Justice of Papua New Guinea, **Ambeng Kandakasi**, in his keynote address, proposed a Pacific Island arbitral tribunal dedicated to climate change



Left to right: Daniel Stewart; Allison Nortje and Nicole Pierce

and environmental disputes. The lively discussion that followed was chaired by **Dharshini Prasad**, WilmerHale, and was followed by a panel on climate change economics, chaired by **Amanda Lee**, Seymours. Other panels included “*The Strategy of Dispute Resolution for Small States*” and “*Dispute Resolution Funding Models*”. The conference recordings are available via the WilmerHale YouTube channel and include a conference report, via the ISMS website.



WilmerHale  
You Tube channel.



Click to read the  
conference report.

Submitted by Petra Butler, ArbitralWomen member, Professor, Victoria University of Wellington and Director, Institute of Small and Micro States, Wellington, New Zealand

## IV Oxford Symposium on Comparative International Commercial Arbitration on 15 November 2019 in Oxford, United Kingdom

The IV Oxford Symposium on Comparative International Commercial Arbitration addressed a variety of topics from a comparative perspective.

**Danielle Morris**, Partner, Wilmer Cutler Pickering Hale and Dorr LLP, spoke on a panel dedicated to “*Kompetenz Kompetenz: is uniformity a dream?*” This panel, chaired by **André de Albuquerque Cavalcanti Abbud** (BMA), included presentations by academics and practitioners from various jurisdictions on the approach to competence-competence and the



possibility of convergence across those jurisdictions. Ms. Morris addressed the U.S. Supreme Court’s approach to competence-competence and recent updates including those in light of the recent *Henry Schein* case. **Dario Moura Vicente** (University of Lisbon) provided the Portuguese perspective

and a comparison with other European jurisdictions. **Eleonora Coelho** (Eleonora Coelho Advogados) discussed her experience as a practitioner in Brazil. **Chris Parker** (Herbert Smith Freehills) concluded the session with an assessment of whether uniformity in approaches to competence-competence is possible or even desirable.

Submitted by Danielle Morris, ArbitralWomen member, Partner, Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC, USA



## ABA DR 17<sup>th</sup> Annual Advanced Mediation & Advocacy Institute, 15–16 November, 2019, Houston, Texas, USA



Left to right: Susan Guthrie, Edward McDevitt, Ana Sambold and Harold Coleman

**Hundreds of dispute resolution** professionals attended the American Bar Association (ABA) Dispute Resolution Section 17<sup>th</sup> Annual Advanced Mediation & Advocacy Institute on November 8, 2019 at the South Texas College of Law, in Houston, Texas. This two-day premier national conference provided

an overview of seven specific mediation techniques found to be the most effective according to key research studies conducted by the ABA and the American Arbitration Association. The programme featured opportunities to learn from some of the top mediators and advocates in North America. Plenary sessions were followed by small group

discussions where video vignettes, case studies, faculty demonstrations and team exercises illustrated key learning points and encouraged lively engagement by participants.

ArbitralWomen member **Ana Sambold**, co-chaired this conference and served as moderator of a panel dedicated to the United Nations Convention on International Settlement Agreements Resulting from Mediation (known as the Singapore Convention). She introduced the subject and provided a comprehensive overview of the Convention and its significance to the international dispute resolution field.



Read the full Institute brochure here.

Submitted by Ana M. Sambold, Esq., ArbitralWomen member, Mediator - Arbitrator - ADR Specialist, San Diego, California, USA

## Inaugural Conference of CIICA's Young Arbitration Group entitled "International Arbitration in Pakistan: Opportunities for the Next Generation" on 15 and 16 November 2019 in Islamabad, Pakistan

On 15 and 16 November 2019, the Centre for International Investment and Commercial Arbitration (CIICA) held its inaugural Young Arbitration Group (YAG) conference. The one-day event took place in Islamabad, Pakistan. It was followed by an ArbitralWomen session and a training workshop for younger practitioners on the following day. The conference was very successful, with a full house in attendance. **Makhdoom Ali Khan**, Senior Advocate of the Supreme Court of Pakistan, delivered the keynote address, in which he considered the relationship between arbitration and



Left to right: Members of Steering Committee and International Advisory Board to CIICA's YAG: Sheri Aslam, Komal Anwar, Sarah Kazmi, Sarmad Aziz, Antonia Birt, Saadia Bhatti, Dimitris Katsikis, Rana Sajjad, Fakhar-un-Nisa

the courts in Pakistan. The remaining event covered four panel discussions. The first panel was entitled "Pakistan's experience in investment arbitration: how to revisit the approach and rise to the challenges". ArbitralWomen member **Saadia Bhatti** moderated the panel, which reminded the attendees that the very first BIT was entered between Pakistan and Germany. The panel considered the controversial topic of whether investment treaty arbitration is suitable for Pakistan. The second

panel addressed the topic: "Arbitrating power disputes: recurring issues and how to resolve them". ArbitralWomen member **Antonia Birt** moderated this panel, focusing on commercial arbitrations in the power sector, as well as other options for resolving power disputes, such as expert determinations or court proceedings in Pakistan. The third panel considered the effect of corruption on arbitration. The final panel discussed Disputes in the China-Pakistan Economic Corridor and effective methods for their

resolution. The event was followed by a lively speakers' dinner and other social gatherings. This should be the first of many CIICA YAG events in Pakistan.



[Click here to visit the event page and gallery.](#)

Submitted by Antonia Birt, ArbitralWomen member, Curtis Mallet-Prevost Colt & Mosle, CIICA YAG International Advisory Board Member, UAE

## Turkish – Swiss Arbitration Forum, Istanbul Arbitration Days on 18 November, 2019 in Istanbul, Turkey

### The first edition of the

Turkish-Swiss Arbitration Forum was organized by ITOTAM (Istanbul Chamber of Commerce Arbitration and Mediation Center) in cooperation with ASA (Swiss Arbitration Association), ICC Switzerland (International Chamber of Commerce Switzerland) and SCAI (Swiss Chambers' Arbitration Institution). The Organizing Committee members were **Simon Gabriel**, **Sandra De Vito Bieri**, **Ali Yeşilirmak** and **Erdem Büyüksağış**.

The one-day conference consisted of three sessions, each from Turkish and Swiss perspectives, followed up by discussions with the floor.

The first session, moderated by **Ilhan Helvacı**, covered "*Interpretation of Arbitration Agreements and Extension to Non-Signatories*". **B. Gino König** and **Maurice Courvoisier** presented the Swiss position, including the transfer of arbitration agreements by legal succession, subrogation and third-party contracts, and also some delicate cases and the risks to be observed. **Hatice Özdemir Kocasakal** and **Erdem Büyüksağış** covered the Turkish angle and discussed the various problems which arise in this context.

The afternoon started with the second session, moderated by **Simon Gabriel**, and covered "*Evidence in*



Left to right: Bernhard Berger, Diana Akikol, B. Gino König, Sandra De Vito Bieri, Simon Gabriel, Balz Gross, Erdem Büyüksağış

*Arbitration and Production of Documents*". **Ercüment Erdem** and **Noyan Göksu** contributed the Turkish standpoint, in particular with regard to the interaction between state courts and arbitral tribunals in the taking of evidence and production of documents, and **Balz Gross** and **Sandra De Vito Bieri** covered the Swiss position, such as how and when to use actions by stages, best known in German as "*Stufenklage*".

The third session was themed "*Setting Aside of Arbitral Awards*" and moderated by **Utku Cosar**. **Bernhard Berger** and **Diana Akikol** discussed the Swiss perspective, in particular

the procedure and the grounds for annulment and revision of awards. **Hakan Pencanitez** then covered recent Turkish Court of Appeals decisions and **Ebru Şenöz Malkoç** covered Turkish arbitration legislation involving annulment of arbitral awards from the Turkish angle.

Submitted by Diana Akikol, partner at ABR Avocats, Geneva, Switzerland, Sandra De Vito Bieri, ArbitralWomen member, partner at Bratschi Ltd., Zurich, Switzerland; Utku Cosar, partner at Cosar Avukatlık, Istanbul, Turkey



## The Art of Dispute Resolution: Arbitration and ADR in Art-Related Disputes on 19 November 2019 in The Hague, The Netherlands



Left to right: Ana Morales Ramos and Martin Doe

On 19 November 2019, the Dutch, Belgium and French Chapters of the *Club Español del Arbitraje* (Spanish Arbitration Club) organised a joint event at the Peace Palace in The Hague under the title “The Art of Dispute Resolution: Arbitration and ADR in Art-Related Disputes”.

**Ana Morales Ramos**, ArbitralWomen member and Senior Associate at De Brauw Blackstone WestBroek, together with **Martin Doe**, Senior Legal Counsel of the Permanent Court of Arbitration, gave the opening remarks.

The event consisted of two panels.

The first panel was entitled “*Rights, Disputes and Dispute Resolution Tools in the World of Art*”. The panel was moderated by **Camilla M.L. Perera - De Wit**, Secretary General - Director of the Netherlands Arbitration Institute, with contributions from **Jaime de Mendoza Fernández**, Legal Officer, DG CNET, European Commission, **Emilio Paolo Villano** on behalf of Ignacio De Castro-Llamas, Director at WIPO Arbitration and Mediation Center, **Hetty de Rooij**, Executive Officer at the Court of Arbitration for Art (CAfA) and **Guido Carducci**, Arbitrator at Carducci

Arbitration & Art Law.

The second panel, entitled “*Experiences from the World of Art*” focused on specific art related disputes and the speakers’ experiences in the field. The session was chaired by **Cristina Martinetti**, ArbitralWomen member and Partner at ELEXI Studio Legale, with contributions from **Guillaume Tattevin**, Partner at Archipel, **Bert Demarsin**, Chair of the Court of Arbitration for Art (CAfA) and **Martha Visser**, lawyer at Bergh Stoop & Sanders.

The event ended with a cocktail reception kindly sponsored by De Brauw Blackstone Westbroek and hosted in the magnificent halls of the Peace Palace.



Click here to open the event flyer.

Submitted by Ana Morales Ramos, ArbitralWomen member, Senior Associate, De Brauw Blackstone Westbroek, Amsterdam, The Netherlands

## Book Launch: ‘A Brand New World: The Evolution and Future of Arbitration’ on 19 November 2019 in London, UK

The launch of the Chartered Institute of Arbitrator’s (CIArb) new book “*A Brand New World: The Evolution and Future of Arbitration*” took place on 19 November 2019 in London, kindly hosted by University College of London. The book is a collection of essays discussing the ways arbitration practice is evolving and will continue to evolve in the future, authored by members of CIArb’s Young Members Group.

The event opened with a welcome by **Mercy McBrayer**, MCI Arb, CI Arb Research and Academic Affairs Manager and driving force behind the book, who thanked everyone involved

in the production of the book and introduced the format for the evening.

The first panel, moderated by one of the editors, **Rowan Planterose**, FCI Arb, focused on emerging trends in arbitration. **Bahar Hatami Alamdari**, Senior Lecturer, St Mary’s University, spoke about the increased use of arbitration in the banking and financial sectors, despite the traditional approach to dispute resolution in those sectors. **Sadaf Habib**, Senior Associate of Beale & Co, Middle East, sparked an enthusiastic debate with a proposed international convention on procedural law, modelled on the New York Convention, to standardize the wide ranging and sometimes contradic-

tory practices of domestic courts on issues of arbitral procedure. Next, **Claudia Pharaon**, Associate at Obeid Law Firm, shared her experience in the increasing demand for arbitration in satellite disputes and the unique considerations space technology disputes present. Finally, **Fabio Cozzi**, Partner at Delfino Willkie Farr & Gallagher LLP discussed cutting edge technological advancements, such as holographic examination of witnesses and even the possibility of using magnetic resonance imaging to determine the truthfulness of witnesses that could be used in arbitration in the near future.

The second panel, expertly led by the other editor, **John Tackaberry QC**, FCIArb, focused on the developing practices in arbitration. **Shahrizal M. Zin**, FCIArb, Senior Lecturer, Faculty of Law, University Technology MARA, spoke about the intersection between culture and arbitration and especially the cross-pollinating effect domestic legislative developments in arbitration are having on legal culture. **Ioannis Glinavos**, Senior Lecturer in Law at University of Westminster, sparked a lively discussion on investor-state arbitration, the democratic legitimacy of the ISDS system and whether ISDS could be used to stabilize state policy and not just undermine it. **Stuart Boyarsky**, Attorney at Kasowitz Benson Torres LLP discussed the recent developments in transparency in arbitra-



Left to right: John Tackaberry QC, Shahrizal M. Zin, Ioannis Glinavos, Stuart Boyarsky, Nadya Berova

tion, as well as the challenges faced in creating multilateral procedures and agreements on transparency that states are yet to sign. Finally, **Nadya Berova**, Legal Counsel, Barrick Gold Corporation, examined the fast-paced development of third-party funding use in arbitration and the national and international legislative efforts to keep up with the growth. She emphasized the creative ways parties are using funding such as use of funding assessments as leverage for pre-hearing

settlements and respondent states beginning to avail themselves of the use of third-party funding.

The audience participated in an enthusiastic Q&A session followed by continued discussion of the issues over drinks and canapes.

Submitted by Nadya Berova, ArbitralWomen member, Legal Counsel, Barrick Gold Corporation, London, UK

## Advantages of Arbitration, from the perspective of in-house lawyers in the Energy, Mining, Hydrocarbons and Infrastructure sectors on 20 November 2019 in Lima, Peru

### On 20 November 2019

ArbitralWomen organised a breakfast in collaboration with CEA Mujeres (the women's branch of the Spanish Arbitration Club) and a local firm, Miranda Amado. In this breakfast, the particularities of arbitration in the energy and mining sectors were discussed with inhouse lawyers: **Janine Delgado** (Sociedad Nacional de Minería, Petróleo y Energía), **Nikitza Chavez** (Perupetro) and **Marisol Haro** (Inkia). We also heard the external lawyers' perspective from **Isabel Lira** (Miranda Amado). The breakfast was presented by Paris-based independent arbitrator and ArbitralWomen Board Member, **Elena Gutierrez** and moderated by **Briana Canorio** (Petroperu). The 30+ person audience included in-house lawyers, external lawyers, arbitrators, public officers, academics and staff from local arbitral institutions.

Submitted by Elena Gutierrez, ArbitralWomen Board Member, independent arbitrator, Paris, France



Various panellists at the conference



## Becoming a Rising Star in International Arbitration, ArbitralWomen Inaugural Panel on 21 November 2019 in Nanning, Guangxi, China



Left to right: Eunice Kwong Sook Wen, Rammit Kaur Charan Singh, Goh Siang Joo, Wei Yan Ting

**This event was successfully** organised by ArbitralWomen members **Rammit Kaur Charan Singh** and **Wei Yan Ting**. 52 participants from the Guangxi Law Association, Nanning Arbitration Commission, legal counsel from local law firms and corporate in-house counsel attended the event.

The event began with a keynote address from Rammit Kaur Charan Singh, introducing ArbitralWomen: its genesis, purpose and mission. Thereafter, **Goh Siang Joo**, partner at the Malaysian law firm Messrs Goh, Cheah, Chong, presented on the distribution of men and women in international arbitration from the perspective of arbitral institutions.

The session then moved into a more interactive panel discussion, moderated by **Eunice Kwong Sook Wen**, legal associate, Messrs Ricky Tan. Various issues were discussed on how women can stand out in the workplace and build a successful career in dispute resolution.

The speakers shared their personal experiences, points of view and also solutions on the issue of gender disparity in the workplace, unfair treatment received by women

in the industry and how to be a rising star in a male-dominated environment.

Rammit Kaur Charan Singh, who is also the former Head of Legal of the Asian International Arbitration Centre (AIAC) shared her experience there, relating to the disparity in the numbers of female arbitrators. The rule according to which one should take five minutes to try to recall or search for female professionals with relevant expertise (the "5-minute rule") is great when choosing legal counsel or nominating an arbitrator, because it helps to overcome any unconscious bias against women. ArbitralWomen is a great platform to raise social awareness of unconscious bias. She also shared tips for young practitioners to build a career in dispute resolution.

Wei Yan Ting, an arbitrator in the Nanning Arbitration Commission and also the director of Guangxi JustLaw Legal firm, encouraged the audience — especially the Chinese — to step outside mainland China and build networks in other countries. She shared the benefits and opportunities that she obtained during the exchange programme with other countries, such as an invitation from the Malaysian bar, other institutions and universities to lecture on arbitration in China.

Goh Siang Joo shared some practical tips on profile building and also business development. She shared her experiences of travelling around the world for marketing, participation in exchange programmes and also social events for networking. She stressed that these activities can potentially develop business relationships and encourage potential clients. Being a frequent female traveller, Siang Joo highlighted the issue of sexual harassment in the workplace. She encouraged women to speak out and know how to protect themselves.

Tips and suggestions for business development, building of profile and sharing of personal experiences were welcomed by the audience and led to an interesting question and answer session where the men were sharing their views and asking how better to assist in the initiative. It is interesting to note that the event was attended by 10 men.

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Submitted by Rammit Kaur Charan Singh, ArbitralWomen member, independent arbitrator, Victorious Vie Plt, Malaysia

## Expert Evidence in Arbitration on 26 November 2019 in London, United Kingdom



Left to right: Amanda Lee, Liz Perks, Hayley Boxall, Victor Leginsky, Saadia Bhatti, Richard Twomey, Emilia Onyema, Maurice O'Carroll and Barry Leon

### ArbitralWomen and Arbitrators

at 33 Bedford Row jointly presented a programme on 26 November, 2019 consisting of ten short talks on different aspects of 'Expert Evidence in Arbitration', hosted by Pinsent Masons in London. The well-attended programme was moderated by **Richard Twomey** (DWF LLP).

Addressing the topic 'Party-Appointed v. Tribunal-Appointed Experts', ArbitralWomen member **Emilia Onyema** focused on three key themes: alleged bias or perception of bias, costs and party autonomy. She raised interesting questions about the role of parties and the tribunal in identifying issues for expert evidence and whether experts exercise excessive influence *vis-à-vis* the tribunal.

Reflecting on the erroneous assumption that expert evidence is always required in arbitration, **Barry Leon** (Arbitrators@33BedfordRow; Arbitration Place) addressed two topics: 'Determining Whether to Have Expert Evidence and on Which Issues' and 'Determining Whether to Use Experts on Law'. Particular consideration was given to the use of expert evidence in construction cases, oil & gas / energy cases and the use of legal experts.

ArbitralWomen member **Saadia Bhatti** (Gide Loyrette Nouel) focused on 'Selection of Experts: Consideration and Best Practices', identifying four Cs and one A to help parties identify and choose an expert who is:

- i. Competent, possessing the right technical, linguistic, and communication skills;

- ii. Convincing, objectively and subjectively credible and independent;
- iii. Competitive;
- iv. Who clicks (with counsel, the client and (most importantly) the tribunal); and is
- v. Available to assist as required.

Addressing the topic 'Focusing Party-Appointed Expert Evidence', ArbitralWomen Board member **Amanda Lee** (Seymours) addressed the difficulties that may easily arise when the experts on each side are not instructed to provide evidence addressing the same issues, outlining how parties and arbitrators can use procedural orders, pre-hearing expert meetings, lists of points of agreement and disagreement and joint statements, to give focus to expert evidence.

Edinburgh-based **Maurice O'Carroll** (Arbitrators@33BedfordRow) shared insights about 'Preparing Expert Reports and Witness Statements: Best Practices', highlighting the guidance provided by the IBA Rules and the CI Arb Protocol on the Use of Party-Appointed Expert Witnesses in International Arbitration. He emphasised the importance of independence, noting that experts do not produce reports in a vacuum and cannot be advocates for any party.

Sharing his insights into 'Methods of Presenting Expert Evidence', Dubai-based **Victor Leginsky** (Arbitrators@33BedfordRow) highlighted the pros and cons of traditional witness testimony and *hot-tubbing*, providing insights into best practices, such as the importance of transparent communi-

cation with tribunal-appointed experts.

Barry Leon shared his views on ways to overcome a tribunal's gap in technical knowledge beyond or in addition to the use of party-appointed or tribunal-appointed experts in 'Specialised Expertise: Tutorial Sessions, Assessors & Technical Advisors', noting ways in which parties can assist a tribunal by educating tribunal members on specific technical issues, or allowing tribunals to appoint appropriate third parties to provide informed assessments.

Concluding the presentations, **Hayley Boxall** (Pinsent Masons) and ArbitralWomen member **Liz Perks** (Habermann Ilett) provided 'Tips from an Expert Witness on Effective Expert Evidence'. External expert Liz Perks highlighted the importance of an expert remembering her or his role, independence, preparation and addressing the other side's case; Hayley Boxall provided an in-house forensic accountant's perspective, noting the importance of making expert evidence both accessible to the tribunal and comprehensible by non-experts.

The session concluded with all panel members sharing their views on what arbitrators like and do not like in expert evidence.



[Click here to access slides and summaries.](#)

Submitted by Amanda Lee, ArbitralWomen Board Member, independent arbitrator and consultant, Seymours, London, UK



## 10<sup>th</sup> Bosphorus Summit on 27–29 November 2019 in Istanbul, Turkey



Left to right: Mithat Rende, Matthew Bryza, Ana Stanič

**Ana Stanič**, Director of E&A Law and member of ArbitralWomen, participated in a panel discussion entitled: *Energy: a game changer for the global power shifts* moderated by **Mithat Rende**, former Turkish Ambassador to Doha and OECD. The other panellist was **Matthew Bryza**, Ambassador (R), U.S.A. Ana gave an international law perspective on how to build a future together in the East Mediterranean.

**The 10<sup>th</sup> Bosphorus Summit** was organised under the auspices of the Presidency of the Republic of

Turkey and was attended by current and former Prime Ministers, Presidents and Foreign Ministers of over 40 countries.

Submitted by **Ana Stanič**, ArbitralWomen member, Director of E&A Law Limited, London, UK

## Business & human rights en pratique: les droits de l'homme dans la rédaction de contrats, on 28 November 2019 in Geneva, Switzerland

On 28 November 2019, the Human Rights Commission of the Geneva Bar Association (ODA), organised a seminar entitled “Business & human rights en pratique: les droits de l'homme dans la rédaction de contrats”. The event was hosted by the University of Geneva. The seminar's objective was to discuss how corporations implement human rights in practice, in particular in drafting their contracts.

Following opening remarks by **Christine Chappuis** of the Law Faculty of the University of Geneva, and **Sandrine Giroud**, Partner at Lalive (Geneva) and President of the ODA Human Rights Commission, the keynote speech was delivered by **Mary Mayenfisch-Tobin**, Solicitor and Expert Advisor on Business and Human Rights & Education. She introduced the subject and shared her experiences and activities in the field of Business & Human Rights.

The discussion was then structured in two panels. **Elise Groulx** of Doughty Street Chambers in London opened the first panel with a presentation of the general legal framework for Business

& Human Rights, in particular the works conducted in this field by the International Bar Association (IBA). This was followed by **Christoph Good**, co-founder of Good & Partners (Zurich), who focused on the applicable legal framework in Switzerland, including the Swiss Responsible Business Initiative and the National Action Plan for Business and Human Rights. **Nicolas Bueno**, Lecturer and Researcher at the Law Faculty of the University of Zurich, closed the first panel with a discussion on the question of a cor-

poration's duty of diligence and liability in matters of human rights, under Swiss law.

The second panel focused on how human rights are taken into consideration in practice, for example during the negotiation and drafting of contracts. This panel was opened by **Matthew Kilgariff**, Director of Corporate Social Responsibility at Richemont, who described the challenges and drivers faced by Richemont as it aligns with the Swiss National Action Plan. **Silja Schaffstein**, Counsel at Lévy Kaufmann-Kohler, then addressed the



Left to right: Silja Schaffstein, Stéphane Brabant, Matthew Kilgariff & Christine Chappuis

question of the possibility and desirability of resolving Business & Human Rights disputes by international arbitration, notably in light of the (then forthcoming) [Hague Rules on Business and Human Rights Arbitration](#) (launched on 12 December 2019). Her presentation included a discussion on how to negotiate, draft and enforce arbitration agreements in this area. Finally, **Stéphane Brabant**, Partner at Herbert Smith Freehills (Paris) and the firm's co-head of Business & Human Rights, shared his experience in the practice of Business & Human

Rights dispute resolution, including the measures that may be taken in the contract-drafting phase to prevent the occurrence of such issues. The workshop proceeded to a lively Q & A session.

This event was organised by members of the Human Rights Commission and of the Continuing Education Commission, notably **Jenna Ruberti**, Associate at Keppeler Avocats, **Célian Hirsch**, PhD candidate at the University of Geneva and co-founder of LawInside.ch, and **Marion Paris**, Senior Associate at Lévy Kaufmann-Kohler. The ODA Human

Rights Commission carries out several projects to promote Human Rights, including the training of lawyers in the field of Business and Human Rights.

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Submitted by Silja Schaffstein, ArbitralWomen member, Counsel, Lévy Kaufmann-Kohler, Geneva, Switzerland. You may contact the author [here](#) if you are interested in receiving a copy of her presentation entitled "L'arbitrage comme mode de résolution des litiges de Business & Human Rights – La convention d'arbitrage" or have any questions or comments

## Women Debate Arbitration: A reflection among Women, by Women on 28 November 2019 in Recife, Brazil



Left to right: Renata Faria, Soraya Nunes, Selma Lemes, Augusto Tolentino, Eliana Baraldi, Claudia Ferraz

On 28 November, 2019, the **Câmara de Mediação e Arbitragem Empresarial – Brasil (CAMARB)** held the first event of a series which aims to give a voice to women about relevant topics in arbitration throughout the Brazilian territory. This first meeting took place in Recife-PE, in the northeast of Brazil, and was free of charge. **Soraya Nunes**, CAMARB's Vice President for the Northwest, represented the organisation, and **Augusto Tolentino**, President of CAMARB, made the opening speech.

It started with a fantastic presentation of **Selma Lemes**, partner at Selma Lemes Advogados. Selma is one of the most highly regarded references in Brazil's international arbitration community and one of the co-authors of the Brazilian Arbitration Act (Law n. 9.307/96). She walked the audience through the background of

the so-called operation "*Arbiter*", conceived by one of her mentors, Petronio Muniz, to whom Brazilian arbitration community owes a lot, as he basically conceived the origins of arbitration currently established in Brazil.

Selma Lemes' presence brought to this first meeting an extremely strategic importance, including not only the opening of this specific first meeting, but a high-level inauguration of the series that promises a fruitful debate on the legal perspective, primarily from the female career perspective

It should be noted that the audience was considerable, and almost half were men.

Following the iconic opening presentation by Selma Lemes, other women references in arbitration had the floor, speaking about legal aspects, but also focusing on their career-development as mentors or mentees, the glass ceiling and

other phenomena connected to the legal field, mainly the arbitration field.

**Ingrid Zanella**, partner at Queiroz Cavalcanti Advogados and Vice-President of the Brazilian Bar, Pernambuco Section, spoke about maritime and port arbitration, followed by **Renata Faria**, partner at Gilberto José Vaz Advogados, who shed some light on arbitral matters related to the public administration. **Claudia Ferraz**, partner at Tolentino Advogados, brought out some interesting aspects in the Infrastructure arbitration disputes.

Two other important topics were consecutively discussed: **Eliana Baraldi**, partner at Baraldi Mariani Advogados, described some items that prove that arbitration is an adequate tool to resolve controversies in agribusiness and **Fabiana Nunes**, partner at Martorelli Advogados, offered some valuable reasons to adopt arbitration to resolve corporate disputes.

There is much more to come, as this series conceived by CAMARB is truly focusing on integration and diversity, not only having in mind to spread the word by women themselves.

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Submitted by Eliana Baraldi, ArbitralWomen member, Partner at Baraldi Mariani Advogados, São Paulo, Brazil



## Dispute Appointment Service (DAS) Convention 2019 on 28 November 2019 in London, United Kingdom

In November 2019, the Chartered Institute of Arbitrators held its seventh annual Dispute Appointment Service Convention, hosted by Clifford Chance in London. The theme of the Convention was “*Alternative Dispute Resolution and the State*”. One of the panels was dedicated to “*Alternative Dispute Resolution and matters of global importance: Sovereign immunity, climate change and security of critical infrastructure*.” It was ably chaired by **Jessica Gladstone**, Partner, Clifford Chance.

We first heard from **Lucas Bastin**, Essex Court Chambers, about issues of sovereign immunity and enforcement. Lucas walked us through a number of very practical aspects of enforcement against states, including recent developments in English jurisprudence on service requirements against states. **Marion**

**Smith QC**, 29 Essex Chambers, covered energy arbitration in the era of extinction rebellion. From the green pledge to cybersecurity and arbitrator disclosures, Marion gave us plenty of food for thought on these global issues, as we enter a new era of international arbitration.

**Anthony Albertini**, Partner, Clyde & Co, dealt with ADR and its pivotal role in ensuring critical infrastructure development. Anthony shed light on the role of mediation and the rise in Dispute Adjudication/Avoidance Boards (DAAB) in global trends of construction disputes, pointing to the fact that the industry appears to be learning the value of avoiding and mitigating disputes. **Emily Hay**, Senior Associate, Hanotiau & van den Berg, focused on the security of critical infrastructure in the digital age. Emily highlighted the security risks

arising from the industrial internet of things and cyberattacks. This raises many issues in ADR such as attributing legal responsibility, making complex causation assessments, and determining the exact content of required standards. **Emilia Onyema**, SOAS University of London, addressed ADR, the state, and consent. Emilia argued that there should not be any implied waiver of immunity against enforcement on state assets. She put these issues in context by giving the average Nigerian citizen’s perspective on the outcome in the *P&ID v Nigeria* proceedings.

Submitted by Emily Hay, ArbitralWomen member, Senior Associate, Hanotiau & van den Berg, Brussels, Belgium and Emilia Onyema, ArbitralWomen member, SOAS University of London, UK

## Specialization Program on International Arbitration and Investments in November 2019 in Lima, Peru



Kathy Ames Valdivieso lecturing in the Program

In late November 2019, ArbitralWomen member **Kathy Ames Valdivieso**, Peruvian attorney and arbitrator based in Washington, D.C., was the only female lawyer amongst a selected group of 17

leading international and local arbitration practitioners invited to teach the 2019 edition of the “Specialization Program on International Arbitration and Investments” that took place in Lima, Peru. This 2-month program is

offered annually by the *Escuela de Gestión Pública* of the *Universidad Pacífico* and is co-hosted by the American Chamber of Commerce of Peru (AMCHAM Perú). Kathy handled the XVI and XVII Sessions of the program, focusing on the analysis of the standards of Fair and Equitable Treatment, No Discrimination, Full Protection and Security, and Expropriation, as protected in most, if not all, Bilateral Investment Treaties. This program is designed to address the increasing demand for specialization in international arbitration in Peru, and each year is attended by local arbitration practitioners, arbitrators, and attorneys from both the private and public sectors.

Submitted by Kathy Ames Valdivieso, ArbitralWomen member, Peruvian-New York Attorney and Arbitrator, Washington DC, USA

## Global Forum on International Arbitration on 1-3 December 2019 at Chateau Mont Royal, Chantilly, France



Attendees gather around the piano for an impromptu musical interlude

In early December, a group of arbitration practitioners gathered at the beautiful Château Mont Royal outside Paris to participate in the inaugural Global Forum on International Arbitration. The event was jointly chaired by ArbitralWomen member, **Philippa Charles** (Stewarts) and **James Hosking** (Chaffetz Lindsey LLP).

With around 40 attendees from

practices based in places as diverse as Korea, Egypt and Sweden, a lively debate was had across a range of subjects. Over two days of working sessions, the forum participants discussed topics ranging from artificial intelligence in arbitration, managing cultural clashes and how to foster excellence and diversity within our teams. Each topic was introduced by two of the participants and the floor

was then opened up to everyone present to discuss the topic. It is fair to say that most of the subjects generated a lively debate and exchange of views from across the attendee group.

Around the working sessions, the participants met for meal times to continue their discussions, and on one evening an impromptu post-dinner sing-a-long session took place, accompanied by the talented **Erik Koster** (AKD Benelux Lawyer) and **Kate Cervantes-Knox** (DLA Piper UK LLP) on piano.

The residential nature of the event and the mix of attendees made it a really good way to network with arbitration peers from around the world, including the many ArbitralWomen members in attendance.

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Submitted by Claire Stockford, ArbitralWomen member, Partner (Barrister), Eversheds Sutherland (International) LLP, London, UK

## Cocktails and Conversation with former Chief Justice of Canada, Beverly McLachlin on 4 December 2019 in Hong Kong, China

Nearly 100 people turned up to attend an evening of conversation and cocktails with the **Rt. Honourable Madam Justice Beverley MacLachlin**, former Chief Justice of the Supreme Court of Canada, and now serving as an independent arbitrator. The evening was organized in conjunction with the Canadian Chamber of Commerce and the University of Alberta alumni association, and was billed as "Women under the law, women in the Law." ArbitralWomen co-founder, **Louise Barrington**, asked about both personal and professional experiences as well as for advice for women looking to get ahead in the field of international arbitration.



Left to right: Louise Barrington and the Rt. Honourable Madam Justice Beverley MacLachlin

The little girl who grew up on an isolated farm in southern Saskatchewan to end her career at the pinnacle of our profession offered candid opinions and advice to inspire generations to come.

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Submitted by Louise Barrington, ArbitralWomen Co-Founder and Board Member, Independent Arbitrator and Mediator, Hong Kong, China



## Nigerian Bar Association (NBA) Enugu Branch Bar Week 2019, on 4 December 2019 in Enugu, Nigeria

### At the NBA Enugu Branch 2019

Bar Week Public Lecture, **Ifeoma E. Nwafora**, ArbitralWomen member, delivered the lead paper entitled “Debunking the Lawyer’s Lethargy to ADR in a Litigious Environment”. The session was chaired by **C.A Ogbuabor**, PhD and discussants included **C.C Ani**, PhD, **IK Onuoma** and **Caroline Etuk**.

Nwafor told members of the branch that although Nigeria is a litigious society, the time has come for lawyers to fully



embrace arbitration and other forms of ADR mechanisms to enhance access to justice.

The NBA Enugu Branch, an arm of the NBA, is a professional and non-profit association comprising all lawyers called to the Nigerian bar.

Submitted by Ifeoma E. Nwafora, ArbitralWomen member FSCI Arb, FC Arb, Principal Partner, IEN legal Association, Nigeria

## GAR Live Women in Arbitration on 5 December 2019 in London, United Kingdom



Delegates at GAR Live Women in Arbitration

### The inaugural GAR Live

Women in Arbitration took place in London on 5 December 2019 with a stellar line up of exclusively female speakers. Around 100 attendees — male and female — gathered in the impressive Butcher’s Hall for the full-day conference, followed by an all-conference dinner. The atmosphere has been commented on as being particularly positive, convivial and collaborative.

The event was co-chaired by **Sylvia Noury**, partner and London head of international arbitration at Freshfields Bruckhaus Deringer and founder of the Equal Representation

in Arbitration Pledge (the Pledge), and **Annette Magnusson**, Secretary General of the Arbitration Institute of the Stockholm Chamber of Commerce. In their opening remarks, the co-chairs commented on the real progress with respect to gender diversity that we have seen in the arbitration community in recent years.

First on the agenda for the day was a fireside chat with leading arbitrators, **Janet Walker**, independent arbitrator, and **Carita Wallgren-Lindholm**, Founding Partner at Lindholm Wallgren. Seeking insights from their years of experience sitting as arbitrators, **Angeline Welsh**, Barrister at Essex Court Chambers, questioned the panellists

on the way they tend to conduct arbitrations, their procedural preferences and their preferred style of communications with other tribunal members.

Session one, entitled ‘the year in review’ moderated by Sylvia Noury, provided an informative and lively overview of some of the hot topics in international arbitration: **Leyou Tameru**, I-Arb Africa, spoke about developments in investor-State dispute settlement (ISDS) both generally and also specifically from an African perspective, noting that African States were influenced by the debate surrounding intra-EU BITs and *Achmea*; ArbitralWomen President, **Dana MacGrath**, Omni Bridgeway, spoke about recent developments in third party funding; **Kathryn Britten**, Alix Partners, gave an update on varying approaches to calculating damages, including the pros and cons of the DCF model; and **Gaëlle Filhol**, Partner at Betto Perben Pradel Filhol, spoke about trends in emergency arbitration, including its appropriateness in the investor-State context.

Session two was dedicated to a discussion on the steps female practitioners can take to secure lead counsel and arbitrator roles. Moderator

**Rena Scott**, Orrick Herrington & Sutcliffe, sought advice from the panel on their views on key attributes for success as well as seeking practical advice for female practitioners, including aspiring arbitrators. Panellists and established arbitrators, **Juliet Blanch**, Arbitration Chambers, and **Anneliese Day QC**, barrister at Fountain Court Chambers, spoke openly about their own experiences, including how they secured their key first appointment, and gave practical tips on advocacy and networking, including the importance of adopting your own style. **Carole Sportes**, partner at Squire Patton Boggs and **Sarah Walsh**, Legal Counsel at Shell, gave their perspectives from the counsel and client side, including explaining key watershed moments in their careers that led them to their current positions.

Session three was a regional study focussed on arbitration in Africa. **Jane Davies Evans**, barrister at 3 Verulam Buildings, moderated a fascinating discussion on the challenges and opportunities facing arbitration across the African continent from three very different perspectives. The panellists were **Lady Justice Joyce Aluoch**, retired Judge and First Vice-President of the International Criminal Court, **Emilia Onyema**, SOAS University of London, and **Tafadzwa Pasipanodya**, Partner at Foley Hoag.

The final Session four was dedicated to the topic of Transparency in Arbitration, which was moderated by **Paula Hodges QC**, Partner and head of international arbitration at Herbert Smith Freehills. **Naomi Breircliffe**, Allen & Overy, spoke about transparency in the context of investor-State arbitration, while **Rebecca Shorter**, partner

at White & Case, focussed on the commercial arbitration perspective, agreeing that the considerations for both types of arbitration are very different due to the interest of the public in disputes involving States. **Kathleen Paisley**, Ambos Lawyers, spoke about data protection and the potential conflict between greater transparency in arbitration and compliance with data protection regimes such as GDPR.



Equal Representation  
in Arbitration Pledge.

Submitted by Ashley Jones, ArbitralWomen member, Senior Knowledge Lawyer in the International Arbitration Group at Freshfields Bruckhaus Deringer LLP, London, UK

## 27<sup>th</sup> Croatian Arbitration Days on 5–6 December 2019 in Zagreb, Croatia

### 27<sup>th</sup> Croatian Arbitration Days

– International Conference – was organised by the Permanent Arbitration Court at the Croatian Chamber of Economy.

**Ana Stanič**, Director of E&A Law Limited and ArbitralWomen member, took part in a panel discussion on

the implications of *Achmea* judgment. The panel, entitled “*Arbitration – New Developments at Regional and International Level*,” was moderated by **Mile Lasić**, University of Mostar, Faculty of Law, Mostar. The other panellists were: **Toni Deskoski**, Cyril and Methodius University,

Faculty of Law Iustinianus Primus, Skopje and **Maja Bilandžić**, High Commercial Court of Croatia, Zagreb.

Submitted by Ana Stanič, ArbitralWomen member, Director of E&A Law Limited, London, UK

## UNCITRAL Working Group V Discussions on Asset Tracing and Recovery – UNCITRAL’s potential contribution to the development of an asset recovery toolkit

On 6 December 2019, the United Nations Commission on International Trade Law (UNCITRAL) Working Group V (Insolvency Law) hosted a Colloquium in Vienna on civil asset tracing and recovery. The one-day Colloquium brought together over 100 attendees. This included a select group of international spe-



Joana Rego

cialists and practitioners to discuss ongoing trends and legal issues around the tracing and recovery of assets in the context of insolvency, fraud and the enforcement of judgments and arbitral awards. The specialists that were present included lawyers, international and intergovernmental organizations, financial



institutions, academia, specialist investigators, among others.

One of the main objectives of the Colloquium was to understand how UNCITRAL can contribute to enhancing asset tracing and recovery. Panelists were more or less unanimous in acknowledging the need for a 'toolkit' to pool together legal, investigative and strategic solutions by jurisdiction. UNCITRAL can play a role in developing and administering this toolkit, gathering insight from specialists and making it available to all practitioners.

Observations made by panelists and practitioners included:

#### Timing:

In the context of asset recovery, the race against time is a given. The existing Model Law on Insolvency has significantly reduced recovery timelines. It was discussed that a similar procedure should be considered by national courts dealing with non-insolvency related recoveries (including asset recoveries related to fraud and the enforcement of judgements and arbitral awards) allowing for these to take priority, acknowledging that money and other assets move fast.

#### Funding:

Asset recovery is by nature international and costly. Lack of funding remains one of the main hinderances to recovery. In some jurisdictions, champerty laws remain a firm barrier to third party funding for asset



recovery. It was discussed how funding should be made more readily available for investment in well-coordinated asset recovery strategies.

#### Range of legal systems and practices:

Given the multijurisdictional nature of asset recovery, being able to take advantage of the tools offered by each individual jurisdiction can make for more efficient and effective recovery/enforcement. Discussions centered around differences between Common law vs. Civil law with their varying range of injunctive relief (e.g., discovery/disclosure applications, pre-judgement attachment procedures, among others); the use of criminal proceedings to advance civil claims (e.g., Switzerland); legal access to centralized registries of bank accounts (e.g., *Fichier des Comptes Bancaires* 'FICOBA' in France); publicly available information and registries (the UBO registries in the EU); the use of bankruptcy and insolvency proceedings in asset recovery. The potential advantages of 'Forum shopping' were also discussed.

#### Type of assets and complexities of ownership:

Assets may take many forms rang-

ing from a property to a receivable from a third party. While there are legal and investigative tactics that can be used to identify them, the mechanisms for concealing assets continue to grow more sophisticated. Cryptocurrencies and the challenges that exist to their recovery had a center stage in discussions. It was also discussed how basic search tools can be made more widely available to practitioners.

The report of the Colloquium will be submitted for discussion before the Commission at its fifty-third session (set for the 6-17 July 2020 in New York) and upon its issuance will be made available on the web page of the Commission.



Click to visit  
UNCITRAL page.

Submitted by Joana Rego, ArbitralWomen member, a Founding Partner of Raedas, a specialist investigations firm focussing on disputes and asset recovery. Joana attended the December 2019 Working Group V session as an observer on behalf of ArbitralWomen

## Prime-Subcontractor Disputes: How to Avoid Them and How to Resolve Them on 11 December 2019 in Washington, DC, USA

**Adrianne Goins moderated** and participated in a panel discussion on contract disputes between prime and sub-contractors on US Government contracts. Other panelists were **Richard Snyder**, Associate General Counsel of Booz Allen Hamilton, and

**Ashley Amen** and **Dan Ramish** of Smith Pachter McWhorter PLC. This panel discussion took place at a joint meeting of the ABA Section of the Public Contract Law's Committees on Contract Claims and Dispute Resolution and Subcontracting, Teaming, and

Strategic Alliances. Adrianne is a Vice Chair of the Committee on Contract Claims and Dispute Resolution.

Submitted by Adrianne Goins, Counsel, Vinson & Elkins LLP, Washington, DC, USA

## 2<sup>nd</sup> Annual IAEE International Arbitrators & Experts in Engineering sector Conference on 11-12 December 2019 in Dubai, UAE



Left to right: Dania Fahs, Caroline Duclercq, Fatima Balfaqeeh, Leonora Riesenburger, Iryna Akulenka

**On 11 December 2019**, 5 leading women came together at the 2<sup>nd</sup> Annual IAEE UAE Conference in Dubai, to discuss diversity in arbitration. The panel was moderated by **Leonora Riesenburger**, FCI Arb, international arbitrator and commercial mediator.

Leonora first invited **Iryna Akulenka**, FCI Arb, Managing Consultant HKA, to provide a general overview of whether the arbitral community and all its players are doing enough to drive diversity. Iryna clarified that diversity is multifaceted, and the focus should not remain only on gender. Other aspects of diversity should not be ignored, as one cannot be “diverse” without being fully inclusive. Iryna explained that the arbitral community consists of many ‘players’, and it is worth noting that different players have shown different level of support. Overall, she felt there is still a lot of room for improvement.

Leonora then invited **Caroline Duclercq**, Partner at the law firm Altana, to provide views on the role of counsel/ parties and women themselves in improving diversity. Caroline opined that although there has been some improvement, much more effort should continue to be made in order to enhance gender equality. Diversity remains a priority and all the actors in arbitration should be involved. In Caroline’s opinion, counsel have a role in promoting women in their own law firms and in appointing women as arbitrators. Users have a role in choosing law firms that promote diversity and in promoting the appointment of women as arbitrators. Finally, women themselves have a major role in enhancing gender diversity: they should not ask what others can do for them, but what they can do for themselves and for other women. One of the solutions for women is to increase their exposure.

Leonora then invited **Dania Fahs**,

Deputy Director ICC MENA, to offer the institutional perspective. Dania highlighted that enhancing gender diversity sits highly on the ICC agenda. Marked progress has been achieved with the ICC International Court of Arbitration membership. For the 2018-2021 term, the ICC World Council nominated court members with full gender parity. The percentage of female Court members rose from 23% to 50%. In addition, according to ICC statistics on gender balance of ICC Tribunals, there is growth in the number of female arbitrators. The majority of female arbitrators’ appointments are generated by institutions (with the ICC Court appointing less than a third of arbitrators); parties often lag behind. In 2018 however, parties appointed as many female arbitrators as the institution itself. Figures are encouraging, but there is still a long way to parity. That said, Dania ended on an optimistic note, by highlighting that generational changes are acting in favour of women in arbitration.

Leonora then invited **Fatima Balfaqeeh**, Managing Director RKAH Consultancy, to comment on the position in the UAE and the role of arbitrators in driving diversity. Fatima quoted a saying: *“Diversity is often demanded by the outcasts,”* which also applies to the current situation in the arbitration community. Younger practitioners, women, and other minority groups are calling for further diversity, while established practitioners are of the opinion that enough is being done. Fatima echoed the view that whilst there is a role to play for institutions and counsel, it should be directed towards shifting the culture to a point where we are no longer discussing diversity as a hot topic.

Caroline then provided helpful feedback on progress in Europe, noting that while there is improvement,



it is insufficient, and we are far from reaching gender equality. Fatima then debated whether further regularisation of arbitral appointments is desirable, siding in favour of a regular process monitored by institutions to ensure delivery on diversity key performance indicators (KPIs).

Iryna concluded by providing views on whether artificial intelligence (AI) would solve the problem.

She agreed that AI could be a helpful tool, but the basics should be tackled first (e.g., ensuring higher transparency and diversity of data used for algorithms, diversity of developers and coders, to avoid programming biases into AI models).

Submitted by Iryna Akulenko, ArbitralWomen member, Managing Consultant at HKA, Dubai, UAE;

Fatima Balfaqeeh, ArbitralWomen member, Managing Director RKAH Consultancy, Abu Dhabi, UAE; Caroline Duclercq, ArbitralWomen member, Partner at the law firm Altana, Paris, France; Dania Fahs, Deputy Director ICC MENA, Abu Dhabi, UAE & Leonora Riesenburger, FCI Arb, international arbitrator and commercial mediator, Dubai, UAE

## Asters Moot Court School on 12–15 December 2019 in Kyiv, Ukraine



Affef Ben Mansour



Left to right: Kataryna Shokalo, Svitlana Chepurna, Olena Gulyanytska

**From Thursday to Sunday, 12 to 15 December 2019** Asters law firm organised, financed and hosted a Moot Court School in its head office in Kyiv, Ukraine. The School was introduced by **Svitlana Chepurna**, Partner at Asters and ArbitralWomen member. The tutors were **Affef Ben Mansour**, advocate at the Paris Bar and ArbitralWomen Board member, **Olena Gulyanytska**, of the Ukrainian Bar and ArbitralWomen member, **Andrew Burr**, of ArbDB Chambers and **Kateryna Shokalo**, associate at Asters.

About 20 students of the leading Ukrainian law schools took part in this new educational programme aimed at developing skills of young lawyers participating in the most prestigious

international arbitration moot courts.

The first day covered legal writing, including how to rewrite plainly and persuasively in English and how best to structure submissions. The second day particularly focused on critiquing submissions that the students had prepared themselves. The third day focused on oral advocacy, including video recordings of the students' presentations. Emphasis was given to prior preparation, knowing the rules of the forum that one was to appear before, speaking slowly and confidently, memorising introductory and closing sections, having a clear structure that is set out explicitly for the forum, being prepared for interruptions and rebuttals, appropriate dress and body

language. The fourth and last day gave more detailed advice on performing in moots, using video recordings of previous actual moot presentations.

Affef Ben Mansour commented: *'I was thrilled to meet and work with the Ukrainian mooties for the 2020 international commercial and investment arbitration moot courts. I was impressed by their engagement and their thirst to learn. I look forward to hearing of their achievements in 2020 and after. I am so grateful to Svitlana Chepurna, Olena Gulyanytska and Kateryna Shokalo for their invitation.'*

Submitted by Olena Gulyanytska, ArbitralWomen member, Head of Dispute Appointment Service, CI Arb

## Explaining why you lost: Reasoning in Arbitration on 17 December 2019 in Paris, France



Carolyn Lamm



Maxi Scherer



Teresa Giovannini

**The annual conference of the** ICC Institute of World Business Law held in Paris on 17 December 2019, gathered international business practitioners, legal experts and academics to deliberate on the topic of *"Explaining why you lost: Reasoning in Arbitration"*. The president of the Institute, **Yves Derains**, explained that in a world of transparency it is not possible to continue planning on confidentiality. Awards will be published. In reading awards, readers must understand why a party lost.

It was observed that very few jurisdictions dispense with reasoning of the award. Arbitral reasoning is different from court's reasoning. In courts parties can appeal but in arbitration the award is final. Arbitrators are paid to conduct a procedure and render an award, and they owe the parties a reasoned award. Awards must be

convincing for the losing parties. The parties must provide the law to the arbitrators, but the latter are not obliged to stick to it and may, during their deliberations, come to a conclusion that they do not agree with the legal material provided to them. They may choose other solutions but must always give the parties the opportunity to comment. A well-reasoned award allows the parties to verify whether due process was respected and whether the arbitrators remained within the boundaries of the mission entrusted to them. Reasoning serves to control quality and to verify that the solution is robust and will resist any challenge before the courts. It also contributes to education.

ArbitralWomen members **Teresa Giovannini**, Founding Partner, Lalive, Geneva, **Mélida Hodgson**, Partner, Jenner & Block LLP, New York, **Carolyn Lamm**, Partner, White & Case LLP, Washington DC, and **Maxi Scherer**, Professor of Law at Queen Mary University of London and Special Counsel, WilmerHale, London, shared their views on the various panels.

Mélida Hodgson, co-chair of the conference, moderated the afternoon sessions, which examined the special issues present in reasoning when dealing with investment

arbitration, as well as the variety of concerns that various users have and what they need to find in awards.

Carolyn Lamm focused on the special sensitivities involved in investment arbitration and noted that there is not necessarily the clarity you might expect when dealing with what is essentially supranational review of sovereign regulation.

Maxi Scherer moderated the discussion of the panoply of issues that institutions face in meeting their obligations to ensure well-reasoned, enforceable awards.

Teresa Giovannini examined the philosophical underpinnings that help determine what users want or, rather, are entitled to. She thus considered the reasoning as source of legitimacy of the decision and as evidence of objective and subjective comprehension of the issues at stake, as well as of the abeyance to the parties' fundamental right to due process, and suggested some tools to this end.

The Institute will publish the papers of the conference in a "Dossier XVIII of the Institute series".



Mélida Hodgson, co-chair of the conference



[Click here for the photo gallery.](#)

Submitted by Mirèze Philippe, ArbitralWomen Co-Founder and Board Member, Special Counsel, ICC International Court of Arbitration



## ArbitralWomen Festive Dinner on 3 December 2019 in Paris, France



On 3 December 2019, many ArbitralWomen members gathered in Paris for a Festive Dinner organised by **Ileana Smeureanu** and ArbitralWomen Global Events Co-Coordinators **Marilyn Paralika** and **Vanina Sucharitkul**.

ArbitralWomen President **Dana MacGrath**, based in New York, happened to be in Paris and was able to

attend the event. It was a wonderful opportunity for her to meet and spend time with ArbitralWomen members based in Paris.

The food was delicious and the mood was very positive. Attendees reflected on recent progress made toward gender parity, the expansion of ArbitralWomen programming and initiatives, and the

desire to continue contributing to ArbitralWomen's important work. It was a very special evening.

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Submitted by Dana MacGrath, ArbitralWomen President, Investment Manager and Legal Counsel, Omni Bridgeway, New York, USA

# News you may have missed from the ArbitralWomen News webpage

This new section in the ArbitralWomen Newsletter reports on news posted on the ArbitralWomen News webpage regarding events or announcements that occurred during November and December 2019 that readers may have missed.

## 100 years ago – The remarkable story of Rose Heilbron: Trailblazer and Legal Icon

By Hilary Heilbron QC, ArbitralWomen member, Barrister and International Arbitrator, Brick Court Chambers, London  
Posting of 9 November 2019

### Women arbitral practitioners

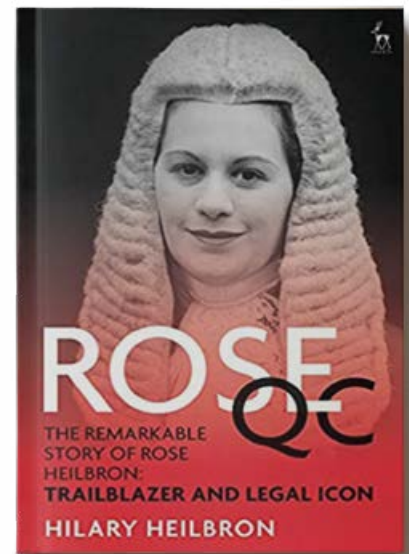
came of age in the 21<sup>st</sup> century. Yet it was only 100 years ago that women were first allowed to become lawyers in the UK. This December the UK celebrates the centenary of the strangely worded piece of legislation entitled the “Sex Disqualification (Removal) Act 1919”.

Rose Heilbron, my mother, was a barrister and one of the pioneers of

this progression, who became a famous advocate in the middle of the last century with a string of firsts in the profession to her name, including first woman Queen’s (then King’s) Counsel and first female Senior Judge.

To coincide with this centenary, “Rose QC”, the biography I wrote of her remarkable life, has just been re-issued in paperback. It chronicles the struggles she and other women had in those early days, her exhortations in favour of equality for women and how she became a trailblazer and legal icon.

[Read more here](#) .



## Launch of the ICCA–NYC Bar – CPR Protocol on Cybersecurity in International Arbitration (2020 Edition) at New York Arbitration Week

Posting of 25 November 2019

### The ICCA–NYC Bar–CPR


Working Group on Cybersecurity in Arbitration has just released its new Cybersecurity Protocol for International Arbitration. The protocol reflects comments from consultees across the world representing arbitral institutions, law firm arbitration practice groups, expert witnesses in arbitration proceedings and non-governmental organizations.

Members of the Working Group included ArbitralWomen members **Stephanie Cohen, Hagit Elul, Lea Haber Kuck** and **Kathleen Paisley**.

Additionally, **Eva Chan** served as one of the Secretaries to the Working Group.

The purpose of the ICCA–NYC Bar–CPR Cybersecurity Protocol for International Arbitration is to provide a framework to determine reasonable information security measures for individual arbitration matters and to increase awareness about information security in international arbitrations.

Congratulations and thanks to all who contributed to this important development in international dispute

resolution. The complete ICCA–NYC Bar–CPR Cybersecurity Protocol for International Arbitration can be [accessed here](#) .





## Launch of the ICC Commission Report: Resolving Climate Change Related Disputes through Arbitration and ADR

Posting of 4 December 2019

### The ICC Commission on

Arbitration and ADR, with the support of the ICC Commission on Environment and Energy, created a task force on "Arbitration of Climate Change Related Disputes" co-chaired by ArbitralWomen member **Wendy Miles** together with **Patrick Thieffry**. This task force prepared an extensive report on resolving climate change related disputes through Arbitration and ADR.

The report was launched on Thursday 28 November 2019 at an event hosted by White & Case in Paris.

The purpose of the Report is to examine the role for Arbitration and ADR in the resolution of international disputes related to climate change. The Report first defines climate change related disputes (Section II), providing case studies as appropriate, and then explores current, potential use and benefits of ICC Arbitration and ADR services to resolve such disputes (Sections III and IV) and identifies six broad features that potentially enhance the existing procedures to further improve their effectiveness for resolving climate change related disputes (Section V).

[Click here](#) to download the Report.



## ArbitralWomen Member Jacqueline Nolan-Haley Co-Authors "Global Issues in Mediation"

Posting of 8 December 2019

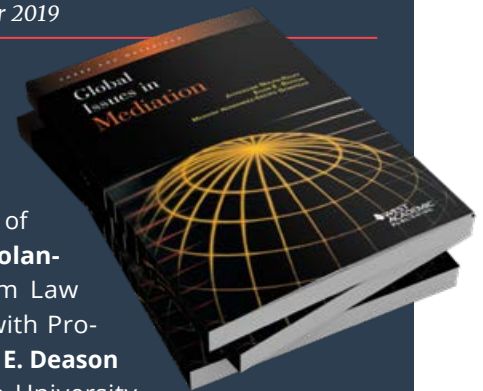
### Global Issues

in Mediation, co-authored by ArbitralWomen member Professor of Law **Jacqueline Nolan-Haley** at Fordham Law School together with Professor of Law **Ellen E. Deason** at The Ohio State University Moritz College of Law and Professor of Law **Mariana Hernandez-Crespo Gonstead** at St. Thomas School of Law and published by West Academic Publishing, provides a comprehensive overview of key topics about resolving disputes in our global landscape.

Mediation is increasingly viewed as an attractive dispute resolution option. The book covers the latest developments in mediation, cultural considerations, legal issues and regulation, ethical challenges, innovative trends and peacemaking mediation.

"Through its rich compilation of scholarship, Global Issues in Mediation educates the reader about the global perspectives underpinning mediation theories, ethics and practice," commented Professor of Law **Elayne E. Greenberg**, Assistant Dean for Dispute Resolution Programs, St. John's University School of Law.

To learn more about the book, [click here](#).



## The International Arbitration Center of the American Chamber of Commerce of Peru (AmCham Peru) Appoints Female-Majority Arbitration Court as of December 2019

By Amanda Lee, ArbitralWomen Board member, Consultant at Seymours  
Posting of 30 December 2019

### The International Arbitration

Center of the American Chamber of Commerce of Peru (AmCham Peru) appointed new members to its Arbitration Court in December 2019, becoming the first institution in the region to have a majority of female members on its Arbitration Court.



The newly constituted AmCham Peru Arbitration Court has nine members, including five women and three for-

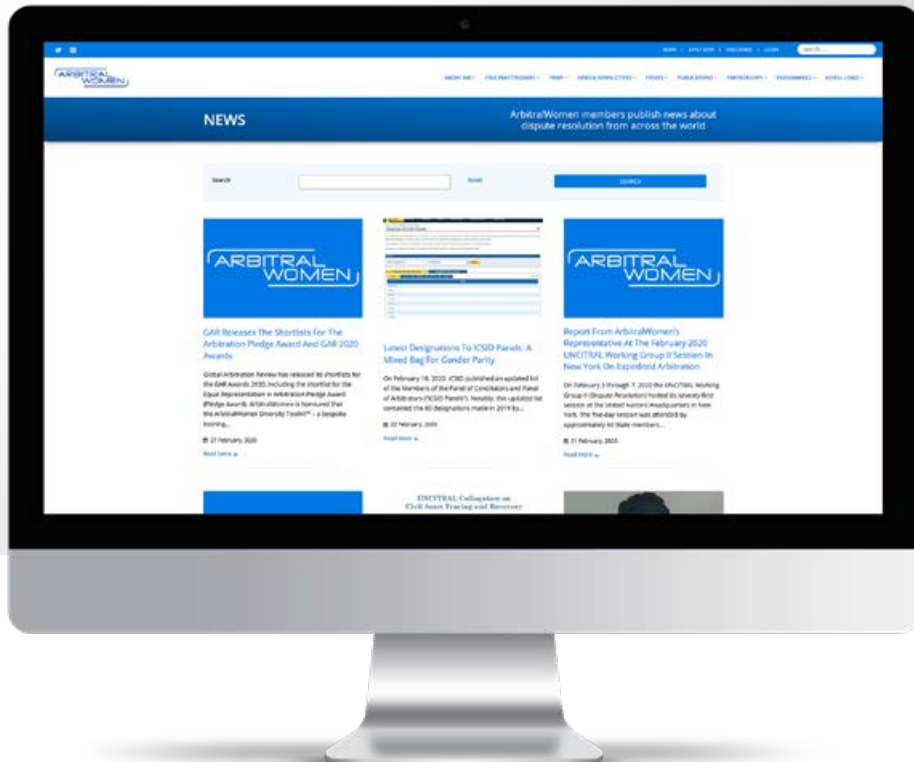
eign lawyers. Women appointed to the Arbitration Court include ArbitralWomen Director **Elena Gutiérrez García de Cortázar**, **Ana María Arrarte**, **Cecilia O'Neill**, **María Teresa Quiñones** and **Cayetana Aljovín**, who will serve as Vice Chair of the Arbitration Court.

**José Daniel Amado** has been appointed as Chair of the Arbitration Court.

Full details are [available here](#).

# 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](#).



## SPEAKING AT AN EVENT?

**If you or other ArbitralWomen members are speaking at an event related to dispute resolution, please let us know so that we can promote the event on our website and mention it in our upcoming events email alerts!**

If you wish to organise an event with ArbitralWomen, please send the following information to [events@arbitralwomen.org](mailto:events@arbitralwomen.org):

- Title of event or proposed event
- Date and time
- Names of ArbitralWomen members speaking or potential speakers
- Venue
- Flyer or draft flyer for approval by ArbitralWomen Executive Board
- Short summary of the event for advertising purposes
- How to register/registration link

**ArbitralWomen thanks all contributors for sharing their stories.**

### Social Media

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Maria Beatriz Burghetto, Dana MacGrath, Karen Mills, Mirèze Philippe, Erika Williams

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



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## ArbitralWomen Individual & Corporate Membership

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



The many benefits of ArbitralWomen membership are namely:

- Searchability under [Member Directory](#) and [Find Practitioners](#)
- Visibility under your profile and under [Publications](#) once you add articles under My Account / My Articles
- Opportunity to contribute to ArbitralWomen's section under [Kluwer Arbitration Blog](#)
- Promotion of your dispute resolution speaking engagements on our [Events page](#)
- Opportunity to showcase your professional news in ArbitralWomen's periodic news alerts and [Newsletter](#)
- Visibility on the [News](#) page if you contribute to any dispute resolution related news and ArbitralWomen news
- 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](mailto:membership@arbitralwomen.org), we would be happy to answer any questions.