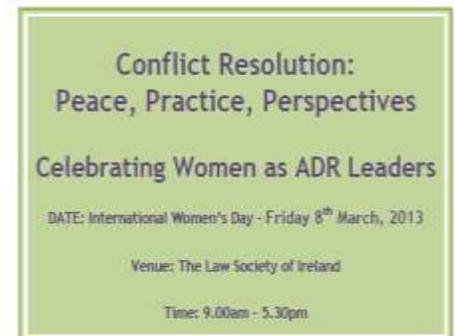


ARBITRALWOMEN

The International Network for Women in Dispute Resolution



L–R: Peter Cassells, NUI Maynooth Edward M. Kennedy Institute for Conflict Intervention; Paulyn Marrinan Quinn S.C., Ombudsman Defence Forces; Michelle Nolan, Law Society Skillnet; Anne-Marie Blaney, Solicitor, Chartered Institute Arbitrators (CI Arb); James Halley, Chairman CI Arb; James McCourt, Solicitor, Law Society President; Mirèze Philippe, Founding Co-President ArbitralWomen; Dominique Brown Berset, President of ArbitralWomen; Maura Butler, Chairperson, Irish Women Lawyers Association (IWLA); The Hon. Ms. Justice Maureen Clark, President IWLA and Michael Carrigan, Solicitor, President Arbitration Ireland.



CPD: Attendance at the conference sessions of 6 hours in duration may be used to attain CPD points.

Conflict Resolution: Peace, Practice, Perspectives Celebrating Women as ADR Leaders International Women's Day - Friday 8th March 2013

This special celebration was a unique multidisciplinary collaboration between the Chartered Institute of Arbitrators (Irish Branch) (www.arbitration.ie), the Irish Women Lawyers Association (www.iwla.ie), ArbitralWomen and the Law Society Skillnet (www.lawsociety.ie/Lspt)

Conference welcome speech

Delivered by Anne-Marie Blaney, Solicitor, MCI Arb, Chair of Communications Group, Chartered Institute of Arbitrators (Irish Branch), on behalf of the Chartered Institute of Arbitrators (Irish Branch), the Irish Women Lawyers Association and ArbitralWomen

Most Honourable guests, the Honourable Ms Justice Clark, Friends and Colleagues. Today is the day of the gender agenda and of gaining momentum. On behalf of the three Conference Collaborators, the Chartered Institute of Arbitrators in Ireland, Maura Butler, Chair of the Irish Women Lawyers Association, and Mireze Philippe, Co-founder of ArbitralWomen, I wish to welcome and to thank you all most sincerely for taking up the invitation to engage, speak, share, participate, listen, question, intervene during the day. A particular thanks to our wider collaborators – the Law Society Skillnet, the professional bodies, associations, NGOs and individuals who have supported, advised and promoted our conference work and enabled the rich and diverse gathering today.

Inside...

Reports and some papers presented at the Dublin's conference

Reports on professional women initiatives: Alcatel-Lucent, Association des Juristes et Entrepreneur(e)s

www.arbitralwomen.org

Collaborators' Background

The Chartered Institute of Arbitrators was founded in 1915 with a Royal Charter granted in 1979. It is the world's leading professional body promoting standards of knowledge and practice in all forms of dispute resolution. It has over 12,000 members globally and in over 100 countries. The Irish Branch chaired by Mr James Halley has over 700 members and is one of the largest branches globally. The multi-disciplinary membership includes practitioners in law, engineering, construction, property, information technology, shipping, finance, insurance, commodities, agriculture, accountancy, medicine and travel.

The Irish Women Lawyers Association IWLA formed in 2002 has among its aims and objectives that of providing a professional and social network for women lawyers, promoting the wider participation of women in the development of law and justice for all, promoting continuing education and awareness both in the law and in areas the law interacts with or impacts upon, encouraging the greater participation of women lawyers in developing the full potential of their role, advancing the interests of women in the legal profession and women in general, achieving justice and equality for all women and promoting gender balance at all levels of our institutions.

ArbitralWomen is a network of women from diverse backgrounds and legal cultures active in international dispute resolution. It was set up in 1993 and it offers an opportunity to meet other women in the field, exchange ideas, mentor new practitioners and celebrate the future of women in arbitration. It is a source of arbitrators, mediators, experts, lawyers and practitioners from jurisdictions around the world. It is also a source of referrals for women and men. The group has grown to nearly a thousand members from more than 40 countries. ArbitralWomen continues to advance the interests of women in arbitration and enhance their involvement.



L-R: Banners of the collaborators, Law Society Skillnet, Irish Women Lawyers Association, Chartered Institute of Arbitrators and ArbitralWomen

Vision of Conference

This conference is inspired by the wish to highlight the contribution and expertise of women in dispute resolution and in doing so promoting gender equality by identifying the current involvement of women and addressing issues facing women's participation at all levels. We wish to enhance the knowledge and capacity of our widest conflict resolution community by the expert input from male and female speakers in the plenary and key development panel sessions.

Each year around the world, International Women's Day (IWD) is celebrated on March 8. Thousands of events occur throughout March to mark the economic, political and social achievements of women. Organisations, governments, charities, educational institutions, women's groups, corporations and the media celebrate the day. We are delighted that we have the leaders and experts in the conflict resolution community here today and have the widest representative group to celebrate the day.

The Gender Agenda is our focus. The UN declares an International Women's Day theme and for 2013 it is "A promise is a promise: Time for action to end violence against women."

We value the conflict resolution community here and welcome the momentum of women in conflict resolution because conflict is simply a fact of life. As men and women we have different and divergent perspectives, bringing our own values, experiences and culture to life. We share the understanding that our society is in the deepest need of men and women who are skilled knowledgeable and competent to diagnose conflict and deploy processes to promote resolution.

Over time and distance, the equal rights of women have progressed. We celebrate the achievements of women while remaining vigilant and tenacious for further sustainable change.

UN Inspiration

In 1946, the Sub Commission on the Status of Women was established by the United Nations Economic and Social Council to submit proposals and recommendations to the Commission on Human Rights. From that first meeting of the Sub-Commission in New York in 1946, members considered that the work of the sub commission should last until women had reached the point where they were on equal footing with men in all human enterprises.

The concluding expression of hope of the sub commission was to play its role in exploring the whole range of issues affecting the status of women so that it can play its part in building a better world in which men and women in full equality work together toward universal peace. Allied with that is the fulfillment of the duty of women towards society to promote equality in social and economic status and customs. Well-being and progress of society depend on the extent to which both men and women are able to develop their full personality and are cognizant of their responsibilities to themselves and to each other.

In this room we all want to realise a society in which our sons and daughters, brothers and sisters have the same chance for equal participation where there is a sense of inclusiveness and parity of esteem.

In bringing this up to date, UN Security Council Resolution 1325 (2000)... *'Urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict'*.

To conclude with the words of Ban Ki-Moon, Secretary General of the UN, *'Engaging women and promoting gender equality as part of our work for peace and security is a daily responsibility and an unfinished mission for all of us. It is time for us to finally recognise the role and power of women to help us build a peaceful world.'* (Ban Ki- Moon, 30 November 2012).

A Special Day!

Report by Mirèze Philippe and Melanie Willems

On the occasion of International Women's Day (8 March 2013) Anne-Marie Blaney, Solicitor and Chair of communications group, Chartered Institute of Arbitrators (Irish Branch), and Maura Butler, Solicitor, Chairperson of Irish Women Lawyers Association, organised in Dublin, Ireland, a conference on Conflict Resolution: Peace, Practice, Perspectives, to celebrate women as ADR leaders.



Maura Butler (left) and Anne-Marie Blaney (right)

The conference was a unique multidisciplinary collaboration between several organisations. ArbitralWomen were among the groups spearheading the conference. Together with the Chartered Institute of Arbitrators (Irish branch) (CI Arb), the Irish Women Lawyers Association (IWLA) and the Law Society Skillnet, and sponsored by Edward M. Kennedy Institute for Conflict Intervention, a vibrant program was organised covering many practical and theoretical aspects of dispute resolution, legal practice and issues pertinent to women, and to the progress of women in the 21st century. IWLA, CI Arb and ArbitralWomen wish to acknowledge the pivotal role played by fellow collaborator, Law Society Skillnet, in providing considerable marketing resources and the conference venue.

As Anne-Marie Blaney said, the conference is inspired by the wish to highlight the contribution and expertise of women in dispute resolution and, in doing so, promoting gender equality by identifying the current involvement of women and addressing issues facing women's participation at all levels.

It was observed that Dublin was a particularly apt venue for this conference, given the increasing prominence of women lawyers in Irish political and legal spheres. In 1990 Mary Robinson became Ireland's first woman President followed in 1997 by another academic lawyer, Mary McAleese, who served two terms. In 2011, Máire Whelan SC was appointed as the first woman Attorney General and four months later The Hon. Mrs Justice Susan Denham became the first Chief Justice. Shortly thereafter the first woman Director of Public Prosecutions, Claire Loftus, Solicitor and the first woman Chief State Solicitor, Eileen Creedon, were appointed.

The conference was well attended. Over one hundred participants from numerous countries, were fortunate to hear eloquent and passionate presentations by James McCourt, President of the Law Society of Ireland, the Honorable Ms Justice Maureen Clark of the High Court, first Irish Judge of the International Criminal Court and president of the Irish Women Lawyers Association, Delma Sweeney, programme director, Edward Kennedy from the Institute for Conflict Intervention, Paulynn Marrinan Quinn, first insurance ombudsman and first ombudsman for the Defence Forces, Klaus Reichert, senior counsel, Rowena Mulcahy, taxing master of the High Court, Muriel Walls, mediator and collaborative practitioner, Brendan McAllister, founding director of Mediation Northern Ireland and James Halley, chairman, Chartered Institute of Arbitrators (Irish Branch), and Anne-Marie Blaney, solicitor and mediator.



L-R: Maura Butler, Klaus Reichert, Paulynn Marrinan Quinn, Maureen Clark, Mirèze Philippe, James McCourt, Delma Sweeney, Anne-Marie Blaney, Michael Carrigan, James Halley

McCourt stated that *“...the time has come whereby solicitors in particular must be required to expressly refer to means of resolving their clients’ disputes other than through litigation... I am strongly of the view that the solicitor must act in his or her client’s best interest, and in the public interest rather than in his or her self-interest. It may be that a dispute can be resolved. If this results in a reduced fee for a solicitor but it is in his/her client’s interests, then so be it.”*

The conference highlighted the contribution and expertise of women in dispute resolution, promoted gender equality and addressed issues facing women’s participation. Knowledge and capacity of a diverse conflict resolution community was enhanced by expert input from both female and male speakers.

Plenary speakers presented a kaleidoscope of views on diverse topics that included *“Is it True that Women Don’t Ask?; Validating ADRs through a wider lens; Ethics and Professional Standards; Taxation of Costs; Empowering Couples to Resolve their own Family Disputes”* and a riveting focus on Northern Ireland’s conflict entitled *“The Quality of our Attention”*. The conference threw up many interesting facts and seven panels debated over various issues, including international mediation and peace perspectives, gender research and conflict resolution, restorative justice, industrial relations and workplace mediation, family dispute resolution, and international dispute resolution.

Appropriately for International Women’s Day, the majority of speakers and participants were women.



L-R: Chitra Radhakishun, James Bridgeman, Dominique Brown-Berset, Mirèze Philippe, Melanie Willems

ArbitralWomen hosted a particularly lively panel on international dispute resolution chaired by ArbitralWomen president Dominique Brown-Berset, partner, Brown&Page, which focused in particular on the role and representation of women in the international dispute resolution arena with presentations from Mirèze Philippe, special counsel, ICC International Court of Arbitration and founding co-president of ArbitralWomen with Louise Barrington, Melanie Willems, partner, Chadbourne & Parke (London) LLP and Chitra Radhakishun, manager of UNCTAD Project on Dispute Settlement in International Trade, Investment and Intellectual Property.

The topics ranged from the need for equal representation of genders in arbitral appointments to access to arbitration for disadvantaged members of society particularly in developed countries. ArbitralWomen invited on its panel a supporter of ArbitralWomen, James Bridgeman, barrister at law, the Law Library (Dublin) and Lamb Chambers (London) who spoke on medarb.

“The ICC is not only a pioneer in dispute resolution but also a pioneer in appointment of women at major positions since the early 1980s” said Philippe. The ICC appointed the first women Secretary General of the Court in 1982, women were appointed members of the Court in 1985, the first woman counsel at the head of a team administering arbitration cases was appointed in 1995, and in 1996 the Secretary General of the ICC was a woman. She added that *“in 2011 the ICC Court appointed 11.3% of women arbitrators, and that the onus for addressing gender and diversity is not only on arbitration institutions but also on parties who appoint approximately 75% of the arbitrators”*.

There is some heartening news in the ICC’s report that 50% of mediators that it appointed in recent years were women. It remains to be seen if this excellent record can be replicated by institutions and law firms in other equally or more challenging arenas such as international arbitration.



Chitra Radhakishun

Radhakishun presented some contributions of the UNCTAD project on Dispute Settlement in International Trade, Investment and Intellectual Property. Her presentation touched upon the need to put in place adequate policies for private sector development to grow women’s businesses, and to focus on the need to facilitate access to legal services especially in international dispute settlement. *“The lower number of women’s businesses as party in international dispute settlement could partly be explained by fewer women’s businesses making it to the international market”* she said. Arbitration for all would be possible if attention were paid to developing a legal culture appropriate for business in the globalized economy; a culture of standing up for your rights at all levels of business for all players on equal footing, starting with access to dispute settlement services for all, women/men, poor/rich, developed/developing economies; a culture of seeking legal advice from the start of the business. *“The UN and ArbitralWomen, who represented known and trusted brand names”*, she said, *“could support towards this end, but the task is for all governments, institutions, civil society, business associations and NGOs who must work together towards this end”*.

Dominique Brown-Berset observed that she might have benefited occasionally from having a first name “Dominique”, which could equally be a man’s name. She emphasized the need for women recognized as top practitioners in international arbitration to use their standing and reputation to lobby, and to contribute to ensure that women are perceived and treated the same way as their male counterparts with equal talent when it comes to appointing arbitrators or lead counsel. Although things have changed, there remains much to be done to achieve equal treatment. The challenge is to work out how best to achieve this.

Melanie Willems suggested that given the pool of talent available, and in line with views expressed by Jim Yong Kim of the World Bank, quotas should be considered if progress towards equality cannot be achieved otherwise.



Melanie Willems

In two other panel sessions Barbara Walshe reported a victim’s thoughts on a successful restorative justice outcome”... *That was the beginning... Since then, the nightmares have ended... the fear is gone... I can’t even conjure up the terrifying images, any longer... I’m finally free...*”. Tendai Madondo asked “*What do we do?*” and answered “*Bloom where we are planted... Engage men as change agencies... Challenge stigma, discrimination and gender stereotypes.*”



L-R: Melanie Willems, Mirèze Philippe, Maureen Clark, Dominique Brown-Berset, Chitra Radhakishun



L-R: Mirèze Philippe, Dominique Brown-Berset, Melanie Willems, Chitra Radhakishun

Following on from this unique conference, given that women are implored to have more of a political voice and decision making role, it is time to assume that responsibility, measure the facts and decide together with the stakeholders how to best achieve quick progress in the matter of equality of appointments as a starting point. These points are equally valid across the whole spectrum of the business, legal and trade community worldwide.



L-R: Dominique Brown-Berset, Maureen Clark, Pauly Marrinan Quinn

“*Looking forward to the future, how can we contribute to move things faster than in the last 30 years*” said Mirèze Philippe, so that the celebration of International Women’s Day does not remain a celebration for what has been so far achieved, but rather a celebration of the equality that has been achieved.

We suggest meeting every two years to assess what has been achieved further and to set objectives for the next years, hoping that very soon equality will no longer be an issue.

ArbitalWomen intends to launch an initiative for an inclusiveness program and for gathering more data in order to measure progress in the practice of dispute resolution. ArbitalWomen considers that it is essential for all stakeholders in the industry to participate fully in this initiative, to ensure that the results are comprehensive and meaningful. A proposal will be prepared and sent to major organisations to invite them to contribute in a joint action. In the first instance they will be seeking to collate hard data on institutional appointments worldwide. This is an ideal opportunity for a collaborative project between all the key institutions operating on the global stage today.

"A lot of ideas came out of this day" said Melanie Willems. "We hope that this day was the kick-start for active contributions towards change" added Maura Butler. Maura believed "that this conference was the embodiment of how women work differently together – we are very good at collaborative processes, where the 'greater good' is the objective. I was told by someone that the normal lead-in for such a huge conference would be much longer than the timeline that we had to meet. The achievement of the multi-disciplinary nature of the conference, the amalgamation of all of our resources, the many willing voluntary hours, the shoe-string budget and the commitment to a joint enterprise ensured that we definitely 'felt that things went well' on the day!"

The Global Arbitration Review (GAR) published a brief on 15 March headlined *"ArbitalWomen marked International Women's Day – 8 March – with an event in the Irish capital to highlight the contribution and expertise of women in dispute resolution, celebrate the current female leaders in the field and promote gender equality in the future"*.

While ArbitalWomen were in Dublin, a welcome visit was paid to the Dublin Dispute Resolution Centre - Dublin International Arbitration Centre. The brand new facilities there are excellent and it is thought that Dublin competes happily with other venues in Europe for the holding of arbitration hearings and mediations.

Ireland introduced a new arbitration act in 2010 based on the UNICTRAL Model Law which makes Dublin an attractive option as a hearing centre. The Dublin Dispute Resolution Centre was launched on 1st November as a joint venture of the Irish Branch of the Chartered Institute of Arbitrators and the Bar Council of Ireland. The Chairman of the Irish Branch, Jim Halley is delighted that the project has been brought to fruition. "It involves us in a strategic partnership with the Bar Council which we believe is in our interests into the future. It is also an important tool for us in developing the Irish Branch and ensuring that our members are preferred when dispute resolvers are needed in the national and global ADR market" said Halley.



The Law Society Skillnet generously hosted a lunch at the Law Society, in what used to be the church of a boy school.



The day ended with a nice dinner in the charming setting of Stephens Green Hibernian Club, hosted by James Bridgeman

Dublin Dispute Resolution Centre (DDRC)
Dublin International Arbitration Centre (DIAC)

Homepage
Why Invest?
Contact Us

The Dublin Dispute Resolution Centre (DDRC) is open for business. The centre is located in the Distillery Building on Church Street, in the vicinity of the Four Courts and in the heart of 'The Legal Quarter'. The centre is being run as a joint venture between the Bar Council and the Chartered Institute of Arbitrators.

The DDRC is a purpose built centre which will operate as a "one stop shop" for dispute resolution from the time initial contact is made with the Centre to the conclusion of the process. The centre caters for arbitrations, mediations, conciliations, adjudications and other forms of alternative dispute resolution, as well as ancillary activities such as meetings, seminars, disciplinary hearings, and the taking of depositions.

We look forward to welcoming you. Our new website is currently under construction. In the interim, please [contact us here](#).

Dublin Dispute Resolution Centre (DDRC)
 Dublin International Arbitration Centre (DIAC)
www.dublinarbitration.com

Evolution of women's involvement in dispute resolution in the last thirty years; the institutional experience & ArbitralWomen experience

Presentation at the Dublin's conference by Mirèze Philippe, Special Counsel, Secretariat of the ICC International Court of Arbitration, Founding Co-President ArbitralWomen & member of the Board. The views expressed are those of the author alone and should not be regarded as representative of or binding upon the ICC, the Court or its Secretariat.

In the last ten years there has been an explosion of articles, comments, press-releases and surveys (for instance in the Atlantic, Financial Times, Careerist, New York Dispute Resolution Lawyer, Arbitration International; see bibliography at the end of this article) on gender and diversity, including discussions on some blogs and list-serves such as Kluwer, LinkedIn or OGEMID.

Several papers and discussions concerned more particularly women in the business and the legal fields, and assessed the evolution of their careers. It will come as no surprise to learn that it continues to be difficult to break the glass ceiling and to change mentalities, which may sometimes be naturally biased.

Practitioners are realizing more and more, that there are issues that need to be addressed concretely.

Although the general picture is not glorious, my assessment of the progress achieved and where we are heading is positive. The evolution of women involvement in dispute resolution became more and more visible mainly in the last 15 years, although there remains much to be done.

The business and legal communities remain male-dominated because it has been so since centuries. Women started more and more studying business and law in the middle of the twentieth century, but their involvement in these fields was very slow until the last 30 years. Therefore, the situation has and will continue to change progressively and naturally. We must simply make sure, that the time it has taken to evolve so far will now be significantly shorter until we reach a level of professional equality between men and women. I hope that in the next 5 to 10 years maximum this goal will have been achieved and the discussion about reaching equality will only be history.



Mirèze Philippe

Arguments and experiences regarding the evolution of women's involvement in the business and legal fields may differ for each person. To substantiate my positive views, I chose to share with you my experience of 30 years at the ICC and my experience with ArbitralWomen which started 20 years ago.

Women leaders at the ICC

The ICC: The International Chamber of Commerce ("ICC") was founded in 1919 and the International Court of Arbitration ("Court") in 1923. The ICC was not only a pioneer in dispute resolution, but was also a pioneer in appointing women at major positions since the early 1980s.

The first woman Director of the Secretariat of the ICC Court, Tila Maria de Hancock, was appointed in 1982. The ICC appointed in 1996 two women Secretaries General, one heading the ICC world business organisation as a whole, Maria Livanos Cattai, and one heading the Secretariat of the Court, Anne-Marie Whitesell.

Interestingly, the number of arbitration institutions today around the world with women leaders in different roles, as presidents, vice-presidents, directors, secretaries general, deputy secretaries general are more than 40.

In February 2013 the Global Arbitration Review ("GAR") award for best development of 2012 went to the American Arbitration Association for the appointment of its first-ever female president, India Johnson.

The Court: ICC arbitration is a fully administered process which benefits from the supervision of the Court constituted currently of 128 members from 90 countries. This demonstrates the diversity of legal systems and points of view represented in the Court. To my knowledge, women have been appointed as Court members since 1985: two women were appointed, one from Colombia, Maria Clara Betancur de Helo and the other from Madagascar Yolaine Anta Rakotomanga. Currently, 20 of the 128 members are women, which represent 15.60% of the Court members.

The Secretariat: The Court is assisted by a Secretariat with a highly qualified staff, composed of 95 members, half of whom are lawyers. There are some 25 nationalities represented on the Secretariat with as many languages spoken.

A former Secretary General of the Court and current partner at King & Spalding (Paris), Eric Schwartz, strived in 1995 to have women appointed as counsel in charge of teams administering arbitration cases, and to have women promoted from the position of deputy counsel to the position of counsel. The first woman appointed as counsel and promoted from the position of deputy counsel to counsel was Anne Cambournac.

As you can see, it is not only thanks to the struggle of women that women are appointed and recognized, it is also with the support of men that mentalities can change, and that doors can be opened to women. I think the process is logically a joint effort considering that the society is composed of men and women.

Although ArbitralWomen had no involvement in this process, I noted that this happened two years after ArbitralWomen had started its group and started speaking about the absence of women on the dispute resolution scene.

The trend of appointing women at the Secretariat was maintained. Today, there are more women on the Secretariat than men, with half of the counsel being women in addition to the Managing Counsel and the Special Counsel.

ICC World Business Women: finally, today ICC is celebrating the first anniversary of World Business Women (WBW), a staff driven initiative launched on the occasion of International Women's day last year, to promote gender diversity and better gender balance. *"We are a young initiative with still much work to be done but the initiative has been a catalyst. It has also generated some very good ideas that we have to promote and see implemented"* said Elizabeth Thomas-Raynaud, ICC Senior Policy Manager who chairs the Steering Committee of the WBW initiative. She added that *"Already, as a result of our efforts, recruitment experts and executives at ICC are becoming more sensitized to the importance of ensuring qualified women candidates are identified and put forward for consideration wherever they are underrepresented."* (see <http://www.iccwbo.org/News/Articles/2013/ICC-celebrates-International-Women's-Day>).

Women Practitioners

Arbitrators: Now coming to arbitrators, when I joined the ICC 30 years ago, there were some 5 but probably less than 10 women arbitrators in the cases administered by the ICC. I imagine this situation was the same with other arbitration institutions. Some of these women arbitrators happened to be the very few women retired magistrates.

It is true that one of the reasons for the absence of women was the fact that until recently there were few women practitioners in dispute resolution and with a proven experience who could be considered candidates for arbitrators appointment. The number has increased in the last 15 to 20 years, although the number of women appointments remains significantly small.

That being said, contrary to what commentators tend to say, the onus for addressing gender and diversity is not only on arbitration institutions but also on parties. To give you an example, the ICC Court is required to appoint sole arbitrators or chairs in approximately 25% of the cases. In 2011, out of 900 arbitrators appointed (the number concerns arbitrators and not appointments), 318 were appointed by the ICC Court and 36 arbitrators of the 318 were women, which represents 11.3%.

Therefore, considering that party autonomy remains a cornerstone of arbitration and that parties appoint 75% of the arbitrators, parties must make efforts and contribute to change things, not only in appointing women but also in appointing young women and men.

Sir Frank Berman said in an interview with the GAR dated 21 February 2013, that *"It is odd this impression arbitration gives of being a male club. Part of that is simply due to the way in which parties or law firms set about the process of choosing arbitrators"*.

Last week the result of a survey was released on Kluwer's blog on the reasons for under-representation. Most of the participants thought that *"party appointment system that enforces the status quo, by favoring an elite handful of repeat players, is the highest factor in favor of long standing under-representation of women in arbitration"* (Results of the Kluwer Arbitration Blog's first poll, Annalise Nelson, 26 February 2013). This is unfortunately proven by some attitudes; a practitioner recently told a friend that, even if he has a list of arbitrators which is comprised of 3 women and 1 man with equal qualifications, he will choose the man.

When the ICC is called to prepare a list of arbitrators, either for arbitrations that it administers or in its role of appointing authority in *ad hoc* arbitrations, it includes women. Sometimes, at least for the time being, it is hard to find women experienced in certain fields, such as in satellites-related disputes.

Similar efforts were undertaken by the ICC ADR department: 50% of mediators appointed in 2011 were women.

Lawyers: Women lawyers also seemed rare, but in reality they were many more, except that they were backstage and never on the scene; they prepared submissions and worked on the arbitration cases, but their name would not appear on the paper and they would not appear in hearings. It took a long time until we started seeing women being among the representatives of the parties. Sometimes women felt compelled to leave a law firm and join another or start their own boutique to stop being "hidden" or prevented from progressing.

Today, the picture is quite different: in one ICC case out of two women represent parties and sometimes several women on each side. This trend has started some 5 to 10 years ago.

That does not mean unfortunately that these numerous women lawyers break the glass ceiling. The famous former Chief Judge of the State of New York, Judith Kay, in an interview last year said *"Pity that despite our advances and society's progress, women still have to work so hard simply to find our way through that glass ceiling. After nearly 50 years as a woman lawyer, I question whether that ceiling is really made of glass, which generally symbolizes a fragile object"* (Judith Kay, *New York Dispute Resolution Lawyer*, Spring 2012, vol. 5, n°1, page 12).

The number of women who reach the partner level is unfortunately less than tiny compared to the number of women associates. Moreover, it has been noted that many women are lost on the way, which was described as "pipeline leak" by some commentators (see Lucy Greenwood, *"Getting a better balance on international arbitration tribunals"*, *Arbitration International*, volume 28 number 4, 2012, page 653).

Efforts must be undertaken by all stakeholders to allow women to continue their career and exercise their talents.

Panellists: It is likewise hard to see women invited to speak on panels at conferences. Today is an exception because the event was mainly organised by women and because we are celebrating Women's Day. Much effort was made by ArbitralWomen which has been instrumental in the last decade in raising awareness and increasing the number of women speaking at conferences. Louise Barrington (Founding Co-President of ArbitralWomen with me) and Lorraine Brennan (former President of ArbitralWomen) have been particularly attentive to this problem and to drawing attention of organisers to the fact that practitioners expect more and more balanced-panels and expect to see efforts undertaken towards inclusiveness rather than exclusiveness. When organisers pretend that they found no women or women available to be potential speakers, we invite them to browse on our website or to approach us for names before concluding that no women exist in the pool of practitioners with equal qualifications of the profiles requested.

Until 10 to 15 years ago it was similarly hard to see women simply attending conferences, but things have luckily changed. We are happy today to see that women outnumber men at this celebration of Women's Day.

Members of working groups: Similarly, working groups of various international organisations such as the International Bar Association ("IBA") or International Law Association ("ILA") hardly include any women and count very few women chairs. Dominique Brown-Berset, current President of ArbitralWomen, reported in an interview published last year that she was the first woman co-chair of the arbitration committee of the IBA. Together with fellow members of the committee they developed a culture followed by all her successors to have committees composed with half women and half men. She made sure that after she stepped down there would be another woman in charge (*Redressing the balance, The Resolver, May 2012, page 10*).

ArbitralWomen Network

In 1993, Louise Barrington my colleague at the ICC at that time, participated to an International Council for Commercial Arbitration ("ICCA") congress in Bahrain and noticed that there were some 5 women including herself out of 250 participants. She wanted to find where women practitioners in dispute resolution were and sent out a chain letter. She received dozens of letters and 60 women ended up participating to a first dinner organised in 1993. ArbitralWomen was born on that day of 22 November 1993.

At the beginning, it was suggested that we meet once a year but we quickly saw that we needed to stay in touch and to keep each other informed about events, case law, discussions and other matters related to dispute resolution. In 2000, a Yahoo group was launched which had the benefit to allow registered persons remain in touch with other members. However, we realized that the existence of our group was known to a small number of people and that we could only reach out to a larger number if we become visible. In addition, considering that practitioners had the tendency to say that there were only a few women practitioners in international dispute resolution, we understood that we needed to showcase and inform the business and dispute resolution communities at large that women practicing arbitration, mediation, adjudication, expertise and other forms of dispute resolution services exist. We therefore created our own website in 2005 and started getting more and more visible. A thousand women registered stay more or less in touch, but only half of them are members.



Louise Barrington

The task has not been easy since 1993. ArbitralWomen was very much combated at its beginnings; we were criticized and mocked. An arbitrator said in 1996 to Louise Barrington "so, you are the young lady who wants to replace us", and Louise answered "no, we don't want to replace the men, only to join them" (*Louise Barrington, New York Dispute Resolution Lawyer, Spring 2012, vol. 5, n°1, page 16*). I think this summarizes clearly one of the objectives of ArbitralWomen and of women practitioners who struggle to share the field with men. For equal qualifications and experience, there is no reason for excluding women.

Our perseverance paid. ArbitralWomen became more and more known and recognized since 2005. This was largely facilitated by the electronic networking (the world wide web allowed in the last 10 years the creation and visibility of hundreds of networks around the world), and by our activities which include among others a mentoring program and support to Vis Moot competition teams, as well as by the events we organise.

“Visibility and networking are important features of the arbitration world. Organisations like ArbitralWomen provide women with a means to share experience, make their own lists and be generous with their knowledge, contacts and recommendations” reported Sophie Nappert and Sarita Woolhouse (*Transnational Dispute Management, September 2009, www.transnational-dispute-management.com*).

In the recent survey and paper published by Lucy Greenwood on “Getting a better balance on international arbitration tribunals” (*Arbitration International, volume 28 number 4, 2012, page 653*), she reports that when a party is making an appointment of arbitrator, diversity is the “the last feature on anyone’s mind”. While understanding this concern, I think it is important to continue raising awareness. Ignoring that there are women arbitrators, mediators, experts, marine surveyors, engineers, adjudicators, etc. cannot be a serious statement. With internet and the hundreds of networks in all fields, pretending that professionals did not know about the existence of women practitioners cannot be true.

However, it is true, that there may be some lack of visibility. Women are not good as men at self-promotion and must develop that skill. In general, women tend first to concentrate on their work and if time permits they devote it to their promotion. We forget sometimes that exposure is essential.

To conclude, women have come a long way. Needless to say that much efforts remains to be done. We must constantly raise awareness in all communities of professionals and spread the word more widely.

My opinion is positive for the future. The trend that started some 15 to 20 years ago will not stop. It is a fact of history that women were excluded from the business life; it is similarly a fact of recent history that women are now sharing the business field, they are capable, and will no longer accept to sit back and watch.

Today young practitioners have several networks which allow them to meet, share experience and become visible. This trend will help young women and men be much more quickly involved at higher levels and as arbitrators than what my generation experienced. Their task will also be easier thanks to those who struggled like ArbitralWomen to raise awareness about the existence of women practitioners in dispute resolution.

Dominique Brown-Berset chairing this panel organised by ArbitralWomen, said that *“we should not have to celebrate such a day because women should be naturally sharing the business world”*. I hope, like many of us today, that in the near future we will no longer celebrate Women’s Day to advance the women’s cause. I hope that we will simply write the history of the evolution of women in the business world.

My recommendation is obviously perseverance. If you think that what you are doing has value and you are doing it right, go for it and persevere. You should grab every opportunity afforded to you to get involved in the dispute resolution community work and even provoke them without waiting for them. Quality should always prevail and quality will speak for us.

Finally, I will use the words of Klaus Reichert to Rachel Foxton who was worrying about the organisation of the ICCA congress in Singapore last June 2012, he told her “Keep calm and carry on”.

The Future

How can we contribute to move things faster than in the last 30 years?

Looking forward to the future, this panel decided to make recommendations, so that the celebration of Women’s Day does not remain a celebration of intentions, but rather a celebration of achievements.

ArbitralWomen intends to launch an initiative for an inclusiveness program and for gathering more data in order to measure progress in the practice of dispute resolution at all levels. Major organisations and law firms will be invited to contribute in a joint action of collaborative efforts and to be pro-active. To achieve this purpose, it is suggested to create a commission to draft recommendations for reaching a better balance and respect of equality. The inclusiveness program will include:

- publicizing efforts of arbitration institutions and law firms who have programs in place in favor of women and encouraging them to continue this trend;
- encouraging arbitration institutions and law firms who have no programs intended to get a better balance to take action and show efforts in this regard;
- encouraging arbitration institutions to keep data up-to-date of women appointment as arbitrators, so as to be able every year to assess and publicize the efforts undertaken;
- encouraging organisers of conferences to invite women panellists and publicize the efforts undertaken; if they are unable to find women speakers, send them a list of names; inform those who make no efforts that we do not support their events and will only publicize or attend them if they make efforts towards a better balance on the panels;
- fostering women professional groups like the ones organizing this conference and encouraging cooperation and referrals;
- establishing a list of women networks in all fields together with a short description to present the groups, and publicizing it on a website to make information available to professionals in the business and the legal communities.

Future Challenges

Presentation at the Dublin's conference by Melanie Willems, Partner, Chadbourne & Parke (London) LLP, Member of ArbitralWomen

This conference concerns “*women in dispute resolution*” and against that background I have been asked to consider “*future challenges*”. The phrase “*women in dispute resolution*” might be taken to include women who act as parties’ representatives, as lawyers, as witnesses, as experts, as transcribers and translators. No doubt all such women face challenges. But my concern, in my short time today, is to deal with some aspects of glaring inequality in the context of my experience as a woman counsel in arbitration and arbitrator, in the hope that I might spur some of you to action.

I say the *challenges* faced by *women arbitrators* but really I should say the *challenge* faced by *prospective women arbitrators*. I'd like to focus on this point. In truth we all know that woefully few women are ever appointed as arbitrators. The plain challenge is to see that more suitably qualified and experienced women are appointed as arbitrators.

How to go about this? A first step is to establish the facts. There is a tendency among arbitration practitioners, among the journalists who cover arbitration, and among the academics who study it, to focus their discussion on investment arbitrations and other actions involving states. That is only natural, because those cases are conducted in the public eye. But focussing on these cases overmuch often gives a misleading impression. The vast majority of arbitrations continue to be disputes between private, commercial parties. The public, and in many cases even legal insiders, know next to nothing about those private disputes.

The best source of information about those private party arbitrations is the annual “*Arbitration Survey*” which is conducted by Queen Mary Westfield University. Arbitration practitioners are asked a series of questions about their experience. This survey does not, however, ask what is, for our purposes, the critical question: were the arbitrators men or women? Neither the ICC nor the LCIA, to my knowledge, publish data about how many women they appoint as arbitrators - though I note that the ICC does publish data on arbitrators’ nationality.

If there is an imbalance as extreme as appears to be the case, urgent action is needed. This imbalance reflects issues in business (and indeed society) as a whole. Some organisations have fortunately now moved to concrete action. Jim Yong Kim of the World Bank published views on 27 February 2013 as to the top three priorities for women and girls today. One of these was to “*Significantly increase women’s political voice*”. In this context, he is referring to women assuming leadership roles, as much as he is referring to women becoming parliamentarians. Here’s the interesting part: the World Bank is committed to moving to quotas, if in the next four years a 50/50 split in terms of gender has not been achieved in its positions of leadership.



Melanie Willems

In the context of arbitration, it remains my impression that women are grossly underrepresented amongst arbitration tribunals. I say that based on my own experience, in a career spanning more than 20 years, of never yet having appeared before a woman. A quick review of the law reports also shows that, where awards have been considered by the English courts, the arbitrators who made those awards were almost invariably men. But to establish the scale of the problem and to shame the arbitration community into doing something about it we have to be able to point to more objective evidence as to just how bad the problem is. My first suggestion for the future, then, is very simple. Those who are studying arbitration and gathering data should ask for, and be provided with, information about the gender of tribunal members. In addition, arbitral institutions should publish a breakdown showing how many of the arbitrators they appoint are women and how many are men.

For the purposes of the present discussion I am prepared to assume that the evidence thus gathered will show women are, in fact, grossly underrepresented among appointees to arbitral tribunals. Why might that be?

Of course the facetious, but correct, answer is “*because people aren’t appointing many women as arbitrators*”. But this glib answer reveals a basic truth. If we want more women appointed as arbitrators, then we have to appoint more women as arbitrators. We should each consider the following question: when was the last time you nominated a woman to a tribunal? When did you last list a woman among the pre-approved arbitrators in a contractual dispute resolution clause? We may yet all be at fault here. On the one hand women complain about male dominance of arbitration tribunals, and on the other we perpetuate that situation by picking male arbitrators.

There is, however, a pragmatic explanation here. I find that if I suggest women candidates for the role of arbitrators the harsh truth is many clients still don’t like it. People are generally conservative by nature in the business world. And men – other tribunal members – appear to be dubious about the prospect, too. Again, empirically, when I asked two well known arbitrators (an ex-judge and a well known QC) on a tribunal of three to select a woman president, they ignored my request and nominated a man. This is why the institutions must lead the way in working on the situation. They are uniquely positioned to do so.

Let us take as our paradigm case a substantial commercial arbitration, seated in London and subject to English governing law. In such a case any given member of the tribunal is reasonably likely to be a self-employed English barrister QC. If not, then they might instead be a partner or former partner in a solicitors' firm. A few arbitrators will come from other backgrounds. In this regard, one needs to be fair and acknowledge that many disputes are more legal in nature than anything else. Given the importance of legal requirements (such as due process, and understanding the limits of one's jurisdiction), it is still reasonable for clients to choose a lawyer over other professionals for the role of decision maker.

So we then look at the law. The statistics are stark. According to the statistics published by the Bar Council in England, in 2010 there were 1,397 self employed barrister QCs of whom just 152 (11%) were women.

Naturally, of these 152 a proportion will practice in fields such as crime, family law or personal injury which may not lend themselves very readily to arbitral appointments. Historically, women have been chronically underrepresented among commercial lawyers.

What this means is that if, when we choose arbitrators, we default to picking a QC from the independent bar, then we are choosing from a pool in which women are already substantially underrepresented – fewer than 152 people. That position might change as women who are presently juniors rise through the ranks of the bar and are appointed Queen's Counsel, but we cannot assume that will be the case, because if we look at the independent bar as a whole only around one third are female.

When looking for prospective arbitrators, then, you and I and the appointing institutions need to cast our nets just a little bit wider. There are some very capable, experienced women (and, indeed, men) who are not Queen's Counsel but are instead senior juniors at the bar, partners at solicitors' firms, or senior academics. I am not saying that solicitors' firms and universities are perfectly representative and egalitarian, but if you are serious about appointing more women to decide disputes, then that may be where you will have to look.

I have sometimes heard it said - or muttered - that the reason for not appointing women from these backgrounds is because to do so would involve "*compromising on quality*" or a "*lowering of standards*". But, (being frank here), the reality seems to me to be that an arbitrator being an independent barrister QC is no guarantee of quality, any more than the fact of an arbitrator being a man is a guarantee of quality. Everyone in this room will have come across male QC arbitrators who are outstanding, and male QC arbitrators whose work was utterly shambolic. I have no doubt that there will be women who are poor arbitrators and women who are very good arbitrators. Let's appoint some women, and find out.

I have spoken before, both privately and publically, about the possibility that appointing bodies might lawfully adopt some policy which positively discriminates in favour of the appointment of women as arbitrators. One possibility would be a quota, whereby the institution simply says "*from now on 50% of all the arbitrators we appoint we will be women*". The institution then alternates, appointing one woman for every man it appoints. That is, in my view, the fairest system, and so far as I can see there is no reason why adopting such a system would be in any way unlawful. This is because we now are all aware, following *Jivraj v Hashwani*, that, for the purposes of the legislation being considered in that case, arbitrators were not employees. There is no reason to think that the position would be any different under the Equality Act 2010, and so the controls imposed upon employers not to discriminate on grounds of sex do not apply to a body which is nominated to appoint an arbitrator.

We lawyers are occasionally reactionary. We can all construct the counter argument to what I say. Ultimately, though, unless you think that there are questions which only men can be trusted to decide, which are simply too difficult for women's minds, then you can have no objection to a system which ensures an equal number of disputes are decided by men as by women.

The classic objection to this kind of positive discrimination is that it somehow "*cheapens*" or "*devalues*" the woman's appointment – people will assume she wasn't appointed on merit, but only to fill a quota.

My response to that kind of argument is: "So what?" I suggest that caring about what other people think is the enemy of progress and transparency. I think that, given the choice, most lawyers would rather be appointed as arbitrator and have some people think they didn't "*deserve*" it, than not be appointed at all.

Objecting to positive discrimination on the ground that it "*devalues*" a woman's appointment only makes sense if you believe that under the *present* system every arbitrator is appointed purely on merit, and that the reason so few women are presently appointed as arbitrators is therefore because very few women deserve to be.

If that was true then, indeed, appointing an equal number of men and women as arbitrators will mean appointing more people who don't deserve to be appointed as arbitrators. But if you think that the reason very few women are presently appointed as arbitrators is nothing to do with being innately unsuitable or less able to make good decisions, then the objection falls away.

For those of you who remain unattracted by the kind of positive discrimination I have outlined there is a less radical alternative. This is for the appointing bodies to adopt what might be termed “*positive action*”.

As you know, the Equality Act 2010 operates to prevent employers discriminating between their employees or prospective employees on grounds of sex, race and so on. But it also provides that it is not unlawful for an employer to adopt a policy of “positive action” if it wishes to do so.

The new recruitment and promotion provisions allow employers, when deciding between two equally qualified candidates, to choose a candidate from an under-represented or disadvantaged group. To give an example, a family law department in a solicitors’ firm has a vacancy. The entire department is female. Two trainees interview for the role. Both have spent 6 months working in the family team and have had excellent appraisals throughout their traineeship. They both completed their LPCs at the College of Law and hold the same class of degree. The department can lawfully choose to recruit the male trainee on the ground that men are under-represented in the family law team.

As mentioned, the Equality Act 2010 almost certainly does not apply to arbitrators, since they are not employees, but the idea of positive action can readily be applied to arbitrators. The ICC, LCIA or any other arbitration institution could (it seems to me) quite properly (and desirably) adopt a policy whereby, from now on, as between prospective arbitrators whom it considers to be equally qualified, it will choose women over men.

Much as I would love to see some kind of reform by the appointing bodies to ensure the appointment of more women, I do not think we can pin all our hopes on them. If we really want to improve the position of women in the arbitral world we need to put money where our mouth is and actually nominate more women arbitrators as party appointees, seek to agree more women for the role of chairman, and include more women in lists of pre-approved arbitrators where these appear in contracts. We also need to push institutions – including but not limited to the LCIA, ICC, ICSID, Stockholm, Singapore, Dubai, Dublin and Beijing - for information about the scope of the problem, and push the issue to the top of the agenda for every appointing body.

An obvious suggestion is that women who would like to act as arbitrators should advertise that fact. State on your CV or online profile that you accept appointments as arbitrator, send your CV to the appointing bodies and improve your visibility. There is no sense in complaining that one is never appointed if no one knows you are interested. But the final word must remain with those who can appoint freely, with less pressure: the institutions. To them I must say: tell me who you are appointing. We can then all tell what your values are.

Appendix

- As of 2011 women accounted for 46.5% of solicitors with practising certificates. Whereas the total number of solicitors holding practising certificates has grown by 40.8% since 2001, the number of women holding practising certificates has nearly doubled, having increased by 79.7%.
- 74.8% of men holding practising certificates work within private practice, compared to only
- 69.1% of women.
- In 2011 the average age of a male practising certificate holder was 44.5 years compared to
- only 38.4 years for female practising certificate holders.
- In 2011, the average age of a female solicitor in private practice was 37.8 years compared
- with 44.9 years for men.

Self employed Queen's Counsel by gender

	2006	2007	2008	2009	2010
Male	1,160	1,107	1,146	1,179	1,245
Female	118	116	127	139	152

All practising barristers by gender

	2006	2007	2008	2009	2010
Male	9,920	9,924	9,999	10,011	10,033
Female	4,970	5,106	5,183	5,259	5,354

Women's Access to Dispute Resolution: Arbitration for All

Presentation at the Dublin's conference by Chitra Radhakishun, Manager of the Project on Dispute Settlement in International Trade, Investment and Intellectual Property of the United Nations Conference on Trade and Development (UNCTAD), Member of ArbitralWomen. The views expressed are those of the author and do not necessarily reflect those of the UNCTAD, the organization she is affiliated with. Contact: chitra.radhakishun@unctad.org



Chitra Radhakishun

This exposé looks at some of the challenges of settling international disputes for women participating in international commerce. In the context of the Dublin conference, focus was placed on arbitration. However, the issues concern alternative dispute resolution in a broader sense, including Ombudsservices, mediation and conciliation. The concerns raised also touch upon access to international dedicated forums for dispute settlement such as from the World Trade Organization or the World Intellectual Property Organization.

UNCTAD's research on private sector and enterprise development, on women's entrepreneurship and on dispute settlement, suggests that women as owner and/or managers of small and medium-sized enterprises still face challenges in securing their rights in the international business arena. Work on dispute settlement reveals that in arbitration practice and in alternative dispute resolution (ADR), whether as arbitrator or as counsel in arbitral disputes in particular, women still have a long way to go ⁽¹⁾.

Improving access to dispute avoidance and resolution mechanisms, women, their enterprises, communities and families and therewith the economy and the society.

I. Women as Party in Commercial and International Commercial Disputes

The UNCTAD Project on Dispute Settlement in International Trade, Investment and Intellectual Property

The UNCTAD Project on Dispute Settlement in International Trade, Investment and Intellectual Property aims at facilitating understanding of the basic rules and jurisprudence of dispute settlement in international trade, investment and intellectual property. The activities are geared towards building permanent capacity in this field in developing countries. The project seeks to provide cutting-edge knowledge to its beneficiaries through its publications and its national and regional capacity building work. Its services on international dispute settlement are principally directed towards meeting the needs of government officials, academics, and legal practitioners in developing countries. Requests from trade and business associations and from trade unions in developing and least developed countries are also responded to. The project furthermore promotes research on related international and regional issues. The project is financed from voluntary government contributions.

The project draws upon research work done by the various UNCTAD programmes and undertakes activities in collaboration with other international bodies such as the World Trade Organization, WTO, the World Bank's facility of International Convention on the Settlement of Investment Disputes, ICSID and the World Intellectual Property Organization, WIPO.

In an era where international commercial exchanges have become increasingly rules-based and dispute settlement has become an important feature of multilateral trade, investment and intellectual property, UNCTAD's project is meeting a real need of developing countries.

The project is making concerted efforts to include women professionals in its activities. A female participation of one third has been achieved, the target strived for is 50%.

The project also gathers pertinent information on the practice of dispute settlement. Reliable data on women and/or women led or – majority- owned-business as party to international disputes in the areas of trade, investment and intellectual property could, regrettably, not be obtained.

Anecdotal evidence from other sources regarding women in business suggests that women tend to avoid litigation, including ADR. This, combined with the fact that women overall are still a minority as business owner/managers, may suggest that fewer women are party in disputes. On the other hand, practitioners have observed an increase in the number of women "present on the scene" in arbitral proceedings, as counsellor or as legal representative or member of the legal teams of enterprises involved in disputes. Illustrative is a discussion on Women arbitrators in a panel on "some current issues" at the 13th Geneva Global Arbitration Forum in 2007 ⁽²⁾.

Further research and gathering of facts and figures on this topic may provide more insight.

II. Women in Business ⁽³⁾

Some basic facts on women in business, with country-based variations and different levels of intensity for developing countries:

- Compared to men, fewer women own or run businesses;
- The vast majority of women-owned and/or managed business, are local businesses;
- Women's businesses tend to be small, often the smallest of the small;
- Few women-owned businesses make the jump from national to the international market;
- Women in business tend to take obligations such as financial obligations but also obligations for the supply of goods and services, relatively more seriously and try to meet their contractual obligations as much as possible;
- In comparison to their male counterparts, women tend to take fewer risks ⁽⁴⁾;
- Women have limited access to legal services and only seek legal support when situations force them to do so. For example, women rarely seek professional legal advice prior to setting up their business, or include legal services as part of their business set-up (this tends to also be the case for men who own and/or manage small or medium sized enterprises).

In general, when faced with issues requiring legal counsel, women have an even higher threshold to cross. Main causes are that they have limited access to professional and business networks, as well as the cost-factor, real or perceived.

Many women are not aware of the possibilities for legal support offered by existing services. This is equally the case for the applicability to their issues offered by existing structures.

Also on women's use of legal services, comprehensive and reliable statistics could not be obtained. Anecdotal evidence suggests that women do not make effective use of available legal support services to resolve business issues and potential disputes. Such underutilized services include Ombudsservices, this is, services provided by an Ombudsman, such as common in Western Europe for banking, tourism, insurance or telecommunications disputes etc.

The lack of awareness of existing structures and the obstacles to access such services are even more important with regard to services offered for international dispute settlement.

Rules applicable to international business transactions may be national, with potentially different legal cultures applicable in the same geographical region. These cultures can differ on substantive and procedural rules. There are typically major differences between the Anglo-Saxon approach – common law- as compared to the continental legal approach and culture – civil law-. In the globalized economy, an ever-increasing number of rules from regional and/or international arrangements is applicable to international business.

The mix of rules from different countries and systems, regional and international arrangements and the different forums they refer to, combined with an array of applicable procedures for the settlement of international disputes can pose a deterrent to engaging in international disputes.

The challenges of international business are increased by the difficulties to identify appropriate legal support. To this factor may be added a cost factor of uncertain magnitude.

Due to these factors, a woman-owned small or medium-sized business may not be ready to or able to seek the resolution of an international business dispute.

III. Women's Access to Dispute Resolution

ADR should be considered as complimenting access to justice provided by the State and by international forums. Most jurisdictions provide for equal access to justice for women and men. There may nevertheless be practical, social and economic issues qualifying this equality. Some recent studies have considered access of women and the poor to justice, such as the 2008 Report of the Commission on Legal Empowerment of the Poor ⁽⁵⁾ and the World Bank's Women, Business and the Law reports ⁽⁶⁾.

Given the issues raised above, it would follow that women might do better in business if they had effective access to legal services and could make adequate use of laws and regulations to avoid international disputes. Where disputes can not be avoided, women in business should be able to successfully and beneficially seek resolution of their disputes.

A number of actions may be considered, firstly by women in business themselves. To be more effective, a broad collaborative action involving policymakers, women's and business associations, academia, associations of providers of legal services – lawyers, arbitrators-, would need to be brokered.

Three avenues are presented for consideration:

1. Developing a legal culture allowing access to alternative dispute resolution for all;
2. Improving access to legal counsel;
3. Espousing the cause by organizations with known and trusted brand names.

The objective is to allow women:

- to defend their business interests at all levels of business, local and global;
- to enjoy legal services, from cradle to war that is, from start-up of the business to the settlement of a dispute;
- equal access to alternative dispute resolution and to related dispute settlement services.

Equal access for women and men, rich and poor, in developed and developing economies requires the development of dispute settlement services for the poor, especially Ombudsservices, arbitration and other alternative dispute resolution services and mechanisms.

These services should reach out to the poor, ideally supplying the services within the geographical locations where the poor are, be this in underprivileged areas of developing countries, or in deprived locations in industrialized countries.

To achieve meaningful results, such programmes need to be espoused by organizations with known and trusted brand names such as ArbitralWomen or other international organizations and be backed by recognized experts.

It is also proposed that an Authoritative Catalogue of available free and/or low-cost legal services could be set up under the auspices of the espousing organization to facilitate access to legal counsel and where necessary, legal aid ⁽⁷⁾.

Women have come a long way. Now it is time to help women defend their business rights in the global as much as in the local economy. This objective can be brought a step closer by providing women, especially the poorer among them, with access to dispute settlement services.

(1) Nayla Comair-Obeid, *Women in arbitration*, in *The Journal of World Investment & Trade*, Geneva - Vol. 9.2008.

(2) *The 13th Geneva Global Arbitration Forum Panel 4, International arbitration in a broad world: some current issues: Women arbitrators - in Arab States, elsewhere*

(3) *For many years, enterprise development in general and enhancing women's entrepreneurship development in particular, has been on the agenda of UNCTAD*. See: www.unctad.org.

Research undertaken identifies as major obstacles identified in surveys by women entrepreneurs:

- *Critical obstacles:*

Capital: Lack of financing for start-up and/or development of enterprise.

- *Major obstacles:*

Skills, education and training: Insufficient management skills, limited availability of skilled labour, insufficient access to training facilities;

Market access: Difficulties assessing markets, lack of market information, competition.

Technology: Limited access to technology, limited information on technology developments, low skills base.

- *Other obstacles:*

Access to production inputs and packaging materials;

Acquisition of adequate business premises.

On women-owned businesses challenged to making the jump from national to the international market:

- *The greater legal differentiation at the international level is noted by the World Bank in Women, Business and the Law 2012*
- *Networking: Limited or no access to national/ international business networks, lack of networks for women entrepreneurs*

It may be of interest to compare these findings to what was identified by non-entrepreneurial actors. Thus, the same survey showed that NGOs and business development services identified obstacles to women's entrepreneurship in order of importance as lack of or lack of access to: (i) business training and business development services (especially those geared towards the specific needs of women entrepreneurs), (ii) capital; (iii) land; (iv) information on business opportunities; (v) business premises; (vi) production inputs; (vii) confidence; and (viii) assistance from relevant government agencies.

See: Chitra Radhakishun: Women entrepreneurs in LDCs of Asia and the Pacific: Experience from selected countries (UNCTAD, April 2001); Women entrepreneurs in LDCs: Country studies from Africa (UNCTAD, April 2001); Women entrepreneurs, globalization and 48 LDCs, in Women entrepreneurs in SMEs: Realising the benefits of globalisation and the knowledge-based economy, OECD (Paris, November 2000); Trade, Sustainable Development and Gender, New York and Geneva, United Nations (1999); www.unctad.org/gender; www.unctad.org/enterprise; www.empretec.net

(4) *On another angle on risk-taking, see Helaine Olen, journalist in New York and author of the forthcoming Pound Foolish: Exposing the Dark Side of the Personal Finance Industry as quoted on*

<http://www.theatlantic.com/sexes/archive/2012/11/why-women-dont-take-risks-with-their-money/265224/>. According to her, the answer to "Why Women Don't Take Risks with Their Money" is "Because women make less than men, not because they're biologically risk-averse".

(5) *Making the Law Work for Everyone, Report of the Commission on Legal Empowerment of the Poor and United Nations Development Programme, 2008*

(6) *The World Bank and the International Finance Corporation, Women, Business and the Law 2012 (The International Bank for Reconstruction and Development, The World Bank), wbi.worldbank.org*

(7) *See Chitra Radhakishun: A United Nations' Liaison Hub and Ombudsoffice for International Economic Relations, in: International Law Beyond Conventional Thought - A Liber Amicorum: Thomas Waelde, Edited by Jacques Werner and Arif Hyder Ali (Cameron May, London 2009).*

Some bibliography for information

Disclaimer: ArbitralWomen shares some bibliography with its readers. The articles and briefs indicated below are in no way an exhaustive list of publications related to women in the business and legal fields. Most of them are either published by ArbitralWomen's members or refer to ArbitralWomen or its members.

Louise Barrington "Then and Now – A Quarter Century of Women in Arbitration", *New York Dispute Resolution Lawyer*, Spring 2012, volume 5, n°1, page 16

Liza Bench Nieuwveld "Women in Arbitration: Lots of Talk, Any Changes?", *Wolters Kluwer, Law & Business*, 22 Nov 2011

Jill Evans "Redressing the balance", *The Resolver*, May 2012, page 10

Noemi Gal-Or "The Under-Representation of Women and Women's Perspectives in International Dispute Resolution Processes", *Transnational Dispute Management*, July 2008, volume 5, issue 4, www.transnational-dispute-management.com

Michael D. Goldhaber "Madame La Présidente: A woman who sits as president of a major arbitral tribunal is a rare creature. Why?", *American Lawyer, Focus Europe*, Summer 2004 & *Transnational Dispute Management*, July 2004, volume 1, issue 3, www.transnational-dispute-management.com

Michael D. Goldhaber "Too Few Women Among Top International Arbitrators?", Law.Com, 30 June 2009

Lucy Greenwood "Getting a better balance on international arbitration tribunals", *Arbitration International*, volume 28 number 4, 2012, page 653

Judith Kay "Déjà vu: A Personal Reflection on Women in International Arbitration", *New York Dispute Resolution Lawyer*, Spring 2012, volume 5, n°1, page 12

Safina Lakhani "Careers in International Commercial Arbitration", Arbitration Brief, volume I, Issue I, Article 4 2011

Judge Lewis "Diversity in ADR – Why it matters?", *Dispute Resolution Journal*, February/April 2008, page 20

Mary Jane Mossman "The First Women Lawyers: Piecemeal progress and Circumscribed Success", *Osgoode Halle Law Journal*, 2007, volume 45, n°2, page 379

Sophie Nappert and Sarita Woolhouse "Diversity amongst Arbitrators and the Usefulness of Lists", *Transnational Dispute Management*, September 2009, www.transnational-dispute-management.com

Annalise Nelson "The Representation of Women in Arbitration – One Problem, Two Issues", *Wolters Kluwer, Law & Business*, 2 November 2012, and "Results of the Kluwer Arbitration Blog's first poll", *Kluwer Blog*, 26 February 2013

Mirèze Philippe "Les femmes dans le monde de l'arbitrage" (Women in arbitration), *Les cahiers de droit et procédure: L'arbitrage face aux évolutions contemporaines*, 20 November 2008, page 23

Deborah Rothman "Gender Diversity in Arbitrator Selection", *Dispute Resolution Magazine*, spring 2012, page 22

Gus van Harten "The (Lack of) Women Arbitrators in Investment Treaty Arbitration", *York University - Osgoode Hall Law School, FDI Perspectives*, February 2012

"Women in Arbitration", *Journal of World Investment and Trade*, February 2008, volume 9, n°1, page 85, see presentations of Nayla Comair-Obeid and Rabab Yasseen at the 13th Geneva Global Arbitration Forum

"Initiative on Advancement and Retention of Women", *Women's Bar Association of the District of Columbia, Reporter's Summary: Session 1*, 6 January 2006

"Creating pathways to success – Advancing and Retaining Women in Today's Law Firms", *Women's Bar Association of the District of Columbia*, May 2006

"Working Mother and Flex-Time Lawyers Recognize 2008 Best Law Firms for Women", Flex-Time Lawyers LLC and Working Mother, 12 August 2008

Professional Women Initiatives

ArbitralWomen shares with its readers some initiatives undertaken by women in their workplace and whom ArbitralWomen met.

Alcatel-Lucent StrongHer: a grassroots movement to unleash feminine talent

Early 2000, an initiative called “Women In Leadership” was launched in Alcatel. This program was like an eye-opener for many women in Alcatel showing lot of women who had succeeded to manage a career and a family life. Unfortunately, at some point, the “Women In Leadership” program stopped. In spite of the consensus that gender diversity needed improvement, company figures were not improving, awareness remaining limited and barriers existing at all levels. We were 6 colleagues at Alcatel-Lucent convinced that a renewed approach was necessary in order to unleash the company’s pool of diverse talents, bring inspiration and motivation. Therefore in mid-2010, we started to launch our own networking events in Velizy, which led to the creation of StrongHer at beginning of 2011.

StrongHer is the employee network in Alcatel-Lucent for women to unleash their passion & their talent, and for all, men & women, to benefit from this energy. Thanks to the engagement of many fantastic women and men around the company, the network has experienced a tremendous growth in its 2 years of existence, and counts today more than 900 members with presence in 25+ countries, active antennas in 15 countries (France, UK, China, India, CALA, Egypt, Poland, Singapore, Spain...) and partners with the Women’s Leadership Network in the US. StrongHer is truly inclusive and open to all employees, with 16% of men. StrongHer has become a key pillar of the gender diversity actions inside Alcatel-Lucent. It is a grassroots movement that is a real complement to the corporate “top-down” gender diversity initiatives.



Virginie Gervais Bazin

External comm and partnerships–Budget and Funding

StrongHer is organized around 3 pillars for which we develop specific events

- **SmartHer**: “Feel engaged and empowered at work”. We propose thematic networking lunches, awareness through special events (roundtables, shows) and we partner with gender diversity champions in Alcatel-Lucent eco-system

- **LeadHer**: “Expose YOUR talent”. It is important to confront women with role models. That’s why we organize Executive speaker’s events. We also identify advocates among top executives who help us in our actions. We pilot and advocate for feminine leadership programs. And most important we promote visibility and ambition among women.

- **BroadHer**: “Networking for change of models”. Women needs to open their eyes and ears by looking outside of their own organization and outside of the company. We propose Global events across sites and antennas using webcast & videoconference. We organize and participate to cross-companies events. And very important, our social networking in and outside Alcatel-Lucent really helps to develop StrongHer.

Finally, I would say StrongHer is unique for 3 reasons:

- It is an **employee network**, managed by employees. It **empowers employees to take action** for themselves and for the community. Every antenna is locally managed by employees who stepped forward to take ownership of the topic and develop their own activities. A central board and a network of group leaders contribute to create global coherence and share best practices. Therefore each local antenna is autonomous and does not depend on a specific executive or organization. The advantage is that every antenna adapts its action to the local culture & needs.

- StrongHer is **open to all** and in particular to men, since the beginning. We strongly believe that a more balanced society can only be built with men and women together, and not one against the other. The need for better life balance, better personal fulfillment, of doing what is good for you and not what is pushed on you by society or family, is common to both men and women, at every level of the organization. Better gender diversity will obviously benefit Alcatel-Lucent as a company in terms of talent and performance, but also benefit men in Alcatel-Lucent.

- StrongHer is also regularly quoted as a successful example of initiative leveraging **corporate social platforms**. Indeed Engage, the social platform in Alcatel-Lucent, has been key in the development of the network, providing visibility to the initiative, and allowing other employees to replicate it and empower themselves. It is an early sign of a stronger trend, showing that **employees are eager to work together and contribute**, aside from corporate top-down decisions. In 2012 StrongHer developed its external presence, with contacts with gender diversity aware companies and networks, and launched its twitter account @Strong_Her.

<http://alu.tl/Strongher>
Contact-StrongHer@list.alcatel-lucent.com

Information communicated by Virginie Gervais-Bazin, Alcatel-Lucent, Corporate Controller Procurement Design-to-Cost

Association des Juristes et entrepreneur(e)s

Report by Caroline Duclercq, Lawyer, Altana, Member of ArbitralWomen



Caroline Duclercq

On 25 March 2013, the « DEFHISS - Association des Juristes et Entrepreneur(e)s » (Association of jurists and entrepreneurs – “AJE”) held its XXIIIrd Dinner, on the topic of “Model Women, Exceptional Women Part III: come hear them without moderation” at the Luxembourg Palace in Paris.

The AJE is an independent, mixed and inter-professional association that seeks to promote the role and place of women in the professional sphere. Its mission is dual:

- Provide tools for the promotion of women and parity in a professional context;
- Train and organize events to favor networking and synergy between professionals.

The members of the association evolve in different professions and activities (legal, commercial, marketing, journalism, etc.) and are at various stages of their careers. They all share in common a desire to achieve parity and equality in the workplace and regularly discuss the means to achieve this goal.

During the XXIIIrd Festive Dinner, reserved for women, there were lively and interesting debates on a variety of topics and friendly networking. Before the speeches started, experienced women from both the business and legal spheres were able to meet. In total, we were almost 100 women in a gorgeous place discussing the place of women in business.

Then the presentations started, all in French:

- “*Pourquoi les femmes investiront-elles demain dans le secteur des Transports*” («Why women will invest in the transport sector tomorrow»), by Ms. Véronique Wallon, CEO of the *Réseau Ferré de France*;

- “*Juristes d’entreprise aujourd’hui: un métier conjugué au féminin, un pouvoir au masculin, et demain?*” (“The present and future of women in-house counsel”), by Ms. Anne-Laure Paulet, Secretary General of the *Association Française des Juristes d’Entreprise* (French association of in-house counsel);

- “*Cerveau, sexe et préjugés*” (“Brains, sex and prejudice”), by Ms. Catherine Vidal, neurobiologist, Research Director at the Pasteur Institute in Paris;

- “*Le pouvoir des mots : le féminin dans la langue juridique*” (“The power of words: the use of the feminine word form in legal language), by Ms. Florence G’Sell, Professor at Law at the University of Occidental Brittany;

- “*EntrepreneurE dans le monde des PME innovantes : à quand la parité (et se préoccuper mieux de maladie de “femme” comme l’endométriose)*” (“Being a Woman Entrepreneur in the World of Innovative Small Businesses: when will there be Parity (and More Preoccupation with “Female sicknesses such as Endometriosis), by Ms. Cécile Réal, biomedical engineer, Chair of Endodiag;

- “*Féminisme : d’un engagement associatif au Ministère des Droits des Femmes*” (“Feminism: from involvement in a Women’s Association to the Ministry for Women’s Rights”), by Ms. Caroline De Haas, Counsel in charge of feminist policies at the French Ministry for Women’s Rights.

At the end, you have time to discuss and to meet, to exchange business cards and to discuss the different excellent presentations. A really nice and interesting evening.

The AJE’s next events include a picnic, on 27 June 2013 in the Gardens of the Luxembourg in Paris, and Festive Dinners on 7 October 2013 on the topic of the eco-citizen (environment, energy, sustainable development...) and 2 December 2013 on discrimination.

The AJE was created in October 2008. Its board of directors is composed of Odile Lajoix (Lawyer, Paris), Nicole van Crombrughe (Lawyer, Brussels) and Mary-Anne Bouttemy (Lawyer, Paris).

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www.arbitralwomen.org

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