

YCAP/CIArb/QMUL event for London International Disputes Week: Preparing Tomorrow's Disputes Practitioner: The Future of Dispute Resolution Training

On May 11, 2021, YCAP and CIArb's London Branch, Queen Mary University of London, jointly hosted a lively panel discussion, "Preparing Tomorrow's Disputes Practitioner: The Future of Dispute Resolution Training", as part of London International Disputes Week. This widely-attended virtual event addressed key issues concerning the education and training of young ADR practitioners from the perspectives of clients, law schools, ADR institutions, and young practitioners themselves, incorporating questions from both the panel and the audience.

The panel moderator, Marike Paulsson (Senior Advisor, Albright Stonebridge Group, Bahrain), kicked off the event and introduced the panelists: Nadya Berova (Legal Counsel, Barrick Gold Corporation, Africa and Middle East); Alexandra Mitretodis (Associate, Fasken, and Director, Vancouver International Arbitration Centre, Canada); Dr. Rémy Gerbay (Partner, MoloLamken LLP, and Co-Director of an LL.M in Arbitration at QMUL, United States); and Dr. Paresh Kathrani (Director of Education and Training, CIArb).

The Evolving Nature of Arbitration Education

The first round of discussion addressed the evolving nature of ADR education—what is changing and what should change?

The panelists discussed that, as a starting point, ADR education must address the client's goals. From a client perspective, the goal is not necessarily getting an arbitration award. As Ms. Berova highlighted, a client's focus may also be on the time and expense involved, and maintaining a business relationship with the other parties. As a result, to meet client's goals, ADR education should incorporate more of a focus on negotiation, mediation, and strategic thinking in order to conduct successful negotiations, and sound commercial background knowledge.

Dr. Gerbay urged that, starting in law school, it would be preferable to introduce more of a focus on business skills, financial literacy, and statistical analytics, in order train future ADR practitioners to conduct successful negotiations. Law schools should also approach ADR education through a holistic, skills-based education model. Legal education should continue to incorporate more experiential learning, like workshops, mootings, internships, and clinical legal education. There is an opportunity to expand clinical legal education into involving law students in commercial international arbitration, which would be particularly adaptable for clients who may not be able to pursue a costly arbitration.

Dr. Kathrani highlighted that ADR institutions play an important role in educating arbitration practitioners, and that these institutions can prepare young arbitrators to properly identify the issues in a case and identify the mediation or arbitration strategies that apply best to those issues.

A key takeaway from the panel's discussion is that legal education must continue to be sensitive to the client's objectives in pursuing ADR, and practitioners should be educated to consider the client's goals of preserving its investment and business relationships with each step of the ADR process.

Resources for Young Arbitrators

The next round of discussion addressed how young ADR practitioners can develop their own skills with a view to acting as arbitrators.

Ms. Mitretodis highlighted the benefit for young practitioners to join and get involved in under 40 groups within ADR institutions in order to build professional networks and connections. These networks eventually become a source of referrals. These groups also offer hands-on, skills-based workshops and seminars from senior and experienced members of the profession, as well as opportunities for speaking engagements and publishing blogs or articles, all of which raise a young practitioner's profile. These under 40 groups include YCAP, ICC YAF, Young ICCA, Young ITA, YIAG, and CFA40—many of which are free to join as students with no entrance requirements.

Dr. Gerbay noted that for young arbitrators, or arbitrator hopefuls, it is also key to remember that the market for arbitrators is currently saturated. As required in most jurisdictions, it is advisable to get experience as counsel before beginning to arbitrate disputes. Experience is crucial—you need experience before parties to an arbitration will want to appoint you.

The message from the panel was unanimous and clear: for ADR practitioners interested in acting as arbitrators, it is essential to network, build your profile, and gain substantial experience so that clients will trust you to arbitrate their case.

Key Developments in Dispute Resolution in 2020

The next round of discussion addressed key developments in ADR in 2020 that will impact the landscape of ADR practice and education going forward.

One key development, thanks to the COVID-19 pandemic, is the widespread use of virtual hearings. These have some benefits, as they can reduce costs. However, while virtual hearings work especially well for smaller procedural applications, in some cases it is preferable to hold full hearings in person due to the ability to better see the witnesses and tribunal, and gauge the tribunal's reactions to the proceedings. We are likely not at a point where virtual hearings will replace in-person hearings permanently.

Other developments are arising that ADR practitioners should be aware of, like blockchain arbitrations and the increasing use of artificial intelligence, especially with respect to document production. Dr. Kathrani also noted increasing concerns and attention on cybersecurity in the field of international arbitration.

While the practice of ADR is developing quickly, with new technologies and challenges ever emerging, the panel discussion presented by YCAP and CIARB/QMUL provided a space to discuss how practitioners and educators can rise to meet those challenges.

Prepared by Stephanie Clark (Bennett Jones LLP)