



#letsgetREAL!

REAL
Racial Equality for
Arbitration Lawyers

R.E.A.L. NEWSLETTER

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MESSAGE FROM THE EDITORS



Dear Friend and Colleague,

Welcome to the *fourth* issue of the Racial Equality for Arbitration Lawyers (“R.E.A.L.”) Newsletter! It is great to see you again *four* yet another issue! We can’t help but jump *four* joy!

“Growth.” What a powerful concept. In any of life’s arenas (personal, professional, spiritual, etc.), growth can be intimidating, scary, and downright nerve-wracking. Yet, growth — often a successor to taking risks and overcoming challenges — is necessary to reach our fullest potential. The most significant growth often comes from taking a risk to fulfill your dreams. The forging of a successful career in international arbitration requires nothing different. As we enter the second half of 2023, we encourage you to take that first step. Take risks towards accomplishing your goals. As you continue to reach *four* the stars, just know that R.E.A.L. has got your back.

This Newsletter (with the R.E.A.L. Blog) aims to amplify the many voices of underrepresented international arbitration professionals, increase accessibility to the arbitration field, and continue to lay the groundwork to making arbitration more equal for new generations of international arbitration practitioners and scholars.

In support of this goal, this issue features (i) #REALSpotlights on 3 incredible arbitration practitioners from Latin America; (ii) a summary of R.E.A.L.’s Second Anniversary Event; (iii) a recap of the R.E.A.L. Arbitral Appointments Workshop; (iv) a student interview conducted by R.E.A.L.’s NextGen Committee; (v) short reflections from 2 R.E.A.L. Scholarship recipients; and . . . wait for it . . . Yes! . . . Your favorite! . . . (vi) #REAL_Trivia!

As always, R.E.A.L. has been able to accomplish this because of you. YOU are a blessing to R.E.A.L. and to this world. We are tremendously grateful that you are a part of R.E.A.L.!

Please consider contributing to the next issue! If you are interested in submitting content or providing feedback on the R.E.A.L. Newsletter (or the R.E.A.L. Blog), please feel free to contact us at newsletter@letsgetrealarbitration.org.

Four-ever grateful,

R.E.A.L. Newsletter & Blog Committee

#REALSPOTLIGHT – ARBITRATION IN LATIN AMERICA



One of the many inspiring goals of R.E.A.L. is to create a platform for access to knowledge in international arbitration. In furtherance of this goal, the R.E.A.L. Newsletter & Blog Committee presents #REALSpotlight, an interview series featuring arbitration practitioners from diverse regions across the globe. The practitioners share insights on their professional journeys and the latest trends in their relevant jurisdictions.

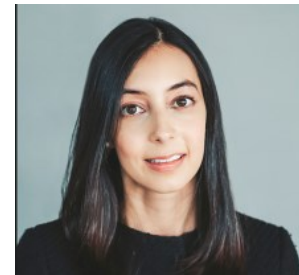
This interview showcases three (3) well-regarded practitioners from Latin America – Montserrat Manzano (“Montserrat”), Sebastián Canon Urrutia (“Sebastián”) and Karima Sauma (“Karima”) – all of whom are at different stages in their international careers. Excerpts from their interviews can be found below.



Montserrat Manzano



Sebastián Canon Urrutia



Karima Sauma

1. *What inspired you to become a lawyer? If not a lawyer, what would have you been?*

Montserrat: Mexico is a country ripe with legal and social issues that need improvement. I have observed and challenged those since I was a girl. My father, an engineer, observing my concerns, suggested becoming a lawyer and having the required knowledge to bring change. If not a lawyer, I would have liked to become an Anthropologist. Since a young age, I was in close contact with rural communities, and in high school majored in Anthropology studies. One of my main interests, still today, is understanding communities’ ideological beliefs and value systems and contrasting them with development opportunities

Sebastián: I come from a family of lawyers: my grandfather was a lawyer, my father is a lawyer, and my older sister is a

lawyer. All of them, especially my father and my sister, are role models for me and were my inspiration. I have always admired their passion for the law, the love they have for this profession, the respect their colleagues and clients have for them, and the excellent lawyers that they are. Other people who have inspired are my professors at my law school in Uruguay. At times when I was not sure if the legal profession was the right path for me, I was fortunate to meet professors who challenged me, pushed my thinking and made me realize that I wanted to become a lawyer. In addition, the work of a lawyer is inspiring in itself. Lawyers are in a unique position to help others and make a difference in their lives. If I had not become a lawyer, I would have probably worked in another social science, such as economics.

Karima: I love reading, I have always



been a voracious reader, and I wasn't sure what to study. Someone told me that lawyers had to read a lot and so I decided to give it a try. I then became enamoured with the concept of justice and that sealed the deal. If not a lawyer, I would have probably studied literature.

2. *Why did you choose to pursue a career in international arbitration?*

Sebastián: Before 2017, I never would have imagined working in international arbitration, much less that in 2023, I would be settled in the United States and working for Arnold & Porter. In fact, before 2017, the world of international arbitration was completely unknown to me. In my home country, I had always worked defending clients in civil and commercial litigations. In 2016, I moved to the United States with my wife, initially for 18 months, because she had a job opportunity at an international organization. Taking advantage of the fact that I was in the United States, I decided to pursue an LL.M at Georgetown University; and given the possibility that those 18 months could be extended by 24 or 36 months, or even a lifetime, I decided to focus the LL.M on international arbitration. I thought that my previous experience in court litigation and that I am a native Spanish-speaker would be relevant in the field. The LL.M at Georgetown introduced me to the international arbitration world and gave me the chance to meet and connect with world-renowned lawyers, arbitrators, and professors. I was particularly attracted to the fact that in international arbitration, aspects of civil law and common law meet and merge. I discovered that in international arbitration, I could apply my knowledge and years of experience in court litigation, while also learning new aspects

of common law previously unknown to me.

Karima: When I was a law student, I had the opportunity to intern at the Costa Rican Ministry of Foreign Trade, where I worked on investment cases. It was a fantastic opportunity that made me fall in love with arbitration. I have worked in international arbitration ever since.

Montserrat: Since I started as an intern, I was interested in dispute resolution. At first, involved in domestic litigation of intellectual property, then administrative, tax, and constitutional disputes. This led me to also be invited to participate in arbitration cases, which easily became appealing given the complexity of legal issues involved and fascinating infrastructure projects. The academic challenge of applying various legal rules to international disputes and studying international law was also a factor.

3. *What has been the most memorable experience in your arbitration career to date?*

Karima: There have been many highlights, but one of the most memorable was working on an investment case defending Costa Rica and the country's environmental protections.

Montserrat: My first construction arbitration as counsel was in 2009. This was an infrastructure project involving a hydroelectric dam. In preparation for our case, we visited the site, including the machine house with turbines built by Russian engineers and the tunnels. I was impressed by the grandness of the project. It was also the first time I presented an opening statement and cross-examined experts before a Tribunal (composed of Chair Gabrielle Kaufman-Kohler, Yves Derains, Jose María Abascal, and Secretary Sabina Sacco).



Sebastián: I have had the chance to participate in many proceedings, but I think that the most memorable experience has been working alongside highly experienced lawyers, who have litigated dozens of cases, who have overcome many challenging situations, who are recognized worldwide, and who have the humility and generosity to share their knowledge with younger lawyers. Working and learning from them has been one of the most memorable experiences in my international arbitration career. Also, because of how challenging it was, working in this field and alongside these lawyers during the COVID pandemic was also memorable. I found it distressing, especially at the beginning, to face something that we did not know how long would last and the impact that it was going to have on our work. From the point of view of the work itself, it was particularly challenging to work remotely and have virtual hearings.



Image of Palacio de Bellas Artes in Mexico City, Mexico courtesy of Shutterstock.com

4. In your opinion, what sort of cross-cultural differences should practitioners be aware of when second-chairing or otherwise participating in arbitral proceedings in Latin America?

Montserrat: Interaction between practitioners from different cultural and legal traditions is part of the essence of international arbitration. However, this al-

so poses several challenges due to the cross-cultural differences that multiculturalism entails. In particular, in Latin America, one common mistake that is usually made is thinking that Latin America is the same in terms of language, traditions and culture. On the contrary, Latin America has its own differences and particularities that should be taken into consideration in international arbitration. For example, language differences: although most Latin American countries have Spanish as its official language, countries like Brazil or the Caribbean have other official languages, such as Portuguese or English. As such, it is crucial to understand the challenges that language barriers can pose when participating in arbitral proceedings in Latin America. Also, each Latin American country has its own legal system and traditions, as well as its own arbitration practices that can come into play in arbitration and that should be considered by practitioners to effectively conduct an arbitration.

Karima: In Latin America, our civil law background is very prominent, and there is sometimes an approach to consider arbitration the same as a judicial proceeding. This entails less flexibility, and can be somewhat off-putting to someone with a different background.

Sebastián: Generally, just as important as the place of arbitration is the nationality and legal background of the participants in the arbitration — especially, that of the arbitrators. In that sense, I think the most relevant cross-cultural difference is the civil law / common law dichotomy. That difference becomes relevant, for example, when deciding how to present and substantiate your case before the tribunal. As is generally known, lawyers trained in a civil law jurisdiction tend to give great importance to academic writings, while lawyers trained in common law jurisdictions



give more importance to jurisprudence and lesser importance to academic writings. This cultural difference should be taken into consideration when drafting or giving an opening or closing statement.

Other cultural differences that practitioners should be aware of is the manner and tone of the advocacy. There are countries where it is normal, in written submissions or oral arguments, to use sarcastic language or characterize the behavior of the opposing party, often with adjectives that may sound aggressive. Depending on the legal background of the arbitrators, that tone may not be welcomed and, in fact, may be counterproductive. The use of that type of language usually only serves to remind the tribunal that there is a dispute between the parties, which is something that the tribunal already knows. There is no need to repeatedly remind the tribunal of this fact.

5. *What sort of challenges, if any, did you encounter when trying to get your first break in international arbitration? What steps did you take to address and/or overcome these challenges?*

Sebastián: When I was trying to first break into international arbitration, my main challenge was my lack of experience in the field. I needed experience in order to be an attractive candidate for a law firm in the United States. By the time I began my LL.M program at Georgetown, I already had many years of experience in litigation but zero experience in international arbitration. To solve this, in addition to earning my LL.M degree with a focus on international arbitration, I interned at ICSID, which gave me the opportunity to work actively on cases, participate in hearings, and meet arbitrators and

practitioners. Whenever I have the opportunity to speak with younger lawyers, I recommend to them that they apply to internships in these type of institutions because if they seize the opportunity, they will learn a lot and get the chance to work alongside great professionals.

Montserrat: One of the challenges I faced at the start of my arbitration career was not having female mentors based in Mexico who practiced international arbitration. This led me to network beyond my country, through Arbitral Women, ICC, and ITA, in which I developed connections with other more senior women in the field, which served as role models to continue practicing arbitration as a woman, a spouse, and a mother of three children.



Image of Punta del Este, Uruguay courtesy of Shutterstock.com

Karima: When I first started in international arbitration, I was very young, and being a young woman from Latin America was something of a challenge when looking to be taken seriously. I learned that I had to put in twice the effort, and so I worked very hard and developed a strong work ethic. My work helped me overcome these biases, but it was a bit disheartening at the beginning.



6. *A commonality among the three of you is that you have each been educated and/or have developed your arbitration careers (at least in part) outside your home jurisdictions. What value do you believe studying or working outside your home jurisdiction adds to developing a career in international arbitration? How did you use the skills you acquired to forge an arbitration career in Latin America?*
- including the cross-examination of experts and witnesses, is inspired by the common law tradition. Similarly, the influence of the common law tradition is also evident in the rules of evidence in arbitral proceedings. Thus, although this is a generalization and there are always exceptions, lawyers who have been trained in common law tradition usually have an easier time and tend to be better prepared, for example, in conducting cross-examinations than a lawyer who has been trained only in the civil law tradition.

Karima: The opportunity to study and work abroad has been invaluable to my career. Pursuing an LLM helped me establish a network, learn from some of the most brilliant minds out there, and forge friendships with people from all over the world. In addition, I worked at a leading firm in Washington, DC where I was able to see how top-tier lawyers work. It also influenced my work ethic and allowed me to broaden my network.

This knowledge allowed me to return to Latin America with new ideas that I was able to apply to my cases. This experience also allowed me to secure a job in investment arbitration when I returned home, because there were few lawyers in the country who had that kind of experience.

These experiences were definitely a turning point for my career.

Sebastián: As I mentioned, international arbitration is a mixture of civil and common law. If you are a lawyer trained in civil law, as is my case, I believe studying in a common law jurisdiction is necessary to obtain a comprehensive education and training, which will, in turn, allow you to perform well in both the civil law and the common law aspects of international arbitration. For example, the oral aspect of an arbitration,

Montserrat: I believe that studying or working outside of one's home jurisdiction is very valuable in developing a career in international arbitration. Given that international arbitration is a multicultural practice field, studying and working abroad brings many benefits, such as exposure to different legal systems, cultures and approaches to dispute resolution, including being exposed to different ways of working by a range of practitioners. Also, other skills such as networking, improving a foreign language or learning how to adapt or deal with different situations outside one's comfort zone are usually fostered when you study or work abroad.

The experience of studying and working abroad enhanced my professional development and networking opportunities. It allowed me interact with professionals from different jurisdictions, including experienced arbitrators, lawyers, and academics and build connections that continue to this day. These interactions have also opened the doors to a wider range of opportunities and experiences in the international arbitration field.



7. *You are all actively involved in promoting alternative dispute resolution across Latin America. What changes have you seen in the arbitration landscape during your time and what more do you think needs to happen ensure arbitration thrives in Latin America?*

Montserrat: I have seen a difference in how arbitration teams are composed, practitioners have now more diverse backgrounds that enrich the profession by creating a more heterogeneous environment. Also, increasingly there are investor-State arbitrations being heard completely in Spanish and with counsel teams based in Latin America. More recently, we are also observing a trend of intra-regional investment disputes, derived from the economic growth in the region.

ADR has increasingly become more complex and competitive. Awards tend to be more thorough and more detailed than they were 15 years ago. This is caused by the rising professional level of the firms and attorneys that participate in these procedures which can be seen in the high-profile cases concluded in the last few years. Third, ADR has adopted new perspectives regarding several topics that once were considered excluded from regular commercial dispute settlement. The most important example can be found in the ESG standards that have become industry standards for participants in ADR procedures.

In order for arbitration to continue thriving in Latin America, there should be an emphasis on fostering best practices on the counsel side, promoting mediation, negotiation, and early settlement of disputes as well as voluntary compliance of

companies with arbitral awards. This will add confidence to users and diminish the overall time and cost of proceedings.

Karima: A very interesting change in international arbitration has been the proliferation of boutique firms in Latin America which have a thriving international arbitration practice. It used to be that only big international firms could take on a certain type of case, but with the globalization of knowledge and the fact that many Latin American practitioners are returning home after working abroad, the landscape is becoming more democratized. Alternative fee structures have also been a catalyst for this, and I think we will see more of this in the years to come.

Sebastián: In recent years, there have been many advances and changes in Latin America with respect to international arbitration, mainly due to the political regime changes in the region. Some of the most significant changes include the departure from the ICSID Convention by certain States, including Venezuela, Bolivia, and Ecuador, as well as the termination of investment agreements by these States. Fortunately, a majority of the Latin American States recognized the benefits of investment treaties and investment arbitration, and of having ICSID arbitration as an option to resolve disputes. Some noteworthy advances are that almost all Latin American States now have legislation on international arbitration, with Argentina and Uruguay being the latest countries to pass laws based on the UNCITRAL Model Law.

Regarding the use of arbitration as a form of dispute resolution in Latin America, there are many country-specific differences between Latin American States.



There are countries in Latin America where arbitration plays a very relevant role as a dispute resolution mechanism, with arbitration even being mandatory for certain types of contracts; and in other countries, arbitration is not as developed as a form of dispute resolution between private parties. For arbitration to grow in Latin America, I believe that education in universities is key. Today, in Latin America, there are lawyers who graduate from law schools without having a solid training in international arbitration. It is difficult for these lawyers to see arbitration as a viable option for the resolution of disputes that their clients may have. Events and congresses on international arbitration, with the participation of experienced international lawyers, is a way of bringing arbitration closer to jurisdictions that do not normally use arbitration as a form of dispute resolution.

8. *What advice would you give to young practitioners (particularly those from diverse backgrounds) who are looking to develop a career in this field?*

Sebastián: The advice I would give to young practitioners who are looking to develop a career in international arbitration is to start your job search immediately, be proactive, have a plan, and be patient.

From the day they arrive to the United States, the foreign lawyers who come to earn an LL.M and want to find a job in this country should try to connect with lawyers and professors, attend events about international arbitration, try to intern at a law firm or legal organization, and keep up to date on all things related to international arbitration. In their search, they have to be proactive, and being proactive means not only doing the things I mentioned, but also

thinking “outside the box” and looking for alternative ways to network. It’s also good to have a plan. This means identifying potential employers, key people in those organizations, researching the firms and organizations, and setting goals. Finally, they should be patient: getting an opportunity can take time.

Montserrat: Always keep an open mind and a creative perspective on the profession, as times change fast and success will be obtained through resilience and adaptation. It is important to never allow systemic barriers to prevent us from thriving in the profession, as these barriers may be overcome through perseverance, empathy, and fellowship. This last point is very relevant, for when a diverse person stands firm in the arbitration field, he/she is in a privileged position to help advance others. We must always have a helpful attitude toward our colleagues in assisting them in succeeding in this legal sector.

Karima: Every step you take to elevate your profile, whether it be participating in a moot competition, writing articles, volunteering for events, or participating in mentorship programs, counts. These seem like small steps in isolation, but together they allow you to widen your network, hone your skills and put your name out there.

9. *What is your one go-to tip for young practitioners who are keen to network at arbitration events?*

Karima: It’s better to establish real relationships with sustained conversations than to speak 10 minutes with each person and then forget everything about them. Networking is successful when you manage to establish some kind of bond, and that takes effort, sincerity and determination.



Sebastián: It is very personal advice and I understand that other people may disagree with me, but I think that when networking, you should avoid talking exclusively about arbitration. I think that the most important thing when networking is to create a connection with the other person, and that connection can be built on a common interest not related to arbitration, such as sports, music, theater, or whatever. The important thing is to capture the other person's attention, and this is not necessarily achieved by talking about arbitration, citing cases, books, or publications.

Montserrat: Never stop moving. Always be active, attentive, and ready to grasp every opportunity to learn, work and grow as much as you can. Be persistent, persevering, and tenacious. This must be balanced with being prudent and assertive when approaching people at networking events. Consequently, it is recommended to always keep a receptive and open mind in these situations to benefit the most from these moments.

10. In your opinion, in addition to legal writing and analytical skills, what other skills are necessary to succeed in international arbitration?

Sebastián: It is not a condition to be successful in international arbitration, but a very relevant skill is being proficient in more than one language. If English is not your first language, try to improve your English, both orally and written. If you are a native English speaker, try to learn or improve your Spanish or French. International arbitrations almost always involve more than one language, either because the parties have agreed that the

arbitration will be conducted in two languages or because the most relevant evidence is in a language other than the language of the arbitration. Therefore, lawyers who are proficient in two languages are always an asset.



Image of Arenal Volcano in Costa Rica courtesy of Shutterstock.com

Montserrat: Several soft skills are often overlooked when analyzing what makes a “successful attorney”. Careful attention to detail and high emotional intelligence are crucial to becoming a proficient attorney in any legal field. Also, resilience and adaptation are of paramount importance to succeed in arbitration, as the best attorneys are the ones that overcome hardship and provide effective solutions to the problems they face.

Karima: Legal writing and analytical skills are of course essential, but a good lawyer should also possess a host of soft skills that complement these. International arbitration is such an international area, where people from all corners of the world converge, that cultural sensibility is fundamental. You have to be able to work with people from different backgrounds and be comfortable in diverse environments. In addition, I think a dose of curiosity is very healthy since it's a very academic area, where you have to be willing to learn constantly.



11. *What are your thoughts on racial equality in arbitration for current or aspiring practitioners from Latin America?*

Montserrat: My opinion is whilst we have to recognize and celebrate what we have achieved in terms of racial equality, however, we must continue investing and focusing efforts on having an inclusive profession, as this is a continuous work and not an end goal.

There have been incremental improvements in racial diversity, nevertheless, the fight for equality is still in an early phase. According to a study from the American Association for Justice 88% of the arbitrators in proceedings administered by the American Arbitration Association were white, 77% male and 98% heterosexual (See source [here](#)).

At the international level a study carried out by the Transnational Dispute Management in 2015 in which ICSID statistics were recollected, of the 289 closed cases from January 1972 to May 2015, nearly half of them (45%), tribunals were wholly constituted of Anglo-European arbitrators. In 84% of the cases, two or more of the tribunal members were Anglo-European, or the sole arbitrator was Anglo-European. Only in 11 cases (4%) the tribunals were constituted by entirely non-Anglo-European tribunals. ICC data on arbitral appointments for 2021 shows that around 23% of arbitrators appointed were women, but their nationalities were mostly Anglo - European (See source [here](#)).

Additionally, according to the ICSID Statistics of 2022, ICSID arbitrators, conciliators, and ad hoc committee members came from several regions of the world: 47%

from Western Europe, 22% from North America (Canada, Mexico, and the USA), 11% from South America, 10% from South & East Asia & the Pacific, and only 4% from the Middle East & North Africa. (See source [here](#)).

Karima: Latin America has seen an increased growth in international arbitration, which has helped insert more lawyers from the region into the ranks of those working in this area. I think there is still more work to do, especially when you look at the statistics. However, there are more opportunities now than a few years ago, and hopefully this will keep evolving for the better.

Sebastián: Diversity in international arbitration is essential to give legitimacy to the system. Today, most of the lawyers, arbitrators, and arbitral institutions are from the United States or Europe, so there is an underrepresentation (or simply no representation) from several other regions. I think this is due to historical reasons: the United States and European countries have been the jurisdictions that have developed robust international arbitration regimes primarily because most multinational companies and investors are located there. There is no doubt that closing the gap is necessary but is also difficult to achieve. I am convinced that the best way to close that gap is to extend the use of arbitration to other parts of the world. This can be done through education and by connecting institutions and firms with lawyers and institutions from countries that do not normally use arbitration as a way of solving disputes.



12. What role do you believe organisations such as R.E.A.L. can play in bridging the racial diversity gap in international arbitration?

Karima: Organizations such as R.E.A.L. can have an important role in elevating the profile of minorities. For example, the statistics for arbitration appointments are still dire, and R.E.A.L. could play a role in disseminating information of capable arbitrators who would otherwise never get recognized. R.E.A.L. could also play a role in informing what are the benefits of inclusion and diversity in international arbitration, and why there is a business case for bridging the gap.

Sebastián: R.E.A.L. plays a fundamental role in bridging the racial diversity gap in international arbitration. As I said, I firmly believe that the way to end inequality in international arbitration is by extending the use of arbitration to all parts of the world, and to do that, first the lawyers, especially the young lawyers, should receive education on international arbitration and connect with the practitioners from the arbitration hubs. This can be achieved in many ways, from the organization of events at universities, webinars or internships, to secondments in American and European firms and arbitral institutions, scholarships for students from regions of the world where arbitration is not fully developed internships, as well as working alongside bar associations of each country, among others.

Montserrat: On raising awareness of the systemic disadvantages racialized attorneys and those facing intersectional diversity face in the arbitration practice and serve as a think tank to provide

specialized solutions that “level the playing field” and address the specific challenges that appear in the profession. Also, it serves as a meeting point for practitioners to exchange their experiences and find comprehensive solutions to the challenges faced by lawyers from different backgrounds.



Image of Machu Picchu, Peru courtesy of Shutterstock.com

About our interviewees

Montserrat Manzano is a partner of Von Wobeser y Sierra and member of the Arbitration practice, specializing in international arbitration, litigation and international law. She is part of the Environmental, Social and Governance (ESG) practice group. Montserrat's practice is focused on the resolution of investor-state and commercial disputes. She has participated as counsel, arbitrator and secretary in more than fifty complex international arbitrations before the top arbitration institutions worldwide. She has availed from her knowledge of international law and the laws of various Latin American countries (such as Mexico, Panama, Colombia, Venezuela, Peru and Guatemala) and European countries. Montserrat boasts expertise in different jurisdictions and in different sectors: infrastructure, generation, supply and transportation of natural gas, pharmaceuticals, telecommunications and consumer goods, among others. In particular, she has experience in disputes arising from infrastructure investments and projects in Latin America. To successfully manage them, regardless of their complexity, she combines her skills in administrative law, commercial law and investment. Montserrat is licensed to practice in Mexico, with a Master of Laws (LL.M.) from the United Kingdom. She has been recognized by The Legal 500, Global Arbitration Review 100, Benchmark Litigation, Latin Lawyer 250,



Latin Lawyer National, Who's Who Legal Mexico, Who's Who Legal Future Leaders of Arbitration under 45, among other publications.

Sebastián Canon Urrutia is an international arbitration advisor at Arnold & Porter Kaye Scholer LLP. He focuses his practice on international disputes, specially representing corporate entities as well as States and State-owned entities in international commercial arbitrations and investor-State arbitrations before tribunals established under the auspices of the International Centre for Settlement of Investment Disputes (ICSID), the International Chamber of Commerce (ICC) and the United Nations Commission for International Trade Law (UNCITRAL), among others. Sebastián also has experience representing clients in complex contractual domestic and international claims. Sebastián obtained his J.D. degree from Universidad de la República in Uruguay and has an LL.M in International Legal Studies and a Certificate in International Arbitration from Georgetown University. He is licensed to practice law in Uruguay and the State of New York.



Image of Rio de Janeiro, Brazil courtesy of Shutterstock.com

Karima Sauma is part of the arbitration team at DJ Arbitraje. She is an adjunct professor at ULACIT University and LEAD University in San José, and regularly acts as arbitrator, tribunal secretary, counsel and legal expert in various types of cases. Previously, Karima was the Executive Director of the International Center for Conciliation and Arbitration of the Costa Rican-American Chamber of Commerce. Before joining CICA, she worked as an Advisor with the Dispute Settlement Team of the Costa Rican Ministry of Foreign Trade, where she was part of Costa Rica's defense team in claims filed under various treaties and free trade agreements. She was also a member of the negotiating team for treaties involving investment and dispute settlement provisions. Prior to joining the Ministry of Foreign Trade, she worked with the arbitration group at a well-known international firm in Washington, DC. Karima received her J.D. with honors from the University of Costa Rica. She also holds an LL.M from Columbia Law School, where she was a Harlan Fiske Stone Scholar. She is admitted to practice law in Costa Rica and the State of New York.



#REALINSIGHT – CELEBRATION OF R.E.A.L.’S SECOND ANNIVERSARY EVENT

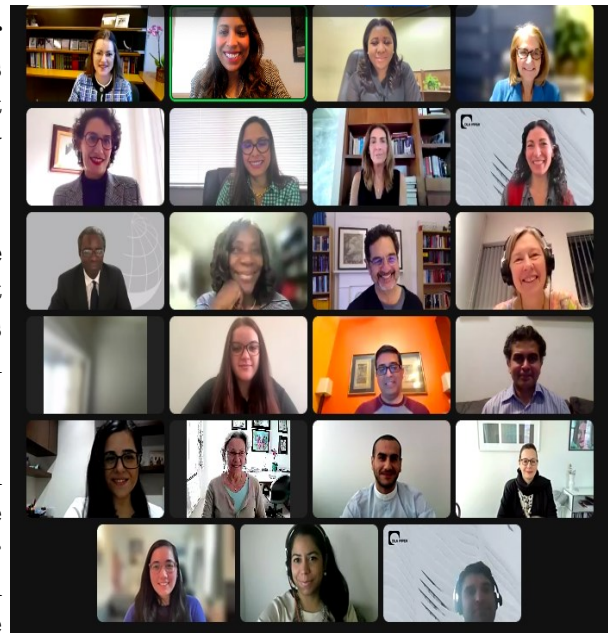
On 15 March 2023, Racial Equality for Arbitration Lawyers (R.E.A.L.) celebrated its second anniversary with an online event that gathered arbitration practitioners and law students around the world.

The event featured two notable keynote speakers, Maria Ines Corrá and Montserrat Manzano, and four renowned breakout rooms moderators, Valentine Chessa, Perenami Momodu, Gbolahan Elias, and Edna Sussman.

During the keynote speech, Ms. Corrá and Ms. Manzano discussed the challenges in the international arbitration arena for practitioners from diverse origins and backgrounds, as well as the ways to overcome such barriers.

It was highlighted that geography and language barriers deserve special attention. Practitioners from geographical locations different from the United States and some other first-world countries like the United Kingdom, France, and Canada, are required to make additional economic efforts that should be taken into consideration in international arbitration practice. These efforts include owning an LL.M. degree from a reputable university located in these first-world countries and having worked for an AM100 law firm while or immediately after graduating from the LL.M.

These additional unwritten requirements add supplementary economic and logistics efforts that further narrow the number of diverse practitioners that will “make it” into international arbitration practice. Moreover, practitioners whose native language is not English are oftentimes overlooked when choosing a first chair in an international arbitration case. A native English speaker is seemed as proficient based on the prevailing point of view, whereas practitioners with an “accent” may be perceived as “unprofessional.”



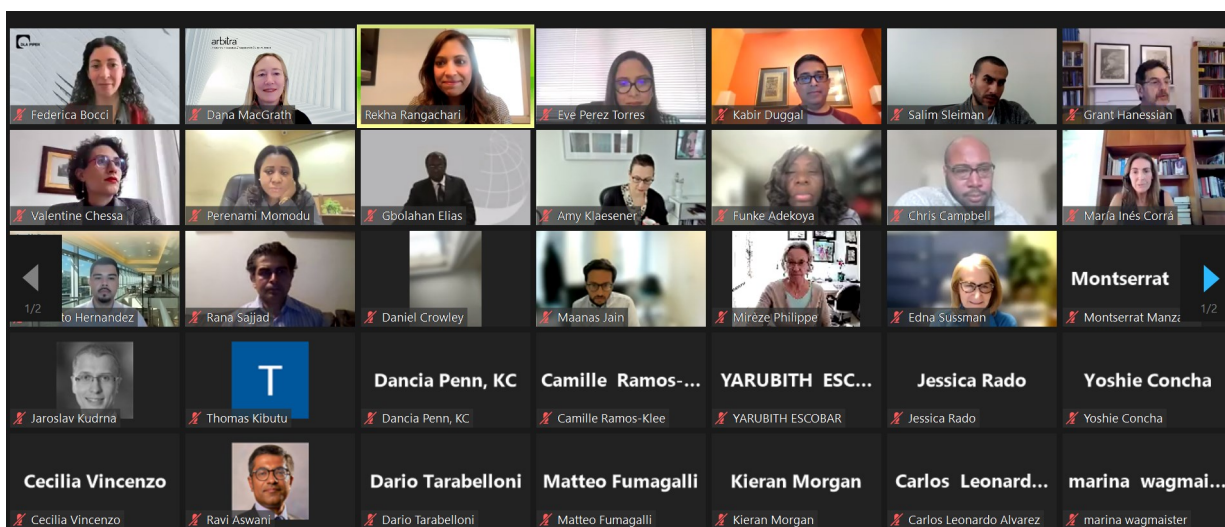


Consequently, it is of the utmost importance to take concrete steps to end this systemic bias that is affecting international arbitration practice. Our keynote speakers proposed the following: first, raising awareness of these unwritten challenges and how they affect different individuals and groups. Second, understanding the mission and goal for racial equality with the active participation of arbitral institutions and appointing parties. Third, creating opportunities to overcome intersectional barriers including educational training in international arbitration to practitioners from underrepresented sectors and jurisdictions, developing institutional policies and initiatives to retain diverse practitioners, and educating hiring managers in law firms and clients to advance systemic change.

Finally, during the last part of the second anniversary celebration, attendees were placed in breakout rooms where these topics were discussed in detail, opening the floor again for the launch of The REAL Pledge:

As a member of the arbitration community, I pledge to support the cause of diversity and equality in arbitration wherever possible and help raise awareness about different forms of diversity. I shall endeavor to improve representation of people from diverse backgrounds in arbitration by creating, wherever possible on an equal opportunity basis, opportunities for arbitrator and counsel appointments, education, training and professional development with the goal to support inclusion of an increasingly racially diverse pool of arbitrators and counsel within the arbitration community.

We look forward to seeing and being a part of R.E.A.L.'s accomplishments over the next year!





#REALTALK - R.E.A.L. ARBITRAL APPOINTMENTS WORKSHOP RECAP

By Hyewon Yoon (Yonsei Law School) & Seokwoo Jang (Yonsei Law School)



On 11 April 2023, Racial Equality for Arbitration Lawyers (R.E.A.L.) held its first Arbitral Appointments Workshop. The workshop featured institutional representatives from various arbitral institutions and was moderated by Hiroko Yamamoto, an associate at Debevoise & Plimpton LLP. The panelists included Mr. Steve Kim, Secretary General of KCAB (Korean Commercial Arbitration Board) International; Mr. Shinji Ogawa, Manager of the Arbitration & Mediation Department at JCAA (Japan Commercial Arbitration Association); Ms. Adriana Uson, Director & Head of Americas at SIAC (Singapore International Arbitration Centre); and Ms. Gokce Uyar, then Counsel at HKIAC (Hong Kong International Arbitration Centre).

The audience largely comprised junior and senior practitioners, primarily interested in sitting as arbitrators in their later careers. They hailed from various jurisdictions around the world, in particular, Asia.



1. How does the institution get involved in the appointment?

Nominations by the parties or co-arbitrators are subject to the approval or confirmation of the institution, which also provides a list of candidates upon request.

The institution appoints the arbitrator(s) if the parties fail to agree. Mr. Ogawa indicated that instances where the institution must appoint all three arbitrators are rare in his experience. The process differs from institution to institution. For example, Ms. Usón explained that SIAC bifurcates this process into two stages. Based on their experience with the day-to-day handling of cases, the international team at the SIAC Secretariat provides a list of candidates to the President of the SIAC Court, who then selects the prospective arbitrator from the list. If the President has concerns about the suitability of the candidates for the case, the President can request that the Secretariat provide a fresh list of candidates. Likewise, Ms. Uyar noted that the HKIAC Secretariat presents a shortlist to its Appointments Committee, whose responsibilities include appointing and confirming arbitrators in the absence of party agreement.

2. What are the necessary qualifications for arbitrators?

The panelists also discussed the necessary qualifications for arbitrators and how institutions balance the various factors. Such factors include the parties' agreement, the law of the seat, the candidates' legal background and education, industry expertise, residency,

language skills, nationality, and conflicts of interest. Finding the right candidate can be particularly challenging when the parties have tailored requirements, such as dual-language skills with specific bar qualifications or neutral nationality, as Mr. Ogawa and Ms. Uyar highlighted.

The panelists also stressed the importance of "soft factors," such as the candidate's management style, work ethic, reliability, availability, potential leaning on issues, and chemistry with other tribunal members. These factors are evaluated based on prior working experiences with the candidates. Mr. Ogawa explained how JCAA keeps track of the arbitrator's management of the arbitration proceedings, including how the arbitrator's conducts email communications, conferences, and hearings. Mr. Kim stressed that maintaining a good relationship and track record with the institution is critical for future appointments. Ms. Uyar noted that such considerations include whether the candidate previously issued the award within the time limit.

The panelists also recognized various direct and indirect efforts to increase diversity for arbitrators in a broad sense. Ms. Usón, for example, highlighted that 46% of the arbitrators SIAC appointed in 2022 were female. Mr. Kim noted that KCAB also emphasizes geographic diversity and works to familiarize users with candidates outside of Korea.

3. How are arbitrators added to institutions' panel of arbitrators and receive appointments?

All four institutions have a panel of arbitrators. The panelists agreed that arbitration is essentially a service industry.



arbitration is essentially a service industry. institutions are enthusiastic and dedicated Mr. Kim stressed the significance of to promoting diversity in arbitration. As a developing a strong “personal brand” for result, the future of diversity in aspiring arbitrators and cultivating a international arbitration appears positive market reputation. The panelists promising. emphasized the importance of getting to know the institutions and their rules, as well as emerging areas like AI and cryptocurrency.

The CV is critical in both applying for the panel and in arbitrator appointments. It is advantageous to demonstrate familiarity with specific subject matters, procedural rules, and jurisdictions — preferably connected together, instead of in separate lists — as it enables institutions to easily link candidates with specific needs.

All panelists noted that being on a tribunal’s panel or list of arbitrators increases the likelihood of being appointed. Ms. Uyar emphasized that simply being on a tribunal’s panel or list can increase an aspiring arbitrator’s visibility not only for that specific institution but also in the market more generally. In fact, simply applying to a panel can be a beneficial experience, because this exposes the aspiring arbitrator’s credentials and CV to the many reviewers.

The panelists also discussed the various efforts made by the institutions to help junior arbitrators get their first experience in the field. For example, SIAC maintains a non-public “reserve panel” for smaller disputes.

Conclusion

The workshop offered invaluable insights into the constitution of tribunals and the important role of arbitral institutions. The panelists’ comments indicate that arbitral



#REALSCHOLARSHIPS

Between February 2021 and March 2023, R.E.A.L. has awarded approximately 120 scholarships for a variety of events, conferences and workshops on arbitration, mediation and dispute resolution topics more generally. Our scholarship recipients come from diverse backgrounds, regions, countries and universities. A list of the scholarships awarded as at 31 March 2023 is below.

GAR Interactive Women (2 February 2021)

Ishita Mishra
Nicole Alvarez
Vanessa Tsang

4th Annual Juris Conference on Enforcement (13 April 2021)

Charles Mak
Milagros Maribel Rojas Blas
Maroof Rafique
Rodrigo Care

GAR Europe (27 April 2021)

Maria Jose Alarcon
Dr Stanislava Nedeva
Kieran Morgan

15th Annual Juris Investment Treaty Arbitration Conference (May 2021)

Abhay Bhushan Bhandhari
Francisco Calvo
João Vitor Candido Ferreira da Costa
Milagros Rojas Blas
Vanessa SW Tsang

Columbia-Ciarb Scholarship (June 2021)

Joseph Siyaidon
João Vitor Candido Ferreira da Costa

London International Arbitration Disputes Week (May 2021)

Ruchita Thakur
John Mark

ERA Pledge YPSC Virtual Advocacy Event (18 May 2021)

Niyati Ahuja
Naya G. Bechara
Veronica Dunlop
Natalia Giraldo
Arshiya Sharda

Conferencia Latino-Americana de Arbitraje (CLA) 2021

Oyeni Sodimu
Anne-Marie Grigorescu
Thaís Stella
Pierre Craig
Luis Rodrigo Castillo
Aleix Pérez Pitarch
Hector Fernandez
Hillary Sharp Dimitri
Cristian Gallorini
Oscar A Figueroa Diaz
Zuleika Beriro
Emily Westphalen

PLI 2021 International Arbitration Scholarship

Franco Gevaerd
Ignacio (Nacho) Tasende
Paola Patarroyoa
Puskhar Keshav

CAM-CCBC Mediation Masterclass (6-7 August 2021)

Ignacio Tasende
Lateef O. Yusuff
Parina Muchhala
Cristina Serna
Angelica Liboon
Eva Litina
Arturo Rivera

GAR Connect Breaking in 'How International Arbitration Becomes More Diverse' (1 September 2021)

Nusaybah Muti
Atie Babaie
Soma Hegdekatte



**The Barefoot Mediator Masterclass
(September 2021 for 6 weeks)**

Angel Cox

GAR Live Atlanta (13 September 2021)

Ruchi Thakur

Giada Mulè

Andra-Ioana Curutiu

**ICC Institute Training on Assessment
of Damages by Arbitrators
(20-21 September 2021)**

Duong Nguyent

Marie-Hélène Ludwig

**CIArb Brazil Accelerated Fellowship
(4-8 October 2021)**

Mara Villegas

Kieran Morgan

GAR Live New York (7 October 2021)

Mateo Verdias

John Ukegbu

HKIAC ADR in Asia Conference

Sean Zeyou Dong

Olayinka Ajose-Adeogun

Charles Mak

Chukwunonso Nkamuke

Umair Azam

Turkish Arbitration Week

Nikolaos Voutyrakos

Joseph Siyaidon

CyberArb E-learning Module

Md. Abdullah Al Masud

Omololu Thomas

Joseph Siyaidon

**REAL x Jus Mundi Legal Research
Scholarship (February 2022)**

Arijit Sanyal

Elena Asuncion Leyva Ruiz

Fisayo Fawehinmi

Sabina Akhori

**The ArbTalk Pro Bono Lectures
(February 2022)**

Gloria Guglielmetti

Hannah Dikki

Zil Shah

Laure Ekani

Chukwunonso Nkamuke

Bereste Elif Duranay

**CPR Annual Meeting Scholarships
(2-4 March 2022)**

Zachary Dooley

Garv Sultania

Ramin Rahnema

Elif Duranay

Anqi Luan

**MAA Premium Membership
Scholarship (February 2022)**

Arubalueze Elizabeth Ebelechukwu

Roslyn Lai

BIICL Course (ISDS) (1 March 2022)

Palak Mishra

Judith Livinus

**2022 ABA International Arbitration
Skills Masterclass (24-25 March)**

JAMS scholars:

Athanassios Skontzos

Siobhan Mary Zeiler

Organizing Committee Scholars:

Elojra Carmiel Javier

Inigo Kwan-Parsons

Lucia Miklankova

Jessica Velasco

Nikola Djordjevic

Anna Isernia

**NYSBA DRS Diversity Series
(10 May 2022)**

Divyanshi Dwivedi

Mateo Verdias Mezzera

Gustavo Favero Vaughn

Niyati Ahuja

Camille Ramos-Klee



LIDW 2022

Virtual attendance:

Toni Nogolica
Roslyn Lai
Catherine Papageorgiou
Charles Mak
Ruchi Thakur
Chukwunonso Kizito Nkamuke

Physical attendance:

Nusaybah Muti

11th ITA-IEL-ICC Joint Conference on International Energy Arbitration - Houston (19-20 January 2023)

Zaid Wahidi

Basel Winter Arbitration School (5-10 February 2023)

Ugochi Peace Nwosu
Megha Chaturvedi

CAM CCBC course

Fernanda Jotz
Bettina Omizzolo

GAR Live Construction Disputes

Ke Mu
Nikolaos Voutirakos

GAR Academy

Jillian Griffiths

London Summer Arbitration School 2023

Sara D'Sousa
Kateryna Lazarchuk

Indonesia International Arbitration Center Inaugural Masterclass in Mediation and Arbitration (Essential Module)

Mirnalini Baskar

Congratulations to all our R.E.A.L. Scholarship recipients!

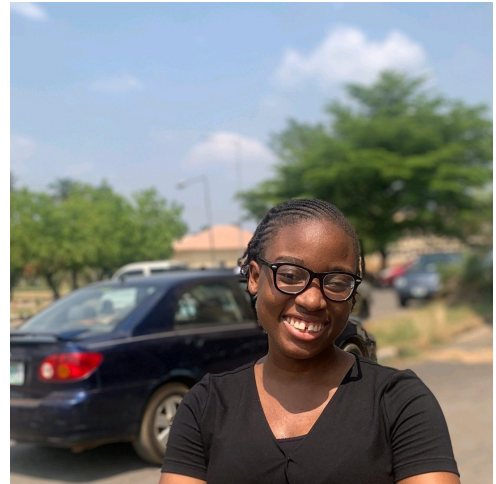


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#REALFUTURE - R.E.A.L NEXTGEN PROFILE

R.E.A.L. has a wide network of members, many of whom represent the next generation of talent and voices in the international arbitration community from across the globe. In this segment, we showcase an interview facilitated by R.E.A.L.'s NextGen Committee, on the journey of a young professional into the world of international arbitration as they share their story, ideas, and hopes for their budding international arbitration career. In this inaugural interview, we have the delight of getting to know [Elizabeth Ebelechukwu Arubalueze](#).



1. What part of the world are you located in?

I live in Nigeria, West Africa.

2. Are you a student? Clerk? Junior Associate?

I am a 400 law undergraduate in a 5-year LL.B programme. I am in the 4th year of my undergraduate studies – unlike other schools abroad that takes 3 or 4 years, in my country, to pursue an LL.B degree, it takes 5 years followed with an additional year of law school.

3. How did you become interested in international arbitration?

My interest in International Arbitration was spurred at a very unconventional stage of my life during year 1 of my LL.B programme. The study of law was never a course I considered nor imagined ever studying, because I did not find it as appealing as others did. The study of law was more of a last-minute decision I made at my dad's suggestion and

with his encouragement, that I should apply for admission at the university of my choice. I have always been thrilled with the study of Mass Communication and at the time had intended to pursue that course of study. Coming into university, I felt lost and undeserving of my law admission because I felt it in my heart that other people wanted a place in the class even more than I did, and yet didn't get in. This troubling mindset followed me in the early days of my university and became more taunting when I watched a moot court proceeding, which made me question if I had truly chosen the right path.

This went on for a while until a senior colleague brought to my attention the existence of a field called ADR. I later stumbled upon a meeting hosted by the ADR society in my school where I discovered that ADR wasn't 'Arbitration Dispute Resolution' (as I had once called it), but a field interconnected with numerous interesting mechanisms. Thus, my discovery of International Arbitration occurred during the process of learning about the field of ADR itself.



The COVID-19 pandemic was a blessing in disguise because it gave me the extra time and opportunity to research and learn as much as I could about ADR. I took advantage of free online introductory courses on ADR from Coursera, Allison, Mediator Academy, and others. After a while, I found a preference in Arbitration as a mechanism against other areas.

One of the reasons why ADR and arbitration in particular intrigued me was that it changed my perception of the law, and opened my eyes to the possibility of settling disputes outside the four walls of a courtroom.

4. Why do you want to pursue a career in international arbitration?

My WHY for a pursuit in this sui generis field is tailored to three key factors. First, the peculiarity of the field — I was drawn to the fact that disputes could be settled outside of the courtroom, the expediency of the process, the distinct rules and governing laws that emanate from a singular mechanism, the innovative institutions backing up specialized areas of law, like the CAS, CAA, ICSID, among others.

Secondly, the people in general — I firmly believe that people play a big role in making a community what it is. Imagine coming to an unfamiliar or foreign land and being welcomed with open hands by strangers. It felt surreal at first, but then I realized how safe and free I felt in the community and how it impacted the onset of my journey. Having access to like minds and professionals willing to guide and aid me in my growth and the actualization of my

visions was a big part of why I pursued a path in international arbitration.

Lastly, international arbitration gave my study of law a newfound purpose. In my early days in year 1, I felt confused and lost, but my discovery of this field gave my study of law a laser-focused purpose.

5. Tell us about your social media presence and how you've used it as a tool for your own growth and professional development. What have you learned in the process?

I became an active contributor on LinkedIn because I wanted to give back to the ADR community that had helped me along my path.

I often say that LinkedIn was the platform that gave my vision a voice and helped me realize that I could dream big regardless of my background.

Initially, I began establishing proper traction on social media through small posts. In 2019, I started sharing knowledgeable nuggets in areas that I found interesting within the field of International Arbitration. To this very date, these nuggets form a consistent part of my content creation, and are followed by other like-minded ADR enthusiasts. It has as well gained a feature in Tales of a Tribunal, one of my favorite international arbitration podcasts. I knew I was no expert, but I had an open mind to learn because I knew that it was the only way for me to grow.



I also know how difficult it is to enter a new field with no guide whatsoever, which is why I began a series of, 'dear #adrenthusiasts' which allows me to share my own journey and how I went about applying to various opportunities within the ADR field until today. I view my social media presence as a guide to young enthusiasts like myself and as a way to bring awareness of the opportunities that are out there.

Social media has been an important part of my personal growth and development. In this regard, I view social media through the prism of Community, Networking & Exposure.

I don't think I can ever overuse the term 'community' because I believe it is this very factor that makes the field of International Arbitration very dear to me. My use of LinkedIn helped me to find a community of international arbitrators whose contributions to my journey have accelerated my growth faster than I could have ever done on my own.

This closely ties with networking. Unlike the start of my journey where I was not so outspoken, social media has given me a voice that extends beyond the limitations of the borders of my country. I now know how to meet and relate to people I could not have fathomed meeting. I now have a better understanding of professionalism and what it entails, and have built my confidence in networking. My social media presence has allowed me to first connect with my role models online and then in person at events and in conferences. Thanks to LinkedIn, I've been able to learn about and get to know members of the ADR community.

This point further leads me to exposure. Simply put, my social media presence on LinkedIn made me realize that I can aspire to be an 'Arbitrator of International Repute'. My use of social media has taught me that the world is a compendium of communities and if one finds the right fit, there is so much one can do to leverage this tool for their own professional development and growth.

6. Is there someone who (or something that) inspired you to “go for it” to achieve or advance some goal on your professional path?

I think narrowing it down to just one person will undermine those who have done such much to make my journey where it is today. I believe that I am a product of the community I come from (my family, my mentors, my role models, my colleagues) But, from a cultural perspective, I will say Funke Adekoya, SAN is somebody I look up to.

Silently observing the life of a woman like Mrs. Adekoya, constantly reiterating her story over and over in my head, and the impact she has thus far made in the international arbitration community, even more as a Nigerian woman, was one of the biggest inspirations to my journey.

She is one of the role models in this field that influenced my journey.



7. *Where do you see yourself in 5-10 years?*

In the next 5-10 years, I see myself as an established professional living through my declaration of 'International Repute'. I see myself being that beacon of hope and inspiration to every young and old African that indeed if I could, they equally can. One is only limited by their mindset. I see myself transcending the status quo of the profession and making an impact in the field, building upon the contributions of my predecessors. I see myself in the best international arbitration team in the magic circle firm of my dreams and probably involved with reputable arbitral institutions.

I am quite audacious in my visions, and I never let my background define nor limit me from thinking BIG because I know my dreams are not far-fetched. If others got there, I can get there as well.

8. *Can you share a quote or saying that gives you inspiration or helps you stay centered?*

Reiterating the words of Dorothy Ufot, SAN, *'As a woman, you have to go through life like you have no alternative'*.

Having heard the backstory of these wise words in a webinar session—on how the earlier days of her journey were trying especially as a woman. Finding balance as a working professional, a mother, and a leader, was very difficult, so she had to go through life with the mindset that she had no alternative. This made her resolute and diligent knowing what she wanted in the long-run.

Hearing her beautiful story and all she faced to get to where she is today, I felt inspired by her words 'no alternative', and I swore to hold onto it throughout my journey.

Reflecting on these words in my life, I choose to pursue my career in international arbitration like I have no other alternative. I choose to give it my all, and if it is not my best, or if it is not excellent, then I would rather not bother doing it at all.

9. *What is your favorite book?*

In arbitration, I haven't gotten much exposure in terms of books due to the luxury that comes with it, but I will say Gary Born, because his was the first book I read and that was gifted to me by a mentor of mine. His book, 'Introduction to International Commercial Arbitration' was one of the first books that gave me a clearer picture of the international community and all it entails.

Outside of arbitration, I thoroughly enjoyed Brian Tracy's, 'Eat That Frog' — it made me build a firmer stance in terms of managing my time and enhancing productivity when I am faced with tasks.

10. *What are your interests outside of law / arbitration?*

I enjoy watching movies and having good conversations with friends. It is my way of unwinding and simply easing off stress.



REFLECTION ON ATTENDING THE GAR LIVE: CONSTRUCTION DISPUTES

By Ke Mu



On 30 March 2023, I attended the Global Arbitration Review's (GAR) Live: Construction Disputes with the R.E.A.L. Scholarship. It was an interactive conference as part of the Paris Arbitration Week. A full room of attendees indicated the success of the event. Arbitrators, private practice lawyers, funders, expert witnesses, senior general counsels, scholars from across Europe and further afield gathered together, and enjoyed this interactive platform where we could have face-to-face communication and discussion about international arbitration and the construction industry after the prolonged pandemic.

A keynote of this conference was how to respond to the economic downturn and geopolitical situation and the consequent termination of construction projects. The panels discussed a wide range of mostly concerned issues including low-risk termination, termination for convenience and for default, the consequences of a badly executed termination, and the approaches of quantifying the financial impact of termination etc. Attendees from different jurisdictions and professions also presented many real-life examples and shared lots of practical experience on these matters.

As an early career researcher and practitioner, I really appreciate this opportunity provided by R.E.A.L. for me to learn the most up-to-date development of international arbitration and network with the leading figures in this area. Moreover, by receiving the R.E.A.L. Scholarship, I feel

warmly welcome into this epistemic community and I am further encouraged to achieve my potential in my professional career.

I believe that R.E.A.L. has been pursuing an extremely important cause - to enhance the diversity, equality and inclusion of the international arbitration community. This aspiration is also deeply embedded in my research and practice. I look forward to making my own contribution to this cause in collaboration with R.E.A.L. in the future.

About the author

Ke Mu is a final year PhD researcher at the University of Edinburgh. Her research interests broadly cover international dispute settlement (especially arbitration), private international law, global law and comparative law. She has extensive and diverse education background, with two bachelor's degrees in law and business administration respectively and two master's degrees in law. She has been admitted to the Chinese Bar and practicing law as lawyer with expertise in civil and commercial dispute resolution.



REFLECTION ON ATTENDING THE TADS / CAM-CCBC ADVANCED COURSE ON INTERNATIONAL ARBITRATION

By Bettina Omizzolo



On the week of 13 to 17 March 2023, the TADS/CAM-CCBC Advanced Course on International Arbitration ('course') took place in São Paulo, Brazil, in its inaugural edition. Co-organized by CAM-CCBC and the Sciences Po LL.M. in International Arbitration, the course brought together a stellar group of professors who led insightful lectures on challenging topics in international arbitration. Thanks to the generous support of R.E.A.L., I was able to attend the course as a recipient of a R.E.A.L. Scholarship.

For each day of that week, a different professor took the stage. The faculty was composed of Prof. Luca Radicati di Brozolo, Prof. Eleonora Coelho, Prof. Diego P. Fernández Arroyo, Prof. Gabrielle Kaufmann-Kohler, and Prof. Lauro Gama Jr. The diverse group of attendees comprised students, experienced lawyers, arbitrators, as well as young professionals.

The course started with a lecture by Prof. Luca Radicati di Brozolo on the role of arbitrators and its limitations, touching upon other advanced topics such as the relationship between private international law and international arbitration proceedings. Have you ever heard of "twilight issues in international arbitration"? Prof. di Brozolo introduced this

expression coined in Prof. George Bermann's book, *Twilight Issues in International Arbitration: Latent Choice of Law Challenges*. Twilight issues refer to questions of procedure or substantive law that commonly arise in arbitration practice (i.e. the conditions governing the application of *res judicata* and *lis pendens*, the basis for costs to be allocated, conditions and effects of a waiver of the right to arbitrate) and often remain unaddressed by the arbitration agreement, the applicable law, and / or arbitration rules chosen by the parties. Against this background, in such scenarios, arbitral tribunals are left with few indications as to how they must exercise their powers. Amongst the solutions discussed for tribunals to resolve twilight issues, the sound approach considers first the agreement of the parties and their expectations. Secondly, tribunals are to investigate the prevailing arbitration-specific solutions in domestic laws or in arbitral practice, such as transnational rules and soft law, of which the IBA Rules are an example. This approach enhances uniformity and predictability in arbitration. Prof. di Brozolo concluded his lecture by encouraging the arbitral community to foster the development of transnational rules, particularly with the support of arbitral institutions.



In the following days, each lecturer addressed further vital topics of international arbitration. Prof. Eleonora Coelho gave a presentation on complex arbitrations and the issue of extension of the arbitration agreement to non-signatories. After examining several scenarios, particularly the solutions under Brazilian law, Prof. Coelho engaged the class in a case simulation that flourished further discussions. In Prof. Diego Arroyo's lecture, the attendees were able to discuss the main features, elements, and effects of arbitral awards. Under Prof. Arroyo's vast experience, the class had the chance to explore the processes that lead to the formation of an award and separate opinions. In the following day, Prof. Gabrielle Kaufmann-Kohler addressed the effectiveness of arbitral awards, which covered approaches of both common and civil law principles, including the principle of *res judicata*, issue estoppel, and rules found in international law. Prof. Kaufmann-Kohler and the participants were able to share their knowledge on solutions found in different jurisdictions. For the last day of the course, Prof. Lauro Gama Jr engaged the attendees in three different case simulations that touched upon matters discussed by the previous lecturers. The activity allowed the participants to exercise their teamwork skills and to revisit the concepts studied in the course.

It was a very fruitful and intense week that enabled participants and faculty to "advance" on many issues of the day-to-day practice of arbitration and potential solutions that may improve predictability, uniformity, and legitimacy in arbitration.

I sincerely enjoyed the knowledge and experiences shared during the five days of lectures. Attending the course has given me the chance to meet many talented practitioners from different regions of Brazil while learning from an experienced and thought-provoking faculty. This would not have been possible without the support of R.E.A.L. Sadly, events of this quality and scale often require participation fees that may be too burdensome for young professionals, particularly when financial support of law firms is unavailable. In this sense, I am immensely grateful to R.E.A.L. for making it possible for me to attend the course and for inviting me to share my experience in the newsletter. I will continue to champion racial, gender, and geographical representation and diversity in domestic and international arbitration.

About the author

Bettina Omizzolo is a lawyer admitted to practice in Brazil. She holds a Masters in private international law by the Federal University of Santa Catarina and a LL.M. from the University of Geneva and the Graduate Institute of International and Development Studies (MIDS LL.M). She has worked with the international arbitration practices of international law firms in Paris and in Vienna.

#REALINSIGHTS – UPDATES FROM OUR COMMITTEES



#letsgetREAL!
REAL
Racial Equality for
Arbitration Lawyers



Image courtesy of Shutterstock.com

For a number of R.E.A.L.'s voluntary committee members, March 2023 marked the end of their journey with their respective committees.

We would like to take this opportunity to thank all of our retiring committee members for their tireless efforts over the past two years in doing their part to help bridge the racial diversity gap.

Stay tuned for the next R.E.A.L. newsletter where we will hear from our newly constituted committees on their wonderful and inspiring ideas for the year ahead!

#REAL_TRIVIA



Test your arbitration knowledge with the following #REAL_Trivia questions!

Send your responses to newsletter@letsgetrealarbitration.org and the first five (5) correct responses received will be recognized in the next R.E.A.L. Newsletter.

Questions:

- What arbitral institution/court celebrated its centennial birthday in 2023?
- What symbol / emoji was recently found sufficient to be acceptance of an offer? Hint: this is not necessarily arbitration-related.
- What two entities recently launched the ASEAN Mediation Programme?
- What two South American countries were the latest to enact arbitration legislations?
- Under which of the following rules is an expedited procedure not available: (a) ICSID Rules (2023), (b) JAMS International Arbitration Rules (2021), (c) HKIAC Rules (2018), or (d) UNCITRAL Rules (2013)?



Image courtesy of Shutterstock.com

Answers to Issue #3 Trivia

1. Suriname.
2. 2024, Hong Kong.
3. ICSID Rules.
4. LCIA Rules.
5. 8 - Singapore, Turkey, Belarus, Ecuador, Fiji, Honduras, Qatar and Saudi Arabia.
6. No.



#letsgetREAL!

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