

Women in Arbitration: Lots of Talk, Any Changes?

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Occasional articles, postings, etc come out which discuss the lack of female representation in international arbitration. Perhaps possible reasons are suggested, perhaps only statistics given, but it is still clearly an issue. Beyond talking about it – how can we actually help the situation? In an article from June 2009, Michael Goldhaber noted that in past arbitrator listings from FocusGroup only 4% of arbitrators were women. Some of these women were indeed very busy, and highly respected; yet, only 4% were women.

The first questions to address, perhaps, is why not a female? A fellow colleague of mine, a male, who is active in the international arbitration arena asked me this very question. From a male's perspective – is there anything that a male arbitrator or even male counsel representing a party could do which the female counterpart could not? Honestly, I cannot think of one thing. Yet, referrals seem – and this is purely based on anecdotal evidence – go more to males than the female counterparts. In fact, after recently attending a conference in Dublin, I overheard one female practitioner saying to another female practitioner, "Women simply do not refer cases to other women." Are we then the culprits ourselves? It would be rather ironic if the women are contributing to holding women back. I actually can imagine this being the case. There are a few women out there who have worked exhaustingly to build up a reputation landing them in this prestigious male-dominated club and for those of you having appointed female arbitrators or referred cases to a female practitioner, it is likely one of very very few.

This leads back to a former post of mine on this blog, [Choosing the Young Buck or the Weathered Veteran](#), which looked how clients can take the lead in making changes to their bottom line by going outside the standard circle of names. This occurs amongst the female arbitration circle as well. What referrals do go to females, go to the very same core small group of females. It's a double hit to the rest – females are underrepresented in international arbitration and what does come in may go predominantly to the very same ones. These females presumably have referrals to pass out on occasion – I ask them – do you refer them to females or males? All things being equal of course, would you choose the male? Naturally, these are rhetoric questions and not ones I would expect anyone to have to publicly address, but it would have been interesting to see those statistics.

Clients themselves can help level the playing field for women by also giving equal thought – not just to the young bucks in order to get fresh ideas and truly rein in costs – but also to diversity. Many in-house counsel are women. How many of them are in the position to choose the arbitrator or outside counsel, I do not know as I do not have these statistics, but I wonder whether the "best" candidate is ever female? Women are sufficiently and perhaps even over represented at arbitral institutes. This

could imply that the arbitration community is at least comfortable with women administering arbitrations.

There is no easy answer to this concern. Many female attorneys are flocking to conferences, getting on arbitral institute arbitration lists, working hard at firms of all sizes and statures to break into the fold. Therefore, the availability of ambitious, intelligent and experienced female arbitration practitioners exists. It is not a lack of supply and quality candidates that stands in the way. What is then? Is it us, the females ourselves? I certainly do not think there is an active movement against women (and surely not by women themselves) - indeed there are wonderful organizations sprouting up to assist females in networking and growing their careers, including in the arbitration industry. Those key, famous female arbitration practitioners are some of the best mentors to many. I only wonder, when it comes down to providing the actual work and opportunities whether we hesitate to choose a fellow woman. If so, how can we overcome this?