

Young Female Practitioners Breaking into the World of International Arbitration

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Late last year, Herbert Smith Freehills Seoul and Kim & Chang held a “Women in Arbitration” Networking-Dinner and panel discussion as part of the Seoul ADR Festival 2019. The dinner aimed to provide an opportunity for female professionals in the Korean arbitration community to network with their industry peers and work to advance their position in arbitration. This post provides the perspectives of the authors based on the panel discussions.

A young practitioner's perspective

Latin America

Increasing legitimacy in international arbitration, as explained by Van Leeuwen in a KluwerBlog in 2019, requires that arbitral decisions are made by a diverse pool of arbitrators, composed not only by gender equality, but also from geographical diversity. The reality is, however, that the field is not yet fully diversified, thus being a young woman from Mexico may present challenges to breaking into the international arbitration community. ArbitralWomen's data show that, compared to other developed countries such as the United Kingdom, Mexico has few registered

female arbitrators. Thus, accessible mentoring programs are not a feasible option for my jurisdiction. As a young Latina woman, the path is still long and tough; both Mexico and South Korea are jurisdictions known for being patriarchal societies. For instance, in the platform ArbitralWomen, there are no South Korean female arbitrators registered. The lack of female role models working in international arbitration from diversified jurisdictions reduces the number of young women willing to work in international arbitration and inhibits the opportunities for women to engage in constructive, supportive networking. Thus, encouraging societal awareness of potential unequal gender treatment at work becomes critical to being able to move forward and progress. For instance, by promoting its highly credentialed female members, ArbitralWomen seeks to equip clients, counsel and other stakeholders in the international arbitration community with access to women for any role needed. Another method discussed by the panel to enhance diversity is to establish targets and quotas. Ms Paula Hodges (Herbert Smith Freehills) explained that Herbert Smith Freehills used to have 20% female partners thereafter aiming for a clear target to achieve 35% female partners by May 2023. A male from the audience asked why the target was 35% and not 50%. Ms Hodges answered that the aim is to set realistic targets in order to advance more effectively. According to the authors, the responsibility to set effective targets has a direct impact on young practitioners and gender perception for future generations. Mr Eun Young Park (Kim & Chang), the male voice on the panel, explained that targets have a more positive response by male colleagues whereas quotas spike criticism and more discussions about the results. Ultimately, it is important to recognize the problem of opportunity and recognition when compared with our male peers from relatively privileged jurisdictions. Thus, we need to reset the balance in the pursuit of legitimacy for international arbitration.

Europe

The disparities in the progress towards more gender-equal societies are clearly visible when comparing Sweden, my country of origin, and South Korea, where I currently live. As raised by Ms Sue Hyun Lim (KCAB INTERNATIONAL) during the panel discussion, South Korea has experienced a rapid economic and societal shift in the last few decades, which is reflected in the distinct generational gap. The authors note that in a society where respect for elders is essential, it is important to balance the need to impress the older generation and the desire to have a more

progressive working culture and environment. In this regard, the Economist's glass-ceiling index measures gender equality in the labour market and lists South Korea as the worst environment for women to work in within the OECD, having the largest gender pay gap amongst OECD countries. Given the increased number of highly educated women in law, it is important to secure equal opportunities for male and female practitioners alike. Moreover, the topic of networking was also addressed by the panel, where the general consensus is that women can be excluded from social groups, mainly because men have more time to network and socialize. The same Economist's glass-ceiling index displays that in 2017 South Korea and Sweden were at opposite sides of the spectrum when it comes to gender equality in the labour market. This is not to say that there isn't room for improvement in Sweden; parity has not been reached, but there is institutional support which is not yet present in other countries. In some places there is a more urgent need for support groups, where experience sharing, and mentoring can encourage the next generation of women to disrupt the status-quo and confidently reach for their goals. At the event in Seoul, panelist Ms Hodges urged law firms and institutions to encourage diversity, without leaving the burden of fighting unconscious and conscious bias entirely on women. Ms Kim Rooney (International arbitrator) agreed networking events hosted by arbitral institutions are important and people must recognize that gender equality has not been achieved yet. The authors agree that the situation is not improving fast enough, and it is up to the individuals to make a positive impact. In addition to the institutions promoting diversity, there are other initiatives available: for instance, the Equal Representation in Arbitration Pledge (ERA Pledge) launched in 2015, aims to improve the representation of women in arbitration. We cannot content ourselves with hiding behind the optimistic statement of having come a long way, when women are *still* not given the same opportunities for advancement, face gender discrimination from the seniors in their fields and are expected to fulfil rigid gender roles even after attaining the same education and/or professional experience as their male colleagues. As stated by Noor Kahdim on 26 September 2016 in a KluwerBlog, we should be striving towards a true meritocracy in international arbitration. While there is much work to be done, in the last ten years we have seen remarkable progress and an optimism that diversity can be achieved. Ideally, the same advice should be given to young men and young women entering the field of arbitration, but the reality is that young women still need further guidance to tackle the bias that plagues professional fields. The obstacles are more pronounced in certain cultures compared to others, but women in Europe, Latin

America, East Asia and beyond should focus their training, intelligence, character, and values to assert themselves in their professional fields leading by example for the generations of professional men and women to come.

Concluding Remarks

As young female practitioners entering the world of arbitration, we are still expected to be pioneers to pave the way for the international arbitration community of the future. The world is changing, and so is the world of arbitration: initiatives such as the event in Seoul and the work that other organizations are doing are crucial in creating a more diverse arbitration community that can attract promising practitioners, female and male alike. As young practitioners, we should enter the world of arbitration determined to make our mark, by supporting each other, seeking out role models and mentors and distinguishing ourselves through hard work and vision. The future of international arbitration lies in the new generation of practitioners: both men and women should look forward to creating a more diverse international arbitration environment.