

Women's Voices Matter: the Case for the Extinction of Manels

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Like many other industries, the field of international arbitration has adjusted to the Covid-19 pandemic. Hearings have gone virtual; arbitrators, counsel and experts have adapted to working from home; and conferences have become webinars.

The transition from in-person conferences to online webinars has brought great opportunities. Rather than being limited to candidates that would be available in a particular jurisdiction at any one time, conference organisers now have a global pool of candidates to draw from as potential speakers, constrained only by time zone considerations. One would therefore expect to see greater diversity than ever in the speaker line-ups for arbitration webinars over the past few months. Unfortunately, that has not been the case.

To take the webinar schedule of one arbitration institution from 14 April 2020 to 20 July 2020 as an example, excluding events aimed at young practitioners, and taking into account all external speakers, 28% of panels were comprised of all male speakers ("manels"), and 79% of all external speakers were male. In the line-up announced for the landmark biannual conference of the same institution, the numbers were even more disappointing: just 15% of external speakers were women.

Looking at data more widely. Lucy Greenwood^[fn]With assistance from Olga Sedetska, Freshfields Bruckhaus Deringer LLP.^[fn] analysed 231 international arbitration conferences which took place globally in 2019. In general, the level of female participation was disappointing. Less than 40% of the conference speakers, panelists and moderators were women. Only around one third of the keynote speakers were women. There were 82 panels. Turning to the 2020 figures (which are still being compiled), of the 109 conferences in 2020 which have been analysed so far, 89% of keynote speakers were men and 27% of speakers, panelists and moderators were women. Only 12 of the 109 conferences took place in person but at those 12 conferences, 11 of the conference sessions included panels.

There may be many reasons for this. For example, sponsors with speaking slots in return for their sponsorship will usually be responsible for choosing which speaker they put forward, not the event organiser. Further, and crucially, it can take more effort and extra research to find female candidates as speakers, partly because there are fewer women at a senior level, but also because women who may be well qualified may not have the network or visibility of their male counterparts. A further concerning reason is that there is increasing evidence that women have been disproportionately affected by obligations in the home during the pandemic which has curtailed their ability to accept speaking engagements.

Whatever the excuses or reasons may be, in 2020 it can no longer be acceptable to continue the imbalance of speakers at international arbitration conferences. We set out below our views on why balanced representation at international arbitration conferences is important, and what conference organisers and others can do to promote diversity.

All institutions involved in the field of arbitration, including arbitral institutions, appear to acknowledge the importance of diversity in arbitrator appointments, at least outwardly. Diversity of speakers is *intrinsically connected* to the diversity of appointments, because speaking appointments provide women with a platform to showcase their strengths, skills, experience, commitment and preparation, and to increase their visibility.

As found in the recent report of the Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings (the “ICCA Report”, which was reported on this blog here), the most frequent source of information about

arbitrator candidates is through word of mouth. Speaking opportunities provide the audience with an opportunity to “get to know” the speaker and assess their knowledge and credentials, as well as for panel members to network with each other and the delegates. The report recognises that providing opportunities for qualified women to promote and market their credentials is an important tool to redress the imbalance on arbitral tribunals.

This is also recognised by the “Equal Representation in Arbitration Pledge” which seeks to ensure that women are appointed as arbitrators on an equal opportunity basis. One of the ways identified by the Pledge to achieve this is that conference panels include a fair representation of women.

The ICCA Report acknowledged that “*[s]tanding out is particularly important for female candidates.*” One key reason to ensure gender diversity at arbitration conferences is because “*you can’t be what you can’t see*” – it is unarguable that junior practitioners need to see diversity on panels.

Arbitral institutions also have an important role to play, and initiatives to encourage diversity can be even more valuable when implemented by institutions comprehensively, encompassing both arbitral appointments and speaking opportunities. Providing a platform for women to increase their visibility through speaking engagements is one important way to change perception and to grow the pool of potential candidates for appointment. Some institutions have embraced this challenge with enthusiasm, for example, one Asian arbitral institution has adopted a policy of not organising panels with only male speakers. Others have a long way to go and can do better.

We all need to make conscious and thoughtful decisions regarding the diversity of panels at arbitration conferences, and to realise that this is just as important as the diversity of appointments. One way to do this is to give feedback to event organisers where the gender representation of speakers at an event is just not good enough, for example because there are one or more manels.

Some practitioners we know have adopted the position of refusing to accept a speaking engagement if it is on a manel. If more practitioners adopted this stance, and if more of us expressed our views that such a lack of diverse representation is no longer acceptable, then manels could soon become a relic of the past – which, in the authors’ view, is exactly where they belong.