
Kluwer Arbitration Blog

Is International Arbitration Adapting to a Changing World? Empirical Research May Help us Find Out

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Knowledge of international arbitration has often been based on anecdotal evidence. However, there has been increasing interest in empirical research among practitioners and scholars. In the context of the recent COVID-19 pandemic, arbitral practice has rapidly changed and new empirical research aimed at understanding the experience and expectations of the users of international arbitration is timely. The [2020 School of International Arbitration \(SIA\), Queen Mary University of London \(QMUL\) Survey on 'Adapting Arbitration to a Changing World'](#) reflects a central question raised in these strange times: *How much adaptability has international arbitration shown and quo vadimus?* (the '2020 Survey' or the '2020 QMUL/W&C International Arbitration Survey').

Background and Context

Since 2006, the SIA/QMUL has conducted several [surveys](#) into international dispute resolution practices and trends. These unique empirical research projects are carried out with the financial support of sponsors and focus on topical issues. The surveys conducted by the SIA are well [recognised](#) and often-cited including most recently by the UK Supreme Court in its judgment in *Halliburton v Chubb* (para 63) (discussed [here](#)).

The [2020 Survey](#) is conducted in partnership with White & Case for the fifth time (see indicatively the coverage for the [2018 Survey](#), [here](#) and [here](#)).

The 2020 QMUL/W&C International Arbitration Survey: Questions

The 2020 QMUL/W&C International Arbitration Survey has two parts. One quantitative and one qualitative.

First, the quantitative part consists of a Questionnaire comprised of 21 (substantive in nature) questions that aim to reach a balance between breadth and depth (an inherent

challenge to empirical research). It takes approximately 20 minutes to complete. There are four categories: (1) Current and future use of arbitration (2) Diversity; (3) Technology and sustainability; and (4) Data Protection and Cybersecurity.

In the [2018 QMUL/W&C Survey](#), more than half of respondents (61%) thought that “increased efficiency, including through technology” was the factor most likely to have a significant impact on the future evolution of international arbitration. It seems this prediction was correct. Most of the questions in the 2020 QMUL/W&C Survey (categories 3 and 4) are largely inspired by the increased use of technology in the past few years and, in particular, the rise of remote hearings in light of the pandemic (see [here](#), as well as the recently-published book [International Arbitration and the COVID-19 Revolution](#)). This increased use of technology potentially raises concerns about cybersecurity and the protection of personal data and may (inadvertently) lead to [greener arbitration](#). Is the arbitration community aware and addressing these issues? Do counsel consider sustainability when making procedural choices in a given case? And what about data protection? In particular, what is the perceived impact of legal instruments, such as the EU General Data Protection Regulation (GDPR), on international arbitration?

The question of diversity remains [open](#), leaving room to explore how much progress has been made in different aspects of diversity in addition to gender diversity (see for example the [ICCA Report of the Cross-Institutional Task Force on Gender Diversity](#)). The 2018 Survey explored whether users perceived there to be a connection between the quality of decision-making and diversity. The 2020 Survey aims to explore whether there is any connection between diversity among the panel of arbitrators and the users’ perception of their independence and impartiality. As the legitimacy of international arbitration is largely a matter of perception it is important to explore whether such a connection exists.

Methodology

The 2020 Survey takes an inclusive approach as it aims to take a snapshot of the views of the entire arbitration community not just a particular group. We hope to capture the views from as wide a range of arbitration participants as possible. All industries (from energy disputes to sports disputes) are of interest. Therefore, all stakeholders are welcome to share their perspectives, including private practitioners, in-house counsel, arbitrators, academics, experts, third-party funders, government officials, economists, entrepreneurs, international arbitration students and/or arbitral institution staff. The results will inevitably reflect the data provided by those who generously devote their time to take the 2020 Survey. It does not incorporate data from other external surveys.

Second, as part of the qualitative phase, personal (remote) interviews take place with a diverse range of stakeholders who have expressed an interest in contributing to this phase. The qualitative information gathered is used to supplement the quantitative data. It is an extremely important part of the 2020 Survey as it further explains the findings on particular issues.

Conclusion - Take the Survey!

The 2020 Survey (SIA's twelfth) is currently ongoing. It is primarily your survey and we aim for it to be as representative as possible. We need you to participate to make this happen! Please do not forget to [take the Survey](#) by **Monday 21 December 2020**. If you would like to be part of the qualitative interviews please contact [Dr Maria Fanou](#). We very much look forward to sharing the results with you in late Spring 2021.

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