

# Kluwer Arbitration Blog

## Interviews with Our Editors: In Conversation with Joe Liu of Hong Kong International Arbitration Centre

Benson Lim (Simmons & Simmons) and Kiran Nasir Gore (Associate Editor) (The George Washington University Law School) · Sunday, October 20th, 2019

Joe is the longest-serving counsel in HKIAC, having been at HKIAC since January 2014. He holds LL.Ms from New York University and London School of Economics and Political Science. His previous stints included private practice as well as that in SIAC. In January 2019, he was appointed as the Deputy Secretary-General of HKIAC.

Our Blog is providing live coverage of HK Arbitration Week for the second year running. It is therefore apt that we kick off our coverage with our interview with Joe on the same day that HK Arbitration Week 2019 kicks off for its 8<sup>th</sup> edition.

### *1. Tell us about how you started in arbitration. What advice do you have for young practitioners seeking to chart a path in arbitration?*

I started my career at the Singapore International Arbitration Centre (“SIAC”) where I administered cases under the SIAC Rules or UNCITRAL Rules. I then did a legal internship at the Permanent Court of Arbitration and later worked as part of the Global Arbitration Group at Allen & Overy in Hong Kong. I joined HKIAC in January 2014.

There are many ways of planning a career in arbitration. Interning or working in a junior role at an international arbitral institution or within the arbitration group of a reputable law firm, or working as tribunal secretary to an experienced arbitrator, are all good ways to get into the arbitration circle. I would encourage young practitioners to gain experience in arbitral institutions, private practice and as tribunal secretary if possible, as they all offer different and valuable perspectives and help young practitioners better understand the practice of arbitration. Making yourself known and recognised in the market is also critical. To achieve that, young practitioners should actively participate in networking events, publish articles and prepare themselves well for every public speaking opportunity.

### *2. In 2018, HKIAC handled 265 new arbitrations where more than 70% of the cases had at least one party not from Hong Kong. The total amount in dispute was USD6.7 billion. In your view,*

*how would you describe HKIAC's global standing amongst other arbitration institutions?*

HKIAC is a leading arbitral institution with its unique strength and focus. Based on the Queen Mary and White & Case survey, HKIAC has been voted among the top four arbitral institutions in the world since 2015. I think there is no question about HKIAC's global reputation and its experience in dealing with international commercial disputes. HKIAC has a multi-national and multi-lingual secretariat, guided by strong governing bodies, to handle a large amount of international arbitrations with a proven record of enforcement.

Compared with other international arbitral institutions, HKIAC has unrivalled experience in disputes involving mainland Chinese parties. It is the institution of choice where a mainland Chinese party and a non-mainland Chinese party are looking for alternatives to their home turfs. The Hong Kong-Mainland China arrangement on court-ordered interim measures in aid of arbitral proceedings (the "**Arrangement**") further strengthens HKIAC (and Hong Kong)'s position to handle arbitrations between these parties.

HKIAC is also rapidly gaining traction in Russia due to its recent status as a permanent arbitral institution in Russia. HKIAC is the first non-Russian arbitral institution to acquire such a status and is now able to administer a range of Russian-related disputes under Russian law which cannot be submitted to institutions without the status.

*3. What do you think will be the key challenges to HKIAC in the next 5 years? What is HKIAC doing to be future-proof?*

Each institution has its own challenges. I think one challenge for HKIAC is to address untrue perceptions. One of them concerns the neutrality of HKIAC in disputes between Chinese and non-Chinese parties. Having worked at HKIAC for over five years, I can confirm that HKIAC has acted impartially and independently in all cases and there have been no instances in which HKIAC's operations are subject to external interferences. I think another challenge is the perception of HKIAC being merely a Hong Kong arbitral institution. In my view, HKIAC is more than a Hong Kong institution. It is well-placed to handle disputes anywhere in the world with or without connections with Hong Kong or China.

HKIAC has an extensive outreach programme to raise awareness of, among other things, who we are and what we do. I believe dialogue and information are effective means to tackle untrue perceptions. For those who continue to hold these perceptions, I hope they are willing to have a direct dialogue with us or try to use HKIAC's services and let the experience speak for itself.

*4. This year, Hong Kong has seen protests which were initially against the extradition bill evolve quickly into protests arising out of broader political sentiments from its people. A newspaper editorial described Hong Kong's current situation as **Hong Kong being once "again at a crossroads"**. With that backdrop, do you see arbitration in HK at the crossroads? Do you think there are broader challenges to the future of arbitration in HK?*

Hong Kong has faced other challenges in the past. However, the city showed extraordinary resilience to overcome those challenges and remains as a global financial centre and a regional

legal hub. Hong Kong has recently climbed into the top three in World Economic Forum's competitiveness rankings and its judicial independence continues to be ranked among top ten in the world.

Hong Kong has a strong legal system and it remains so despite political developments. This is also true in respect of arbitration in Hong Kong. Protests do not affect Hong Kong's arbitration framework or judicial support for arbitration, or the way how arbitral proceedings are conducted in Hong Kong. I believe every challenge is an opportunity for Hong Kong to demonstrate itself as a tried and tested venue for resolving disputes.

Looking ahead, I think there are more opportunities than challenges for Hong Kong arbitration. For example, the Arrangement provides a strong incentive for businesses to choose Hong Kong as the seat of arbitration for disputes involving mainland Chinese parties. I anticipate more initiatives to be introduced to make Hong Kong a more attractive place to arbitrate in the coming years.

**5. ICC's Alexis Mourre suggested *an international accreditation procedure for arbitral institutions at the Atlanta International Arbitration Society's Hendrix Lecture. In his view "flawed institutions" will taint the legitimacy of the arbitration institution system as a whole. What do you personally think of his suggestion?***

If "*an international accreditation procedure for arbitral institutions*" refers to "*institutional self-regulation through a common framework such as IFCAI*" mentioned in Mr. Mourre's speech, I think it is a well-intended suggestion but may face several issues of implementation like those associated with other proposals of creating a global standard by a soft law making body.

The first difficulty is how to define the "common framework". Every jurisdiction has its own framework on the establishment and functions of an arbitral institution. Such a framework may differ significantly from one jurisdiction to another and the differences may be well justified given the legal and cultural environment of each jurisdiction. Therefore, defining a common framework that is acceptable to most, if not all, jurisdictions may be a challenge.

The second difficulty is what happens if the common framework is not complied with. If there is no meaningful means to enforce a common standard at international and national levels, it would have limited effect on the issue of "flawed" institutions.

**6. Do you think HKIAC's Panel of Arbitrators will one day include an AI arbitrator?**

I am open to consider all possible means to enhance efficiency and cost-effectiveness of international arbitration including the use of technology.

With respect to the use of artificial intelligence ("AI"), I have some scepticism towards the idea of replacing human arbitrators with AI but I find it easier to accept that it may be useful for AI to undertake certain work on behalf of an arbitral tribunal, acting effectively as tribunal secretary.

If one day AI proves to be a feasible and reliable tool to facilitate the conduct of an arbitration, I do not think it would be a bad idea to allow AI to be made available on a panel or otherwise as an

option for parties to agree upon to undertake appropriate tasks as tribunal secretary or even arbitrator.

*7. Finally, it feels from our introduction like you have been with HKIAC for a lifetime! Tell us your most surreal experience ever at HKIAC or describe the most intriguing person you met whilst at HKIAC.*

My most surreal experience at HKIAC is to see people using the rules and services I helped develop.

*More coverage from Hong Kong Arbitration Week is available [here](#).*

*This interview is part of Kluwer Arbitration Blog's "Interviews with Our Editors" series – past interviews are available [here](#).*

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