

Kluwer Arbitration Blog

Interviews with Our Editors: 360-Degree Discussion with Chiann Bao

Theresa Tseung and Benson Lim (Simmons & Simmons) · Monday, October 19th, 2020

Chiann Bao has been with Arbitration Chambers since 2018. She is currently Vice President of the ICC International Court of Arbitration. She previously acted as Secretary General of the HKIAC between 2010 and 2016, during which HKIAC was recognized in a [2015 International Arbitration Survey](#) as the most preferred arbitral institution outside of Europe and was ranked the 3rd best arbitral institution worldwide in the same survey. We are pleased to kick off [our Blog's live coverage of HK Arbitration Week](#) this year with our wide-ranging discussion with her.

Thank you Chiann for joining us!

1. Could you please share with us how you started your arbitration career?

It all began with a blank sheet of paper. On this page, I had to draw up a proposal as to my study plans in Hong Kong that would fit with the purpose of Fulbright scholarship – to promote international good will through the exchange of students in the fields of education, culture and science. With such a broad remit, I had difficulty narrowing my topic. With Google's help, my searches including “dispute resolution” and “east and west”, resulted in arbitration and mediation. Seeing as I was drawn to the idea of resolving problems and was intrigued by the influence of culture on arbitration, it was certainly worth exploring, I thought. It turned out to be the perfect fit.

2. How has your Chinese-American heritage shaped your perspectives? How did you feel you were received when you first moved to and led an Asian arbitral institution in HKIAC?

The way in which one sees the world is always influenced by their experiences. As a Chinese-American growing up outside of Washington DC and spending my summers in Asia, I was lucky to be gifted a dual-culture and dual-language upbringing. Immersed in both environments, I

realized early on that there would not be one place where I would belong. Many years later, when I stumbled upon international arbitration, and eventually met colleagues and now friends in the field, I took great comfort in finding a space where the majority of arbitration practitioners had colorful backgrounds and were inherently curious about the world.

When I first moved to Hong Kong to lead HKIAC, I knew that I had little relevant experience. What I did know was that it was important to respect the blood and sweat of the community that had dedicated significant efforts over the years to building the institution. And while I may have looked the part, I knew that I was an outsider to the local communities who would be given no deference as a result of my age, my experience, and my cultural identity. Experience by experience, I learned, with loyal support and friendship working alongside me, I think I earned the trust of the community and felt great pride in being able to serve the needs of both the local and international communities.

- 3. A great number of arbitral institutions and law firms have pledged support for equal representation of women in arbitration. Do you think gender blindness is the true test of gender equality in arbitration?**

I can understand why the idea of gender blindness could be a good test of gender equality in arbitration as it neutralizes the impact of gender on decisions as to arbitrator or counsel. However, I think that what it also does at the same time is that, it avoids the underlying issue that there are certain fundamental biases that people have in relation to gender. To get to the root of the problem would be better: raising awareness of gender-related issues and recognizing unconscious bias would help eliminate the unwarranted biases and eventually reframe the discussion.

- 4. In November 2016 Neil Kaplan commented in a lecture titled “*Winter of Discontent*” that “*every criticism of the present system can somehow be traced back to speed and cost*”, and made suggestions on how the arbitral process can be improved so as to achieve more time and cost efficiency. What are your thoughts on that?**

I think there is a lot of truth in that thought. When the process is slow or over-costly, the system is not working. The flexibility of process is intended to create efficiencies in the system, not permit frivolous tactics to stall or otherwise cause trouble for the arbitration. The idea is not to see how close the arbitral process can be to national court litigation or see how clever counsel can tie knots around the arbitral process, but rather to find the straightest line from commencement of an arbitration to its completion with an arbitral award.

- 5. How do you envisage the unprecedented global challenges, such as the COVID-19 pandemic and the social unrest resulting from the injustices of the world, would impact on the development of international arbitration in the next 10 years?**

With such global challenges pushing for changes to our *status quo*, I see massive disruption on the development of international arbitration. I imagine we will see technology taking the center stage in innovation of institutional case administration, online dispute resolution platforms, AI-related decision making, and predictive justice. With courts already pushing in this direction, arbitration must keep pace and in fact move ahead of courtroom developments. The challenges will also put the arbitration and dispute resolution community in the “front lines”, and we will have the responsibility of resolving them quickly and efficiently in order to move disputes off the books and allow companies to get back to business.

As part of our 360-degree interview, we would like to invite you to ask us a couple of questions in turn.

6. **Chiann:** Mohamed Abdel Waheb has said that one of the most challenging things about entering arbitration practice was: *“being liberated from the shackles of profiling, as an African and Arab practitioner, to be able to break through into the world of international arbitration.”* What are your thoughts on that comment?

Theresa: Versatility is key to the functioning of international arbitration. As I view it, one of the most fascinating aspects of international arbitration is that it is a transnational legal field that presents transnational opportunities to social, economic and political progress worldwide. It is a field that develops along with and also responds to, the varied challenges arising from the ever-changing global realities, which in turn would continuously call for diverse perspectives and talents.

Profiling entails biases and generalization that could lead to overlooking human potential and impede the nurture of diverse talents that the field of international arbitration demands. Echoing your comments earlier, enhanced awareness and recognition of unconscious bias would help eliminate unwarranted biases. As jurisdictions across the globe are eagerly building up their arbitration capabilities, I am hopeful that limitations on entering arbitration practice, as a result of established national and cultural categories, will be progressively moderated.

7. **Chiann:** Do you think the impact of COVID-19 pandemic on case management will bring more efficient arbitrations?

Benson: My personal experience was the government restrictions imposed globally due to the pandemic initially created a lot of uncertainty amongst institutions, tribunals, and counsel as to the case management process. But the subsequent speed and ease in which institutions and tribunals addressed the new circumstances in managing cases reflects the inherent nature of international

arbitration as a flexible and adaptable dispute resolution mechanism. Whilst having an entirely virtual arbitration including virtual hearings may not be the answer for all cases, the longer-term impact of this pandemic on case management is that we have tested and enhanced the virtual hearing protocols during this pandemic. I think our knowledge can now be applied to manage smaller value, less complex cases more effectively and efficiently.

Thank you Chiann for taking time out to join us in our 360-degree interview! We hope our readers enjoy this interview as much as we did. We also look forward to our readers following our live coverage of Hong Kong Arbitration Week 2020.

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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