

# Kluwer Arbitration Blog

## Interviews with our Editors: In Conversation with Caroline Kenny KC

Emma Garrett (Assistant Editor for Australia, New Zealand and the Pacific Islands) · Wednesday, November 9th, 2022

*Caroline Kenny KC is a barrister, mediator, and arbitrator. She has over 30 years' experience in commercial disputes. In 2008 she was appointed as King's Counsel and has since been recognised as a Chartered Arbitrator – the only female Chartered Arbitrator in Australia. Caroline's arbitration experience therefore spans across various roles within international commercial arbitration proceedings, including as counsel, sole arbitrator and presiding arbitrator. These roles spread across numerous jurisdictions. Caroline's offices are based in Melbourne, Australia and London, England.*

*In addition, Caroline has held various teaching roles at several prestigious institutions across the globe and has and continues to be involved in many boards and committees. Caroline sits on the Board of Trustees of the London-based Chartered Institute of Arbitrators.*

*Caroline, it is an absolute pleasure to have you here with us today at the Kluwer Arbitration Blog!*



1. To commence, could you please briefly introduce yourself and outline how you came to establish your career within the international arbitration space?

Initially I was appointed counsel in international arbitrations and enjoyed it so much that I decided to take a course in International Commercial Arbitration ('ICA'). I completed the CIArb Diploma Course at Oxford and then the Accelerated Route to fellowship Course in Chile, Santiago. I now regularly sit as an arbitrator in ICA.

2. **Currently, there has been a lot of discussion about how arbitration as a form of dispute resolution has changed over the years. Given your extensive arbitration experience, what would you say have been the biggest changes, in particular with regard to arbitration practice in Australia? Do you think it has changed for the better?**

I think it has changed for the better because there is more transparency around the arbitration process. Arbitrators and parties are more concerned with introducing efficiencies in the way in which arbitrations are conducted. When I refer to ‘transparency’ I mean not only the debate about whether awards should be published, but other aspects of the arbitration process, such as the publication of the outcome of challenges to arbitrators and how institutions make appointments. In many ways the ICC has led the drive to more transparency by announcing its default position would be to publish awards and by publishing the name of arbitrators who are appointed. I also think that there is now more competition between institutions and parties to appoint outside ‘the club’ of well-known arbitrators. Institutions, in particular, are concerned with appointing more female and diverse arbitrators. I think the increase in competition for appointments has had a beneficial effect on increasing efficiencies in the way arbitrations are conducted and therefore, lowering the cost of ICA. One of those efficiencies, driven, of course, by the pandemic, is the move to more on-line meetings and hearings. With the improvement in on-line platforms such as Zoom and Microsoft Teams, remote hearings have proved to be very successful, and I think they will continue to be a feature of ICA.

3. **Impressively, you are not only qualified to practice in Australia but in New York and England and Wales, and you are a Registered Foreign Lawyer at the Singapore International Commercial Court. With this perspective, how do you think Australia differentiates itself within the arbitration arena?**

The Australian Centre for International Commercial Arbitration (‘ACICA’) was established in the same year as the Hong Kong International Arbitration Centre and before the Singapore International Arbitration Centre, but as a seat, Australia has not progressed as well as those Asian seats. I think a big difference between Australia and other seats in the Asia Pacific region is that arbitration is not supported by the Australian Government in the same way as the respective governments of Hong Kong and Singapore support them. Although Australia is a bit further than other Asian seats it has much to offer in terms of a stable government, non-interventionist courts, easy enforceability of awards through Australian courts, a highly regarded judiciary, experienced arbitration practitioners, first rate facilities in which to conduct arbitrations and first-rate infrastructure to support ICA including transportation, hotels, and restaurants. I think Australia will only come out of the shadow of Hong Kong and Singapore when the Australian Government provides more support for ICA.

4. **In a [2021 interview with Georgia Quick in this blog](#), she noted that recently, Australia has had more of an opportunity to provide a known safe seat. In short, a “safe seat” refers to a legal place of arbitration that is arbitration friendly (see [here](#) and [here](#)). She then reflected on the importance of a “stable and neutral seat, and an international reputation for a**

**strong rule of law, supported by a fair, efficient, and high-quality judicial system.” Do you think that establishing itself as a known safe seat is enough for Australia to continue growing as a seat for international arbitration? Or is there something else that needs to be done for Australia to progress and continue to establish itself as a renowned arbitration hub?**

I think the Australian Government needs to support the growth of ICA in Australia, including by providing funding to ACICA, so that, among others, it can employ marketing and other consultants to market Australia and ACICA to the world.

**5. You are currently a Director at the [Australian Centre for International Commercial Arbitration \(ACICA\)](#) and the Australasian Trustee for the [Chartered Institute of Arbitrators \(London\)](#). What have you learnt from these roles?**

ACICA is very ably assisted by its Director-General, Deborah Tomkinson, its President, Georgia Quick, and all its directors who are very experienced and knowledgeable in ICA. We are all working in various ways to improve ACICA’s profile in ICA. As for CIArb London, it continues to improve its offering to members and this is reflected in the ever increasing membership base – we currently have over 18,000 members world-wide. CIArb offers the ‘gold standard’ in all of its courses and as a board we continually strive to ensure that the courses remain current, of a high standard and easily accessible. We are also continuously updating our technology to ensure that it remains ‘state-of-the-art’ and serves the needs of members. Working on the board of both organisations is very satisfying.

**6. You have [previously stated](#) that one of your career highlights was when the Singapore High Court agreed with your sole ruling on an arbitral tribunal’s jurisdiction in [Malini Ventura v Knight Capital Pte \[2015\] SGHC 225](#) (discussed in this [blog here](#)). Are there any other defining achievements that stand out?**

For the past 10 years I have been on the organising committee for the annual international arbitration conference which takes place on the first day of Australian Arbitration Week (‘AAW’). It has been very satisfying to see an increase in the number of delegates attending the conference each year. I had the idea to rotate AAW, which used to be held only in Sydney, to Brisbane, Perth, and Melbourne and that has proved to be very successful. When I was President of CIArb I introduced the Annual Business Lunch, a series of seminars with the Federal Court of Australia and the Annual CIArb Australia Lecture. All those events have proved to be very successful, improved the membership offering to our members and have been important in raising the profile of ICA in Australia.

**7. In a [previous interview](#), you noted that you were the first (at that stage, the [only](#)) female Chartered Arbitrator in Australia. How was it navigating your career as a female? How has it changed? What steps, if any, do you think still need to be taken to ensure gender diversity within arbitration?**

I think the opportunities for female arbitrators have greatly improved and will continue to do so. Institutions and law firms which have the power to nominate arbitrators have moved slowly but surely away from the ‘the club’ mentality of appointments in previous years. By this I mean that in the past a small number of arbitrators continued to be appointed. Institutions and law firms now realise that to get the best results for their clients they have to tap into the enormously talented field of female arbitrators and make more diverse appointments.

**8. With such a successful career, what advice would you give to your younger self and / or young lawyers hoping to establish a career in international arbitration?**

Take small but sure steps in your career, treat triumph and failure both as opportunities to learn, enjoy the ride and always be kind and respectful to others.

*Thank you very much for your time, Caroline. We appreciate your valuable insights and wish you continued success!*

*More coverage from Australian 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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