

Kluwer Arbitration Blog

The 2022 SOAS Counsel in Arbitration Training: A Concrete Solution to Skills Development for African Counsel in Arbitration

Emilia Onyema (SOAS, University of London) · Sunday, December 18th, 2022

This year, the arbitration team at SOAS consisting of [Emilia Onyema](#), [Steven Finizio](#) and [Baiju Vasani](#) in cooperation with the [African Legal Support Facility](#) of the [African Development Bank](#), organised and delivered four separate “counsel in arbitration skills-based training” workshops in collaboration with four arbitral centres in Africa: in Lagos ([LACIAC](#)), Douala ([CMAG](#)), Kigali ([KIAC](#)) and Cairo ([CRCICA](#)). Participants worked from a case study prepared by our SOAS team which included fact witness statements and expert reports. Over the course of three days, participants made written and oral submissions before panels of three individuals who practice as international arbitrators. The submissions focused on case theory and opening submissions, examination of witnesses and closing submissions and were made in-person at each location. 97 participants, including associates at law firms, in house government agencies and ministries of justice, participated in our four training sessions this year.

This post provides an overview of the training program and offers some insights on how such skills-based training can support the development (and numbers) of African practitioners as counsel in arbitration.

Capacity Deficit

The feedback from some respondents to our [2018 SOAS arbitration in Africa survey](#) was that Africans are not as well represented in international arbitration as counsel and arbitrators when compared with their participation as parties. In relation to counsel, capacity deficit was mentioned as one reason for the poor representation. This is further supported by informal comments from some colleagues that sit as arbitrators in international arbitration references in some African jurisdictions.

Indeed, acting as counsel in international arbitration proceedings involves various skills that practitioners need an opportunity to develop and practice. Most training programs in arbitration focus on the role of the arbitrator or are theoretical, with a clear gap in the provision of skills-based training for counsel who represent parties before the arbitral tribunal. In recognition of the fact that party autonomy mandates that arbitrators should rely on the presentation of the case by the parties (which they do through counsel in the vast majority of cases) as the basis on which the tribunal will

make its decision, it becomes apparent that the final outcomes of cases may be heavily impacted by the quality and ability of counsel in the arbitration. This informed the design of the SOAS Counsel in arbitration training as skills-based. The facilitators were qualified practitioners in their home jurisdictions, who also act as arbitrators in international arbitration.¹⁾ They could therefore share from their own practical and lived experiences.

Importance of the Delivery Model and Style

Oftentimes, training sessions are delivered without practical demonstration and participants are left with theoretical knowledge of a concept or skill. The success of the delivery model adopted in the SOAS training is the co-learning element which also gives the participants the opportunity to demonstrate the skills they have learned and receive immediate feedback.

Each training was also supported by quantum experts from [FTI Consulting](#), [Secretariat](#), [HKA](#), [NERA](#) and [Accuracy](#), who all provide such services in international arbitration. These experts delivered webinars on quantum assessment in international arbitration, and also acted as expert witnesses examined by participants during the training.

The facilitators worked with each group with their national nuances and shared our experience, ensuring co-learning and respect. The participants' familiarity and knowledge of the facilitators from their region gave them greater confidence as to the quality and value of the training. In addition, in-person participation led to relationship-building between the participants and the facilitators, which is an important element in the development of arbitration practices and the local arbitration communities.

To ensure that the participants were well-immersed in the practical sessions, the in-person hearings were held over three days with oral submissions before the arbitral tribunals in location. The case file was emailed to the participants two weeks before the in-person hearings and the participants were allocated into groups of claimants and respondents. The week before the hearings, webinars were held on specific topics by the facilitators and the damages experts that supported the particular training.

There were also in-person discussions on case theory and strategy, role and selection of fact and expert witnesses, examination of witnesses, written and oral closing submissions, ethics and the role of the arbitral tribunal. Over the three days, participants made written and oral submissions to the tribunals and received individual feedback.

The training was delivered in Arabic (Cairo only), English (Cairo, Lagos and Kigali) and French (Douala only) as the languages most commonly used in arbitration in the locations of the training. This also allowed for inclusivity, ease of access, relevance and familiarity, for the participants, all of which participants in their feedback noted and commended.

The Future

To ensure continued impact, the SOAS team has offered the case file (with proper attribution to SOAS) to the host arbitral centres we worked with this year so they can continue to run the training

as they require. A further nine trainings will be held in 2023 with a new case study available in the Arabic, English, French and Portuguese languages, in nine different African cities.

Conclusion

At SOAS, our arbitration team does not just look at inclusivity as a one-sided coin (appoint or work with Africans) but as a double-sided coin in which we actively support the preparation of our African colleagues to excel in their domestic practices and, when the opportunity presents itself, in their international practice as well. In this way, we contribute to the elimination of some of the biases preventing the opening of the field of arbitration to all those qualified to participate whether as counsel, arbitrator, tribunal secretary, expert, or any other role. We will continue to work with our practitioner colleagues and our sponsors to co-learn and deliver value for their sponsorship for the benefit of the international arbitration community.

** I am grateful to Ms Gisele Stephens-Chu for her review, but all errors remain mine.*

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References

The arbitral tribunals and facilitators were composed of: Mrs Funke Adekoya, SAN, Mr Tunde Fagbohunlu, SAN, Professor Emilia Onyema, Mr Baiju Vasani, Mrs Marie Andre-Ngwe, Professor Walid Ben Hamida, Ms Gisele Stephens-Chu, Dr Sylvie Bebohi, Dr Gaston Kenfack Djouani, Ms ?1 Lindsay Reimschuessel, Ms Ndanga Kamau, Mr John Ohaga, SC, Mr Thierry Ngoga Gakuba, Professor Steven Finizio, Michael Sullivan, KC, Mr Taher Hozayen, Dr Yasser Mansour, Dr Nagla Nasser, Professor Dr. Mohamed AbdelWahab, Dr Amira Mahmoud, Dr Ismail Selim, and Dr Mohamed Hafez.

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