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**WOMEN HAVE A ROLE TO PLAY IN THE DISPUTE RESOLUTION WORLD**

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I would like to thank the Association of lawyers in arbitration for having invited me to speak about women in arbitration. I am particularly honoured to be addressing you in this setting, at the First Instance Tribunal of Paris. Women are more and more present in the legal profession as lawyers and as judges, but I was far from imagining that, one day, a representative of ArbitralWomen would be speaking about women in arbitration in this prestigious place.

While speaking to you in Paris about women in arbitration, the initiator of ArbitralWomen, Louise Barrington, with whom I have the honour to co-preside over ArbitralWomen, is speaking about the same subject in London at the invitation of the Chartered Institute of Arbitrators.

The topic of women in the world of arbitration may seem peculiar. It has nevertheless been the subject of debates these last years. Conferences were organised in the United States and elsewhere about “the Gender Line” and “the Color Line”. Surveys were undertaken and some of them were updated in the United Kingdom for instance about the percentage of women and the percentage of minorities in the law firms (“*National firms shame city giants in diversity stakes*”, 27 March 2006; *The career report 2007. Female Partners 2006-07, and Female Equity Partners 2006-07. The Lawyer*, [www.thelawyer.com/careerreport](http://www.thelawyer.com/careerreport)). A survey made by the Working Mother and Flex Time Lawyers permitted to list the best law firms for women, which give them the opportunity to build a career without sacrificing their family life (“*Billable Hours or Home for Dinner? Firms face Gender Challenges as Nearly Half of New Attorneys are Women*”, “*Working Mother and Flex-Time Lawyers recognize 2008 Best Law Firms for Women*”, August 12, 2008). Articles were published about the place of women in the legal profession. An interesting book was published two years ago in which Mary Jane Mossman tells the story about the first women lawyer and the struggle for their right to enter the world of the legal profession to which only men had access (“*The first women lawyers: a comparative study of gender, law and the legal professions*”, Mary Jane Mossman, 2006, Australia at <http://www.austlii.edu.au/au/journals/SydLRev/2007/29.html>). Women in business have gathered in various international or local associations throughout the world, such as “ArbitralWomen” or “Women in law”. Networking is very important as reported by David

Samuels who interviewed a number of women practitioners (*David Samuels "Onwards and upwards. The women of arbitration"*, *Global Arbitration Review, Volume 2, Issue 4, 2007*).

Therefore, the subject of women in the legal profession and the arbitration world is in the spotlight. What is the place of ArbitralWomen in this evolution?

### **ICCA Congress and ArbitralWomen**

The adventure of ArbitralWomen started in 1993 where Louise Barrington noticed at the ICCA congress, the International Council of Commercial Arbitrators, in February 1993 in Bahrain, that only less than ten women out of 250 participants were present at that arbitration event and only one woman at the panel of speakers. Her curiosity led her to investigate about the existence of this rare species in the arbitration community. She sent out a chain letter and succeeded to gather 60 of us at a dinner on November 22, 1993 in Paris. ArbitralWomen was born. I remember that this first gathering was not welcomed in the arbitration community by both men and women; women who refused to participate feared to be considered feminists.

The perception has tremendously changed in fifteen years where we became known and recognized for what we are, a network of women in international dispute resolution.

The evolution of the presence of women in the world of dispute resolution was particularly visible at the ICCA Congress in June 2006 in Montreal and in June 2008 in Dublin where the participation of women to this international arbitration event made the difference. Out of 600 participants in Montreal and 750 in Dublin one sixth were women and one third of the speakers at ICCA Dublin were women. On both occasions, the webpages of the ICCA Congress mentioned the ArbitralWomen website address and the events organised on that occasion by ArbitralWomen, which was a big honour. We owe this support to men who encourage ArbitralWomen's actions, Donald Francis Donovan from Debevoise & Plimpton and Klaus Reichert from the Brick Court Chambers.

### **Role of ArbitralWomen and its objectives**

The group was informal until 2000 where we created a Yahoo electronic group to allow the members remain in contact and exchange ideas and information. We then decided to become more visible and created our association and our website in 2005 ([www.arbitralwomen.net](http://www.arbitralwomen.net)). Today, ArbitralWomen counts more than 300 members spread out over 40 countries, and around 200 non-registered women who regularly participate to dinners or events, not to speak about women who participate at some occasions but who are not regulars to the circle.

The main objective of ArbitralWomen is to be a network. In addition, ArbitralWomen's objectives are also to inform and to train. ArbitralWomen allows women in the international dispute resolution community to exchange information, point of views, contacts of women as well as men lawyers, arbitrators, mediators, experts, speakers. The network is also a way of reminding the business and legal community that women are active in the fields of dispute resolution and are capable of playing these roles.

Members of ArbitralWomen organize meetings for women at the occasion of events taking place anywhere around the world and which are opportunities for debates on various subjects. ArbitralWomen has a mentor program to train young members of ArbitralWomen by more experienced members. We also grant awards to groups of students from developing countries who participate to the annual Willem C. Vis International Commercial Arbitration Moot, which is held in Vienna since 1993, the same year of ArbitralWomen coming into existence, and in Hong Kong since four years thanks to Louise Barrington. An important number of our members participate to the Vis Moot either as arbitrators to hear the pleadings of the students or as evaluators to correct their memoranda.

ArbitralWomen organized its first event open to members and non-members, women and men in June 2008 in Dublin. First, a round table discussion gathered women from various horizons and was the occasion for an interesting exchange about recent trends in arbitration and women in arbitration. Then, after a cocktail, several personalities men and women from the world of arbitration participated to our dinner in the prestigious Royal College of Physicians of Ireland which gathered a hundred persons. Our guest of honor, the Honourable Madame Justice Mary Finlay Geoghegan, addressed us about the “Role of the Judge in Directing Parties to and Facilitating the Use of ADR in Commercial Disputes”. Thanks to the support of Klaus Reichert and the efforts of Catherine Kessedjian who was then member of the Board of ArbitralWomen, this first official event was a big success.

Mark Kantor who also supports ArbitralWomen, compiled a resource guide for students and young practitioners and listed ArbitralWomen as “*a very good group to join*” (Mark Kantor “Starting Out” – guide for students and young practitioners, *Global Arbitration Review*, 21 January 2009, [http://www.globalarbitrationreview.com/news/news\\_item.cfm?item\\_id=5048](http://www.globalarbitrationreview.com/news/news_item.cfm?item_id=5048)).

### **Role of women in the international dispute resolution world**

In twenty five years of practice in the arbitration world, I have seen a considerable change. The place of women in the legal profession in general and in the arbitration community in particular evolved significantly. Twenty years ago, I rarely saw women representing parties in arbitration procedures or playing the role of arbitrators. Today, the number of women is meaningful in all aspects; women are present not only in the role of para-legals or administrative secretaries to arbitral tribunals, as people tend to think, but also as lawyers representing the parties and as arbitrators. In addition and most importantly, women are appointed as sole arbitrators and chairpersons of the tribunal and not only as co-arbitrators.

The community of mediators has benefited of the same progress and apparently this seems to be also the trend in the community of experts.

The same development may be reported about students in the legal profession and about trainees where women tend to be more and more in a larger representation as compared to men.

Ten to fifteen years ago, very few women were invited as speakers. Women are now present on several panels and their absence is becoming more and more an exception. ArbitralWomen is active in this field where we try to suggest possible names to address topics which are on the programs of the conferences. When no women are among panelists it is sometimes due to busy agendas of potential speakers.

Women lawyers constitute in several law firms half of the associates but unfortunately they are rarely partners. This situation is often criticized by the surveys undertaken about the advancement and retention of women lawyers. Some law firms are very proud of counting an important number of women among their lawyers and have programs to support the place of women in the profession, such as White and Case who have a Women's Initiative program "to ensure that women lawyers continue to have ample opportunities to step into these leadership roles at every stage of their careers" as reported on their website (<http://www.whitecase.com/about/womensinitiative>). A recognized practitioner in the community of arbitration recently told me that he was very happy to have many women lawyers on their arbitration team, because women are hard workers, serious, capable and efficient. This important statement deserves to be highlighted.

However, I must admit that this positive change and the encouraging views are not common to all countries and that some of them are far from having an open mind and accepting the change. Important efforts are yet to be accomplished mainly in the Arab, African and Asian regions, even though things have started to change as compared to the 1980s and the 1990s. It is true that the tendency to reduce the business and legal profession only to men dates back to several centuries and still needs time to change; in some countries the evolution is very slow. Yet, the world is changing. The world was not built in one day.

Efforts must be undertaken to give women their place in the legal world progressively and normally. The presence of women in the legal community is due to a phenomenon of time. Women study, work, participate to the construction and the evolution of the world and are therefore more and more present in the dispute resolution world. We must give time to time, but this does not mean that we should sit back, wait and watch. As Louise Barrington highlighted, women do not intend to take the place of men but to claim for their rightful places beside the men.

Women are less and less backstage, mainly because many of them are experienced and capable and thus accepted in the legal community. In many countries, lawyers, arbitrators and speakers are chosen for their skills, abilities and reputation without distinction of gender. This issue tends to disappear behind the quality of the persons selected even if the instinctive reaction still leans towards the choice of men. "What counts is competence, not gender" remarked Gabrielle Kaufmann-Kohler, a famous arbitration practitioner (*David Samuels "Onwards and upwards. The women of arbitration", Global Arbitration Review, Volume 2, Issue 4, 2007*).

Nevertheless, we realize that it is not always easy for women to be recognized and accepted. They must make much more efforts than men, because men would not

otherwise accept women in the business world so far reserved for men. The difference between men and women which remains visible despite the evolution, is the fact that there is no room for mistakes which are forever remembered, as opposed to mistakes made by men, as reported in a survey undertaken by the Women's Bar Association of the District of Columbia (*"The Experts Present the Research", Initiative on Advancement and Retention of Women, Women's Bar Association of the District of Columbia, January 6, 2006*). This survey highlighted some reactions and differences of views towards men and women, for instance, when a man succeeds his success is attributed to his skills, whereas the success of a woman is related to luck; a man is assertive but the woman is considered aggressive. The pressure on women exists. Women must be capable in their professional life, present in their family and social life, efficient everywhere, in summary excellency is required from women and they are expected to make efforts on all fronts.

These reactions are unfortunately not "clichés" but make part of the reality. Therefore, there remains some discrimination. Also, the process of recruitment and promotion is applied differently when it comes to women, and the disparity between men and women appointed at important positions is significant.

Yet, as underlined, it is important to keep in mind that the world is changing and that the professional quality of women is the factor that allows overcoming unfairness. Recommendations on the advancement and retention of women such as those proposed by some surveys are taken seriously by some law firms.

It is interesting to note the perception of the parties to dispute resolution procedures who consider that a dispute resolution process *"fairly inclusive of women adjudicators or neutrals promises to produce a socially and culturally fairer result for it will be representative of the composition of the human society"*, as reported by Noemi Gal-Or (Noemi Gal-Or *"The Under-Representation of Women and Women's Perspectives in International Dispute Resolution Processes"*, TDM, Vol. 5, No. 4, July 2008 at <http://www.transnational-dispute-management.com>).

Several women practitioners also noted that it is easier to be accepted as women when we have exceeded the age of forty. Nevertheless, it has been remarked that irrespective of whether they are men or women, practitioners in the world of dispute resolution had to climb the ladder step by step.

In an article published by Michael Goldhaber (*Michael Goldhaber "Madame Law Présidente. A woman who sits as president of a major arbitral tribunal is a rare creature. Why?"*, American Lawyer, summer 2004) who interviewed some well-known women practitioners in dispute resolution, Lucy Reed remarked that in cases with important issues at stake *"it is hard to vote for anything except a proven track record of experience"* and that *"until recently there were very few women in the ranks with the experience to be selected as chief advocates or arbitrators"*, but that *"fair representation will come with time"*.

I share this view. My conclusion is on the same note as my introduction and my talk. I saw a positive and visible change in the role and the place of women in the international

dispute resolution world and the legal profession in general. I am confident that this trend will continue, so must the efforts and the trainings, but let us give time to time.