

Report of the Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings

Carolyn B. Lamm

Partner, White & Case LLP

Chair, Cross-Institutional Task Force

Webinar

3 September 2020

ICCA

INTERNATIONAL COUNCIL FOR COMMERCIAL ARBITRATION

Report of the Cross-Institutional
Task Force on Gender Diversity in
Arbitral Appointments and Proceedings

with the assistance of the
Permanent Court of Arbitration
Peace Palace, The Hague



The ICCA Reports No. 8

Thank You To The Task Force Members

Chair

Carolyn B. Lamm (ICCA Diversity and Inclusiveness Committee; White & Case LLP)

Task Force Members

Louise Barrington (ArbitralWomen)

Julie Bédard (IBA)

Lisa Bingham (ICCA)

Lise Bosman (ICCA)

Alice Fremuth-Wolf (VIAC)

Valeria Galíndez (IBA Arbitration Committee; Galíndez arb)

Sarah Grimmer (HKIAC)

Jacomijn van Haersolte-van Hof (LCIA)

Jennifer Ivers (White & Case LLP)

Meg Kinnear (ICSID)

Roberta D. Liebenberg (ABA)

Noiana Marigo (ERA Pledge; Freshfields Bruckhaus Deringer LLP)

Anna Kaehlbrandt (DIS)

Wendy J. Miles QC (Twenty Essex Chambers)

Sylvia Noury (ERA Pledge; Freshfields Bruckhaus Deringer LLP)

Nicola Peart (Three Crowns LLP)

Mirèze Philippe (ICC)

Ramya Ramachanderan

Miroslava Schierholz (ICDR)

Patricia Shaughnessy (SCC)

Ana Stanič

Stacie I. Strong (University of Sydney)

Aviva Will (Burford Capital)

Panelists



Carolyn Lamm,
Chair of the Cross-
Institutional Task
Force, and Partner at
White & Case LLP

*Overview of the Report of
the Cross-Institutional Task
Force on Gender Diversity in
Arbitral Appointments and
Proceedings*



Nicola Peart,
Associate, Three
Crowns LLP

*The Empirical Story:
Main Data Findings of
the Report*



Lucy Greenwood,
Independent Arbitrator

*Pipeline Issues and the
Path Forward*

Panelists



Tom Sikora,
Senior Counsel,
International Disputes
Group, ExxonMobil

*A Client's Perspective on
Gender Diversity*



Claus von Wobeser,
Managing Partner, Von
Wobeser y Sierra, S.C.

*The Vital Role of
Co-Arbitrators*



Meg Kinnear,
Secretary-General,
ICSID

*The Role of Institutions:
The ICSID Example*

Agenda

- **Carolyn Lamm** – Overview of the Report
- **Nicola Peart** – The Empirical Story: Main Data Findings of the Report
- **Lucy Greenwood** – Pipeline Issues & The Path Forward
- **Tom Sikora** – Why Would a Client Want (or Not Want) Female Arbitrators
- **Claus von Wobeser** – The Role of Co-Arbitrators
- **Meg Kinnear** – The Role of Institutions – The ICSID Example
- **All Panelists** – Suggestions & Where To Go Next
- **Audience Questions** from Chatbox
- **Meg Kinnear** – Closing

Why Create The Task Force?

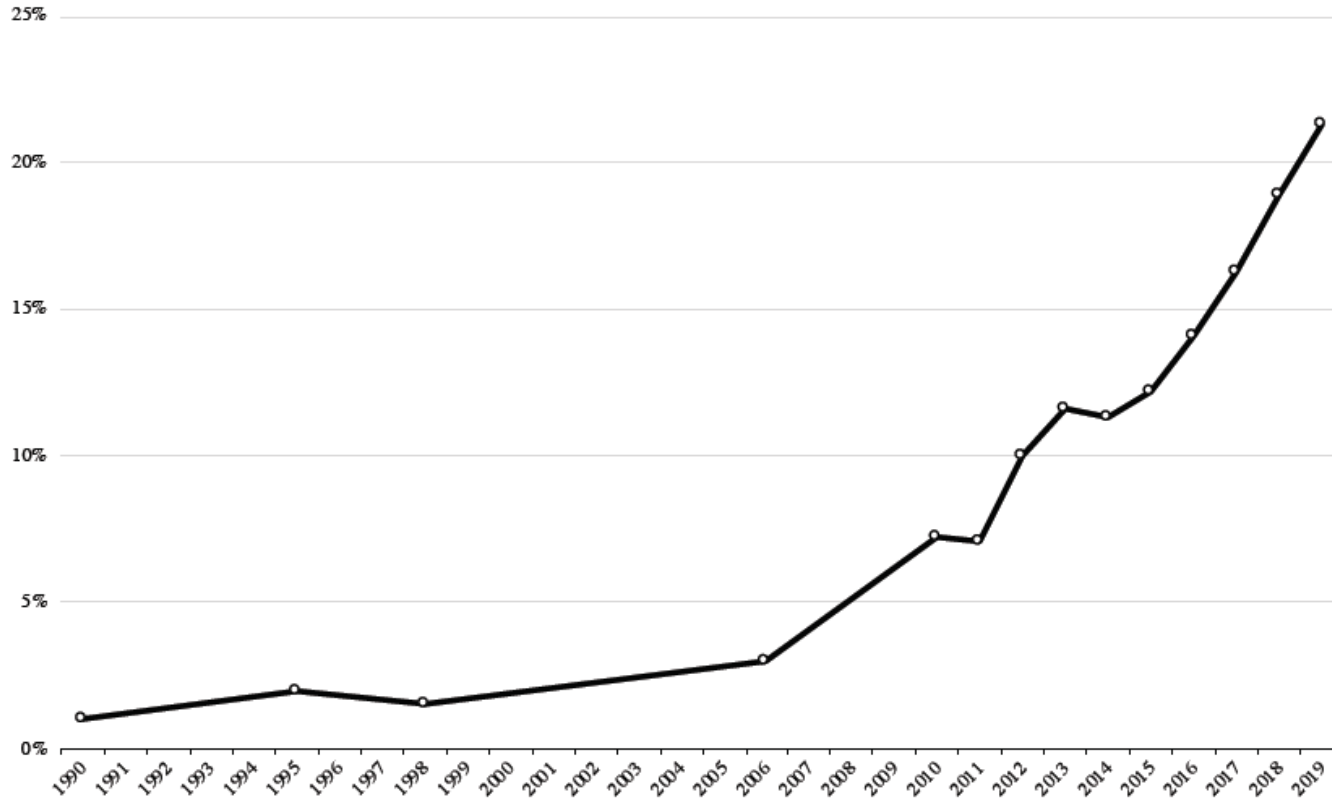
- Inclusion is needed from legal and policy perspectives to preserve the legitimacy of arbitration and enhance the arbitral process
- On-going efforts include ArbitralWomen, The Pledge, and efforts by other committed organizations and practitioners
- The Task Force brings together – for the very first time – many of the key actors in the arbitration community to compile and analyze statistics, assess the current state of diversity, and propose steps on how to effect positive change

Why Focus On Gender Diversity?

- Segments of the lawyer population are at different stages of advancement
- Most institutions maintain statistics on gender – but do not maintain statistics on other diverse populations
- ICCA has initiated a Diversity & Inclusion Policy and an Implementation Plan to focus on other areas of diversity as well

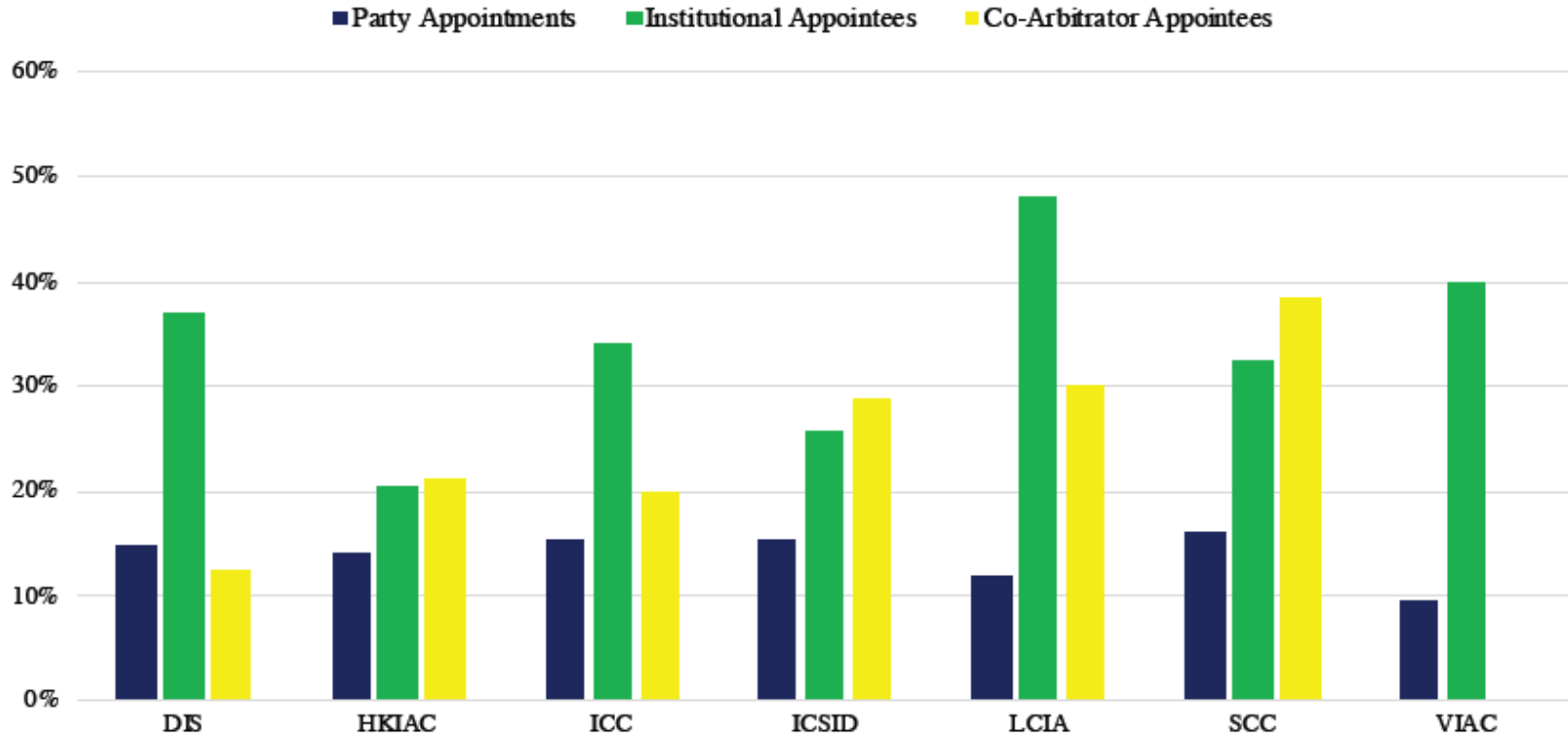
Historic Average Percent Progression Of Female Appointments Across Institutions, 1990-2019

Report, Figure 2



Women As A Percentage Of Arbitrators Appointed In 2019

Report, Figure 7



The Importance of Diversity in Arbitration

Report, Part II, Section 1

- International law, treaties, declarations, and other instruments promote and require gender diversity
- The best talent may be female – and should not be ignored
- Gender diversity enhances the legitimacy of arbitration proceedings
- Gender diversity improves the arbitral process and outcome of disputes

Diversity Campaigns Are Important Contributors To Progress

See Report, Part III, Section IV.A

- 1993: ArbitralWomen
 - Advances the interests of female practitioners and promotes women and diversity in international dispute resolution

- 2015: Equal Representation in Arbitration Pledge
 - Seeks to increase the number of women appointed as arbitrators to achieve a fair representation, with the ultimate goal of full parity

Women As A Percentage Of Total Arbitral Appointments, 2015-2019

Report, Table 1

Institution	2015 (%)	2016 (%)	2017 (%)	2018 (%)	2019 (%)
CAS	13 (3.7)	43 (8.7)	7 (1.9)	8 (5.4)	2 (25.0) ⁴⁶
DIS	40 (13.4)	33 (12.4)	50 (15.2)	29 (12.4)	33 (17.5)
HKIAC	16 (9.7)	19 (12.1)	27 (14.4)	32 (12.7)	51 (18.0)
ICC	136 (10.4)	209 (14.8)	249 (16.7)	273 (18.4)	312 (21.1)
ICDR	140 (17)	180 (16)	246 (22)	229 (22)	213 (24)
ICSID	21 (11.4)	21 (13.2)	37 (18.9)	55 (23.8)	37 (19.3)
LCIA	71 (15.8)	102 (20.5)	97 (24)	102 (23)	163 (29)
PCA	6 (12.5)	4 (10.5)	5 (15.2)	9 (19.6)	5 (20)
SCC	39 (14)	41 (16)	46 (18)	69 (27)	52 (23)
VIAC	8 (14.3)	12 (17.1)	7 (16.7)	15 (24.6)	11 (16.4)
<i>Average %</i>	<i>12.2</i>	<i>14.1</i>	<i>16.3</i>	<i>18.9</i>	<i>21.3</i>

Reasons For The Lack Of Gender Diversity

Report, Part II, Section 3

- ❑ Diversity is low on the list of priorities
- ❑ Impact of unconscious bias
- ❑ Aversion to first-timers
- ❑ Limited access to information about qualified female candidates

Opportunities To Address Diversity

Report, Part III, Section IV

- Identify and consider qualified female candidates for appointments
- Sponsor diversity initiatives
- Recognize and address unconscious bias
- Mentor and train women lawyers, and promote their visibility
- Reflect diversity in institutional panels and rosters
- Promote transparency in arbitral appointments
- Require diversity in counsel teams and arbitrator appointments
- Promote a positive work culture with flexible working arrangements

Recommendations For Young Practitioners

Report, Part III, Section IV

- Invest in relationships with arbitral institutions
- Seek out leadership opportunities
- Be visible and build your network
- Demonstrate the qualities of an arbitrator
- Be excellent in your first – and subsequent – appointment(s)
- Actively participate in trainings, conferences, moots, and arbitration associations and organizations
- Identify mentors and sponsors

Panelist Suggestions

Promote And Consider Women In The Arbitrator Selection Process

- Selection of arbitrators is a complex issue
- Important to ensure an adequate pipeline of potential women arbitrators:
 - Support Young ICCA and other “young” organizations
 - Provide women with experience in law firms
 - Promote young women seeking arbitrator experience