

LEADING ARBITRATOR CALLS FOR GREATER DIVERSITY IN CHANGING GLOBAL ARBITRATION LANDSCAPE

20 November 2019 | Australia, Asia Pacific
Firm news

A leading arbitration lawyer has stressed the need for gender and ethnic diversity in global arbitration at a keynote lecture held in Brisbane last night.

[Paula Hodges QC](#), Herbert Smith Freehills' Head of Global Arbitration and President of the London Court of International Arbitration (LCIA) – one of the world's leading international institutions for commercial dispute resolution – is visiting Australia as part of Australian Arbitration Week, currently underway in Brisbane.

Delivering the Chartered Institute of Arbitrators (CIArb) Annual Lecture at the Herbert Smith Freehills' Brisbane office last night, Ms Hodges told the audience that in the last 60 years there has been a vast increase in the number of international arbitrations.

"It would appear to be a success story given the growth in user demand. But we mustn't rest on our laurels without questioning that success and whether arbitration is delivering what users need," Ms Hodges said.

In her lecture titled *The Continuing Evolution of International Commercial Arbitration – Is It Still Fit for Purpose?*, Ms Hodges said there was a preference for arbitration over other methods of dispute resolution due to the enforceability of awards, flexibility, and the ability to avoid specific legal systems or national courts. But costs, a lack of effective sanctions and a lack of power in relation to third parties were ongoing criticisms.

In her wide-ranging analysis of the state of arbitration globally, Ms Hodges highlighted the efforts of arbitration practitioners to control costs and run arbitrations more efficiently. However, she stressed that while arbitration leaders must be mindful of criticisms and attempt to have them addressed, many perceived negatives cannot be resolved without putting at risk some of the most valuable features of arbitration.

“There is a considerable tension between the inherent flexibility and adaptability of arbitration and the efforts to drive ever greater regulation and structure around the arbitral process. It is critical that we avoid the "over-regulation" of arbitration, leaving enough to the discretion of parties and tribunals to tailor the right procedure for the parties and the dispute.”

Ms Hodges said a key part of the challenge of ensuring arbitration remained ‘fit for purpose’ was employing a greater focus on diversity.

“Gender diversity has rightfully received focus, but we also have to address regional and ethnic imbalance within the arbitration community.

“The efforts of the arbitral institutions are helping to bridge the gap, but it is down to counsel and the parties themselves to make diverse tribunals a reality.”

Ms Hodges said that any consideration of the future evolution of arbitration must also focus on new technologies.

“We are already realising huge potential in this area in limiting the scope of document review, in the presentation of evidence and in ensuring the security of the documents that we share in an arbitration,” she said.

Ms Hodges said existing technological advancements had changed the face of arbitration, but with the advent of new technologies such as "Augmented Reality" and blockchain, arbitrators and practitioners need to upskill.

“There is more technological change to come, and we can categorically predict that we will need to upskill.”

“The story of international arbitration is one of development, adaption and change, and gender diversity and technological advances will play a vital role in the chapters to come.”