



Diversity, Inclusion & the Future of Dispute Resolution

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Agenda



Foundations: Why Diversity Belongs at the Core

The legal architecture and doctrinal foundations that place diversity at the heart of arbitral legitimacy.



Evidence, Law-Finding & Award Acceptability

How diverse tribunals enhance quality of decision-making and award enforcement.



Appointments, Disclosure & Challenge

Critical junctures where diversity is won or lost in arbitral practice.



Comparative Systems & Public Law Analogies

Lessons from jurisdictional approaches and judicial diversity initiatives.



Data & User Perspectives

What empirical evidence tells us about diversity in international arbitration.



Operational Playbooks

Practical strategies for counsel, institutions, and arbitrators to enhance inclusion.

Our Central Thesis

Diversity is not optics—it is performance.

Arbitration began as a private, contractual process, yet today it stands on a public-facing scaffold of legislation, conventions, and institutional rules. In such a system, **who sits** is a legal and legitimacy variable, not decoration.

The future of dispute resolution will be decided by whether our tribunals can see what our parties see—across cultures, languages, industries, and legal traditions.

"If everyone is thinking alike, then no one is thinking."

Evidence & Fact-Finding Enhancement

How Diverse Tribunals Improve Fact-Finding

- Cultural and sectoral lenses shape how tribunals weigh testimony, industry usages, and interpret silence in records
- Mixed panels interrogate assumptions from multiple directions, reducing blind spots
- Heterogeneous knowledge backgrounds lead to more robust findings of fact
- Different life experiences enable scrutiny of implicit biases in witness credibility assessment



Tribunals composed of members with varied backgrounds are better equipped to understand nuanced cultural contexts and industry-specific practices that may be critical to resolving disputes.

The causality between diverse backgrounds and quality of reasoning elevates the justification quality and ultimately enhances award acceptability across different legal cultures and traditions.

Law-Finding & Transnational Norms

Cross-Tradition Interpretation

Tribunals composed across legal traditions are likelier to select and test sources with sensitivity to party expectations grounded in different legal cultures

Legitimacy Enhancement

Parties accept adverse outcomes more readily when the process is representative and reasons speak in a vocabulary legible across borders



Disciplined Discretion

Diverse tribunals exercise discretion within legal frameworks with greater awareness of varying approaches to legal interpretation

Transnational Principles

International cases often turn on transnational norms or soft-law instruments when contracts are silent or clash

Diverse tribunals bridge legal traditions and enhance the legitimacy of awards by ensuring that legal reasoning resonates across jurisdictional boundaries—crucial for both enforcement and voluntary compliance.

The Legal Architecture

1

UNCITRAL Model Law

Articles **11-12** (appointment and challenge) operationalise neutrality

Article **18** insists on equal treatment and full opportunity to present the case

Article **19** protects procedural autonomy

These foundational instruments create a legal framework where tribunal composition directly impacts the validity and enforceability of arbitral awards—establishing diversity as a substantive rather than merely symbolic concern.

2

New York Convention

Article **V(1)(d)** expressly ties enforceability to **tribunal composition** being in accord with party agreement or the law of the seat

This is the doctrinal doorway through which composition—and thus diversity—enters enforceability analysis

Legitimacy & Enforcement

The Enforcement Connection

The New York Convention Article V(1)(d) establishes that awards may be refused recognition if:

"The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place."

This establishes tribunal composition as a **legal risk** to enforcement, not merely an issue of optics or representation.



Homogeneous tribunals may inadvertently heighten enforcement risks if they fail to understand the legal and cultural contexts relevant to the dispute.

Parties more readily accept adverse outcomes when they perceive the tribunal as representative and capable of understanding their position within their cultural and legal framework—directly impacting voluntary compliance and enforcement prospects.

Institutional Rules Reinforcing Diversity

ICC Rules (2021)

Articles 12-13 govern constitution of the tribunal and Court appointments

The ICC Court considers nationality, residence, and other relationships in appointments

LCIA Rules (2020)

Articles 5-7 & 10 address appointments, multi-party scenarios, and replacement

The LCIA Court shall have regard to candidates' "qualifications, expertise, and ability"

SIAC Rules (2016)

Rules 8-10 provide appointment mechanisms and challenge procedures

The President considers "any circumstances that secure the appointment of an independent and impartial arbitrator"

HKIAC Admin Rules (2018)

Articles 9-11 establish appointment criteria and processes

HKIAC shall consider "the candidates' availability, qualifications and ability to conduct the arbitration"

These rules, read together with the **IBA Guidelines on Conflicts of Interest (2014, as updated)**, provide counsel principled levers to widen candidate slates while maintaining independence and impartiality.

The Diversity Gap: Empirical Reality

According to the International Chamber of Commerce (ICC) 2023 figures:

60%

European Arbitrators

Nearly two-thirds of all arbitrators appointed in ICC cases hail from Europe

24%

American Arbitrators

Nearly a quarter of all appointments come from the Americas

12%

Asia-Pacific Arbitrators

Only a small fraction of appointments despite the region's economic significance

4%

African Arbitrators

Severely underrepresented despite the continent's growing arbitration market

These figures reveal a stark imbalance in representation that undermines the global character of international arbitration and raises concerns about its long-term legitimacy.



The Appointment Choke-Point

How the Current Selection Process Limits Diversity

Counsel typically reverse-engineer the "ideal" arbitrator profile through a process that is rational in theory but limiting in practice:

Criteria Definition

Language, governing law expertise, sector fit, temperament, independence, and availability

Candidate Search

Review of background, reputation canvassing, award sampling, conflicts checking

Risk Assessment

Preference for "known quantities" over first-time appointees despite equivalent qualifications

Recurring Appointments

The same names appear across commercial and treaty cases despite case differences

The contradiction emerges: if cases differ in subject matter, governing law, and parties, why do the same arbitrators recur across the spectrum? Because the pool *feels* "small"—a perception reinforced by opaque nomination practices.

Comparative Systems: Courts and Arbitration

Shared Challenges

Courts and arbitral tribunals face similar structural issues:

- Pipeline problems that limit diversity at entry points
- Transparency deficits in appointment processes
- Implicit and explicit bias in selection criteria
- Data gaps that obscure the full picture, particularly in subordinate courts and ad hoc arbitrations

From the UN **Special Rapporteur's** findings on judicial diversity to the **India Justice Report 2020**, the evidence consistently shows structural and cognitive biases, uneven representation at senior levels, and significant data gaps.



The analogy matters: if courts are diversifying and reporting progress, arbitral institutions must meet a similar **accountability** standard; counsel must mirror it in nominations.

Learning from judicial diversity initiatives can provide valuable frameworks for enhancing diversity in arbitral appointments—adapting successful approaches while avoiding pitfalls identified in court systems.

Jurisdictional Tour: Ghana

Legal Framework

Ghana's ADR Act, 2010 (Act 798) provides a modern statutory base for arbitration that:

- Incorporates international best practices while respecting local context
- Establishes clear procedures for arbitrator appointment and challenge
- Provides robust enforcement mechanisms for arbitral awards
- Creates a supportive judicial environment for arbitration

The Ghanaian courts have increasingly supported ADR uptake, enhancing the credibility of the process and encouraging parties to consider arbitration as a viable dispute resolution method.

Ghana represents an emerging arbitration hub in West Africa, with significant potential to contribute diverse arbitrators with expertise in sectors vital to the region's economy, including natural resources, infrastructure, and cross-border trade.



Ghana's emerging arbitration framework creates opportunities to nominate West African arbitrators with relevant expertise in regional disputes.

Jurisdictional Tour: South Africa



South Africa's modernized arbitration framework aligns with international standards while maintaining awareness of regional concerns.

South Africa offers a unique combination of developed legal infrastructure, diverse expertise, and understanding of both common law and civil law traditions—making its arbitrators valuable additions to international tribunals dealing with complex cross-border disputes.

Legislative Framework

South Africa's **International Arbitration Act, 2017**:

- Incorporates the UNCITRAL Model Law, providing a familiar framework for international users
- Gives robust enforcement mechanisms aligned with international best practice
- Establishes clear procedures for arbitrator appointment that can facilitate diversity
- Modernizes South Africa's arbitration regime, increasing its appeal as a seat

South Africa's diverse local expertise in mining, competition, ESG, and other sectors should be leveraged for international panels, bringing valuable industry-specific knowledge to disputes.

Jurisdictional Tour: Hong Kong

Progressive Framework

Hong Kong's **Arbitration Ordinance (Cap. 609)**:

- Aligns closely with the UNCITRAL Model Law
- Unifies the domestic and international arbitration regimes
- Provides strong judicial support for arbitration
- Enshrines confidentiality protections

Institutional practice at HKIAC demonstrates sophisticated multi-language, multi-contract case management—ideal for broadening Asia-focused arbitrator slates.

Hong Kong's position as a bridge between East and West makes it an important source of arbitrators who understand both Asian and Western legal traditions and business practices.



Hong Kong maintains its status as a leading arbitration hub despite political challenges, continuing to offer world-class facilities and expertise.

Hong Kong arbitrators bring valuable linguistic capabilities, cross-cultural understanding, and familiarity with both common law principles and Asian business practices—attributes that enhance tribunal diversity in substance as well as form.

Jurisdictional Tour: India

Progressive Arbitration Framework

India's **Arbitration and Conciliation Act, 1996** (as amended) provides a comprehensive framework:

Section 11

Court supervision of appointments, ensuring appropriately qualified arbitrators

Section 12(5)

Stringent independence requirements with reference to the Fifth and Seventh Schedules

Section 18

Equal treatment guarantee, supporting balanced tribunal composition

Sections 34/48

Challenge and enforcement pathways that consider tribunal composition

This framework provides ample doctrinal support to insist on **broad-based** tribunal constitution, reinforced by the Supreme Court's progressive jurisprudence on arbitrator independence and impartiality.



What the Data Tells Us: User Perspectives

White & Case / Queen Mary 2021 Survey Findings

This authoritative survey revealed several key insights:

- Visible progress on **gender** diversity, but much less on **geographic, age, cultural, and ethnic** diversity
- Users identify a **significant role for institutions and counsel** in addressing the pipeline problem
- Call for **visibility-building initiatives** including education in emerging jurisdictions, mentorships, and speaking opportunities for less-experienced arbitrators
- Recognition that diverse tribunals deliver higher quality decisions by bringing multiple perspectives to complex issues



Users increasingly recognize diversity as a quality indicator, not merely a representation issue.

These insights should motivate practical steps: develop and publish **diverse-shortlist policies**, commit to regular audits, and create structured opportunities for new arbitrators to gain visibility and experience.

Transparency Projects: Building Confidence

Evidence-Based Nomination Confidence

Emerging transparency initiatives are transforming how parties select arbitrators:

Arbitrator Intelligence

Aggregates feedback and data on arbitrator performance, providing an evidence base for nominations

Institutional Rosters

Increasingly include detailed information on arbitrator experience, expertise, and approach

Diversity Databases

Compile information on qualified arbitrators from underrepresented groups to facilitate identification

These projects reduce perceived "first-time" risk while preserving quality and neutrality. They enable parties to nominate outside the usual suspects with greater confidence by providing objective data on capabilities and approach.

Transparency tools transform diversity from an aspirational goal to a practical reality by addressing the information asymmetry that often drives parties toward familiar names.

Female Arbitrator Perspective



Female arbitrators bring valuable perspectives that may otherwise be absent from tribunal deliberations.

The **ERA Pledge** (Equal Representation in Arbitration) has made significant progress in raising awareness and increasing appointments of female arbitrators—demonstrating the impact of focused initiatives when supported by institutions and counsel.

Unique Challenges and Contributions

Female arbitrators navigate distinct professional realities:

- Often face higher scrutiny of qualifications despite equivalent expertise
- May encounter implicit bias in evaluation of demeanor and authority
- Bring different lived experiences to assessment of witness credibility and fact patterns
- Often develop innovative case management techniques that benefit all parties

Research shows that mixed-gender tribunals tend to deliberate more thoroughly and consider a wider range of perspectives—enhancing the quality of the decision-making process and the resulting award.

The Female Arbitrator Experience: Challenges and Strategies

Navigating Gender-Specific Barriers

Female arbitrators face distinct challenges requiring targeted strategies:

1

Visibility Challenges

Women often report difficulty gaining the visibility necessary for appointments

Strategic networking, publications, and speaking engagements can help overcome this barrier

2

Work-Life Balance

The demanding schedule of international arbitration can present challenges for those with caregiving responsibilities

Flexible hearing schedules and remote participation options can mitigate these issues

3

Implicit Bias

Research shows women may face higher standards and greater scrutiny of their qualifications

Structured selection criteria and blind CV reviews can help combat these biases

4

Success Strategies

Developing sector-specific expertise, participating in women's arbitration networks, and seeking institutional appointments have proven effective

The [Equal Representation in Arbitration Pledge](#) has made significant progress in raising awareness and increasing appointments of female arbitrators—demonstrating the impact of focused initiatives.

Digital Inclusion in the Post-Pandemic Era

Opportunities

- Virtual hearings have lowered geographical barriers to participation
- Remote proceedings reduce travel costs that previously limited arbitrator diversity
- Technology enables participation of experts and arbitrators from underrepresented regions
- Hybrid formats allow flexible tribunal constitution that might otherwise be impractical

Challenges

- Bandwidth inequities can create disadvantages for participants in certain regions
- Time-zone burdens may fall disproportionately on arbitrators from certain areas
- Technology access varies significantly across regions and economic circumstances
- Digital literacy remains uneven, potentially limiting effective participation

The solution is not to "go back" to exclusively in-person proceedings, but to **standardise hybrid approaches**: remote case management conferences, online expert conferencing, witness examination with translation capacity, and budget lines for digital inclusion to prevent new forms of exclusion.



Operational Playbooks

Practical Strategies for Key Stakeholders

Moving from aspiration to implementation requires concrete actions from all participants in the arbitral process. The following playbooks provide practical guidance for each stakeholder group.

Meaningful change requires coordinated effort across the arbitration ecosystem, with each actor taking responsibility for enhancing diversity within their sphere of influence.

Operational Playbook: Counsel

1

Diverse Shortlists by Default

Make diverse candidate consideration the standard practice, not an exception

Include candidates from underrepresented regions, genders, and backgrounds in every selection process

Set internal policies requiring consideration of diverse candidates

2

Nomination Memos

Develop structured nomination memoranda that record sector fit, language capabilities, and independence analysis

Apply the IBA Guidelines colour lists systematically to all candidates

Document selection rationale to ensure decisions are based on qualifications, not familiarity

3

Internal Trackers

Maintain an internal dashboard tracking nominations by sector, language, region, and repeat-appointment rate

Review data regularly to identify patterns and opportunities for improvement

Share aggregated statistics with clients to demonstrate commitment to diversity

4

First-Time Nominations

Include at least one genuinely first-time candidate with precise expertise required in each selection process

Pair less experienced arbitrators with seasoned chairs to mitigate perceived risk

Utilize tools like Arbitrator Intelligence to identify qualified new candidates

Counsel serve as critical gatekeepers in the arbitrator selection process—their commitment to diversity can drive systemic change throughout the arbitration ecosystem.

Operational Playbook: Institutions



Publish Disaggregated Statistics

Release detailed data on appointments including gender, region, appointing channel (party vs institution vs co-arbitrator), language capabilities, and repeat-appointment rates

Track year-on-year progress against diversity metrics



Implement Pairing Strategies

Use strategic pairing to de-risk first-time appointments by combining experienced chairs with newer co-arbitrators

Develop mentoring relationships between established and emerging arbitrators



Enhance Transparency

Disclose arbitrator names where policy allows to widen discoverability

Publish redacted decisions on arbitrator challenges to build understanding of standards



Broaden Rosters

Actively recruit qualified candidates from underrepresented groups for institutional rosters

Create clear pathways for newer arbitrators to join panels and gain experience

Institutions possess unique powers to shape the arbitrator marketplace through their appointment practices, data collection, and policies—making them powerful agents for enhancing diversity.



Operational Playbook: Arbitrators

For Established Arbitrators

- Mentor emerging arbitrators from underrepresented groups
- Nominate diverse co-arbitrators when serving as chair
- Support transparency initiatives by sharing redacted procedural orders where permissible
- Advocate for diversity in speaking engagements and professional activities

For Emerging Arbitrators

- Publish **precise bios** detailing industry verticals, procedural strengths, and languages
- State **measured availability** to demonstrate commitment
- Participate in visibility-building activities such as writing, speaking, and institutional committees
- Develop demonstrable expertise in specific sectors or issue areas

Visibility is not vanity; it is how appointing parties evaluate fit. Arbitrators at all career stages have important roles to play in enhancing diversity and inclusion in international dispute resolution.

Client Role: Moving Beyond Symbolism



In-house counsel can drive change by setting clear expectations about diversity in tribunal formation.

Clients hold significant power to influence arbitrator selection practices through their instructions to counsel and choice of institutions—their active engagement is essential for meaningful progress.

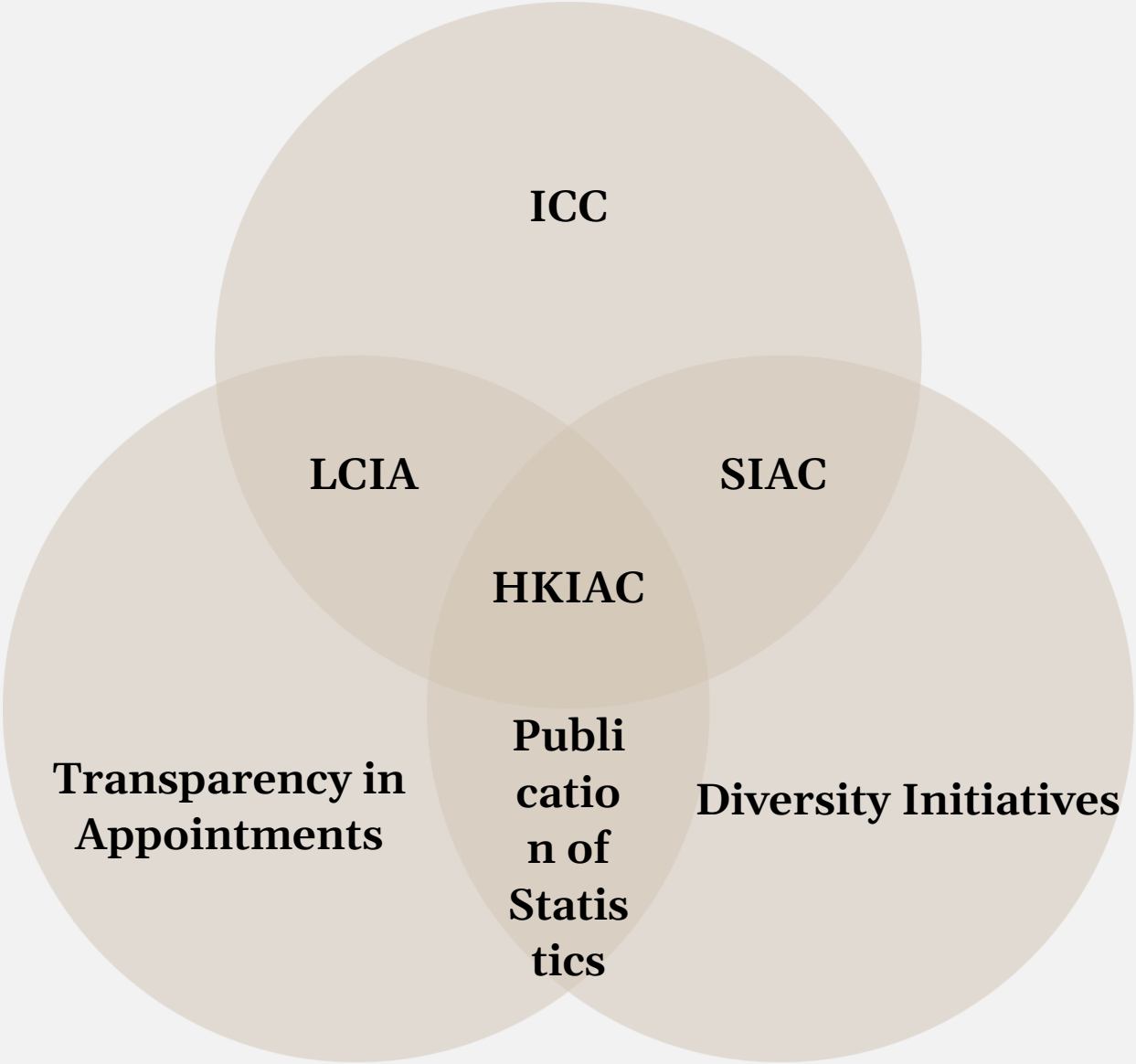
Client-Driven Diversity Initiatives

Corporate and governmental clients can enhance diversity through:

- Including diversity expectations in outside counsel guidelines
- Requesting diverse shortlists for all arbitrator nominations
- Tracking and reporting on diversity in their dispute resolution processes
- Supporting the appointment of qualified first-time arbitrators
- Considering diversity when drafting arbitration clauses and selecting institutions

Your "Novel Solution" section rightly puts the onus on *all* actors—including clients—and stresses that symbolism without structural change is not enough.

Comparative Institutional Approaches



Institutions vary significantly in their approaches to diversity enhancement, with some focusing on gender balance, others on regional representation, and still others on age diversity and first-time appointments.

The most effective institutional strategies combine clear diversity policies, transparent reporting, active roster development, and strategic pairing of experienced and newer arbitrators.

The Pipeline Challenge: Building for the Future

Long-Term Pipeline Development

Sustainable diversity requires attention to the pipeline of future arbitrators:

- Educational initiatives in emerging arbitration jurisdictions
- Scholarships and mentoring programs for underrepresented groups
- Speaking and writing opportunities for rising arbitration practitioners
- Tribunal secretary roles as pathways to arbitrator appointments
- Young arbitrator forums and networking opportunities



The arbitrators of tomorrow are developing their expertise today—investment in pipeline development will yield long-term benefits for the field.

Pipeline development requires coordinated effort from universities, arbitral institutions, law firms, and experienced arbitrators to identify, nurture, and promote diverse talent that will shape the future of international dispute resolution.

Cultural Intelligence in Arbitral Proceedings

Beyond Representation: Cultural Competence

Diversity enhances tribunal effectiveness through cultural intelligence:

- Understanding of how cultural contexts shape contract interpretation
- Recognition of varying approaches to witness testimony across cultures
- Awareness of differing attitudes toward authority, directness, and conflict
- Appreciation of distinct communication styles and their impact on proceedings
- Sensitivity to how language barriers affect party participation

Culturally diverse tribunals are better equipped to navigate these complexities, avoiding misunderstandings that can lead to flawed decisions or enforcement difficulties.



Cultural intelligence is not merely about representation—it directly impacts the quality of fact-finding and procedural fairness.

True diversity goes beyond demographics to encompass the substantive cultural competence that enhances tribunal effectiveness in cross-border disputes involving parties from different legal traditions and business cultures.

Case Study: Successful Diversity Initiatives



Africa Arbitration Academy

Created a pipeline of African arbitrators through:

- Training programs for practitioners across the continent
- Mentorship by established international arbitrators
- Visibility opportunities at major arbitration events
- Database of qualified African practitioners

Result: Significant increase in appointments of African arbitrators in regional disputes



ArbitralWomen

Advanced gender diversity through:

- Networking and mentoring programs
- Database of qualified female practitioners
- Collaboration with institutions on diversity policies
- Regular reporting on gender statistics

Result: Female arbitrator appointments have more than doubled in the past decade



Young ICCA

Addressed age diversity through:

- Mentoring program pairing emerging and established arbitrators
- Skills workshops and scholarship opportunities
- Publication opportunities for young practitioners
- Global network of future arbitration leaders

Result: Created pathways for younger practitioners to gain visibility and experience

These initiatives demonstrate that targeted, structured approaches to specific aspects of diversity can yield measurable results—providing models that can be adapted and scaled across the arbitration community.



The Business Case for Diversity

Beyond Moral Arguments: Performance Enhancement

Research consistently demonstrates that diverse groups make better decisions:

20%

Performance Improvement

Studies show diverse teams outperform homogeneous teams by up to 20% in decision-making tasks

87%

Error Reduction

Diverse groups are more likely to identify and correct errors in reasoning and fact assessment

35%

Innovation Increase

Teams with diverse backgrounds generate more innovative solutions to complex problems

For parties and counsel, diverse tribunals offer tangible benefits: reduced groupthink, more thorough deliberation, greater scrutiny of assumptions, and awards that reflect consideration of multiple perspectives—all contributing to better outcomes and enhanced legitimacy.

Linguistic Diversity and Procedural Fairness



Slide 34 — Linguistic Diversity

Script:

“Panels with relevant languages reduce translation distortion and cost.”

Language is a fairness decision linked to equal treatment. Document-heavy cases become more complex and costly when multiple languages are involved.

If rushed: “Language = fairness.”

Transition: “Generations.”

Language as a Diversity Factor

Linguistic diversity impacts arbitral proceedings in several ways:

- Parties may experience disadvantages when proceedings occur in languages they do not master
- Translation and interpretation can introduce distortions in testimony and argument
- Cultural nuances embedded in language may be lost in translation
- Document-heavy cases become more complex and costly when multiple languages are involved
- Tribunals with relevant language skills can directly access evidence without intermediation

Arbitrators with multilingual capabilities bring significant value to international disputes, enhancing both efficiency and fairness.

Language capabilities directly impact procedural fairness and equal access to justice in international proceedings.

When constituting tribunals, language skills should be considered not merely as practical tools but as substantive contributions to procedural fairness and equal treatment of the parties—principles enshrined in Article 18 of the Model Law.

Generational Diversity: The Next Frontier

Age Diversity Benefits

Including arbitrators from different generations brings several advantages:

- Combines fresh perspectives with established experience
- Enhances understanding of evolving commercial practices
- Improves technological adaptation in proceedings
- Creates natural knowledge transfer opportunities
- Ensures continuity in the field through generational transition

The significant age gap between the average commercial arbitrator and the average in-house counsel or corporate client can create disconnects in expectations and approaches.



As Dr Osei Bonsu Dickson noted in his invitation, "Modern arbitration thrives on diversity—of culture, of thought, of gender, race and even of approach."

Generational diversity initiatives such as the [Young ICCA Mentoring Programme](#) and institutional "shadow" schemes are creating pathways for younger practitioners to gain experience and visibility—essential for sustainable diversity in the field.

Disability Inclusion: An Overlooked Dimension

Accessibility in Arbitration

The arbitration community has paid insufficient attention to disability inclusion:

Physical Accessibility

Hearing venues must be accessible to participants with mobility impairments

Travel requirements can create barriers for arbitrators with certain disabilities

Digital Inclusion

Virtual hearings must consider accessibility needs, including screen readers and captioning

Electronic document formats should be accessible to all participants

Procedural Adaptations

Flexible scheduling may be necessary to accommodate health-related needs

Communication methods may need adjustment for participants with sensory disabilities

The rise of remote and hybrid proceedings presents an opportunity to enhance inclusion for arbitrators and practitioners with disabilities—removing physical barriers while creating new possibilities for participation.

Embracing disability inclusion not only widens the pool of available talent but also demonstrates the arbitration community's commitment to true diversity in all its dimensions.

Cognitive Diversity: Beyond Demographics

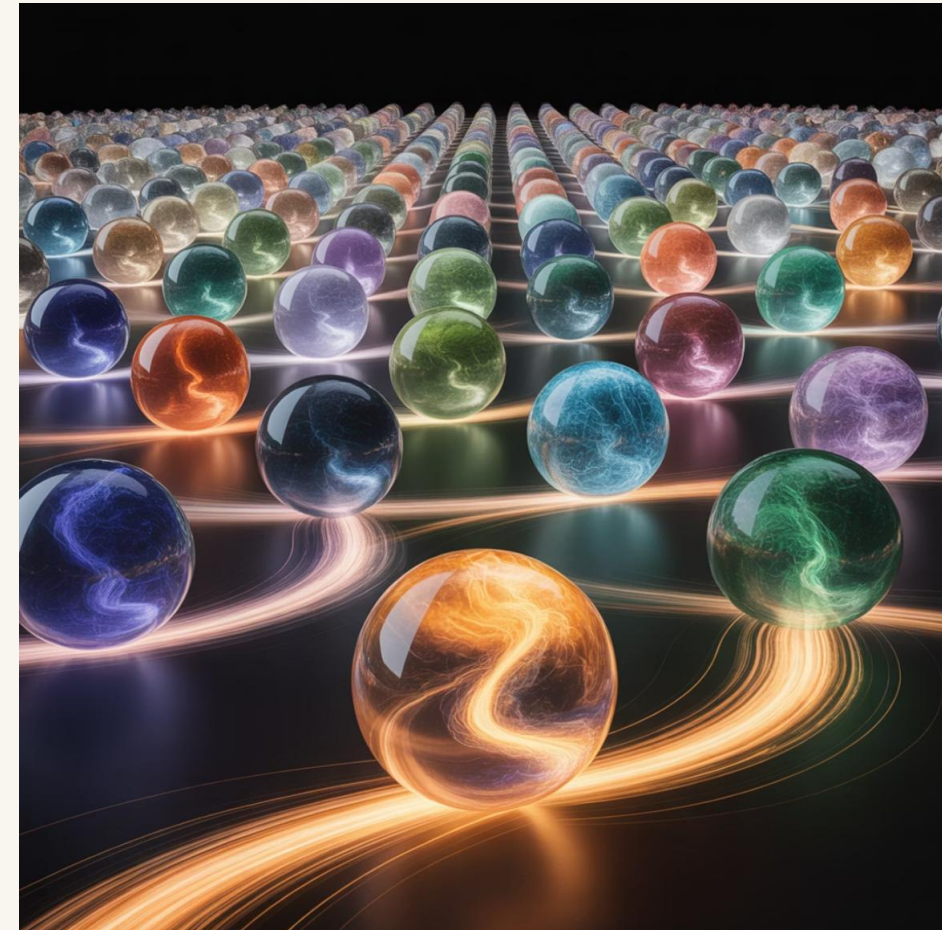
The Value of Different Thinking Styles

Cognitive diversity—variation in how people think, process information, and approach problems—may be the most valuable form of diversity for decision-making:

- Different analytical frameworks lead to more thorough evaluation of evidence
- Varied problem-solving approaches generate more comprehensive solutions
- Diverse thinking styles help identify blind spots in reasoning
- Complementary cognitive strengths enhance tribunal effectiveness
- Mixed thinking patterns improve adaptation to novel situations

Demographic diversity often serves as a proxy for cognitive diversity, but the two are not perfectly aligned—both require intentional consideration in tribunal formation.

A truly effective tribunal combines various thinking styles—systematic and intuitive, detail-oriented and big-picture, risk-averse and innovative—creating a decision-making environment where assumptions are questioned and reasoning is rigorous.



Research in decision science consistently shows that cognitively diverse groups produce better-reasoned decisions, particularly in complex analytical tasks.

Geographical Diversity: Beyond North-South Divides

Regional Representation Matters

Geographical diversity remains significantly underdeveloped compared to gender diversity:

60%

European Dominance

European arbitrators continue to dominate international appointments despite global caseloads

12%

Asia-Pacific Share

Only 12% of arbitrators come from Asia-Pacific despite the region's economic significance

4%

African Representation

African arbitrators remain severely underrepresented at just 4% of international appointments

Regional diversity brings essential perspectives on:

- Local commercial practices and business customs
- Regulatory environments and compliance expectations
- Cultural contexts that shape contract performance
- Enforcement realities in different jurisdictions

Geographic diversity enhances both the quality of decision-making and the legitimacy of the arbitral process across regions—particularly important as arbitration continues to globalize.

Measurement and Accountability



"What gets measured gets managed"—transparency drives progress through accountability.

Transparency serves not only accountability but also provides essential data for research on the impact of diversity on arbitral outcomes—building the empirical case for inclusion beyond moral arguments.

Creating Accountability Mechanisms

Effective diversity enhancement requires robust measurement:

- Define clear, measurable diversity metrics across multiple dimensions
- Establish regular reporting cycles with consistent methodology
- Disaggregate data to identify specific areas requiring attention
- Set progressive targets with realistic timeframes
- Create accountability for progress at institutional and firm levels
- Publish results to enable comparison and drive competition

The **Diversity Dashboard** concept—a standardized reporting framework adopted across institutions—would enable meaningful comparison and accelerate progress through healthy competition.

The Contractual Foundation: Drafting for Diversity

Embedding Diversity at the Contract Stage

Parties can proactively support diversity through thoughtful contract drafting:

Institutional Selection

Choose institutions with strong diversity track records and policies

Consider institutions that publish diversity statistics and set diversity targets

Appointment Mechanisms

Design appointment procedures that encourage consideration of diverse candidates

Avoid mechanisms that concentrate appointment power in a single party

Diversity Clauses

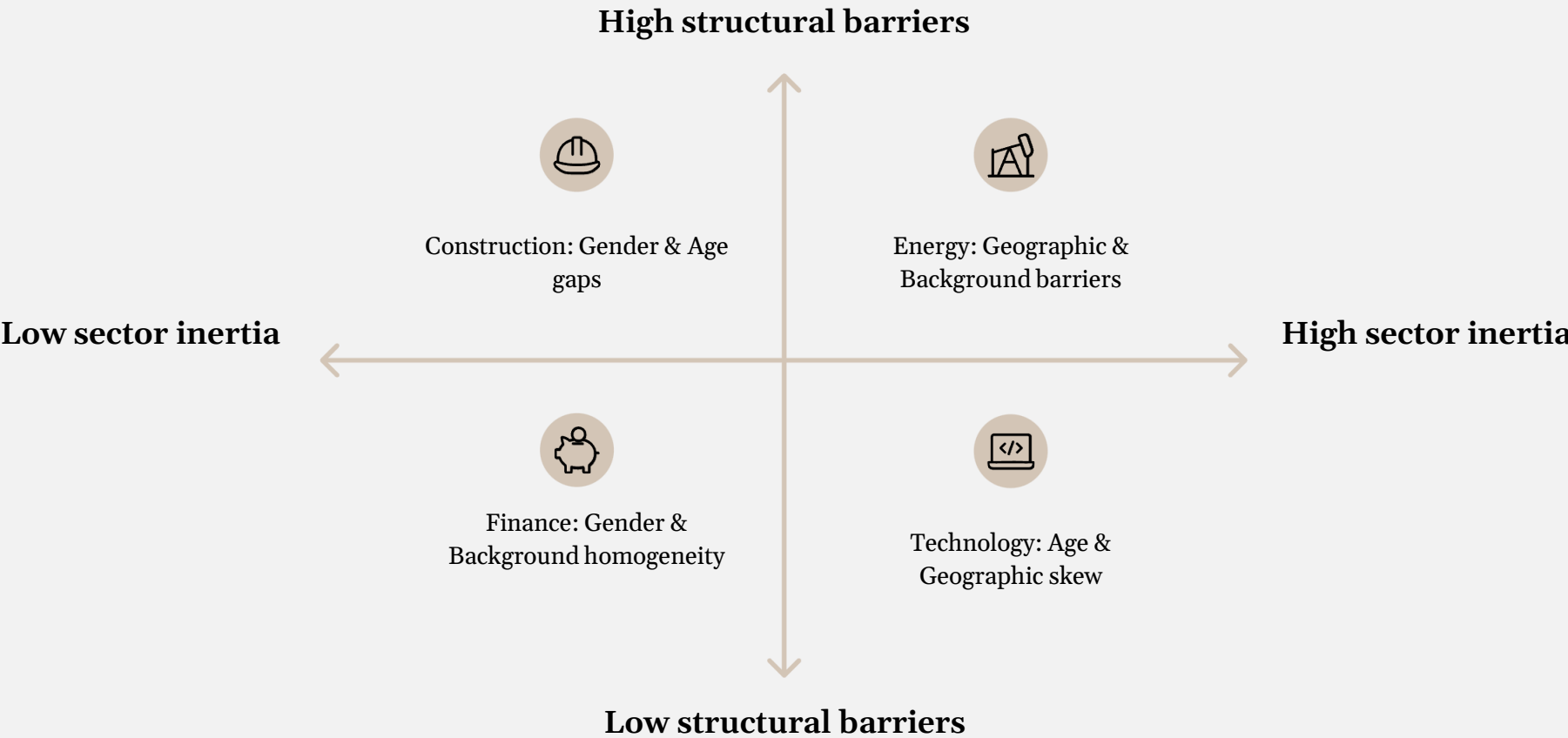
Include express language encouraging diversity in tribunal composition

Specify consideration of diversity factors while respecting party autonomy

Sample clause: *"The parties agree that, when selecting arbitrators, they will consider qualified candidates of diverse backgrounds, including gender, nationality, age, and professional experience, with the aim of constituting a tribunal that reflects the international character of the transaction."*

While such clauses are not legally binding, they establish expectations and provide a basis for diversity discussions during the appointment process.

Sector-Specific Diversity Challenges



The Role of Academia in Enhancing Diversity



Academic institutions shape the future arbitration landscape through their teaching, research, and thought leadership.

As Dr Osei noted in his invitation, CIMA's upcoming course brings together "an outstanding faculty" that "combines scholarship with practical insight"—exemplifying how academic excellence and diversity can reinforce each other.

Academic Contributions to Diversity

Universities and academic institutions can enhance diversity through:

- Inclusive arbitration curricula that feature diverse scholars and perspectives
- Scholarship opportunities for students from underrepresented backgrounds
- Research on diversity impacts on arbitral outcomes
- Mooting competitions that develop skills in diverse student populations
- Faculty appointments that reflect diversity in the field
- Partnerships with arbitral institutions on diversity initiatives

Academic research provides the empirical foundation for diversity arguments, moving beyond moral appeals to demonstrate concrete benefits in arbitral quality and legitimacy.

Intersectionality in Arbitration

Beyond Single-Axis Thinking

Intersectionality—the overlapping of multiple identity dimensions—creates unique experiences that must be considered in diversity initiatives:

Compound Barriers

Individuals with multiple underrepresented characteristics often face compounded obstacles to advancement

For example, women of colour encounter challenges distinct from those faced by white women or men of colour

Unique Perspectives

Intersectional identities generate distinct viewpoints that enhance decision-making quality

These perspectives may be particularly valuable in complex cross-cultural disputes

Targeted Approaches

Effective diversity initiatives must address specific intersectional challenges

One-size-fits-all approaches often fail to address the needs of those at identity intersections

Sophisticated diversity strategies recognize and address intersectionality, moving beyond single-axis thinking to consider how multiple identity dimensions interact in the arbitration context.





The Path Forward: A Synthesis

The future of diversity in international arbitration depends on integrated action across multiple dimensions:

Immediate Actions

- Implement diverse shortlists by default
- Publish disaggregated appointment statistics
- Leverage existing rules and guidelines

1

Long-Term Transformation

- Address pipeline challenges through education
- Change cultural norms around appointment "safety"
- Integrate diversity into arbitration clauses

3

2

Medium-Term Initiatives

- Develop standardized diversity reporting frameworks
- Create structured mentoring programs
- Establish pairing mechanisms for first-time arbitrators

Progress requires commitment from all stakeholders—institutions, counsel, arbitrators, clients, and academics—working in concert toward a more inclusive and representative arbitration system.

Conclusion: The Promise of Diversity

We began with a simple thesis: **diversity is not optics—it is performance.** The evidence and analysis presented confirm this fundamental truth.

Diversity enhances international arbitration by:

- Improving the quality of factual and legal analysis
- Strengthening the legitimacy of the process across cultures
- Enhancing the enforceability and acceptability of awards
- Ensuring arbitration remains relevant in a globalized economy
- Bringing fresh perspectives to evolving commercial challenges

What remains is consistent, intentional choice—by institutions in their appointments, by counsel in their nominations, by arbitrators in their availability, and by clients in their expectations. Together, these choices will shape a more diverse, inclusive, and effective international arbitration system.

"The future of dispute resolution will be decided by whether our tribunals can see what our parties see—across cultures, languages, industries, and legal traditions."

The tools for this transformation already exist in our legal architecture—from the Model Law to institutional rules, from disclosure requirements to challenge standards.



Call to Action

CIMA's Commitment to Diversity

As a 2025 Title Sponsor, the Center for International Mediators and Arbitrators (CIMA) in England & Wales actively supports diversity in international arbitration through:

Global Webinar Series

Connecting practitioners across key jurisdictions—India, Ghana, South Africa, and Hong Kong—to deepen comparative insights

Educational Programmes

Providing accessible training and certification opportunities for practitioners from diverse backgrounds

Research Initiatives

Supporting scholarship on diversity and inclusion in international dispute resolution

This webinar exemplifies CIMA's commitment to fostering dialogue and knowledge-sharing across jurisdictions and cultures, creating a more inclusive and representative arbitration community.