



ADR VIETNAM CHAMBERS LLC
— INDEPENDENT ARBITRATORS & MEDIATORS —

RECAP ICCA 2024 CONGRESS

Day 2 & 3 -
7 & 8 May 2024



DAY 2 SNAPSHOT

THE ADVOCATE

The second day began with the panel on **“The Advocate”** moderated by Mark W. Friedman, featuring speakers Victor Dawes SC, Karl Hennessee, Jim Lawrence, The Hon Justice Dato Mary Lim FCJ, and Noradèle Radjai.

The speakers analyzed the art of advocate through the study of human behavior, proposing practical methods for building more persuasive arguments.

Following this, discussions focused on arbitration proceedings and the impact of different languages, cultures, and legal systems on arbitration proceedings.



HIGHLIGHT PANELS



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PANEL 9: PROCEDURE AND BEHAVIOURS

Panel 9, chaired by Mr. Maanas Jain, featured speakers Susan Ahern, Gourab Banerji SA, Kap-You (Kevin) Kim, Sammer Thakur, Aisha Nadar, and David Rivkin. The discussion centered on the impact of arbitration procedures on the behavior of practitioners in the proceedings and the integration of human factors in developing dispute resolution procedures.



The speakers highlighted that cultural factors, particularly language, significantly influence communication between parties during dispute resolution. Therefore, preliminary meetings between parties and appointing a neutral cultural expert to provide insights into different legal systems for arbitrators play a crucial role.

PANEL 11

INTER-PERSONAL CONDUCT AND ETHICS

Panel 11, moderated by Abby Cohen Smutny, included speakers Funke Adekoya, Hyung-sik (Brandon) Bang, Nicolas Galvez Solis, Matthe Gearing KC, and Jonathan Lim. The panel focused on ICCA's Guidelines on Standards of Practice in International Arbitration, relating to different roles in arbitration proceedings such as advocates, arbitrators, experts, witnesses, and administrators, considering cultural and legal system differences.

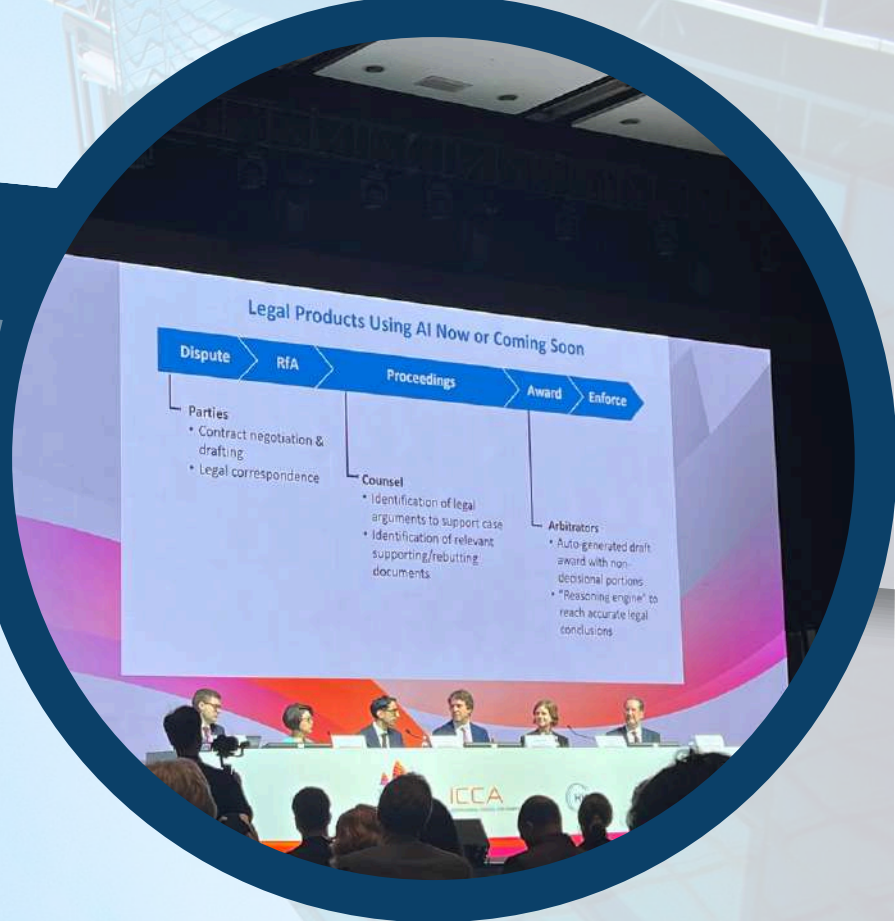
The speakers pointed out challenges in arbitration proceedings, such as the lack of effective sanction mechanisms or the non-binding nature of guidelines, the arbitrators' duty to detect suspicious cases of corruption and bribery, and standards for preparing witness testimonies. The speakers noted that a common standard is difficult to achieve due to differing professional and ethical standards across countries, but the integrity and civility of the arbitration process are paramount. Recognizing multicultural factors and aiming for cultural flexibility in arbitration are crucial.

PANEL 14: COSTS AND ECONOMICS

Panel 14 on "**Costs and Economics**" moderated by Aloysius (Louie) Llamzon and Thomas Stouten, featured speakers Crina Baltag, Rodrigo Garcia da Fonseca, Joanne Lau, and Ruth Stackpool-Moore. The high cost in international arbitration remains a major concern for users.

The speakers argued that access to justice is a fundamental human right and should not be denied due to financial incapacity. Proposed solutions included third-party funding and legal reforms to reduce financial burdens and promote fairness.

DAY 3 IN REVIEW



PANEL 15: INTERNATIONAL ARBITRATION: AN AI ENDEAVOUR

The Potential for AI is Vast, but Human Supervision is Needed

The highlight of the final day is the final panel of the ICCA Hong Kong 2024 congress was moderated by Michael McIlwrath, featuring speakers Christopher Bogart, Emily Hay, Rahim Moloo, Maxim Osadchiy, and Winnie Tam SC, concluding with closing remark by Professor Richard Susskind OBE KC. The discussion revolved around the application and impacts of artificial intelligence (AI) in arbitration.

The speakers acknowledged that AI has been utilized in dispute resolution processes in various forms, such as conflict of interest checks between arbitrators and parties, taking evidence, drafting and reviewing pre-trial documents, outcome prediction, and drafting arbitral awards. However, AI has limitations due to a lack of input data, transparency in decision-making processes, and the ability to objectively assess arguments and evidence. Hence, over-reliance on AI can lead to erroneous decisions in arbitration. The speakers concluded that while AI holds significant potential, it requires a combination of technological advancements, human supervision, and legal regulations to become a valuable tool for practitioners.

For more information:

1, Yashan Huang, Max Joite, Yating Lin, Kritika Sethia, and Gökçe Uyar, ICCA Hong Kong 2024: Advocacy, Procedures, and Ethics in Focus, Kluwer Arbitration Blog, 09/5/2024, <https://arbitrationblog.kluwerarbitration.com/2024/05/09/icca-hong-kong-2024-advocacy-procedures-and-ethics-in-focus/>

2, Yashan Huang & Scarlett Xianshu Wu, ICCA Hong Kong 2024: Technological Horizons, Kluwer Arbitration Blog, 11/5/2024, <https://arbitrationblog.kluwerarbitration.com/2024/05/11/icca-hong-kong-2024-technological-horizons/>

3, Maxim Osadchiy and Erika Santini, Michael McIlwrath, Are Arbitral Institutions Using Artificial Intelligence? The State of Play in Adopting AI, 8/5/2024, <https://arbitrationblog.kluwerarbitration.com/2024/05/08/are-arbitral-institutions-using-artificial-intelligence-the-state-of-play-in-adopting-ai/>

IMPACT ON VIETNAM'S ARBITRATION PRACTITIONERS

Advocacy skills and factors affecting advocacy discussed at the ICCA Congress highlight the importance of Advocacy skills for arbitration practitioners, especially lawyers. Vietnamese lawyers not only need to advocate in arbitration at domestic arbitration institutions like VIAC but also at international arbitration institutions such as ICC, SIAC, KCAB or HKIAC, where most arbitrators come from common law systems. Therefore, understanding arbitration procedural rules, advocacy styles in different legal systems, and international arbitration standards is crucial for Vietnamese lawyers.

The recent publication of **ICC Guidelines on Facilitating Settlement in International Arbitration** by the ICC signifies a growing trend towards prioritizing effective and cost-efficient resolution, rather than just dispute settlement. The VIAC's 2022 Procedural Guidelines for arbitrators have also introduced and encouraged the use of case management tools like Case Management Conferences (CMC), Procedural Orders (PO1), and Procedural Timetables. These tools help ensure fair, efficient, and cost-effective arbitration management, however, they are still relatively new to arbitration practitioners in Vietnam.

ADOPTION OF LATEST INTERNATIONAL ARBITRATION TRENDS IN VIETNAM

Also, VIAC, together with the Vietnam Mediation Center (VMC), has developed the Arb-Med-Arb Protocol to promote hybrid process. This shows that Vietnam is also adopting the latest international arbitration trends, though it lags behind the rapid development of Chinese arbitration, particularly in technology applications, including AI.

Additionally, procedures such as Early Dismissal, Expedited Procedure, and Emergency Arbitrator are new arbitration procedures adopted by international arbitration institutions to ensure efficient and cost-effective arbitration. Currently, the Vietnam Lawyers Association has recommended the incorporation of provisions concerning Emergency Arbitrators in the draft amendment of the 2010 Law on Commercial Arbitration to be submitted to the National Assembly for consideration.

The application of AI in arbitration and its impact on practitioners have been actively discussed at global arbitration forums like ICCA Congress and the 2024 London International Disputes Week (LIDW). While there are no statistics on AI applications in dispute resolution in Vietnam, the efforts to apply AI by domestic arbitration centers like VIAC are evident through the upcoming launch of an online case management platform in 2024.

THANK YOU

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