

Achieving Gender Equality on the ICC International Court of Arbitration

A Giant Step

Mirèze Philippe

Mirèze Philippe is Special Counsel at the Secretariat of the ICC International Court of Arbitration, co-founder of ArbitralWomen and Board member and member of the Equal Representation in Arbitration Steering Committee. She is also member of the Board of Advisors of Arbitrator Intelligence, Member of the Editorial Board of International Journal of Online Dispute Resolution, and fellow of the National Centre for Technology and Dispute Resolution ('NCTDR').

The views expressed are those of the author only and should not be thought to reflect those of ICC, the International Court of Arbitration or its Secretariat. The author is continuously grateful to her colleagues Francesca Hill, Stephanie Knöglinger, Elisabeth Passedat, Nancy Senmartin, Céline Unwin-Germond and Elina Zlatanska, who collate and sort the data. No statistics could be published without their meticulous work.

July 2018 marks a historical moment for ICC and indeed arbitration generally, through the efforts driven by Alexis Mourre, President of the ICC Court. By leaping forward to balance the male/female ratio on the ICC Court, this ICC directive shows how, to bring out change, one must set the tone from the top. Progress is also noted with respect to the number of female arbitrators. As annual statistics provide objective elements of comparison and assess where we stand, the author has regularly presented empirical studies on women's involvement in dispute resolution. This article is a follow-up of recent developments.

Introduction

While history shows that women have faced many obstacles in all professional fields, diversity is now - and since the last five years - centre stage, especially in the business and legal communities

In the past, women were sometimes tolerated to act to a certain extent in some professional fields but were often prevented to continue for many reasons. On a few occasions, they had to change their identity and outfit in order to be able to practice their talents.

A few examples will illustrate the long history of women who braved the prohibitions to practice their profession or to claim for their rights. In 1791, during the French revolution, Olympe de Gouges, on behalf of a new feminist movement, drafted the declaration of rights of women ('Déclaration des droits de la femme et de la citoyenne') but her bravery was rewarded ... with the guillotine. In the 19th century, the French novelist Amantine-Lucile-Aurore Dupin, best known by her pseudonym George Sand, had to use a man's name to be able to publish, and the French sculptor Camille Claudel, who was apparently more talented than her brother Paul Claudel or August Rodin, was not allowed the place she deserved.

Despite anti-discrimination and equality acts, unequal treatment has persisted over the centuries. Although the principle of equality between men and women in all fields was adopted in many countries, e.g. the principle was introduced in the preamble of the French Constitution in 1946, equality is far from being achieved.

In her book about her famous mother Dame Rose Heilbron, the equally famous Hilary Heilbron wrote that her mother was the first female King's counsel (and later Queen's counsel ('QC') when the king died) to take silk in 1949, exactly 30 years after the Sex Disqualification Removal Act of 1919 in the

United Kingdom.¹ Hilary was the 29th woman QC in 1987. Therefore, it was not a great deal of progress for women in 38 years, wrote Cherie Blair in her foreword to the book. Dame Heilbron experienced discrimination that she succeeded to overcome thanks to the quality of her work and her personality.

The successful career of Dame Heilbron was rather unique in the mid-20th century, and did not stop when men came back from World War II. Many women who served in numerous roles during World Wars I and II were not so lucky. The example of Joy Lofthouse, pilot of spitfires during WWII is a testimony of this discrimination. She reported that 168 women flying spitfires were welcomed by men at time of war, but once the war ended, there was no place for women to continue their pilot career and they were sent back to the kitchens!²

History also shows that women have been involved in arbitration and mediation throughout the times, but their involvement in dispute resolution was and still is full of obstacles along the way, although many initiatives are paved with good intentions.

In a fascinating recent book,³ two authors published their research to find out what happened to women in practice over 4,000 years mainly in Europe. They provide insights on women resolving disputes throughout the centuries, in history, in literature and even in legend.⁴ The authors observe that it was common for women - particularly those of high rank - to mediate and arbitrate, although political or religious authorities, alas, often expressly forbade women to act in such roles and in any other role, for various unjustified reasons, probably as women were likely to gain power. Under the Roman Emperor Justinian, women were ordered not to arbitrate, failing which their awards would have no legal effect.

Female lawyers and judges from several jurisdictions fought hard to be admitted at the bar and on the bench. Despite the barriers, an author recounts the story of several French female lawyers who succeeded in the defence of famous cases and crimes.⁵

Amazing and inspiring women throughout the world undertook admirable initiatives and also strived for the rights of women in all fields.

'A lot has happened, not enough has changed' observed Dame Helena Kennedy in her introduction on 'the illusion of inclusion'.⁶ The illusion indeed persisted, since throughout history women struggled for freedom and equality. At times there have been signs of progress but some of them quickly vanished. Recent initiatives and achievements however show true signs of progress - at least in the field of dispute resolution - as demonstrated by such unrivalled and complete gender parity among members of the ICC International Court of Arbitration (I) or the data on female arbitrators published by dispute resolution institutions such as ICC. The ICC 2017 gender statistics below follow the same breakdown as previous years to allow comparison (II).⁷

1 Hilary Heilbron 'The Story of England's First Woman Queen's Counsel and Judge Rose Heilbron', Oxford and Portland, Oregon, 2012

2 The author refers to the example of Joy Lofthouse in her article 'Redressing the Balance: The Path Ahead for Gender and Generational Diversity on Arbitral Tribunals' (October 2016), available at <http://arbitrationblog.kluwerarbitration.com/2016/10/31/redressing-the-balance-the-path-ahead-for-gender-and-generational-diversity-on-arbitral-tribunals/#comments>. See also <https://blog.francetvinfo.fr/bureau-londres/2018/03/08/hommage-joy-lofthouse-lune-des-seules-femmes-pilotes-de-spitfire-durant-la-guerre.html>

3 Susanna Hoe and Derek Roebuck 'Women in disputes: a history of European women in mediation and arbitration', 2018, Holo Books, Oxford; or Gaunt Inc. Law Books, Florida

4 See the book review by Louise Barrington 'Book on women in dispute', *ArbitralWomen Newsletter*, issue 25, April 2018 <https://www.arbitralwomen.org/Media/Newsletter>

5 Emmanuel Pierrat 'Les femmes et la justice', Editions de la Martinière, 2016

6 Helena Kennedy 'Eve was framed', Vintage, 2005

7 See by the author 'How has Female Participation at ICC Evolved? ICC Arbitrators, Court Members and Court's Secretariat', *ICC Dispute Resolution Bulletin*, issue 2017 / 3

I - Unrivalled parity achieved

1. Female Court members as of 1 July 2018

The number of women members more than doubled between the 2015-2018 mandate and that of 2018-2021, now reaching 97 women for 194 members including vice-presidents, compared to 43 women previously.

When one compares the figures published for the last years to where we are today, it is almost unfathomable that such change could be instituted in this short period.

The change emerged under the presidency of Alexis Mourre during the mandate of 2015-2018, where 43 female Court members were nominated, accounting for 23% of the total number of Court members. The giant leap occurred in July 2018, under the second mandate of Alexis Mourre, where 97 female practitioners including vice-presidents were nominated by the ICC World Council on 21 June 2018.⁸ The constitution of the Court for the 2015-2018 mandate now comprises 50% of women: 88 males and 88 females, and an equal number of 9 male vice-presidents and president and 9 female vice-presidents.

The 194 Court members, including alternate members, overall represent 116 countries and independent territories. Some countries and independent territories are represented by both female and male Court members; female members originate from 75 countries and independent territories.

These achievements are remarkable and deserve to be recorded in the annals of history. ICC Court President Alexis Mourre stated:

To have achieved full gender parity in the ICC Court is a major milestone in the history of international arbitration. We are also extremely proud of the level of renewal marked by the new Court, with unprecedented regional diversity.⁹

From 15 female Court members a decade ago, to 24 six years ago, 43 female members three years ago, and 97 in 2018, what triggered progress and this unparalleled change towards gender equality among Court members? The business and dispute resolution communities now better understand the importance of gender equality, which represent both a societal and economic factor. They have become aware of the immense gap between male and female practitioners, thanks to the work undertaken by *ArbitralWomen* over the past 25 years and to the significant efforts of the Equal Representation in Arbitration Pledge ('Pledge') for the past three years. Both and other efforts are commendable as female practitioners are more and more recognised for their talents and have stepped into the limelight. The 2018 Queen Mary-White & Case International Arbitration Survey on the Evolution of International Arbitration reported that 60% of the participants agreed or strongly agreed that progress has been made on gender diversity:

Many confirmed that, when it comes to diversity, the perception is that gender disparity receives the most focus and this is largely thanks to the highly acclaimed global organisations and initiatives that are being increasingly fostered (e.g., *ArbitralWomen* and the Pledge).¹⁰

8 'ICC renews Alexis Mourre as President and nominates Court with full gender parity and unprecedented diversity', 21 June 2018: <https://iccwbo.org/media-wall/news-speeches/icc-renews-alexis-mourre-president-nominates-court-full-gender-parity-unprecedented-diversity>

9 Supra, note 8

10 2018 International Arbitration Survey, page 18: <https://www.whitecase.com/sites/whitecase/files/files/download/publications/qmul-international-arbitration-survey-2018-18.pdf>

2. Female Court members since 1980

This current 50/50 ratio among Court members is in stark contrast with the numbers for previous years. The following data based on the information available since 1980 was published in the *ICC Dispute Resolution Bulletin* last year,¹¹ and is updated for the 2018-2021 mandate.

Presidents and Court members are usually nominated for a mandate of three years and were, until now, eligible for additional three-year mandates. This has changed as of July 2018 as members can no longer be appointed for more than two consecutive terms:

In line with the Court's decision not to permit members to serve for more than two consecutive terms, close to 50% of the Court are new entrants. In addition to gender and regional diversity, the Court underscores unprecedented generational renewal, with over 15% of members below 40 years of age and 40% between 41 and 50.¹²

From time to time, new members are nominated during a given term. Thus, the total number of Court members may vary depending on the periods considered and an approximate number is reported; the difference in numbers in a given period is minor. Whereas the number of female Court members is exact, irrespective of the dates on which their mandates started and ended.

The author observes that women were greatly under-represented and hardly represented in some periods. Nomination of female Court members was unsurprisingly slow until 2015. They were respectively two, four and six female Court members in the 1980s, 1990s and beginning of 2000; the numbers started slowly rising to 15 members for the mandates of 2003 to 2012, and to 24 members for the mandate of 2012-2015.

From the 1980s until 2015, countries or independent territories were represented by one woman. During the 2015-2018 and 2018-2021 mandates, some countries or independent territories were/are represented by two women; for the 2018-2021 term, the 97 female Court members, including vice-presidents (identified as 'VP' in the table below), represented 75 countries, with three women representing Germany and the United States.

The following table summarises the change in the number of female Court members since 1980 and the number of countries or independent territories represented.

Term and number of members	Women and countries represented	Name (countries or independent territories represented)
1980 - 1982 40 members	2 women (2 countries) 5%	Ulla Gylling (Finland), Madeleine Rosalis (Portugal)
Jan. 1982 - Dec. 1984 47 members	1 woman (1 country) 2%	Maria Clara Betancur de Helo (Colombia)
Jan. 1985 - Dec. 1987 45 members	2 women (2 countries) 4%	Maria Clara Betancur de Helo (Colombia), Yolaine Anta Rakotomanga (Madagascar)
Jan. 1988 - Dec. 1990 55 members	4 women (4 countries) 7%	Sueli Avellar Fonseca (Brazil), Blanca Delgado (Colombia), Antonias Dimolitsa (Greece), Yolaine Anta Rakotomanga (Madagascar)
Jan. 1991 - Dec. 1993 61 members	2 women (2 countries) 3%	Sueli Avellar Fonseca (Brazil), Antonias Dimolitsa (Greece)

¹¹ *Supra*, note 7

¹² *Supra*, note 8

Term and number of members	Women and countries represented	Name (countries or independent territories represented)
Jan. 1994 - Dec. 1996 65 members	2 women (2 countries) 3%	Sueli Avellar Fonseca (Brazil), Antonias Dimolitsa (Greece)
Jan. 1997 - Dec. 1999 77 members	1 woman (1 country) 1%	Antonias Dimolitsa (Greece)
Jan 2000 - Dec. 2002 115 members	6 women (6 countries) 5%	Karyl Nairn (Australia), Jana Duskova (Czech Republic), Loretta Malintoppi (Italy), Géraldine Gazo (Monaco), Nina Vilkova (Russian Federation), Maria-Mercedes Tarrazón Rodón (Spain)
Jan. 2003 - Dec. 2005 123 members	15 women (15 countries) 12%	Karyl Nairn (Australia), Cheikha Haya Rashed Al-Khalifa (Bahrain), Mary Concilia Anchang (Cameroon), Olga Maria Miranda Bravo (Cuba), Jana Duskova (Czech Republic), Akua Kunyehia (Ghana), Anna Mantakou (Greece), Loretta Malintoppi (Italy), Géraldine Gazo (Monaco), Dashdorj Altantsetseg (Mongolia), Sally Fitzgerald (New Zealand), Nina Vilkova (Russian Federation), Mercedes Tarrazón Rodón (Spain), Gabrielle Kaufmann-Kohler (Switzerland), Chaiyasuta Siriporn (Thailand)
Jan. 2006 - June 2009 119 members	15 women (15 countries) 12%	Karyl Nairn (Australia), Cheikha Haya Rashed Al-Khalifa (Bahrain), Mary Concilia Anchang (Cameroon), Jana Duskova (Czech Republic), Fabiola Medina Garnes (Dominican Republic), Anna Mantakou (Greece), Loretta Malintoppi (Italy), Vilija Vaitkutė Pavan (Lithuania), Géraldine Gazo (Monaco), Dorothy Ufot (Nigeria), Nina Wang (Norway), Nina Vilkova (Russian Federation), Mercedes Tarrazón Rodón (Spain), Gabrielle Kaufmann-Kohler (Switzerland), Chaiyasuta Siriporn (Thailand)
July 2009 - June 2012 131 members	14 women (14 countries) 10%	Karyl Nairn (VP) (Australia), Cheikha Haya Rashed Al-Khalifa (Bahrain), Vera van Houtte (VP) (Belgium), Selma Ferreira Lemes (Brazil), Teresa Cheng (VP) (China), Fabiola Medina Garnes (Dominican Republic), Anna Mantakou (Greece), Loretta Malintoppi (VP) (Italy), Vilija Vaitkutė Pavan (Lithuania), Géraldine Gazo (Monaco), Dorothy Ufot (Nigeria), Nina Vilkova (Russian Federation), Mercedes Tarrazón Rodón (Spain), Chaiyasuta Siriporn (Thailand)
July 2012 - June 2015 144 members	24 women (24 countries) 16%	Wassila Mouzai (Algeria), Karyl Nairn (VP) (Australia), Zeenat Al Mansoori (Bahrain), Selma Ferreira Lemes (Brazil), Vera van Houtte (VP) (Belgium), Sabina Sacco (Chile), Teresa Cheng (China), Carita Wallgren-Lindholm (Finland), Inka Hanefeld (Germany), Anna Mantakou (Greece), Loretta Malintoppi (VP) (Italy), Vilija Vaitkutė Pavan (Lithuania), Géraldine Gazo (Monaco), Marieke van Hooijdonk (Netherlands), Wendy Miles (New Zealand), Dorothy Ufot (Nigeria), Lubna Katbeh (Palestine), Crenguta Leaua (Romania), Nina Vilkova (Russian Federation), Mercedes Tarrazón Rodón (Spain), Vanina Sucharitkul (Thailand), Samia Maktouf (Tunisia), Irina Nazarova (Ukraine), Diana Droulers (Venezuela)

Term and number of members	Women and countries represented	Name (countries or independent territories represented)
July 2015 - June 2018 184 members	43 women (37 countries) 23%	Wassila Mouzai (Algeria), Elham Ali Hassan (Bahrain), Vera van Houtte (VP) (Belgium), Nadine Dossou Sakponou (Benin), Zinka Grbo (Bosnia and Herzegovina), Helen (Hong) Shi (China), Lillian Chu (Chinese Taipei), Monica Fernandez-Fonseca (Costa Rica), Carita Wallgren-Lindholm (Finland), Christine Guerrier and Isabelle Hautot (France), Inka Hanefeld (VP) (Germany), Anna Mantakou and Marily Paralika (Greece), Rose Rameau (Haiti), Kim Rooney (Hong Kong), Yas Banifatemi (VP) (Iran), Cecilia Carrara (Italy), Yoshimi Ohara (VP) (Japan), Aigoul Kenjebayeva (Kazakhstan), Galina Zukova (Latvia), Vilija Vaitkutė Pavan (Lithuania), Danela Arsovska (Macedonia), Géraldine Gazo (Monaco), Tanja Planinic (Montenegro), Marieke van Hooijdonk (Netherlands), Wendy Miles (VP) (New Zealand), Funke Adekoya (VP) and Dorothy Ufot (Nigeria), Beata Gessel Kalisz (Poland), Crenguta Leaua (VP) (Romania), Mahlape Sello (South Africa), Mercedes Tarrazón Rodón (Spain), Helena Dandenell (Sweden), Anne Véronique Schlaepfer (VP) and Teresa Giovannini (Switzerland), Vanina Sucharitkul (Thailand), Irina Nazarova (Ukraine), Sophie Lamb (United Kingdom), Lucy Reed (VP) and Claudia Salomon (United States), Diana Droulers and Diana Paraguacuto-Mahéo (Venezuela)
July 2018 - June 2021 194 members	97 women (75 countries) 50% <i>(Cont'd on next page)</i>	Sabrina Ainouz (Algeria), Ana Vermal (Argentina), Jo Delaney (Australia), Anne-Karin Grill (Austria), Elham Ali Hassan and Aysha Mutaywea (Bahrain), Françoise Lefèvre (Belgium), Nadine Dossou Sakponou (Benin), Zinka Grbo (Bosnia and Herzegovina), Eliane Carvalho (Brazil), Ina Popova (Bulgaria), Helen (Hong) Shi and Cathy Liu (China), Lillian L. Y. Chu (Chinese Taipei), Monica Jimenez (Colombia), Monica C. Fernandez-Fonseca (Costa Rica), Marina Kralj Milisa (Croatia), María Amparo Santana Calderin (Cuba), Michelle Sindler (Czech Republic), Henriette Gernaa (Denmark), Samaa Haridi (Egypt), Triinu Hiob (Estonia), Leyou Tameru (Ethiopia), Anna-Maria Tamminen (Finland), Christine Lecuyer-Thieffry and Carine Dupeyron (France), Ketevan Betaneli (Georgia), Inka Hanefeld (VP), Anke Sessler and Dorothee Ruckteschler (Germany), Marietta Brew Appiah-Opong (Ghana), Niki K. Kerameus and Marily Paralika (Greece), Rose Rameau (Haiti), Kim Rooney (Hong Kong), Marianne Kecsmar (Hungary), Pallavi Shroff (India), Yas Banifatemi (VP) and Laya Joneidi (Iran), Louise Reilly (Ireland), Samantha Nataf (Israel), Cecilia Carrara (Italy), Yoshimi Ohara (VP) and Yoko Maeda (Japan), Aigoul Kenjebayeva (Kazakhstan), Ndanga Kamau (VP) and Njeri Kariuki (Kenya), Natalia Alenkina (Kyrgyzstan), Galina Zukova and Eva Kalhina (Latvia), Lara Hammoud (Lebanon),

Term and number of members	Women and countries represented	Name (countries or independent territories represented)
July 2018 - June 2021 194 members	97 women (75 countries) 50% <i>(cont'd)</i>	Farah Beitelmal (Libya), Renata Berzanskiene (Lithuania), Danela Arsovska (Macedonia), Sitpah Selvaratnam (Malaysia), Cecilia Azar (Mexico), Géraldine Gazo (Monaco), Tanja Planinic (Montenegro), Aïcha Brahma (Morocco), Marieke van Hooijdonk (Netherlands), Wendy Miles (VP) and Domitille Baizeau (New Zealand), Adedoyin O. Rhodes-Vivour and Yejide Osunkeye (Nigeria), Giuditta Cordero-Moss (Norway), Lubna Katbeh (Palestinian Territory), Beata Gessel-Kalinowska vel Kalisz and Malgorzata Surdek (Poland), Marta Cruz de Almeida (Portugal), Cristiana Stoica and Luminita Popa (Romania), Julia Zagonek (Russian Federation), Milena Djordjevic (Serbia), Smitha Menon (Singapore), Maja Menard (Slovenia), Mahlape Sello (South Africa), Deva Villanúa (VP) and Patricia Saiz (Spain), Helena Dandenell (Sweden), Anne Véronique Schlaepfer (VP) and Teresa Giovannini (Switzerland), Madeline Kimei (Tanzania), Vanina Sucharitkul (Thailand), Affaf Ben-Mansour and Sana Belaid (Tunisia), Bennar Aydodgu (Turkey), Maria Kostytska and Olena Perepelynska (Ukraine), Sophie Lamb and Juliet Blanch (United Kingdom), Claudia Salomon (VP), Chiann Bao (VP) and Maria Chedid (United States), Sandra Gonzalez (Uruguay), Feruza Bobokulova Zarifovna (Uzbekistan), Diana Droulers and Diana Paraguacuto-Mahéo (Venezuela)

3. ICC Commission on Arbitration and ADR

As mentioned in a previous article,¹³ another unrivalled progress was welcome: for the first time ever, the ICC Commission on Arbitration and ADR is chaired since January 2018 by a woman, Carita Wallgren-Lindholm.¹⁴ The new chair also achieved parity among the twelve members that she selected to constitute the steering committee of this Commission. In addition to the chair, the female members are: Susanne Gropp-Stadler, Dyalá Jiménez Figueres,¹⁵ Jenni Lukander, Caline Mouawad, Melanie van Leeuwen.

4. ICC Dispute Resolution Bulletin

It is equally noteworthy to mention that equality was also achieved during the revamp of the ICC Dispute Resolution Bulletin in 2017. The 20-member editorial Board includes ten women: Samaa Haridi as co-editor in chief, Cecilia Azar, Chiann Bao, Utku Cosar, Valeria Galindez, Swee Yen Koh, Yasmine Lahlou, Sara Nadeau-Séguin, Sabina Sacco and Galina Zukova.

¹³ Supra, note 7.

¹⁴ See GAR press-release, available at <http://globalarbitrationreview.com/article/1148644/wallgren-lindholm-to-take-icc-leadership-role>

¹⁵ Dyalá Jimenez has stepped down after being appointed in April 2018 minister of foreign trade of Costa Rica: <https://globalarbitrationreview.com/article/1168803/costa-rican-arbitrator-steps-down-to-serve-as-minister>

II - ICC 2017 gender statistics

ICC statistics for 2017 show an increase of 1.9% in women nominations.

In 2017, 249 women were nominated out of 1488 nominations, whereas in 2016, 209 women were nominated out of 1411 nominations. The proportion of women arbitrators, nominated by the parties and the co-arbitrators, or appointed by the Court, has more than doubled in eight years: in 2010, 7.2% of women acted as arbitrators, and in 2017, this proportion reached 16.7%. The progress remains slow but is steady. The most noticeable growth recorded over this period of eight years occurred in 2016, where the proportion of women arbitrators in ICC rose from 10.4% in 2015 to 14.8% in 2016.

Considering the appointments by the Court only, i.e. excluding nominations by parties or co-arbitrators, women appointments represent 29.6% of all Court appointments in 2017 (113 out of 382 appointments), while representing 23.6% of all Court appointments in 2016, 97 out of 411 appointments.¹⁶

The efforts, by various institutions, towards the publication of 'meaningful data' on women arbitrators, were shortlisted for the Global Arbitration Review ('GAR') 2018 'Best Developments' Awards, which took place during the Paris Arbitration Week in April 2018.¹⁷

The following tables provide detailed information about female and male arbitrators in ICC arbitrations from 2010 to 2017: the number of individuals nominated and reoccurring nominations (1), role of arbitrators (2), breakdown of nominations by the parties, co-arbitrators and the Court (3), age of arbitrators (4), geographical origins (5).

1. Number of individuals nominated and reoccurring nominations

The table below provides the number (i) of nominations, (ii) of individuals nominated, and (iii) of repeat nominations of the same individuals. The number of nominations includes confirmations by the Secretary General of the Court or by the Court upon nomination by the parties or by the co-arbitrators, appointments by the Court upon proposal by ICC National Committees or Groups, and direct appointments.

Nominations & Individuals	2010	2011	2012	2013	2014	2015	2016	2017
Number of nominations								
Men & women	1331	1341	1301	1329	1327	1313	1411	1488
Men	1235	1238	1199	1210	1198	1177	1202	1239
Percentage	92.8%	92.3%	92.2%	91.0%	90.3%	89.6%	85.2%	83.3%
Women	96	103	102	119	129	136	209	249
Percentage	7.2%	7.7%	7.8%	9.0%	9.7%	10.4%	14.8%	16.7%
Individuals nominated once								
Men & women	866	900	847	919	908	907	927	985
Men	800	841	794	842	825	829	802	853
Percentage	92.4%	93.5%	93.8%	91.6%	90.9%	91.4%	86.5%	86.6%
Women	66	59	53	77	83	78	125	132
Percentage	7.6%	6.5%	6.2%	8.4%	9.1%	8.6%	13.5%	13.4%

¹⁶ Arbitrators appointed by the Court include arbitrators proposed by ICC National Committees or Groups, direct appointments by the Court and appointments made by other appointing authorities including the President of the Court when invited to do so.

¹⁷ 'GAR Awards 2018 - the first shortlist', 19 March 2018: <https://globalarbitrationreview.com/article/-the-first-shortlist>. ICC report on gender diversity of tribunals released in June 2017: disclosing statistics on gender equality for the second year running in line with its commitments under the Equal Representation in Arbitration Pledge, the ICC International Court of Arbitration had revealed a growth of nearly 5 percentage points in the number of women arbitrators appointed in 2016. The author started publishing ICC gender statistics since 2013.

Nominations & Individuals	2010	2011	2012	2013	2014	2015	2016	2017
Repeat nominations								
Men	435	397	405	368	373	348	400	386
Percentage	35.2%	32%	33.7%	30.4%	31.1%	29.5%	33.3%	76.8%
Women	30	44	49	42	46	58	84	117
Percentage	31.2%	42.7%	48%	35.2%	35.6%	42.6%	40%	23.2%

The slight decrease of male arbitrators from 85.2% in 2016 to 83.3% in 2017 reflects the minor increase of female arbitrators from 14.8% in 2016 to 16.7% in 2017.

In 2017, the 117 repeat nominations (out of the 503 repeat nominations, i.e. 23.2%) concerned 43 women: thirty women nominated twice (60), three women nominated three times (9), five nominated four times (20), three nominated five times (15), one nominated six times (6) and one seven times (7).

2. Role of arbitrators

Among all 209 female arbitrators appointed or confirmed in 2016, 33% acted as sole arbitrators, 24% as tribunal presidents and 43% as co-arbitrators. Among all 249 female arbitrators appointed or confirmed in 2017, 26% acted as sole arbitrators, 31% as tribunal presidents and 43% as co-arbitrators. It should be further noted that the number of women nominated as president has reached 77 in 2017, as opposed to 50 in 2016. In both 2016 and 2017, women sole arbitrators and chairs represented 57% of all female nominations, and 43% of women acted as co-arbitrators.

In 2016, 20.3% of arbitrators were nominated as sole arbitrators, of which 4.9% of women; 25.5% acted as presidents, of which 3.5% were female; co-arbitrators accounted for 54.2% of the nominations, of which 6.4% were female arbitrators. In 2017, 15.8% were nominated as sole arbitrators, of which 4.4% of women; 27.8% acted as presidents, of which 5.2% were female; co-arbitrators accounted for 56.5% of the nominations, of which 7.2% were female arbitrators.

Nominations by gender and role	2010	2011	2012	2013	2014	2015	2016	2017
Men & women nominations	1331	1341	1301	1329	1327	1313	1411	1488
Men sole arbitrators	195	224	184	190	178	207	217	170
Percentage	14.6%	16.7%	14.1%	14.3%	13.4%	15.8%	15.4%	11.4%
Women sole arbitrators	31	28	31	50	42	44	69	65
Percentage	2.3%	2%	2.4%	3.8%	3.1%	3.3%	4.9%	4.4%
Men presidents	342	333	304	338	323	299	311	336
Percentage	25.7%	24.8%	23.4%	25.4%	24.3%	22.8%	22%	22.6%
Women presidents	25	26	31	17	34	34	50	77
Percentage	1.9%	1.9%	2.4%	1.3%	2.6%	2.6%	3.5%	5.2%
Men co-arbitrators	698	681	711	682	697	671	674	733
Percentage	52.5%	50.8%	54.7%	51.3%	52.6%	51.1%	47.8%	49.3%
Women co-arbitrators	40	49	40	52	53	58	90	107
Percentage	3%	3.8%	3%	3.9%	4%	4.4%	6.4%	7.2%

With respect to the roles of arbitrators and the composition of arbitral tribunals, ICC publishes the following information on its website since beginning 2016: (i) date of the constitution of the arbitral tribunal, (ii) names of the arbitrators, (iii) their nationalities, (iv) their role on the tribunal, (v) who nominated them, (vi) their status, i.e. whether they remained on the tribunal or they stepped down following a resignation, a challenge or a replacement, and (vii) whether the case is pending or closed.¹⁸ Data is however only available for cases registered as of 1 January 2016, where Terms of Reference have been established and where no confidentiality requirements have been expressed by the parties in their arbitration agreement or subsequently. Therefore, the names published do not reflect all cases in which women serve as arbitrators.

The data published between 1 June 2016 and 30 April 2018 results in the following breakdown of arbitral tribunals which include one, two or three female arbitrators:

Number of cases with a woman as Sole arbitrator	78
Number of cases with a woman as Chair	79
Number of cases with 2 women on the tribunal	24
Number of cases with 3 women on the tribunal	2
Number of cases with a woman as Emergency arbitrator	6

Finally, since the entry into force of the ICC Emergency Arbitrator Rules on 1 January 2012 over eighty cases were filed. Women were appointed in one quarter of the cases, from several countries including Argentina, Brazil, Canada, Costa Rica, Egypt, France, Germany, Iran, Latvia, Malaysia, Netherlands, Spain, Sweden, United Kingdom, USA, and Venezuela.

3. Nomination of women arbitrators

The statistics confirm as previously demonstrated, that the Court continues to appoint more women than the parties and the co-arbitrators. Although the disparity between the number of parties' nominations and the Court's nominations is minor, the proportion of women appointed by the Court (45.4%) remains higher compared to the parties (41%) and the co-arbitrators (13.6%).

The Court appointed upon proposal by ICC National Committees or Groups 62 female arbitrators in 2017 as opposed to 57 in 2016. When ICC's National Committees or Groups propose arbitrators to be appointed by the Court, they are encouraged to observe generational and gender diversity, as well as diversity as to the various components of local arbitration communities in accordance with the ICC Note to National Committees and Groups of the ICC on the Proposal of Arbitrators.¹⁹

Pursuant to Article 13(4) of the ICC Arbitration Rules, the Court made 50 direct appointments in 2017 as opposed to 38 in 2016. One woman was appointed by another appointing authority in accordance with arbitration agreements designating such authority.

On a few occasions parties (through their counsel) privileged the nomination of female arbitrators. In doing so, some law firms indicated that they signed the Pledge and are committed to make efforts. In one case two names were proposed to act as chair and both were suitable and experienced; the Secretariat transmitted the curriculum vitae of both arbitrators to the parties. One of the parties indicated that given 'the limited number of women acting as arbitrators and in accordance with the Pledge, it considered appropriate that the Court appoint the female arbitrator proposed'.

Despite all efforts to reach equality, remaining realistic is the rule of the day. Equal opportunities should be offered for equal qualifications to men and women. However, the number of opportunities compared to the number of positions to fill is limited, and the absence of nominations is not necessarily related to favouring a gender as opposed to another or a region as opposed to another.

¹⁸ <https://iccwbo.org/dispute-resolution-services/arbitration/icc-arbitral-tribunals/>

¹⁹ See ICC Note to National Committees and Groups of the ICC on the Proposal of Arbitrators (1 July 2018), <https://cdn.iccwbo.org/content/uploads/sites/3/2016/11/Note-to-National-Committees-and-Groups-of-the-ICC-on-the-Proposal-of-Arbitrators-ENGLISH-1.pdf>.

At a recent conference, Lucy Reed indicated that 'Caution + habit + bias = the current low levels of diversity in arbitrator appointments and lead counsel selection'.²⁰ She highlighted various ways the equation is being rebalanced while drawing the audience attention to the fact that 'inclusiveness is a positive reality which helps build new generations of practitioners and contributes to diversity'. But she also voiced a note of serious concern that 'we are overdoing it, explaining that international arbitration remains a small field and there are now too many qualified lawyers of all genders, nationalities and origins to fill the available slots'. This is an undeniable reality that the author shares, as highlighted in an article currently being published.²¹

The following table is a breakdown of the nomination or appointment of men and women arbitrators, by i) parties, ii) co-arbitrators, and iii) the Court either upon proposal by ICC National Committees or Groups, direct appointment by the Court, or selection by appointing authorities.

Nominations	2010	2011	2012	2013	2014	2015	2016	2017
Men & women	1331	1341	1301	1329	1327	1313	1411	1488
Men nominations by parties in any role	750	729	724	696	729	719	708	765
% of all nominations	56.3%	54.4%	55.7%	52.4%	55%	54.8%	50.2%	51.4%
Women nominations by parties in any role	34	45	40	44	54	53	86	102
% of all nominations	2.6%	3.3%	3.1%	3.3%	4%	4%	6.1%	6.9%
Men nominations by co-arbitrators	171	179	158	185	197	155	180	205
% of all nominations	12.9%	13.4%	12.1%	14%	14.9%	11.8%	12.8%	13.8%
Women nominations by co-arbitrators	14	16	17	9	21	10	26	34
% of all nominations	1%	1.2%	1.3%	0.6%	1.6%	0.8%	1.9%	2.3%
Men appointment upon a National Committee's proposal	286	294	268	228	199	193	175	185
% of all nominations	21.5%	22%	20.6%	17.2%	15%	14.7%	12.4%	12.4%
Women appointment upon a National Committee's proposal	44	36	41	47	44	52	57	62
% of all nominations	3.3%	2.7%	3.2%	3.6%	3.3%	4%	4%	4.2%
Men direct appointments by Court	20	25	46	96	67	106	137	83
% of all nominations	1.5%	1.9%	3.6%	7.3%	5%	8%	9.7%	5.6%
Women direct appointments by Court	4	5	2	18	9	21	38	50
% of all nominations	0.3%	0.3%	0.1%	1.3%	0.7%	1.6%	2.7%	3.4%
Men appointments by other appointing authorities	8	11	3	5	6	4	2	1
% of all nominations	0.6%	0.8%	0.2%	0.3%	0.5%	0.3%	0.1%	0.1%

²⁰ Lucy Reed's speech at the American Society for International Law conference in Washington 'Reed's diversity equation', *Global Arbitration Review*, 6 April 2018: <https://globalarbitrationreview.com/article/1167732/reed>.

²¹ By the author, 'Autant en emporte le vent...de l'arbitrage', *Liber Amicorum in honour of Samir Saleh*, forthcoming.

Nominations	2010	2011	2012	2013	2014	2015	2016	2017
Women appointments by other appointing authorities	0	1	2	1	1	0	2	1
% of all nominations	0%	0%	0.1%	0%	%	%	0.1%	0.1%

4. Age of arbitrators

Not only has ICC's efforts focused on gender diversity but also generational diversity. The average age of women arbitrators in 2017 is almost similar to 2016 and remains ten years younger than male arbitrators. The average age is between 48 and 50 for women arbitrators and 58 for men. In the author's opinion, as previously indicated, the average age of women is younger because they have generally started their careers in the field of dispute resolution in the last two decades and thus later than men, who have been in this field for a longer period.²²

Age of arbitrators	2010	2011	2012	2013	2014	2015	2016	2017
Average of men & women	56.9	57.0	57.2	56.7	57.0	57.4	56.5	56.3
Average of men	57.7	57.6	58.0	57.7	57.9	58.4	58.2	58.1
Average of women	48.6	49.8	48.6	48.2	49.9	49.7	48.3	48
Age range by gender								
Men under 40	6.1%	8%	6.7%	8.6%	6.7%	5.9%	5.6%	5.7%
Women under 40	23.6%	25.4%	23.2%	27.8%	22.3%	17.1%	22.3%	20%
Men from 40 to 49	23.6%	21.9%	22.3%	19.6%	21.6%	20.2%	22.5%	22.2%
Women from 40 to 49	36.1%	25.4%	40.6%	35.1%	32.0%	38.1%	40.8%	47.4%
Men from 50 to 59	25.3%	26.2%	27.2%	27.8%	26.8%	27.7%	26.4%	26.9%
Women from 50 to 59	26.4%	28.2%	20.3%	20.6%	21.4%	23.8%	19.1%	18.9%
Men from 60 and over	45.1%	43.9%	43.8%	44%	44.8%	46.3%	45.4%	45.2%
Women from 60 and over	13.9%	21.1%	15.9%	16.5%	24.3%	21.0%	17.8%	13.7%

5. Geographical origin of women

Some geographic areas are still under-represented compared to other regions. It is a true challenge to find female practitioners in some countries and to reach regional diversity. This will hopefully change in the future, given that many efforts are undertaken to promote dispute resolution female practitioners who are not known in some countries. Alongside gender parity efforts, trainings in dispute resolution will certainly reveal other talents who will dare to get involved in this field.

The ratio of most represented regions among arbitrators is consistent with the ratio of most represented regions among the parties in ICC arbitrations. In 2017, out of the 810 arbitrations filed involving 2316 parties from 142 countries and independent territories, approximately 42% originated from Europe, 10% from North America, 16% from Latin America and Caribbean, 23% from Asia, and 9% from North Africa and Sub-Saharan Africa.

²² The author published historical information about the entry of women in the dispute resolution arena. The data showed that from the 1980s until mid-1990s a small number of women were visible in arbitration as opposed to men: 'When did the Doors to Dispute Resolution open for Women?', *TDM Special Issue on Diversity*, vol. 12, issue 4, July 2015, available at <http://www.arbitralwomen.org>

Geographical origin	2010	2011	2012	2013	2014	2015	2016	2017
Total number of women	96	103	102	119	129	136	209	249
Total number of countries	25	29	31	33	29	40	47	85
Breakdown by region								
North and West Europe	58	46	51	63	78	67	103	119
Percentage	60.4%	44.7%	50%	52.9%	60.5%	49.3%	49.3%	47.8%
Central & East Europe	12	12	12	15	9	16	27	27
Percentage	12.5%	11.7%	11.7%	12.6%	7%	11.8%	12.9%	10.8%
North America (USA/Canada)	15	19	14	15	13	15	32	25
Percentage	15.6%	18.4%	13.7%	12.6%	10.1%	11%	15.3%	10%
Latin America & Caribbean	6	6	9	15	8	16	19	36
Percentage	6.3%	5.8%	8.8%	12.6%	6.2%	11.8%	9.1%	14.5%
Central & West Asia	2	10	5	6	6	8	9	20
Percentage	2.1%	9.7%	4.9%	5%	4.7%	5.9%	4.3%	8.1%
South & East Asia	2	5	9	4	13	10	14	18
Percentage	1%	1%	2%	1.7%	5.4%	2.9%	3.8%	7.2%
North Africa	1	3	1	1	1	4	3	3
Percentage	1%	2.9%	1%	0.8%	0.8%	2.9%	1.4%	1.2%
Sub-Saharan Africa	0	2	1	0	1	0	2	1
Percentage	0%	1.9%	1%	0%	0.8%	0%	1%	0.4%

The following table presents a breakdown of men and women arbitrators by region in 2017.

Geographical origin	Men	%	Women	%	Total
North and West Europe	679	85%	119	15%	798
Central & East Europe	61	69.3%	27	30.7%	88
North America (USA/Canada)	114	82%	25	18%	139
Latin America & Caribbean	165	82%	36	18%	201
Central & West Asia	43	68%	20	32%	63
South & East Asia	123	87.3%	18	12.7%	141
North Africa	31	91.2%	3	8.8%	34
Sub-Saharan Africa	23	95.8%	1	4.2%	24
Total	1239	--	249	--	1488

Conclusion

Having seen the changes over the last 35 years of practice and despite the very slow progress, the author remains confident about the future of gender equality in dispute resolution. The process for change was initiated a while ago and an increase in numbers took time but now reveals signs of success and that the field of dispute resolution is on the right track.

This historical achievement of parity in the constitution of the ICC Court of Arbitration, on the steering committee of the ICC Commission on Arbitration and ADR, and the editorial board of the ICC Dispute Resolution Bulletin, will hopefully contribute to encourage other initiatives towards reaching a higher number of female practitioners in lead positions.

ICC promising statistics as well as its active steps to encourage speaker gender balance in international forums will also hopefully help reaching a better representation of women in the dispute resolution field, as arbitrators, lead counsel, mediators or experts. ICC is in a strong position to lead the example and to show the business and dispute resolution communities that ICC is actively committed to gender parity. The objective remains - as promoted by the Pledge - to offer equal opportunities for equal qualifications.