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The Timely Launch of REAL: A Global Campaign and Advocacy for Racial Equality and Diversity in International Law and International Arbitration Practice

By Vanessa Tsang

We are still living with COVID-19 in February 2021. However, in times of despair, opportunities abound. On January 18, 2021, approximately 350 participants attended REAL (Racial Equality for Arbitration Lawyers: <https://letsgetrealarbitration.org/>)'s virtual inauguration on Zoom. The use of technology brought practitioners, researchers, and students from different cultures and continents to witness this important moment. Six keynote speakers in international law and international arbitration practice shared their stories of fighting racial inequality and promoting diversity and inclusion. The speakers included Judge Navanethem Pillay (former UN High Commissioner for Human Rights), Mr. Kevin Kim (Founding Partner at Peter & Kim), Professor Dr. Nayla Comair-Obeid (Founding Partner at Obeid Law Firm), and Ms. Uncheora Onwuamaegbu (International Attorney at Arent Fox LLP).

Inspired by Martin Luther King, Jr., REAL chose to launch on Martin Luther King, Jr., Day. King once said, “unarmed truth and unconditional love will have the final word in reality.” REAL believed that the global advocacy for racial equality would break the current norms and make a real change in the practice.

REAL is a group of global lawyers practicing in international arbitration and striving to achieve racial equality for arbitration lawyers. It includes members and participants from worldwide arbitral institutions, organizations, and think tanks. One aspect addressed by REAL is the lack of racial parity in arbitral appointments. Another avenue is to address the socio-economic limitation for young and mid-level practitioners entering the field. REAL is a body advocating for “access.” Hence, it does not charge any membership fee.

At the beginning of the inauguration, the host announced three scholarships sponsored by Jus Mundi in Africa, Asia, and Latin America. Women in Arbitration will also offer three seats for REAL's members.

The Battle Hymn of Women Advocates in International law

Judge Pillay commenced the inauguration by sharing her journey in becoming a human rights defender. Judge Pillay was the first woman to start a law practice in her home province, Natal, in 1967. During her career, she acted as a defense lawyer for many anti-apartheid activists in South Africa. In the 1990s, she was elected by the UN General Assembly to serve as a judge and the President of the International Criminal Tribunal for Rwanda (ICTR). Her tenure on the ICTR is best remembered for her role in the landmark trial of Jean-Paul Akayesu, which established that rape and sexual assault could constitute acts of genocide.

As a black woman, Judge Pillay's success was always labeled as an exception. However, she remarked, changes needed to be made to create a new norm rather than an exception. The advocacy for diversity matters in international law, as it reflects the demographic and people with different experiences disregarding race. The tools of oppression often include ensuring the consciousness of biases by making the victims invisible. Thus, making real changes entails putting the issues in the limelight and making those who appear invisible be seen and known.

Similarly, Dr. Obeid faced very challenging situations when she climbed to her top as a woman arbitrator. Being a female judge in the Middle East was difficult in her time, mostly because the power in decision-making had traditionally been reserved for men. Notwithstanding the difficulties, she opened her law firm amidst the civil war in Lebanon more than 30 years ago. Her challenges became bigger and bigger as she developed her path internationally. Often, she faced the stereotype and biases in her home jurisdiction. She recalled a gender-biased comment saying, "a brain of a woman cannot rule like the brain of a man." In one hearing, a man in power and authority, who served as a witness, employed intimidating tactics to her as an arbitrator. Another challenge faced by Dr. Obeid is that she needs to reconcile her roles as a mother, wife, and practitioner. During her battle against gender inequality, she was elected as the President of the Chartered Institute of Arbitrators (CI Arb) in 2017, third in its history.

Dr. Obeid concluded that institutions as legitimate establishments would bring real changes that bridge different cultures, regions, and countries. Here, REAL's launch is timely, as she foresees that more disputes around the world would arise because of the COVID-19 pandemic. More competent arbitrators with equal representations in terms of gender and culture will be needed.

Creating Opportunities for Diversity. Diversity to Create Opportunities in Turn

"I have a dream," Mr. Kim said. In Mr. Kim's dream, Korean lawyers will be recognized by all clients in the world. Mr. Kim was a pioneer in international arbitration in South Korea. He was among the first with intimate knowledge in international arbitration in the region. Given his background and skills, he could have had an exclusive advantage by maintaining his market position. However, he realized that the lack of diversity stems from the lack of access.

Instead of retaining his international arbitration knowledge, he shared his know-how with his friends and even competitors in the Korean market. Seoul is currently a thriving arbitral seat, with many K-lawyers widely known for their work ethics.

“If people are given the right kit and the right tool, they can create wonder.” Kim emphasized that building a diverse group’s capacity and understanding of international arbitration procedures is conducive to creating diversity. In the arbitration industry, we must showcase diverse lawyers’ works to get noticed. To embody diversity in its truest sense, we must encourage people for varied and unique skills. Instead of “once size fits all,” the new normal is for us to embrace diversity.

Ms. Kinnear, speaking on behalf of ICSID, said that nurturing diversity is key in international investment arbitration. Leading a team of 68 staffers, she noticed that there are already 24 nationalities in her team, speaking over 30 languages. Growing up in Canada, where people celebrate their diverse cultural heritages, Ms. Kinnear sees diversity as a strength. “Internationalism means punching above your weight.” Promoting diversity will bring solidarity and power, which otherwise may not occur if people are split. She noticed that institutions had been making real changes by creating safe spaces and emphasizing accountability. One aspect is the appointment of arbitrators and spotlighting these people. Among other things, ICSID has launched an internship program for people around the world to join their institution.

A Future with Racially Diverse International Arbitration Practice

“African got to meet African.” Professor Onyema said she would not hesitate to call an African man a “brother” or a “husband,” as it is how close African people can be – Africa is one big continent and a close-knit family. Professor Onyema has created many opportunities by organizing arbitration conferences in Africa and the arbitration fund for African students.

Regarding fighting biases, she said that we need to challenge ourselves, particularly our perceptions and decision, and open more doors for other people. Professor Onyema also agreed that the starting point is to appoint arbitrators and retain lawyers from various cultures and races, recognizing their talents and skills gifted for their diverse backgrounds. If we give the right people the right positions and opportunities, they will find happiness in their roles. We will end up receiving more if we extend our generosity and kindness to more people.

On the other side of the world, we have our “brother,” Mr. Onwuamaegbu, in Washington D.C. Mr. Onwuamaegbu is a Nigerian national. After qualifying for the Nigerian bar, he worked in London, where he described the training and tasks as diverse and thorough. He then developed his international career path with the UN and ICSID. He remembered that the working environment in the field of international law was quite different in the past. There were times when he felt that he was not included. However, these experiences only made him stronger. In particular, he learned the importance of being open to different approaches and work cultures.

Differences entail strengths. For instance, if someone speaks with a foreign accent, it could mean that that person is smart enough to speak another language. Also, no one is born an expert in international arbitration. If we afford people the opportunities to grow, they can grow. The advocacy for racial equality in international law and international arbitration is thus more than rhetoric. It is a bold initiative that is real and important. Cultural diversity will bring different perspectives, leading to more balanced results and strengthening the systems' legitimacy. The education and research on the importance of racial diversity must continue. Instruments of consent may be employed to codify our pledge and promises in this campaign.

The inauguration ended in joy and with networking sessions for people from all over the world to share their experiences using real-time technology. Many guests were inspired by the keynote speakers' admirable courage and strength in fighting racial inequality. The launch of REAL is a wake-up call for everyone working in the field. The advocacy for racial equality must continue to make a real change in the system that will eventually benefit all stakeholders and parties.



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Racial Equality for
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