



ISSN : 1875-4120
Issue : (Provisional)
Published : March 2017

This article will be published in a future issue of TDM (2017). Check website for final publication date for correct reference.

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Summary of Young-OGEMID Symposium No. 4: "Move it: Lateral Hires in International Arbitration (24 October - 7 November 2016)" by V. Sucharitkul

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TDM (Transnational Dispute Management): Focusing on recent developments in the area of Investment arbitration and Dispute Management, regulation, treaties, judicial and arbitral cases, voluntary guidelines, tax and contracting.

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Open to all to read and to contribute

TDM has become the hub of a global professional and academic network. Therefore we invite all those with an interest in Investment arbitration and Dispute Management to contribute. We are looking mainly for short comments on recent developments of broad interest. We would like where possible for such comments to be backed-up by provision of in-depth notes and articles (which we will be published in our 'knowledge bank') and primary legal and regulatory materials.

If you would like to participate in this global network please contact us at info@transnational-dispute-management.com: we are ready to publish relevant and quality contributions with name, photo, and brief biographical description - but we will also accept anonymous ones where there is a good reason. We do not expect contributors to produce long academic articles (though we publish a select number of academic studies either as an advance version or an TDM-focused republication), but rather concise comments from the author's professional 'workshop'.

TDM is linked to **OGEMID**, the principal internet information & discussion forum in the area of oil, gas, energy, mining, infrastructure and investment disputes founded by Professor Thomas Wälde.

Summary of Young-OGEMID Symposium No. 4: “Move it: Lateral Hires in International Arbitration (24 October - 7 November 2016)”

by Vanina Sucharitkul *

Executive Summary

Young-OGEMID's fourth virtual symposium advised junior practitioners and academics on a variety of practical tips on how to navigate employment changes in international arbitral practice and at all levels of experience. In introducing the event, YO moderator S.I. (Stacie) Strong noted that "[t]he nuances of employment changes (often referred to as "lateral hires" or "lateral moves") are often difficult to discern, particularly within the highly specialized world of international arbitration." This symposium addresses a variety of topics relating to these issues with panelists both from practice and academia.

The event featured:

- 1) *Wendy Miles QC – Partner, Boies, Schiller & Flexner, London;*¹
- 2) *Samantha Lord Hill – Associate, Freshfields Bruckhaus Deringer, Dubai;*²
- 3) *Devathas Satianathan – Associate, Rajah & Tann, Singapore;*³
- 4) *Catherine Rogers – Professor of Law, Penn State University Law School, US;*⁴
- 5) *Stefaan Voet – Associate Professor, University of Leuven, Belgium;*⁵

* **Vanina Sucharitkul** is a Registered Foreign Lawyer (California) at Herbert Smith Freehills, Hong Kong, where she focuses on international arbitration. She is also a Court Member of the International Court of Arbitration of the International Chamber of Commerce and is working on her doctoral thesis on the backlash against investment arbitration at Université Panthéon-Assas (Paris II).

¹ **Wendy Miles** is the global head of arbitration in the London office of Boies, Schiller & Flexner and an experienced lawyer qualified in England and New Zealand. She represents private parties and states in international commercial and investor state arbitration. Ms. Miles QC is currently a Vice President of the International Chamber of Commerce's Court of Arbitration and Vice Chair of the IBA Arbitration Committee. She regularly sits as an arbitrator in commercial disputes and teaches in the field of arbitration.

² **Samantha Lord Hill** is an Australian-qualified Associate in the international arbitration practice of Freshfields Bruckhaus Deringer based in Dubai, UAE. She focuses her practice on international oil, gas, mining, power, water and construction-related arbitration disputes. Prior to joining the firm in 2013, Samantha spent 4 years working at Allens Linklaters in Perth, Western Australia primarily in the commercial litigation and dispute resolution practice where she focused on disputes arising out of major projects.

³ **Devathas Satianathan** graduated valedictorian of the Singapore Management University Class of 2013. He spent six months at the Attorney-General's Chambers as a Deputy Public Prosecutor and then two years at the Supreme Court as a Justices' Law Clerk. At the conclusion of his clerkship, he joined the International Arbitration, Construction & Projects team at Rajah & Tann Singapore LLP, one of the largest full service law firms in Singapore with more than 300 lawyers in the Singapore office.

⁴ **Catherine A. Rogers** is the Professor of Law and Paul and Marjorie Price Faculty Scholar at Penn State University Law School in the United States as well as a Professor of Ethics, Regulation & The Rule of Law and the Co-Director of the Institute for Ethics, Regulation & The Rule of Law at Queen Mary, University of London, in the United Kingdom. She is a Reporter for the American Law Institute's Restatement of the U.S. Law of International Commercial Arbitration and is also the founder and director of Arbitrator Intelligence, a non-profit organization developing informational resources to increase transparency, fairness and accountability in the arbitrator selection process. Her book, *Ethics in International Arbitration*, was recently published by Oxford University Press. Before entering academia, Professor Rogers practiced international litigation and arbitration in New York, Hong Kong, and San Francisco.

⁵ **Stefaan Voet** is an associate professor at the University of Leuven and a visiting professor at the University of Hasselt in Belgium. His main research interests are civil procedure, complex litigation, ADR, ODR, dispute

6) *Brooks Daly – Deputy Secretary General, Permanent Court of Arbitration, the Netherlands.*⁶

Speaker 1: Lateral Moves at the Partner Level and Lateral Moves of Associates from the Hiring Committee's Perspective

Speaking first, **Wendy Miles QC**, global head of arbitration in the London office of Boies, Schiller & Flexner, addressed the question "What do we mean when we talk about a 'lateral move'?" She explained that "lateral move" and other terms commonly used to describe a change in firm can have entirely different meanings to different people.

Ms. Miles noted "*When I use a word, Humpty Dumpty said, in a rather scornful tone, 'it means just what I choose it to mean; neither more neither less.'*"⁷

To recruiters and headhunters, 'lateral move' means 'business'. The recruiter and headhunter take commission when the recruited or hunted moves firms, whether up, down or sideways.

To the law firms, 'lateral move' means 'survival'. It is the process for the law firm to build and expand business to meet clients' evolving needs. The traditional career model where graduates remain at the same firm for life no longer reflects the modern reality. Law firms are required to adapt and rapidly respond to change due to the pace of innovation and movement in business and technology and consequently surrounding legal systems. The reality of the law firm business in the 21st Century is that organic growth of partners or the retention of incumbent lawyers is a slow process.

To the lawyer, 'lateral move' means 'success'. It means a significant and life-changing event, often undertaken with due consideration. Ambitious and talented lawyers do not switch firms simply because recruiters present an opportunity. To convert that opportunity into a "lateral move", the change requires a meaningful advancement in career progression.

Ms. Miles then commented that according to Alice, "*The question is [] whether you can make words mean so many things.*" *The question is, said Humpty Dumpty, 'which is to be master, that's all'*"⁸

As YO readers are more likely to be lawyers, a 'lateral move' will be a momentous event, to be taken seriously. In Ms. Miles' experience, successful, ambitious, driven and hardworking lawyers do not seek 'sideway' moves and backwards movements would be unthinkable.

resolution design and litigation costs. He is also a programme associate at the CMS/Swiss Re Research Programme on Civil Justice Systems at the Centre for Socio-Legal Studies at the University of Oxford and a substitute justice of the peace in Bruges.

⁶ **Mr. Brooks Daly** is the Deputy Secretary-General and Principle Legal Counsel at the Permanent Court of Arbitration, an intergovernmental organization established by treaty in 1899 and devoted to the peaceful settlement of international disputes through arbitration. His responsibilities include advising lawyers and arbitrators participating in international arbitration under PCA auspices on a variety of matters relating to arbitral procedure and international dispute resolution generally. He speaks frequently on international arbitration topics and lectures at Leiden University School of Law. Prior to joining the PCA, Mr. Daly practiced with law firms in Los Angeles and London and acted as Counsel at the International Chamber of Commerce (ICC) International Court of Arbitration in Paris, France.

⁷ Lewis Carroll (Charles L. Dodgson), *Through the Looking-Glass*, Chapter 6, p. 205 (1934). (*Through the Looking-Glass* is a sequel to *Alice in Wonderland*, and was first published in 1872).

⁸ *Id.*

Successful lawyers would consider a move only for career advancement and this should be a key consideration for any 'lateral move'.

Career progression or advancement may come in the form of more remuneration or greater status as in title or firm. These two are the obvious value indicators. At the senior level, particularly for partner moves, these are often biggest motivators. However, there are also other value indicators such as quality of work, culture, fit, environment, and opportunities. The weight that any lawyer places on different value indicator changes over time.

Ms. Miles advised YO members to fully understand what they want to obtain out of a 'lateral move'. She asked "*What are you looking for? Why are you looking? Are you looking in the right place and at the right time for you?*" YO members must decide if their personal values are better met in the new opportunity, at your firm, or somewhere else entirely.

Q&A Session

During the Q&A session that followed, **Dr Sebastian Kneisel** of Borris Hennecke Kneisel, shared his personal experience of moving from being an associate at Freshfields to setting up an arbitration boutique with some colleagues two years ago. For Dr Kneisel, future career progressions and opportunities were the value indicators.

Dr Kneisel explained that when starting in an arbitration team at a big law firm, a lawyer typically does not choose the kind of work he does, and as your career progresses, being in an arbitration team may not be sufficient. Your future career depends on the kind and quality of work as the cases you work on shape your network within the firm and within the arbitration community. The cases shape your area of expertise and the quality of work shape your personal skills set.

When transitioning to a boutique firm, two things naturally happen: (1) responsibility and client contacts increase tremendously and (2) you are required to be involved in more business development, networking, entrepreneurship and administrative work. Therefore, if considering a lateral move, Dr Kneisel advised to be radically honest with yourself and consider the downsides to the increase in money and/or status. If the move is for more subtle reasons, Dr Kneisel cautioned to ask what exactly you want to improve or change to determine how a lateral move can help.

Ms. Miles then shared an interesting 'stat of the week' from Above the Law on attorney satisfaction. According to the survey, 83.6 percent of lawyers said they would choose their firm all over again while another survey found that only 63 percent of Americans would marry the same person all over again.

On one of the considerations for a lateral move, namely corporate cultural fit, **Professor Strong** asked Ms. Miles whether she had any suggestions on how someone can ascertain the culture of a prospective employer. Further, she showed interest on how law firm partners evaluate prospective new hires, both in terms of qualifications and cultural fit.

Ms. Miles suggested that candidates meet and spend time with other associates in the 'target' team, as well as the interviewing partner(s). First, the candidate can go to events and meet people. Second, if the candidate advanced through the interview to or near to offer stage, the

candidate can ask to go out to coffee or a drink with the associates. By spending a little bit of time with the team, one can quickly get a feel for the culture.

From the perspective of the employer, time spent at interview is crucial. By meeting the candidates in person, the employer can get a feel as to whether they will fit well with the team. Ms. Miles explained that hiring committees look for individuals who strive to work hard and do a great job, and enjoy collective challenges and successes. She noted that it is also telling to hear what a candidate says about his or her existing team.

A YO member, **Mark Dean Itaralde**, then posed a question on how to pursue a career in international arbitration after obtaining a JD-MBA and having spent 8 years in-house as a paralegal at a real estate. **Ms. Miles** provided a list of suggestions on how to transition towards international arbitration. She noted that it can take some time and financial investment. International arbitration is a competitive field so it is worth considering one or more of the following:

- The FDI and VIS Moots which are excellent ways to gain background and introduction to arbitration, as well as contact with those working and hiring in the area;
- An LL.M. program in international arbitration with exposure to practitioners can be valuable, e.g., New York University School of Law, Queen Mary University of London, MIDS, University of Geneva, University of Miami, Stockholm University, National University of Singapore;
- Most large international arbitration practices offer internships (at least in Europe);
- Most arbitration institutions offer internships, as well as counsel and deputy counsel roles (these are often advertised on OGEMID);
- The Chartered Institute of Arbitrators offer valuable entry level programs for associate membership and membership with entry level arbitration training and a valuable qualification, and again exposure to practitioners;
- At a more advanced level, the Chartered Institute of Arbitrators runs a Diploma course for arbitrators from Oxford, Sydney and Kuala Lumpur;
- 'Young' arbitral committees, bodies and groups and consider taking a leadership role in the IBA Under 40, ICC YAF, Young ICCA, YIAG (LCIA), YAP (Paris), etc., which can be a great introduction into the field; and
- Attend events and meet practitioners in the international arbitration community.

Finally, Ms. Miles commented that belonging to the YO Listserv is great and suggested to follow developments, research and write, post, and build on knowledge, exposure and expertise to enhance the CV.

Professor Strong added that for YO members who are in practice and therefore ineligible to participate in the various moots, one can coach or judge competitions, particularly at the regional level or even for law schools. If you are in another field of practice and looking to transition into international arbitration, pursuing an LL.M. can be very helpful, though it does not guarantee employment. Professor Strong advised to do a lot of legwork, including networking, writing, specialized study. Prospective employers appreciate junior associates who take initiative and show an understanding of how to promote themselves, and by extension their practice and firm. Professor Strong also reiterated that posting on YO as a way to start building your reputation and that the only way to develop confidence is to post.

Adding to the comments of Professor Strong and Ms. Miles regarding participation in moots, **Ms. Samantha Lord Hill** of Freshfields, shared how her involvement in various moots led to her first employment. As a law student, she participated in the Vis Moot in Vienna and then the FDI moot. It was during one of the pre-moots that she met the disputes partner who she later went to work for as a trainee and as a junior lawyer. Indeed, before her first appearance in court, the partner reminded her that it was her pre-moot that resulted in her securing the job.

When it comes to networking, **Professor Strong** offered some tips to YO members on how to "get out there and network." For example, at an event, one way would be to go congratulate a speaker on the presentation and ask a follow up question. Then get a business card or the email from the participant list and always send a "good to meet you" email following the event, preferably within 24-48 hours. In Professor Strong's early years, she kept an excel spreadsheet of the individuals she met and where so as to remember in case of meeting again. In terms of talking subjects, it is unnecessary to be the expert or carry the burden of the conversation. Professor Strong suggested to ask relevant questions and to let the other person talk ("only connect"). The other tip for the initial or second meeting is to keep the conversation short and simply make a connection, though the second meeting can last a bit longer. At the third meeting, you can talk longer because you know the person a bit more and because you are more familiar with the field. Finally, the best networkers try to genuinely find a way to help the other person.

An **anonymous** YO member then posed a series of questions unique to mid-level associates regarding lateral moves.

Question 1: How does a mid-level associate make him/herself not only noticed but actually attractive, as a lateral, for leading arbitration groups after building an existing network?

Ms. Miles noted that she can only describe what she looks for (and have always looked for) as a partner in large US firms operating and hiring in London. For international arbitration associates at every level, first and foremost she looks for:

- stellar academic qualifications;
- work experience showing a litigation/disputes track record in a recognised firm (or as a judge's clerk);
- international focus (either through an LL.M or living abroad etc).

Once all these criteria are met, Ms. Miles turned to other factors such as languages, specific international arbitration experience, personal recommendations, and fit. The more senior the candidate, the more interesting become the personal recommendations, previous work done and willingness shown to establish an international arbitration profile. This is where the 'network' or market profile comes in. As international arbitration work often comes from peer referrals, the stronger the senior lateral's peer law firm connections are the better.

Question 2: What are the top three things that you are looking for in a lateral?

Ms. Miles commented that assuming the three foundation factors are all met, the three things she looks for most in a mid/senior lateral are:

- a) fit with the group and culture, which means a genuine desire to be part of a successful unit and team;

- b) a willingness and ability to take ownership of and responsibility for your cases and your own profile and career development; and
- c) advocacy in your DNA: Ms. Miles is interested in whether or not you have mooted or debated or regularly speak at events and/or have your Bar training or Higher Rights (in the UK) or advocacy training in other jurisdictions.

Question 3: Do you have any suggestions for enlarging and making use of one's contact network for purposes of several lateral moves in the course of one's lifetime without tiring/straining one's existing network?

Ms. Miles advised not to think of contacts as a network so much as your community and to treat that community the same as you would treat your sports team, or your church community, or your neighbourhood or village. Just as you might buy the drinks for the team or take out the rubbish for a neighbour, think about what you can do to strengthen your international arbitration community connections. Offer to help on task forces and projects – and follow through and complete the task. If you see an article or a new case relevant to an issue you recently discussed with someone, send it on. It is important to gently nurture these contacts as they grow and strengthen to trusted counsel relationships. Don't force it such as by asking for work. That approach simply does not work.

Ms. Miles emphasized the importance of treating members of your community with unfailing courtesy and respect. Because we all work within a small international arbitration community, people get to know you and learn who you are. Your reputation is everything. Approach every case, every piece of work, internal or external, as if it is the most important thing you have ever written or prepared in your career.

Ms. Miles then added two practical tips that are sometimes offered in 'network training':

- 1) wear your name tag at your top right lapel, so as you go to shake hands the person you are greeting can see your name; and
- 2) during coffee breaks, try to enter 3 or more member groups, as this is easier than breaking into a 2 person conversation.

Ms. Miles' own tip for women in particular is to attend events like ArbitralWomen, which are very friendly and inclusive and offer network opportunities such as the ArbitralWomen SpeedNet events and a mentor program. When attending larger events, try to look for the women you have previously met or try to get connected with a slightly more senior mentor who can introduce you around and give you a start.

To add to the discussion, **Christopher Campbell**, offered some relevant points from his experience in obtaining his LL.M. degree and networking. Mr. Campbell obtained his LL.M from Tsinghua University, and had the opportunity to take the majority of the international courses participate in the Vis Moot both as a participant and then a coach. This has led to opportunities to work on certain events which allowed him to meet arbitration practitioners.

Studying at Tsinghua was one of the best decisions as (1) it provided access to leading international arbitration practitioners (e.g. Gary Born, Albert Jan van den Berg, Justin D'Agostino, Teresa Cheung, Meg Kinnear, and Andrea Bjorklund) and (2) the university, professors, and alumni network offer numerous opportunities and help to find positions after graduation.

Mr. Campbell underscored the importance of networking and relationship building, especially in the legal community. In addition to the tips already provided, Mr. Campbell added that if there is a firm or practitioner that interests you, reach out to them. Take the first, introduce yourself, if you have questions, you should ask them. When reaching out, be flexible and willing to take 5-10 minutes of time and always follow up with a thank you message.

Finally, Mr. Campbell commented that once the relationship is established, there is no need to message them every few weeks. Personally, unless there is something in specific, he simply sends a message 1-3 times a year just to check in and update them with my progress.

YO Member, **Ibrahim Mohamed Amir**, sought advice on his application for an LL.M program in the US. Some have advised to do the LL.M. at a bit name university in the top 3 regardless of the subject matter while others recommended to select a specialized LL.M. in international arbitration regardless of the name or ranking of the university (e.g. University of Miami, NYU, Georgetown).

Orlando Cabrera, an LL.M. student at NYU, faced the same question last year and advised to consider universities in big cities like New York, Washington, London or Paris. This is because only big cities can provide you with numerous events to put into practice all the networking and advice given by Ms. Miles and Professor Strong. In addition, big law firms with international arbitration practice tend to have an office in big cities. Therefore, when you go to these arbitration events, you have the chance to interact and establish contact with partners and associates at these firms.

Speaker 2: Lateral Moves at the Associate Level and Lateral Moves across Jurisdictional Lines

The second speaker, **Samantha Lord Hill**, an Australian-qualified Associate in the international arbitration practice of Freshfields Bruckhaus Deringer based in Dubai, UAE, focused the discussion on lateral moves from the associate perspective: "Becoming the Outsider – Challenging but oh so rewarding".

Ms. Lord Hill described the mid-level associate years as the "sweet spot" where the senior associates delegate substantial aspects of the matters to you and junior associates look to you for guidance. You've put in hard work and proven your competence and commitment. But you start to ask the question – what next? You consider career progression, question whether your colleagues at other firms are paid more or promoted faster. Out of curiosity, you may search for "arbitration mid-level association" in cities such as Singapore, Dubai or New York and discover that you are demand. You start to seriously think about the pros and cons of a "lateral" move.

Ms. Lord Hill noted certain advantages of a "lateral" move but cautioned that the move comes with a risk: "the outsider risk." Unlike your trainee time when you arrive in a group, a mid-level associate arrives alone as "the outsider." Your new colleagues may be optimistic but they may also be curious about where you come from, your background, how you fit in with their culture and where you sit in the promotion hierarchy. If you move to a new city or country, you will face the additional hurdle of not knowing where to buy coffee, let alone where to go for lunch.

According to Ms. Lord Hill, there are two important keys to mitigating the outsider risk and giving your lateral move the best chance of success (1) do your DUE DILIGENCE; and (2) use your position as the outsider as an OPPORTUNITY.

- 1) By due diligence, Ms. Lord Hill advised to get to know the firm, but more importantly the practice group and the people that you will be working with. Before making the move, you need to be satisfied that your new group's culture and its working style fit you, and that the type of matters that you will be working on are in line with your career direction. The best way to do this is to meet and talk to people who either work or who have worked at the firm. If you don't know anybody who works or has worked at the firm, once you reach an appropriate point in the interview process, ask to meet some members of the team for coffee – they will be as interested in meeting you as you are in meeting them.
- 2) By using your position as the outsider as an opportunity, Ms. Lord Hill meant being open minded and using the move as a chance to grow personally and professionally. This is your opportunity to socialize, get to know and learn from new associates and partners, to draw on their experiences and to learn different approaches, strategies and ways of working. Conversely, it is also your opportunity to contribute to your new team the valuable skills, knowledge and lessons that you have learnt from your old firm. If you have moved across jurisdictions, try to gain knowledge of a new body of law, expand your network across borders, as well as experience a new culture and way of life.

Q&A Session

Professor Strong firstly asked about the change of firm and countries, whether Ms. Lord Hill had any suggestions for those thinking of moving to another country, and whether there was anything about the practice in Dubai that surprised her.

Professor Strong secondly asked for ideas on how to deal with difficulties when lateraling into a new firm, particularly if those of the same level may view the new hire as a threat to their advancement.

In response to the first point, Ms. Lord Hill drew from her personal experience of moving from the UK to Australia with a limited knowledge of how Australian life works and without an established network of friends. She saw the challenges of doing even the simplest tasks as an adventure and as an opportunity to learn new things and meet new people. The more Ms. Lord Hill put herself out there and got involved in activities and events, the easier life became and the more rewarding the experience. Having been through this move made the Dubai transition much easier as Ms. Lord Hill was already armed with the lessons learned.

From a career perspective, Ms. Lord Hill explained that international arbitration practitioners are particularly well placed to move to another country because of the international way of the practice. For example, in her current practice, she deals with matters under a range of institutional rules with different arbitral seats and governing laws. While substantive legal knowledge is obviously important, arbitration practitioners are not necessarily experts in the substantive law of any jurisdiction. They are experts in applying their skills to find out the substantive law answers to the questions in any given dispute.

Ms. Lord Hill's primary advice to those considering a country move part way through their career is do your due diligence as relocation is a big move. You need to be sure that both the firm and the country are right for you. Think carefully about which jurisdiction you would like to move into and ask yourself what the legal environment is like there, what are the key sectors and whether these sectors interest you, whether there are opportunities for growth for someone of your level, will you be happy in that city or country? The only way to get the insiders' information is to talk to people.

In response to the second point, namely the concerns of other associates in your new team who may fear for their own advancement, Ms. Lord Hill said there are three main ways to try to combat this:

- 1) Learn from your colleagues: your peers have been there long enough to be able to teach you a thing or two about the firm so embrace this! Ask them questions and ask for their guidance, particularly in relation to firm processes. This will implicitly send a message that you are not here to take over but that you are here to work collaboratively.
- 2) Earn their respect: at the same time as learning from your new peers, show quietly and confidently that you have what it takes to be a successful member of their "team". Be proactive in working with team members, while at the same time earning their respect through the quality of the work that you produce and contribute to the overall team work product.
- 3) Develop a good relationship with them: get to know these people! Go out for coffee with them or ask them to grab lunch. Once people get to know laterals, they gradually stop being the "outsider" and become the "insider".

Professor Strong followed up on Ms. Lord Hill's suggestion to get to know colleagues with the example of a lateral she knew with an excellent technique she called the "charm offensive." Upon arrival, this lateral took it upon himself to do a daily tour of the floor, stopping by people's offices for a brief hello, and single-handedly raised the spirits of the entire department. He showed himself to be an excellent team player and everyone thought highly of him.

Speaker 3: Lateral Moves from Judicial Clerkship to Practice

Devathas Satianathan who joined Rajah & Tann Singapore after two years at the Supreme Court as a Justices' Law Clerk, introduced the topic, noting that his was not truly a "lateral" move in the sense that he had to move out.

As nobody stays a judicial clerk forever, the options are broadly: (a) staying in service (e.g. being a prosecutor or working on policy-related matters); or (b) joining private practice. Mr. Devathas chose private practice primarily for the diversity of the work.

Mr. Devathas noted the initial concern of joining an arbitration practice which was that he would not have any competitive advantage due to lack of experience. However, this concern was addressed by an understanding that he would be exposed to both arbitration and court work. Further, he has grown to realise that clerkship experience is valuable not only in the context of litigation.

Q&A Session

Professor Strong then asked how Mr. Devathas convinced his firm to hire a former judicial clerk into an international arbitration practice. Mr. Devathas responded that as a clerk, there are many soft skills that you pick up and he then focused on the art of persuasion. Mr. Devathas noted that although clerks do not become experts at persuasion, they benefit from watching the best litigators and hearing the judges' insight. Put in this light, Mr. Devathas noted that the experience of a judicial clerkship (or rather, hiring an associate with such experience) would be beneficial to an arbitration practice.

Aloysius Chang, Associate at K&L Gates, shared a related point to this topic as an alternative to judicial clerkship, that is working for international arbitrators, including as tribunal secretary.

Mr. Chang has found his experience as an arbitration clerk and tribunal secretary to be very useful, both in terms of amassing arbitration knowledge and meeting people in the field. The work exposes you to only arbitration day in and day out. Moreover, you can benefit from excellent mentorship of the arbitrator and the quality of work as Mr. Chang had.

To get a post as an arbitration clerk or tribunal secretary, Mr. Chang advised to reach out to any of the world-class arbitrators out there. Chances are, at least one of them will be looking for someone to assist them with their heavy workload.

Mr. Devathas agreed that an "arbitration clerkship" would typically be considered more relevant (than a judicial clerkship) to a future career in arbitration, both in terms of developing hard skills and the chance to build a network. The only point to add was that he would not recommend going from a judicial clerkship to an arbitration clerkship (with a view to eventually entering practice) as the work was largely more of the same.

On the issue of multiple clerkships, **Professor Strong** advised that each individual needs to evaluate the value of the clerkships. For example, Professor Chris Drahozal, one of the reporters for the upcoming Restatement on the U.S. Law of International Commercial Arbitration, was a clerk for Chief Judge Charles Clark of the United States Court of Appeals for the Fifth Circuit, Justice Byron R. White of the United States Supreme Court, and Judge George H. Aldrich of the Iran-United States Claims Tribunal in The Hague. From Professor Strong's conversations with him, he enjoyed all three positions and learned very different things. As a result of these experiences, he is equally fluent, as it were, in domestic proceedings as well as international ones.

Professor Strong suggested that U.S. nationals may consider the possibility of acting as a Supreme Court Fellow. The Court is very interested in those with interest and expertise in international and comparative (foreign) law, since several of the positions involve interactions with foreign judges as well as US judges.

Professor Strong then asked for advice on (1) how to get a judicial or arbitral clerkship (i.e., how to find them, how to set yourself up for them, what they're looking for) and then (2) how to segue from that clerkship to another position (i.e., how to find law firms that are looking for lateral associates (it's a different process than law school interviewing), how to judge between different offers, how to adapt to life post-clerkship).

On the points Professor Strong raised, **Cristina A. Montes**, shared the following thoughts and experiences:

- 1) Ms. Montes submitted her CV to the offices of all the 15 justices of the Philippine Supreme Court and obtained an offer from one of them. Others applied only to the justices whom they knew were hiring or whose offices had vacancies.
- 2) With regard to Ms. Montes' current position in the law firm, she learned about it through a law school friend who was then already working in the firm. This highlights the value of networks.

As to how to evaluate between different offers, Ms. Montes recommended to consider factors other than salary including the internal culture of the firm as well as opportunities for training and mentoring. As to adapting to life post-clerkship, there is the challenge of adapting one's perspective from that of a clerk to that of an advocate. Another area for adjustment was time management where law firm work involves more deadlines and travel.

Mr. Devathas stepped in to add the Singapore perspective:

- 1) How to get a judicial / arbitral clerkship: Singapore is very different in that our judicial clerks are organised into a pool. Upon graduation, based on our results, we are invited to apply. Thereafter, we go through an interview process (essay, personal statement, interview with typically the Chief Justice and High Court judges). Then, we get assigned to a High Court judge on a rotation-basis (typically in 3-6 month stints). The "how to get in" is pretty much answered by (a) getting good grades in school; (b) writing a good personal statement (which comes a lot easier with depth of experience during law school: mooting, pro bono, etc.); (c) writing a good essay (which means typically conveying a coherent and well researched argument succinctly); and finally (d) interviewing well (which typically ties in with (b) and (c) - being able to expound upon the essay / personal statement and connecting meaningfully with the panel).
- 2) How to segue: Mr. Devathas agreed with Ms. Montes' points, noting the importance to embrace the human side of the profession that we might miss at times in the midst of all the research.

A question was raised as to the possibility of getting judicial clerkships or associate position for international LL.M. students. **Professor Strong** acknowledged that international LL.M.s will always find it difficult or impossible to get a judicial clerkship in their host countries, since most if not all courts require their clerks to be nationals of that country. However, arbitral clerkships are another matter to be considered. You may be able to find an arbitral clerkship/secretary position in your host country by contacting leading arbitrators. Professor Strong advised to build good connections with international arbitration professors, since they are sometimes contacted by leading arbitrators to identify potential candidates for clerkships.

As for getting a firm associate position in their host countries, Professor Strong noted that international LL.M.s have two routes. If they attempt to go in as a first year candidate qualified in the host country's national law, they often have a tough time, since they are competing against J.D.s with three years' training in that national law and who follow the traditional path to employment.

If, however, the international LL.M has substantial work experience already, he or she can try to come in as a foreign qualified lateral candidate with expertise in the host country. If someone wants to take that route, he or she can (1) contact local legal recruiters (headhunters) and/or (2) contact the lateral hire supervisor at the firms of interest (i.e. the human resources department). Sometimes contacting a partner at the firm is useful, but make sure to also contact human resources as well, since the partner may not be aware of the firm's wider needs.

Orlando Cabrera also noted that LL.M. students may have an advantage if they are fluent in Spanish or Portuguese, for instance, and they are applying to an International Arbitration Group with a strong practice in Latin-American.

Global Chief Litigation Counsel of GE (Oil & Gas), **Michael McIlwrath**, shared the perspective from a hiring company:

- 1) **Recruiters**: In Italy, there are few or no legal recruiters dedicated to law firms as in the US and the UK. Most recruiting is done by companies and individuals headquartered in London and Paris. They are good, but their of southern Europe is not as deep as their practices at their headquarter locations.
- 2) **Company employment portals**: Many large companies have a requirement that all open positions must be published on-line and all applicants must apply via the internet portal, even if the applicant is identified by a recruiter or even if there is a preferred internal candidate who has been identified. The policy forces us to look at a broader pool of candidates.
- 3) **Cutting through the noise**: While young applicants frequently have to cut through the hundreds of CV's, the numbers are not as daunting as one might think. You will leap past at least half the applicants just by having understood the job description and applying for the right job. Experience does not have to be a perfect match, as it is ok and even a good thing to stretch, within reason. For example, a prospective arbitration employer in Paris is unlikely to view as credible a candidate who currently works exclusively on administrative tax appeals in the domestic courts of the Grand Duchy of Fenwick and does not speak two of the languages requested.
- 4) **Getting interviewed**: Getting selected from the dozen or so viable names is a different matter. You want to fall squarely within the expected range of competencies. And that you are different, unique, passionate and there is about your CV that shouts, "I'd be an interesting person to interview." (See Mr. McIlwrath's blog on Kluwer: <http://kluwarbitrationblog.com/2012/02/12/anti-arbitration-get-a-job-kid/>)

Speaker 4: Lateral Moves within US Academia

Professor Catherine Rogers, Penn State University Law School, turned the discussion from primarily in the practitioner sphere to joint appointments and lateral moves to academia as an academic.

Professor Rogers gave a brief biography of her professional journey. After her judicial clerkship on the 9th Circuit Court of Appeals, she started her professional career as an international arbitration associate in Hong Kong. During her time in Hong Kong and a few more years at a San Francisco firm, she wrote her first law review articles, which were the basis for her admission to the LL.M program at Yale. Although an LL.M is not necessary to become a professor in the United States, it can be a helpful way to make the transition from practice to teaching.

After Yale, Professor Rogers took a position at Louisiana State University that allowed her to teach one semester in the United States and one semester at Bocconi University in Milan, Italy. After several years, she moved to Penn State, and shortly after that transition, she was offered a partial appointment at Queen Mary, University of London, which (unlike Bocconi) involved frequent work in London, but not a full semester each year.

According to Professor Rogers, this combination of joint appointments is relatively unusual, and US universities joint appointments are apparently increasingly reluctant to grant such allowances. Professor Rogers then shared her reflections about the challenges of maintaining such dual appointments.

First, there are a number of wonderful synergies, particularly when the positions are in different legal systems. However, there are significant logistical and temporal challenges. While each position starts with shared understandings about the nature of obligations and the related time commitment, there is always a sense you need to do more to demonstrate your full commitment. As a professor, you need to find creative ways to be part of the academic community from which you are away a good part of the year.

Second, staying fully connected with both communities can be an exceptional challenge, particularly as dual appointments requires more engagements with students and activities in two institutions with very different traditions and cultures. For these reasons, a dual appointment while working toward tenure is exceptionally rare. However, if you are teaching in international topics, a dual appointment can open up many new opportunities and help establish a much more international profile than if you are based exclusively in a single system. For anyone teaching international arbitration, there would likely be numerous opportunities for summer or short-term teaching positions, which is a nice way to attain similar benefits without all the challenges of a dual appointment.

Q&A Session

Mark Kantor raised the issue of "adjunct" professors where practitioners and young lawyers teach a practical course but are not part of the permanent faculty. As an adjunct in the US for 16 years, Mr. Kantor asked whether and if so teaching as an adjunct professor in a law school can be a stepping stone for a lateral move from practice into academia and whether the differences in the systems in Italy and UK have an impact on using adjunct status as a transition.

In response, **Professor Rogers** stated that teaching as an adjunct may not be the best way to transition into a formal tenure-track position because the primary criteria for most schools relates to their scholarship, not their teaching. For that reason, teaching as an adjunct might decrease the likelihood of publications. However, the rigidity of the distinction between tenure-track faculty and non-tenure track faculty is in many respects breaking down in US law schools. Many schools now have a host of titles—Distinguished Visiting Professor, Professor of Practice, etc.—which refer to people formerly called adjuncts, but along with the new title and prestige. In some instances, these titles can translate into exciting professional positions such as being the director of a center or a program.

Barrister at the Bar of Ireland, **Mr. Arran Dowling-Hussey**, added that many UK or Republic of Ireland based part time law teachers would struggle to transition to a full time university position - as a PhD is required to join the faculty full time.

Professor Strong then asked Professor Rogers to elaborate on the difference between finding an academic position as an academic-to-academic lateral and getting a first job in US academia. Professor Rogers first responded that academic moves are less frequent, and the market depends on a number of factors, only some of which are within a professor's control.

The most important consideration for the schools is probably your publication record (in the US, mostly articles, not books). With regard to timing, the conventional view is that the best times to move are between after your 4th year and before tenure consideration (which in the US comes in the 6th year), or relatively shortly after tenure. After that period, a lot depends on the market.

Traditionally, leading law schools are less focused on subject matter expertise when they hire, but most schools do consider subject areas in which they have specific needs. The dramatic contraction in US law school applications in recent years has produced not only an overall slowing in academic hiring because of a contraction in the size of law faculties, but also a more intense focus on hiring for core subjects (contracts, torts, property, evidence, corporate law). If you do not teach a course in these areas, it can be much more difficult to move.

International arbitration is an increasingly popular class with increasing demand, but it is still perceived as a "boutique" subject that can easily be covered by adjunct faculty. For that reason, if your scholarship is exclusively focused on international arbitration, it can be more difficult to move because you are unlikely to fit into any school's perceived core needs.

Other variables that can affect your ability to move are the nature of your professional academic network. Professor Rogers recommended trying to write in areas that are considered core and have academic colleagues outside of the quite narrow field of international arbitration.

Professor Strong added that YO Members should be cautious when interviewing at law schools and keep their radar on interpersonal matters just as they would with law firms as not all faculties are created equal. When interviewing, ask around about the reputation of the faculty on interpersonal matters, watch how the faculty interacts, ask several people how teaching assignments, grant money and travel reimbursements are handled, etc. Usually during the course of the one to two day interview, you will be able to find a few people who will suggest the truth to you, even if they don't flat-out say it.

Speaker 5: Lateral Moves within European Academia

Associate Professor, **Stefaan Voet**, University of Leuven, focused on his path to academia in Europe. In 2001, Professor Voet graduated at the University of Ghent in Belgium. Professor Voet first worked at a legal publishing company then as an attorney. After three years, he combined this with a part time position as a research and teaching assistant at his university.

In 2007, he went to academia full time to write a PhD, which is a requirement to get an academic position in Europe. Many years ago, having a PhD was enough to get a position. However, times have changed, in the sense that more and more lawyers pursue a PhD. Some of them want to enhance their chance of getting hired by a bigger law firm as in the case of Germany.

Professor Voet decided to pick an “international” topic (class actions) to enhance the chances on the larger European market. Because he had an international topic, he was able to have some international experience (e.g. being a visiting scholar at a US law school and attending a lot of international class action conferences). This is a must, because it allows you to build a network.

After the PhD, Professor Voet got a position as a post-doc and these positions are limited in time. He then went to the US as a visiting scholar at Stanford Law School and did some limited teaching in the US as a visiting lecturer (University of Houston, SMU Dedman School of Law, University of Tennessee and Syracuse College of Law).

Two years ago, Professor Voet applied for a position at the University of Leuven, which was not an easy decision. In some places in Europe (e.g. Belgium), it is uncommon to leave your “home” university. Most academics work at the university where they studied and obtained their PhD. In Germany, you need two PhDs, a “real” PhD and a “Habilitation”. You have to do the “Habilitation” at a different university. Most German colleagues he knows then return to their home university. The same is true in Italy, France and – but to a lesser degree – the Netherlands. So most European academics are quite home based.

In the end, Professor Voet was hired by Leuven as a professor of civil professor. He is also a program associate at the Centre for Socio Legal Studies at the University of Oxford and this academic year, he is a visiting professor at the University of Utrecht in the Netherlands.

Q&A Session

Christopher Campbell asked whether a doctorate degree is required to teach in Europe regardless of where you come from, specifically whether a U.S. practitioner/academic aiming to work in Europe would need to obtain a PhD from somewhere. Mr. Campbell also queried as to how one goes about finding a meaningful/contributory topic to write about.

Professor Voet responded that the PhD-prerequisite counts regardless of where you come from. If you look at the vacancies, they all require a PhD. He further explained that it is not so important where you obtained the PhD, although this probably depends on the research area in question. Professor Voet noted that he has not seen that degrees from one part of the world are favored over other parts of the world. Although, he has noticed that more and more researches are pursuing an empirically based PhD.

On the latter question, Professor Voet commented that finding a suitable topic for a PhD is not easy. Something that is “hot” now, can be “cold” in three or four years. Having a good supervisor helps and one should find a good supervisor before selecting a topic. Supervisors have more experience and usually they see global and interesting developments.

In terms of job search, **Professor Strong**, asked whether European institutions have some sort of central clearinghouse like the American Association of Law Schools (AALS) in the US or a standard time frame. Professor Voet said there is a useful website: <http://academicpositions.eu/> (you have to click on ‘law’). This site is used frequently and it is also a costume that some universities (not all of them do this) send their vacancies to other universities. Some vacancies are also published in European law reviews.

Regarding the interview process, **Professor Voet**, said he could only speak from personal experience and what he has heard from other colleagues. Usually there is a first selection based on the resumes. The faculty (or a committee within the faculty, sometimes with, sometimes without external members) makes a shortlist. Then there is an interview with the committee: face-to-face or when the candidate lives abroad via Skype. In some cases you have to teach a class before students or faculty representatives or the committee.

Speaker 6: Lateral Moves between Different Sections of the Legal Market; Lateral Moves across Jurisdictional Lines

Finally, **Brooks Daly**, Deputy Secretary-General of the Permanent Court of Arbitration (PCA) in The Hague described his diverse career history across multiple jurisdictions. Mr. Daly moved within his first law firm from Los Angeles to San Francisco. Then he moved to a different US law firm in London. Then he moved to the ICC in Paris and finally, moved to the PCA in The Hague.

Mr. Daly said these might all qualify as “lateral moves”, as he was moving to positions that corresponded to his level of experience in the prior position (rather than getting a promotion).

For three of four of these moves, geography was the main concern. At some point, each location, San Francisco, London, and Paris became more attractive than the previous place. The challenge was then to find employment in the new target city. The move from law firm to institutional work came by chance. When he was interviewing for jobs in corporate law practices in Paris, he was contacted out of the blue by the ICC and was invited to interview for a position there. Unlike the other lateral moves, the move to The Hague was based on an interest in a particular institutional job rather than a geographical target.

Mr Daly advised that the first and most critical factor in making a lateral move is having a solid reputation with your present employer. Future employers will generally check with your prior employer(s) and if they hear anything lukewarm, it will make you unattractive as a potential hire. For international moves, there are several factors that are relevant in addition to a good reputation with your past employer(s). Jurisdiction of qualification, language ability, practice experience, and immigration status are the most obvious.

Many law firms will not consider you as a potential hire if you are not qualified to practice in that jurisdiction or do not at least have a plan to qualify in that jurisdiction. Regulations on the practice of law will often dictate a law firm’s ability to hire foreign qualified lawyers. Being hired by an arbitral institution meant that it was not necessary to pass the Paris Bar, but had he joined a law firm in Paris, it would have been obligatory to do so within his first three years. Lawyers seeking to move should be aware of these rules before interviewing in foreign jurisdictions.

On language ability, English is the most important in international arbitration, and if you do not have a near-native level yet, then keep working on it before you start another language. Then there is the language of the target jurisdiction where you want to work. Mr. Daly explained that speaking French was critical to his job prospects in Paris, but sometimes there is such a premium on a particular language that even limited knowledge of the local language may not be an impediment. For example, he knew English and Russian speakers who have been hired in Paris with virtually no knowledge of French. If you speak English, plus the language of the target jurisdiction (e.g. French for Paris), plus another language used

frequently in international arbitration (e.g. Spanish, Russian, Arabic), you will be in a strong position indeed.

On practice experience, you can hopefully bring something to the new jurisdiction that they need. For Mr. Daly, it was experience with US law-based corporate transactions. Many of these are negotiated in London, so his US experience was relevant in London and Paris. If you are going to compete with the locals to do local legal work, it will be particularly challenging.

Immigration status is certainly important. If you are lucky, you have a passport that allows you to work in your target jurisdiction. If you do not, you must be bringing something to the new jurisdiction that they don't have in order to justify the extra effort and expense that the employer must incur to hire you. Many arbitral institutions seek a staff of diverse nationalities in order to better serve their users, so are prepared to procure work permits for their employees. Large law firms would traditionally deal with immigration issues for you, but small law firms are less likely to be willing to assist you with immigration matters.

One last point of advice is to have a convincing narrative. When talking to a potential employer about a lateral move, you need to explain how the target job/jurisdiction represents a logical professional and/or personal progression for you. When talking about your current position, focus on what is positive about it and what you have learned there. You should be making a lateral move because the new place offers something that corresponds to your personal goals (a different country, a different practice area, institutional vs. firm work).

Q&A Session

Professor Strong followed up with some specific questions for Mr. Daly: (1) any tips on how to spin a series of relatively recent moves to convince a prospective employer that you're a good candidate?; (2) What kind of people are attractive to those employers and what is the life at institutions like?; (3) Are the ICC and the PCA "destination" jobs or can they be used as "stepping stones" to something else?

Mr. Daly responded that the PCA and ICC can both be "destination" jobs or stepping stones. He was told when I joined the ICC that it was hoped that people hired for the Counsel position would stay for 4 to 5 years and then go to private practice and put their ICC experience to use there. Most lawyers do stay at the ICC for that period or less, and see the ICC experience as a stepping stone to a law firm with a prominent arbitration practice, but Mr. Daly knows a number of people who have spent 10 or more years there, sometimes holding different positions over that period. Ten or more years is a significant part of a career, so that would seem more like a "destination" in those cases. Mr. Daly has been at the PCA for over 10 years and another colleague, Sarah Grimmer, just left the PCA after 10 years to become the Secretary-General of the HKIAC. The PCA was a destination for her, but an exciting opportunity arose that also made the PCA a good stepping stone.

As to hiring, arbitral institutions seek a diversity of experience among the lawyers they hire to match the diverse caseload (subject matter, applicable law, language of arbitration). The most relevant experience for institutional work is commercial litigation or arbitration experience at a law firm. That being said, both the PCA and ICC also hire more junior lawyers looking for their first practical experience with arbitration. Mr. Daly came to the ICC from a transactional practice, not a disputes practice, so there is no single profile for

these positions. Institutional work is varied, from administrative and logistical (make arbitrator fee payments, keep files organized, assist with hearing preparations) to legal (research arbitrator challenge precedent or prepare analysis on whether an agreement to arbitrate exists prima facie). Over time, public speaking and teaching/training will also become part of your work at the ICC or PCA. The PCA as an intergovernmental organization also has a diplomatic side to its work, whereby PCA lawyers are called upon to facilitate the institution's relationship with its member states that are parties to the PCA's founding conventions. Also, the PCA's cases raise more issues of international public law, as more than half of the cases administered by the PCA arise under treaties rather than contracts.

Most people I know have found institutions an exciting place to work. You typically see a higher volume of cases than in private practice so you learn arbitration procedure faster through institutional experience. This is because as counsel in private practice it may be that one or just a few cases monopolize your time because your responsibilities for each case may be so great (e.g. preparing written pleadings, witness statements). At an institution, the demands from each case are limited as compared to private practice, so you can deal with a larger number of cases and observe the conduct of proceedings in a wider variety of cases. Also, the staff of arbitral institutions, at least the ICC and PCA, is very diverse, making for an exciting international mix of colleagues, who nevertheless have one big thing in common: a passion for international arbitration.

Now for the first question, this depends on what is on your CV. You should be able to present each move as something any reliable and hardworking person might have done in your position. Seek the empathy of the interviewer. There may be very different reasons for each move and that is fine. The reasons don't all have to be part of a brilliant master plan, but they hopefully are not things that could happen again within a short time at your new job. Obviously, "I get bored easily" could be a reason you left a prior job, but there may be other equally valid reasons that you left that would make a better impression at a job interview. Also, look at each prior step and think about what experience you had there that would be relevant to the target job. You may want to revise your CV for each job application to be sure it has the emphasis on your most important experience in relation to the target job. Maybe you love intellectual property (IP), but the law practice or institution you are applying to has very little activity in that area, so you don't need to list the ten articles on IP you have written, that you were student president of the IP law society at your law school, that you did the IP moot, a WIPO internship, etc.

Moderator **Professor S.I. (Stacie) Strong** closed the symposium by thanking each of the six speakers and the audience participants for their thoughtful questions and illuminating comments.

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