

Ask the Professor

Professor Dr Maxi Scherer, Chair of International Arbitration, Dispute Resolution and Energy Law. Interviewed by Laura Lozano LLM in Energy and Natural Resources Law, 2017/2018.

You recently won the 2018 Global Arbitration Review (GAR) Award for best speech, which is a prestigious prize. The award was for a keynote you gave about the topic "International Arbitration 3.0 – How Artificial Intelligence Will Change Dispute Resolution". What is your view: will robots replace lawyers any time soon?

Artificial intelligence (AI) will have an important effect on all our lives. As a professor, I want to make sure that I train my students well for their future jobs, even in ten or twenty years' time. That is why I started asking myself how AI will affect international arbitration lawyers. Already today, there are important tools that help lawyers in many of their tasks – for instance, AI-driven research engines, or predictive coding for e-discovery. However, law students should not worry that their jobs will be replaced by robots any time soon. An online test called "Will Robots Take My Job?" evaluates the chances of various professions being replaced by robots. For lawyers the results are reassuring: only "23% of your job can be done by a robot", with the calculation that a lawyer's job "is safer than 67.9% of jobs".

And what about arbitrators?

When I prepared my keynote mentioned above, I discovered surprising studies about computer programs being able to correctly predict the outcome of court cases. The studies relate to decisions by the European Court of Human Rights and the US Supreme Court. The percentage of correctly predicted outcomes was between 70-80%. I find those results astonishing! But, in my view, robots will not replace arbitrators anytime soon. The online test that I mentioned earlier evaluates that arbitrators' jobs are "safe": only 11% of an arbitrator's tasks can be done by robots according to the test. The reason for that is that arbitration proceedings are non-repetitive. Cases relate to complex facts and are governed by different laws. In addition, and maybe even more importantly, arbitrators – just like judges – must explain the reasons for their decisions. The ability to provide reasons is what makes a decision acceptable for the losing party and meaningful for others. Computer programs are not good at providing reasons for their decisions – at least so far.

You chose Queen Mary University of London some years ago for your academic career. What was it that attracted you to Queen Mary?

The School of International Arbitration particularly attracted me. It is a unique place where arbitration has been taught and researched as an independent subject for over thirty years and has seven permanent faculty members fully dedicated to international arbitration and dispute resolution. We teach several international arbitration classes including specialised classes, such as construction and energy arbitration. Since joining Queen Mary, I have learned about other areas of commercial law – including banking and finance law, intellectual property law, technology and media law, just to name a few – in which Queen Mary is also strong. I realise how lucky I am to be part of an institution where entrepreneurship and forward-thinking are valued.

You teach "International Energy Arbitration" at Queen Mary and have also recently published a book on this topic with Oxford University Press. What makes this topic so interesting in your view?

The idea for the book came when I was still in private practice, before I became a full-time academic. Firstly, the energy sector is a key sector within international arbitration. If you look at the number of cases or the amounts in dispute, it is the most important sector in commercial and investment arbitration. Secondly, having been involved in cases as counsel or having sat as an arbitrator, I know how important it is to understand the industry sector – this is something that is strategically important for young lawyers and gives them a real competitive advantage over other job applicants. For all these reasons, I became interested in teaching this subject. Also, I like the topic. If you are interested not only in legal issues but also in technical questions and calculations, there is always something new: the characteristics of a long-term gas contract, the problems that you may face building or financing an offshore wind farm. That's what makes the topic so fascinating in my view!

You are also the Director of Queen Mary's Centre for Commercial Law Studies (CCLS) in Paris. What does this involve?
In 2011 we launched a new LLM programme in Paris, taught in a very beautiful location overlooking the Eiffel Tower. It is based on the success of our LLM programmes in London and taught in English by the Queen Mary faculty in an intensive format: all classes are either in the evenings or offered as an intensive block. We have also added other programmes, such as a bilingual double LLM programme, offered in partnership with the Sorbonne Law School (Université de Paris I).

Considering that it is an intensive programme, would it be suitable for working practitioners?
Absolutely. We have several students who study their LLM and work at the same time either in a law firm or in-house. We even have a couple of students who work in other countries and they fly in for the classes, but prepare and study back at home. We have also launched a "Flexible LLM": students can combine distance learning, intensive teaching in Paris and regular modules in London. It is teaching à la carte!

What would be your advice for a junior arbitration lawyer: when to do an LLM and why?
There is no one-size-fits-all answer. Many students study an LLM at Queen Mary immediately after finishing their legal training. Others work for several years in their home jurisdiction and then study for their LLM. The latter might have the advantage in that they already have professional experience and a clearer idea of what they wish to achieve with their LLM. Whether it is specialising in a particular area or reorienting a professional career, at Queen Mary we try to accommodate everyone's specific goals.

After the LLM, many students studying dispute resolution at Queen Mary wish to get a job in a law firm that specialises in international arbitration. How can graduates achieve that?
The LLM we offer is already an excellent starting point. In London, I know many Queen Mary alumni who have been successful in getting a job in international arbitration after their LLM. Other important factors include the jurisdictions in which a person is qualified and the languages he or she speaks. However, I always advise students not to be afraid of taking opportunities that are slightly "outside the box". Sometimes a job in a different area of law can lead to a successful career in international arbitration. The important thing is to take opportunities as they come along.

During my time at Queen Mary, I really enjoyed the fact that students were given many opportunities to interact with practitioners in events hosted by the School of International Arbitration. What is your view on this?
At Queen Mary, we understand that an LLM is an academic degree but also a means to getting a job. Our career development team is an important feature of the LLM. They make sure that students know how to write a CV and how to present themselves in an interview. We create opportunities for students to mingle with professionals at various events, during guest lectures etc. and that is exactly how some alumni I know got their jobs.

Other students consider continuing with a PhD after their LLM. I understand that you did your PhD in France. How important is a PhD for a career in international arbitration? Does it matter where you receive it?
It is a difficult question and really depends. In some jurisdictions like Germany, having a PhD is important for a lawyer's career generally, not only in international arbitration. In other jurisdictions, it is more tailored towards an academic career. In my experience a PhD can be useful for a career in international arbitration as this requires some skills that are acquired during a PhD, including in-depth and comparative law research. Also, psychologically, having done a PhD means that you are not afraid of 400-page long submissions.

Does Brexit affect your career in any way?
Luckily, not at this stage, but no one really knows yet how Brexit is going to play out. In any event, though, I am confident that at Queen Mary we will be able to continue welcoming students from our European neighbours. Just as, today, we welcome students from over 100 jurisdictions all around the world.

Do you stay in touch with students after they have finished their LLM?
I am always extremely happy to hear from alumni. A couple of days ago, I received an email from a student who graduated five years ago. She told me how she has been successfully involved in several arbitrations over the years. We also have regular alumni events, in London, Paris and elsewhere. This is an opportunity for academics to meet again with former students. Equally importantly, former students can continue to keep in touch with each other. After all, an LLM is also the start of a network of contacts and friends for life!



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