

Harvesting data to shape the future of international dispute resolution

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Among the early words of wisdom expressed by Sherlock Holmes in the first of Sir Arthur Conan Doyle's 56 novels, A Scandal in Bohemia in 1891, was this classic line:

I never guess. It is a capital mistake to theorize before one has data. Insensibly one begins to twist facts to suit theories, instead of theories to suit facts.

And so it is with dispute resolution. There is a paucity of reliable statistics out there to enable users of dispute resolution services, as well as advisers, providers, educators, adjudicators and policymakers, to understand how best to prepare and steer ourselves for the future. And even if we take the few nuggets of mediation data that have been generated in recent years for example: <http://www.immediation.org/im-international-corporate-users-adr-survey-summary> and <http://kluwermediationblog.com/2013/03/27/what-does-the-fortune-1000-survey-on-mediation-arbitration-and-conflict-management-portend-for-international-mediation/>, the field is not proficient at inter-communication: arbitrators don't liaise enough with mediators (and vice-versa), users are rarely heard, providers compete for space and legislators get confusing signals. It's incoherent and ineffective.

A Convention is being held next month <http://www.immediation.org/shaping-idr-convention-2014/> at the London Guildhall on Shaping the Future of International Dispute Resolution which is expected to attract over 150 leaders in this area from all stakeholder groups, especially corporate and other users. Sponsored by Herbert Smith Freehills LLP, the International Mediation Institute, the IDR Group and CEDR, generously supported by the Corporation of the City of London and backed by many other bodies, all delegates will be provided with voting handsets to express their views on a series of key issues, with the results instantly projected on the big screen. There will also be tablets on each table to enable delegates to contribute comments, ideas and proposals throughout the day - all of them shared with those present.

Session 1 will give corporate users the chance to surface their needs; Session 2 will address what service providers are offering; Session 3 will cover issues that will help the field to expand (such as opt-outs rather than opt-ins, enforcement of mediated settlements and hybrids); and Session 4 will direct the spotlight on mediation in several different fields, and highlight blockages as well as successes. Finally, Session 5 will enable another group of users to draw conclusions about how best to shape the future. In every session, delegates will be able to interact with panelists and to use their handsets to express what they think about the issues raised. Those collective views will have a direct and significant influence on how international dispute resolution develops in the future.

The dispute resolution field must address hitherto unexpressed needs of the demand side on a global scale. The seminal event that spawned the growth of mediation was the Pound Conference in St Paul, Minnesota in 1976. Perhaps, the London Convention will be the first of a series of "Pound Conferences" around the world, as we have proposed previously, and generate the data to help configure the future in order to fit the facts.