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RE-RECOGNITION OF LAW

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International Arbitration

NO GOING BACK

STAY
GREEN
TO BE SEEN



AS VACCINATIONS ARE ROLLED OUT, SPRING RAISES ITS WELCOME HEAD AND WE ALL CAUTIOUSLY EMERGE FROM LOCKDOWN, THE RISK IS THAT WE MAY FORGET ALL THAT WE HAVE LEARNT...

Every cloud has a silver lining, or so the saying goes. At some points during 2020, that sentiment was hard to swallow. But is it possible that the lining of the dark COVID-19 cloud cast over the world for the last twelve months might be green, rather than silver?

There is no denying that the worldwide impact of COVID-19 has been truly devastating. The loss of life has been overwhelming, perhaps too colossal for any of us to really contemplate. Moreover, the growing economic impact of the pandemic is, put simply, frightening. Businesses closing, national debt rising to unprecedented levels and carefully crafted livelihoods devotedly shaped over decades left in tatters. Add to that the impact on our children's education and the mental health toll and it is easy to see why 2020 is a year that most of us would like to forget.

But whilst we have been staying home, protecting our hospital and medical services and running our professional and personal lives through the confines of Zoom, is it just possible that we have learnt an important lesson we should never forget?

Cast your mind back to life pre-March 2020. A new arbitration matter falls on a lawyer's desk in an international law firm. In the majority of cases, a P.A is instructed to make up several lever arch files and distribute copies to each member of the team. As the case progresses, the mountain of files grows and grows, ironically serving to block out light from the office windows. Identical copies are couriered to different cities, even different countries. Both parties rush to book flights for countless clients, lawyers, witnesses, experts and arbitrators to gather together at a hearing, each turning up every morning with a disposable coffee cup in hand.

But in the last twelve months, many of us have learnt that there is another way. A way where documents can be marked-up electronically, bundles can be entirely electronic and hearings can be successfully carried out virtually from the comfort of your own home (in close proximity to your own coffee machine or kettle and your own ceramic mug). For many of us, this has been a new learning curve. Yet it is not new. It was all there before. Perhaps we just could not see it?

The Campaign for Greener Arbitrations was founded by international arbitrator Lucy Greenwood in 2019, well before any of us knew what it meant to be 'furloughed'. The Campaign was initiated to reduce the environmental impact of international arbitrations with the aim of significantly reducing the carbon footprint of the arbitration community. It started with a simple 'Green Pledge'. Lucy pledged to reduce the impact of her own arbitration practice on the environment and, before long, the wider arbitration community's interest was piqued and hundreds of individuals had made their very own Green Pledge.

By signing the Green Pledge, individuals and/or organizations sign up to the Campaign's eight guiding principles with the aim of reducing the carbon emissions generated by their involvement in international arbitration. Yet, for many of us, the guiding principles will simply underline the way we have already been operating in a COVID climate. The principles encourage the use of videoconferencing facilities, electronic bundles, electronic correspondence and virtual hearings. At the same time, they discourage unnecessary travel, reliance on high-energy consuming workspaces and wasteful printing.

Over the last couple of years, perhaps spurred on by the effects of the pandemic, the Campaign has gone from strength to strength. Lucy has admirably brought together representatives from key stakeholders in international arbitration including arbitrators, law firms, hearing venues, third party funders, conference organizers, legal journalists, legal technology providers and corporate clients. The goal? To achieve a sustainable change in the way in which arbitrations are managed.

The Campaign has recently launched for public consultation its suggested Framework and six associated draft Green Protocols to promote better



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environmental behavior. In the Campaign's own words, the draft Green Protocols aim to reduce the carbon footprint of the international arbitration community by guiding organizations and individuals through a series of action items. The six draft protocols are each aimed at a different stakeholder in the international arbitration community. The draft protocols aim to set forth a framework for the implementation of the eight Green Principles. That's right. Those same principles mentioned earlier which many of us have already (at least, partly) been implementing in our professional lives during lockdown.

The draft Green Protocols are a thought-provoking read for anyone involved in international arbitration.



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They provide practical and workable tips and ideas to reduce carbon emissions generated by international arbitration work. Take the draft Green Protocol for Law Firms, Chambers and Legal Service Providers which suggests the installation of recycling facilities and timed LED lighting sensors in the workplace, as well as partnering with sustainable catering companies. Readers will quickly see that relatively small steps can lead to big environmental gains.

So what's the risk here?

The risk is regression. As vaccinations are rolled out, Spring raises its welcome head and we all cautiously emerge from lockdown, the risk is that we forget all that we have learnt. For the sake of our planet and future generations, we simply cannot afford to let that happen. But perhaps there is also a business reason to help persuade us to fight the temptation to regress.

Just as many of us dutifully recycle at home, install

a smart meter and repeatedly remind our children to turn off the lights, clients will quite rightly demand the same qualities from their professional advisors in the workplace. Not only is this ethically the right thing to do, but clients now justly recognize that it is not always necessary to expend thousands of pounds on international flights, hotels and arbitration venues.

The Campaign for Greener Arbitrations is, in many ways, about reducing unnecessary waste. Whilst that waste can (and should) be measured in terms of carbon emissions, single use plastics and lever arch files, perhaps what we have learnt is that the arbitration community's 'old ways' can also be measured in wasted costs and time.

Reed Smith LLP is an institutional supporter of the Campaign for Greener Arbitrations and a signatory of the Green Pledge. For further information in relation to the Campaign, please visit: <https://www.greenerarbitrations.com/> Gautam Bhattacharyya and Victoria Spilkin are members of Reed Smith's International Arbitration Group.

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**LEGAL
ERA**
Indian Legal Awards
2020-21

Recognition of Legal Finesse,
Innovation & Accomplishments

WINNERS SHALL BE
ANNOUNCED ON
MAY 2021