



The Global Pound Conference Series

Worldwide events seek reliable, comparable information about what users and disputants really need — and how the dispute resolution landscape could change to provide it

By Deborah Masucci, Michael McIlwrath, and Jeremy Lack

Today's world is full of disconnects between the people who practice, promote, and think about dispute resolution processes and those who might use them. Mediators, arbitrators, judges, and other neutrals, those who have seen firsthand what ADR can achieve, often lament that alternative processes could help resolve many disputes but aren't tried — or even considered. Yet no one has been able to explain ADR processes in a way that's compelling and helps people see which one might be most appropriate for any specific dispute. Even in places where mediation and arbitration have become a viable option, some courts' insistence on imposing

them when they may be inappropriate has backfired, making them ineffective. Academics spend great amounts of time teaching how different dispute resolution processes are used, describing how they can be designed, and studying how they are viewed, but in practice few people really understand exactly when, how, and why a specific process works.

At the same time, just about everyone involved in dispute resolution — parties, judges, lawyers, providers, and academics — agrees on one thing: traditional court processes can leave a lot to be desired. In many cases, they're expensive, they take a lot of time, and they tear people apart.

How can we bridge these gaps and help users make better choices?

Hoping to start and expand a modern conversation about what can be done to improve access to justice and ADR around the world in commercial and civil conflicts, the International Mediation Institute (IMI) has launched the Global Pound Conference (GPC) Series, which will continue through this year and well into next. Over about 17 months, starting in Singapore on March 17 and ending in London in July 2017, local events will engage users with other stakeholders in the fields of dispute prevention, management, and resolution.¹ Each event will be organized by local individuals and organizations but coordinated globally. As of this writing, with the support of seven Global Sponsors and more than 37 Global Partners from all around the world, significant resources have been mobilized to coordinate GPC events hosted in 36 cities in 26 countries.

The aim of the series, which is entitled *Shaping the Future of Dispute Resolution & Improving Access to Justice*, is to promote conversations about all forms of civil justice in the context of commercial disputes: court litigation, arbitration, conciliation, and mediation in all their variations and by all their names.² The topics have been expanded to cover dispute management, including dispute avoidance and prevention, as a matter of leadership and social responsibility. One goal of the series is to consider how processes can be better shaped to provide commercial disputants with effective access to civil justice. How can 21st-century users have better choices and better access to consistent and reliable dispute resolution processes? How can these processes be designed so that the cost, time, possible outcomes, and enforceability are appropriate for each dispute? How can dispute resolution processes respect users' concerns about reputations, relationships, and other social or cultural matters?

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The History

The Global Pound Conference Series' name pays tribute to the seminal gathering of April 1976 in St. Paul, Minnesota, that examined the civil justice system in the United States. That National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice³ marked the 70th anniversary of remarks delivered by Roscoe Pound, the dean of Harvard Law School, in the same city in 1906. The keynote address at the 1976 Pound Conference, delivered by Warren Burger, who was then Chief Justice of the US Supreme Court, was titled *Agenda for 2000AD — The Need for Systematic Anticipation*.

At the 1976 conference, almost 40 years ago, Professor Frank Sander of Harvard Law School proposed that alternative forms of dispute resolution be used to reduce reliance on conventional litigation, one option in the now-familiar “multi-door courthouse.” Professor Sander's paper led to many innovative changes in the US justice system aimed at giving disputants more procedural choices.

The GPC Series is organized in homage to the thoughtful contributions of Chief Justice Burger, Professor Sander, and others at that conference who laid the groundwork for the growth of ADR internationally and inspired countless numbers of neutrals, lawyers, advisors, academics, and others to create better systems.

A Pound Conference for the 21st Century

Providers, advisors, and users of dispute management and resolution processes often lack reliable, comparable, and actionable information, locally and across borders, that would help them understand what various procedural options are and how they might help. An arbitrator who renders a decision two years after the original demand for arbitration was filed in a complex case may think she has worked efficiently and counsel for the parties may be satisfied, thinking the process was speedy and streamlined compared to the seemingly endless process of discovery and motions and litigation for similar cases in US courts. But the people involved in the disagreement, people whose livelihoods can depend on the outcome, often complain that both arbitration



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and litigation take far too long or cost too much (or both). To be able to move on with their lives and their businesses, they need outcomes in six to 12 months. Going to trial or using arbitration, they find, can hurt their brands, their relationships, and their personal lives. We need a new way of looking at conflict management and guiding users in thinking about their procedural choices and the possible consequences, especially in an increasingly connected, competitive global economy.

No reliable and comparable data currently exists on the speed and quality of dispute resolution processes in various jurisdictions. Even for countries that do have such data, information about the needs of users, such as small- or medium-sized enterprises or corporate counsel in multinationals, is seldom collected or truly understood.

One of the hypotheses of the GPC Series is that users, providers, and advisors can do a better job by helping disputants in a given civil or commercial dispute, whether domestic or international, identify, select, and adapt the most suitable procedural choices available. The GPC Series will test this hypothesis and discuss possible ways to address and remedy any identified information gaps and provide users with greater information about their procedural options to design processes that suit their budgets, timetables, and needs.

The IMI organized a pilot event in London on October 29, 2014, to test the feasibility of this ambitious project. More than 150 delegates representing a variety of stakeholder groups and more than 20 countries participated in an interactive convention called Shaping the Future of International Dispute Resolution. The participants were highly sophisticated users, advisors, providers, judges, academics, and other professionals involved in dispute resolution. Senior executives from some of the world's leading arbitration and mediation institutions were also present.

The London convention found that significant gaps persist between what disputants expect and need and what many advisors, provider organizations, practitioners, educators, and policymakers currently offer. How data is collected from users and how it is converted into new rules and guidelines is seldom discussed. Most people generally assume that advisors and providers know what their clients want and are accurately

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providing this information to ADR institutions, but the London convention data suggests otherwise. To provide one stark example from the data, 77% of users — but only 44% of dispute resolution providers — thought that mediation should be used as early as possible in a dispute’s cycle.⁴

GPC Core Questions

The GPC Series has developed a common group of 20 core questions that will be asked at each event to verify the data collected in London and obtain statistically viable information. They are posted on the GPC Series web site, which is www.globalpoundconference.org, for public consideration before the Singapore launch event. These core questions can be supplemented with local ones geared to regional practice issues.

At each event, the questions will be posed to a broad range of stakeholders using a global information technology platform for ease of response- and data-gathering. The answers will be immediately available for discussion and longer-term analysis will be conducted following the last GPC event. All stakeholder responses will be combined and made available online, so stakeholders who cannot physically attend events will have access to the platform via the Internet after the events have occurred. With all this technology, policymakers and stakeholders involved in commercial and civil dispute resolution will be able to compare their beliefs about each other and their preferences about dispute resolution procedures, including litigation, arbitration, and mediation.

Results

At its conclusion, the GPC Series will issue a full report comparing the results from all the events, which will be reviewed and analyzed by a committee of independent academics. The report and the underlying data will be available free on the Global Pound Conference’s web site. Organizers and everyone involved hope this will lead to local and international reforms for improving dispute resolution processes and access to justice.

Like the Pound Conference of four decades ago, the GPC Series is an ambitious undertaking. The Central Organizing Group hopes all stakeholders involved in dispute resolution will join in this project by attending local events, supporting its organization, or participating in the conversation live or online anytime between the first event in Singapore in March and the final event in London in July 2017. ■

Endnotes

1 A complete list of events and dates is available on the web site dedicated to the GPC Series at www.GlobalPoundConference.org.

2 One hot topic that has emerged during the organization of these events is whether “conciliation” and “mediation” are the same process under different names (which is the case in some countries) or distinctly different processes. The authors do not purport to resolve that debate here and simply refer to both as “mediation” for the sake of brevity in this article. For more information, please see the discussion groups on LinkedIn under “Global Pound Conference.”

3 The 1976 event was sponsored by the American Bar Association, the Conference of Chief Judges, and the Judicial Conference of the United States. The conference was convened to recognize Dean Roscoe Pound’s contributions to law and justice.

4 For the raw data generated by the London pilot event and a summary discussing its key findings, see: <http://www.globalpoundconference.org/about-the-series/london-2014-pilot-test#.VoQIGvkrLIU>.



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