

African Promise aims to promote diversity on tribunals

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The African Promise was co-authored by Kamal Shah, Emilia Onyema and Stuart Dutson

A group of academics and practitioners have urged the international arbitration community to commit to tackling the under-representation of African arbitrators on tribunals.

The “[African Promise](#)”, which was launched last month, asks signatories to commit to improving the profile and representation of African arbitrators, especially in arbitrations connected to Africa. Its authors believe Africans should be appointed as arbitrators on an equal opportunity basis.

The promise – which draws inspiration from the 2016 Equal Representation in Arbitration Pledge concerning [female appointments on panels](#) – was co-authored by three London-based lawyers: **Emilia Onyema**, a lecturer on international arbitration at SOAS University of London; Simmons & Simmons’ head of international arbitration **Stuart Dutson**; and **Kamal Shah**, who heads the Africa and India groups at Stephenson Harwood.

The initiative is aimed at all those involved in the practice of international arbitration. Its signatories commit to ensuring, wherever possible, that Africans are fairly represented on arbitrator rosters and lists of potential appointees considered by parties, external and in-house counsel and institutions.

There is also a commitment to improve African representation on committees, governing bodies and conference panels. Where they have the power to do so, in-house and external counsel, arbitrators and

institutions also commit to appointing a fair representation of African arbitrators especially in Africa-related cases.

A 2018 [survey of African arbitration practitioners published by SOAS](#) found that despite nearly 82% of participants having undertaken formal training in arbitration, less than 18% had sat as an arbitrator in at least one international dispute between 2012 and 2017.

Dutson, who spent a year as a state advocate in Malawi's ministry of justice, says there are increasing numbers of Africa-related arbitrations but that the under-representation of African arbitrators is "staggering."

He adds that international arbitration must have "credibility" to keep growing in Africa and that the "obvious" way to ensure this is to have Africans involved in African arbitrations as well as international cases in other jurisdictions.

The African Promise puts forward "concrete and actionable steps" including the publication of statistics by institutions, as well as mentoring and encouragement by senior practitioners.

Onyema adds: "It is important that we begin to see measurable changes, which is what inspires our call for institutions and arbitrator appointors to publish their statistics on the number of Africans they nominate for appointment, in addition to the number actually appointed under their rules."

She was also involved in the launch of [non-profit organisation AfricaArb](#) in 2018 during Paris Arbitration Week and of [the Africa Arbitration Association in Cote d'Ivoire](#) the same month.

The African Promise project began over a year ago and gained traction at the [SOAS Arbitration in Africa](#) conference in Kigali, Rwanda, in May last year. The team is now in discussions with institutions to encourage them to sign up and launch events that are currently being planned in international arbitration hubs.

At the time of writing, the promise has reached 175 signatures, including in arbitration communities in several African nations, as well as UK, US, France, Switzerland and Qatar. To sign up to support the African Promise, follow this [link](#).

In November last year, world-renowned rapper Jay-Z won [a temporary stay of a US\\$200 million trademark dispute at the American Arbitration Association after](#) complaining that the institution did not have enough black arbitrators. Jay-Z eventually withdrew his request for a stay in a New York court, saying the institution had agreed to "identify and make available African-American arbitrators for consideration."

Shah says, "While it would be great to have someone as prominent as Jay-Z endorse the African Promise, the reality is that we will all have to work hard to see noticeable change for a continent so diverse, but it is happening and if you are close enough to it, it is noticeable. The Promise will hopefully accelerate that greatly."