Kobe University Repository : Kernel

PDF issue: 2024-09-28

Teaching Arbitration in Australia: Towards Transnational Associations

Nottage, Luke

(Citation)
CDAMS(「市場化社会の法動態学」研究センター）ディスカッションペイパー,04/30E

(Issue Date)
2004-12

(Resource Type)
technical report

(Version)
Version of Record

(URL)
https://hdl.handle.net/20.500.14094/80100052

KOBE UNIVERSITY

CDAMS Discussion Paper
04/30E
December 2004

Teaching Arbitration in Australia:
Towards Transnational Associations

by

Luke Nottage

CDAMS

Center for Legal Dynamics of Advanced Market Societies
Kobe University

"Teaching Arbitration in Australia: Towards Transnational Associations"*

Dr Luke Nottage#

I. Introduction

Let me begin by congratulating CDAMS for hosting this timely and interesting workshop on teaching arbitration, especially in universities. It is especially timely given the ongoing turmoil in Japanese legal education, generated by the inauguration of new postgraduate law schools in April 2004. The new law schools were supposedly aimed at breeding a new generation of legal professionals with the broader array of skills and specialized legal knowledge needed nowadays to navigate the ever more complex legal system in Japan and world-wide. So far, however, the "reformist conservatism" already evident in the design of the law schools {Nottage 2001} has become further entrenched. The law schools remain heavily constrained by the need for their graduates to pass a largely unchanged national bar examination (*shiho shiken*), exacerbated by the likelihood that the numbers permitted to pass that examination will rise to only around 1700 per annum next year, and then only slowly each year until 3000 per annum from 2010. With over 6000 students enrolled in the law schools, this means a much lower pass rate than the 70-80% expected when the new system was proposed in 2001 {Wolff 2005}. Understandably, this creates enormous pressure on the students (and teachers) to focus on the areas and types of questions likely to appear in the bar examination. Unfortunately, the examination does not yet adequately test for the ability to engage creatively with multiple areas of law, deploying a variety of skills, which are key characteristics of arbitration law and practice. As well as focusing on more discrete areas of law, moreover, the bar examination provides limited scope for teaching courses with an international and comparative law focus, despite Japanese law's strong and ever growing tradition of adopting or adapting developments world-wide {Kelemen & Sibbett 2002; cf Ginsburg et al 2001} and Japanese corporations' heavy engagement in the world of international business {Kitagawa & Nottage 2005}. Accordingly, an urgent

---

* This is a revised version of a presentation at the Arbitration Education Workshop hosted by CDAMS at Kobe University (http://www.cdams.kobe-u.ac.jp/) on 6 October 2004. Many thanks to the main coordinator, Professor Shunichiro Nakano, and the other presenters and participants at that event.

Senior Lecturer, University of Sydney Law Faculty; Co-director, Australian Network for Japanese Law (www.law.usyd.edu.au/anjel); Special Associate, Australian Centre for International Commercial Arbitration.

question for Japanese legal education is whether and how arbitration, especially international commercial arbitration (ICA), can be taught effectively at the university level.

This CDAMS workshop is also interesting because of its "workshop" format. The tendency still for academic gatherings in Japan, despite the new law schools' new pedagogical style of more interactive and wide-ranging discussions, is for people to present fairly complete papers on fairly defined topics. However, workshops can adopt a variety of formats, depending on their goals {Lawson 2004}. There is a particular role for "ideas" workshops, where participants engage in more tentative presentations and brainstorming, before writing up their papers. I welcome this particular CDAMS event as more in this tradition.[1] As you can see by comparing the Powerpoint slides presented at the workshop (Appendix A), this paper has drawn on many further insights shared by other participants, and other subsequent research. It is still a work-in-progress, and I invite further feedback.

Since my topic is arbitration education in Australia, even bearing in mind developments in Japan, the next Part of the paper outlines key features and trends in arbitration itself in Australia. Like Japan, Australia has struggled to attract ICA cases to its shores, preferring to resolve cross-border disputes through arbitration in more established offshore venues. Unlike Japan, however, Australia inherited from the English tradition quite active use of arbitration for certain domestic disputes, notably in the construction area.[2] This has supported the development of arbitration education, initially by professional organizations and more recently by universities, as explained in Part III. There is some tension between these two types of arbitration education providers, but also much fruitful overlap, which may be instructive also for Japan. However, Part IV argues that arbitration at the university level should have some distinctive features: reviewing and extending knowledge from a range of other courses, using this to develop a broader perspective on the trajectory of arbitration law and practice (and legal systems more generally), and honing a variety of lawyerly skills. Part V concludes that both Australia and Japan stand at promising junctures, presenting opportunities for taking arbitration education - especially at universities - in new directions, especially through new forms of transnational tie-ups or associations.

---

[1] For more extreme examples, see the ANJeL workshop co-hosted with Doshisha Law School on 26 November 2004 (http://www.law.usyd.edu.au/anjel/workshop.htm), and the ANJeL conference planned for USydney on 23 February 2005 (http://www.law.usyd.edu.au/anjel/content/anjel_events_up.htm).

[2] See further {Nottage 2003}, and other reports from the Meijo University arbitration project, available via http://www.meijo-u.ac.jp/.

II. Arbitration in Australia

Formally and functionally, arbitration law and practice in Australia can be divided into two spheres. Australia "received" the old English common law, and then largely adopted English arbitration legislation, even when enacting (largely uniform) Commercial Arbitration Acts in its various states in the mid-1980s. New South Wales and Victoria are currently amending their Acts, drawing primarily on the English Arbitration Act 1996. Maintaining this tradition is partly lawyerly conservatism. But it is also seen as supporting the resolution of domestic disputes by arbitration, which (as in England) are still conducted by arbitrators without necessarily much legal training, like engineers in the construction area. However, as in England too {Flood 1992}, lawyers have begun to exercise more control over domestic arbitration, as advocates as well as lawyers. Indeed, this led to a backlash from the mid-1980s, with a former Chief Justice of New South Wales (Sir Laurence Street) becoming instead a strong proponent of mediation of commercial disputes – albeit a highly "evaluative", not very "facilitative", form of mediation {cf generally Astor & Chinkin 2002}.

Responding to such criticisms, that arbitration was becoming too expensive and especially too time-consuming, arbitration specialists in Australia have begun to urge "importing" of new techniques and norms developed for ICA especially from the mid-1990s {eg Jones 2003}, aimed at addressing similar concerns raised in cross-border arbitration over the 1980s {Nottage 2000}. In this endeavour, Australia can draw on the 1985 UNCITRAL Model Law on International Commercial Arbitration, which it adopted into its (federal) International Arbitration Act in 1990, to be used especially in international arbitrations. I am involved in a study group within the Attorney-General's Department that is looking to amend this Act, although it is tending to wait for final outcomes from UNCITRAL's Working Group deliberations since 2000. In turn, I hope that a revised Model Law regime incorporated into the International Arbitration Act will prompt a further round of more "internationalist" reforms of the states' legislation. However, that would be a long-term, and meanwhile domestic arbitration law and practice remains rather divorced from international law and practice in Australia.

Such a tension should be less of a problem in Japan, since its Arbitration Act 2003 extends the same Model Law regime to both domestic and international arbitrations (as, indeed, under the old legislation) {Nakamura 2004; Oda 2005}, and arbitration has never had as much traction in domestic dispute resolution {Nottage 2004}. However, the tension is important for understanding the development of

arbitration teaching in Australia.

III. Professional "versus" University Education

On the one hand, the Institute of Arbitrators and Mediators of Australia (www.iama.org.au) has long provided courses to train and accredit its arbitrators, initially especially for domestic dispute resolution. The Australian Branch of the Chartered Institute of Arbitrators (CIArb, www.arbitrators.org.au), founded in England but active worldwide (including recently in Japan, training arbitrators in competition with its new Arbitrators' Association), has a similar focus but may have more potential to develop international dimensions to its programs.

By contrast, the Australian Centre for International Arbitration (ACICA, www.acica.org.au), founded in the mid-80s to promote adoption of the Model Law regime and other measures to establish ICA in Australia, has provided more limited educational opportunities, largely now limited to occasional conferences.[3] Filling this gap somewhat, the new Australasian Forum for International Arbitration (www.afia.net.au) has begun offering biannual workshops with a focus on ICA. Aimed more at younger legal practitioners already interested in this area – and often already very proficient, drawing often on experience working in arbitrations overseas – the Forum is modeled on the "Young Arbitrators" groups active now in London Court of International Arbitration, and the International Chamber. Like those groups, it encourages members to submit discussion topics beforehand, which organizers collate and select for intensive discussion at the workshops. However, the Forum has no plans (yet) to develop a series of "courses" leading to "accreditation" in the field of ICA.

This situation has led to some quite entrepreneurial activity by universities. Macquarie University in Sydney, for example, recently began collaborating with the CIArb to offer arbitration courses in part fulfillment of CIArb accreditation. Other universities, like the University of Queensland, are also collaborating with professional arbitration institutions in this way. CIArb is also interested in finding individual university lecturers able to teach basic courses in contract law, civil procedure, and the like, to their (non-lawyer) members interested in being accredited.

Broader collaboration has also begun to emerge. For example, USydney's postgraduate (LL.M etc) course in ICA now has a book prize sponsored by the CIArb. In

[3] Moreover, at its conference recently in Sydney, ACICA was central in launching the Asia-Pacific Regional Arbitration Group, whose arbitral association members will rotate to hold a major conference every two years. See http://www.acica.org.au/international-arbitration-events-come-to-sydney.pdf.

addition, a large law firm (www.claytonutz.com) has sponsored a major arbitration lecture every year since 2002, attracting a growing number of practitioners, businesspeople, and selected students.

Slowly, perhaps more slowly than other less "traditional" law faculties around Australia, USydney has also begun to incorporate more arbitration in its undergraduate (LL.B) courses.[4] For example, some aspects of domestic arbitration are included in Professor Hilary Astor's "Dispute Resolution" course, although this very popular course involving many class activities unfortunately has caps on student numbers. ICA also forms the centerpiece of the dispute resolution part of my new "International Commercial Transactions" course. Like teachers in US law schools {Ware 2003}, I have experimented with the order in which I teach arbitration as opposed to other dispute resolution procedures. I always teach some "negotiation" at the start of the course, when we look at international treaties or substantive contract law. But I think it is probably best to later begin the dispute resolution part of the course with a class on "cross-border litigation", since all USydney students have to have done some private international law; then two classes on ICA, showing its advantages over litigation; and finally a class on "mediation" (contrasting especially the rather rudimentary 2002 UNCITRAL Model Law on International Commercial Conciliation).

In addition, USydney is thinking of offering an entire course on (domestic) arbitration. However, there are limits imposed by our curriculum and teaching resources, even with Australia's largest postgraduate program – mostly attracting part-time practitioners or government officials, keen to obtain a good LL.M for their early- or mid-career advancement. Instead, USydney has been concentrating on a longstanding postgraduate course dedicated to ICA. This preference for more specialized arbitration courses, also evident in the US {Carbonneau 2001: 220}, is probably shared with other Australian universities. However, even some ICA courses may be taught at undergraduate level at those universities with limited postgraduate programs. Some are linked to participation by their students in the annual Vis Arbitration Moot competition, as at Deakin University, which is one of many Australian universities which have done extremely well in that very popular event {Nottage 1999}.

Moreover, ICA courses especially at larger law faculties (like also UMelbourne) tend to be offered over an entire semester. However, many universities rely on intensive courses. Some regularly teach in this way, especially newer or smaller universities (like

[4] Unfortunately, however, compared to the US {Ware 2003}, we seem to have been less successful in incorporating even basic aspects of arbitration law in entry-level civil procedure courses. Japan, following the German tradition in this field, also should have an advantage in this respect.

one of Australia's rare private universities, Bond University near Brisbane, which attracted leading practitioner and former Monash University Professor Michael Pryles to develop their course). A more recent phenomenon is for intensive courses to be offered to, or with, US law schools running a "summer school" at an Australian university. ICA is regularly taught intensively in the Marquette Law School program offered at the University of Queensland; and I once taught ICA in Chapel Hill's program at USydney. However, mostly US and foreign students attend such courses.

Finally, even some larger law faculties sometimes offer their ICA courses "semi-intensively". Indeed, this is a growing trend in USydney's large postgraduate program. The pedagogical and practical benefits are many. Our typical model involves two days more in lecture and general discussion based style, studying key themes and concepts; then a two-week break, when students do a take-home test to reinforce their basic understanding, and prepare remaining readings and assessment tasks; and then a final three days, where feedback is given on the test, more class-based activities are introduced, and specific topics in ICA are discussed (designed to further reinforce basic principles and themes, but also to spark students into coming up with their own interesting final essay topics). On a more practical level, breaking up an intensive course in this way is much less physically demanding for lecturers and students alike.

Overall, therefore, arbitration education is quite well entrenched in Australian universities, although possibly not as much as in the US {cf Carbonneau 2001}. Indeed, the situation is probably the converse to that in Japanese universities, where our workshop revealed that arbitration education at all levels remains much weaker than might be expected given the excellent arbitration law scholarship produced by Japanese law professors, and indeed the active programs by the Japan Commercial Arbitration Association (JCAA) and others to educate businesspeople about arbitration. This probably reflects Australian law faculties relative focus still on teaching over research, and closer links to the world of legal practice, where (at least domestic) arbitration has been more strongly entrenched.

IV. Defining Features for Teaching Arbitration at Universities

Despite this comparatively strong tradition in arbitration teaching in Australia, even at universities, there is very little reflection on what should be its rationale and guiding features. I agree with the view of Professor Stephen Ware {2003: 232}, in the US, that teaching arbitration at universities cannot be primarily focused on "teaching students how to be arbitrators". Even with more mature students in Australian universities,

especially in postgraduate law programs, you still need more grey hair to be appointed an arbitrator! You also need experience in other roles, especially as an advocate or advisor in actual (or mock) arbitration proceedings. Accordingly, Ware {2003: 233} is correct in suggesting that law schools (or faculties) should teach arbitration law to train law students "to be lawyers" – and not primarily to "teach students the law", but rather to "teach students how to use the law". In particular, I share his view that arbitration law is ideal for nurturing the following "fundamental lawyering skills" promoted by the American Bar Association's "MacCrate Report" in 1992, which would (and should) be valued by most Australian law faculties too:

(1) problem solving
(2) legal analysis and reasoning
(3) legal research
(4) factual investigation
(5) communication (oral and written)
(6) counseling
(7) negotiation
(8) litigation and ADR procedures
(9) organization and management of legal work
(10) recognizing and resolving ethical dilemmas.

As Ware points out, arbitration is ideal for honing the more traditional skill of "legal analysis" of case law and legislation. UMelbourne's excellent postgraduate ICA course focuses on this, especially case law exegesis, in the Australian context. My course also introduces this material, but prefers secondary sources (good articles on important cases etc) and a broader array of primary "legislative" material (including "soft law" like the 1999 IBA Rules on the Taking of Evidence in ICA). In this way, I aim to review and build on knowledge obtained in other law courses, or the areas of practice my postgraduate students have since engaged in.

However, I assume that USydney students get plenty of other opportunities to engage in "black letter law" analysis; and also agree with Ware that arbitration law is an excellent vehicle for developing many other skills. For example, one of my assessment tasks involves analysis and rewriting of more or less "pathological" arbitration clauses. Another means to practice drafting skills, which I plan to inaugurate in my semi-intensive course in August 2005, is an activity comparing and rewriting new Rules of arbitration associations. In particular, I propose to compare the

JCAA's new Rules {McAlinn & Nottage 2005} with draft new Rules for ACICA, which I have been involved in coming up with, using also our comparative table of other major sets of Rules world-wide.

Another skill I have emphasised in my ICA course is oral communication, especially in the form of mooting. Early on, but after students have some basic concepts of ICA, I reveal to them the inside of an arbitration hearing, using the excellent DVD footage of a mock arbitration used together with a casebook edited by Cologne University Professor Klaus Peter Berger {2002}.[5] As well as reinforcing how key ICA concepts are reflected and played out in a mock arbitration setting, this prepares them for the format and style expected in their own moots at the end of the course. For the latter, I select some arbitration law issues from previous Vis Moots and make available to them the prize-winning memorandums,[6] so they can focus more on presentation (as mock advocates) or management of proceedings (as mock arbitrators).

Finally, through all this, I believe that university level arbitration education, especially at postgraduate level, has a particular responsibility and opportunity to add a broader perspective on the past, present and future of ICA – and hence law more generally nowadays. For me, this means introducing two main themes: tensions among (i) internationalization, domestication, and regionalization, and (ii) between informality and formality in legal processes {Nottage 2003, developed out of teaching this LL.M course}. This perspective helps identify links between various central topics in ICA law and practice nowadays, which may be crucial in resolving particular problems (in negotiating or drafting arbitration clauses, arbitral or judicial proceedings, or revising laws or rules of arbitral institutions). But it also encourages students to think about possibly similar tensions and trajectories in other areas of their study and practice of law. Arbitration education through professional associations cannot offer such "value added".

V. The Future

Australia, like Japan but for somewhat different reasons, stands at a promising juncture in developing further interest in arbitration and its teaching. Momentum for a new round of arbitration law reform is growing, as institutions are being revamped or

[5] He is presently editing a second edition, which will include material of negotiation and mediation, drawing on courses on those area that his Centre for Transnational Law is developing. I expect more details will be forthcoming via http://www.transnational-law.de/.

[6] Available via http://www.cisg.law.pace.edu/vis.html.

inaugurated, supported by the federal government and large law firms. Compared to Japan, the focus is primarily again on ICA, but hopefully this will lead to longer-term improvements in Australia's domestic arbitration environment too. As in Japan, and world-wide, an older generation of (post-War) arbitration specialists is passing on the baton to the next generation.

Arbitration, founded in party autonomy and the flexibility that allows to meet changing practices and expectations, is also well placed to link up with momentum developed in both countries for other forms of ADR: court-annexed mediation (linked to broader civil justice reforms), mediation, and expert determination. Another promising future lies in harnessing Information Technology to develop arbitration {Nottage 2002}. Although "cyber-arbitration" per se has not really taken root, already some arbitration courses are being run very successfully online, notably at the University of London.[7] Other experiments in e-learning that could be readily adapted to teaching arbitration come from Australia. For example, this year I helped teach one of a suite of postgraduate Japanese Law courses offered mainly online at the University of New South Wales in Sydney.[8] Another successful initiative is a "contract negotiations" component added to an undergraduate Japanese Law course at the Australian National University, nearby in Canberra. Using e-mail and video-conferencing, its students negotiated a contract and resolved a dispute with Aoyama Gakuin University students {Anderson & Eizumi 2005}. Elements of both initiatives could be incorporated into arbitration courses taught in Australia or Japan.

In these ways and others, such as extending USydney's successful model of semi-intensive courses, there should be rich synergies with each other in developing arbitration education courses across universities.[9] Especially for ICA teaching, it makes sense for such collaboration or association to include cross-border dimensions, so we can better train lawyers to think like "global lawyers" {cf Valcke 2005: 169}. An Asia-Pacific focus should be particularly helpful {see generally Pryles ed 2002}. Our jurisdictions share many features (such as Model Law based regimes, yet a latecomer disadvantage

---

[7] See http://www.ccls.edu/icltu/research/sia/index.html.
[8] See http://www.law.unsw.edu.au/future_students/postgraduate/programs/asia.asp.
[9] Developing such synergy is also a guiding principle in a very commendable initiative in Japan, the Intercollegiate Negotiation Competition, which recently held its third annual bilingual competition at Sophia University in Tokyo (http://www2.osipp.osaka-u.ac.jp/~nomura/project/inter/). One day consists of mock commercial negotiations, but another involves arbitration of a contract law dispute. Hopefully future events will incorporate an arbitration law problem, not just issues of substantive contract law; and I will be able to join with some other universities to send a team from Australia.

in trying to attract ICA to our shores); but also maintain some interesting divergences, promising vitality and opportunities for mutual learning and stimulation. In developing an Asia-Pacific focus, however, we must always bear in mind ICA's global character and momentum, and the opportunities this presents for promoting also domestic arbitration and other forms of civil dispute resolution.

VI. Bibliography

Anderson, K. and Y. Eizumi (2005). "Results from a Pilot Japanese-Australian Video Negotiation Project at Australian National University and Aoyama Gakuin University." Zeitschrift fuer Japanisches Recht / Journal of Japanese Law **19**: forthcoming.

Astor, H. and C. Chinkin (2002). Dispute Resolution in Australia. Sydney, Butterworths.

Berger, K. P. (2002). Arbitration Interactive: A Case Study for Students and Practitioners. New York, Peter Lang.

Carbonneau, T. (2001). "Resource, Teaching Arbitration in US Law Schools." World Arbitration and Mediation Reports **12**: 227.

Ginsburg, T., L. Nottage, et al. (2001). The Worlds, Vicissitudes and Futures of Japan's Law. The Multiple Worlds of Japanese Law. T. Ginsburg, L. Nottage and H. Sono, University of Victoria, BC Canada**:** 1-14.

Kelemen, R. D. and E. C. Sibbitt (2002). "The Americanization of Japanese Law." University of Pennsylvania Journal of International Economic Law **23**: 269.

Kitagawa, T. and L. Nottage (2005, forthcoming). Globalization of Japanese Corporations and the Development of Corporate Legal Departments: Problems and Prospects. Raising the Bar. G. Chin and W. Alford. Cambridge, Mass., Harvard East Asian Legal Studies Program (distributed by Harvard University Press).

Lawson, G. (2004). "Making Workshops Work." Journal of Legal Education **54**: 302.

McAlinn, G. and L. Nottage (2005). "Changing the (JCAA) Rules: Improving International Commercial Arbitration in Japan." Zeitschrift fuer Japanisches Recht / Journal of Japanese

Law **18**: forthcoming.

Nakamura, T. (2004). "Salient Features of the New Japanese Arbitration Law Based Upon the UNCITRAL Model Law on International Commercial Arbitration." JCAA Newsletter **17**: 1.

Nottage, L. (1999). "Educating Transnational Commercial Lawyers for the 21st Century: Towards the Vis Arbitral Moot in 2000 and Beyond." Hosei Kenkyu **66**(1, 3): F1-30, F1-32.

Nottage, L. (2000). "The Vicissitudes of Transnational Commercial Arbitration and the Lex Mercatoria: A View from the Periphery." Arbitration International **16**: 53-78.

Nottage, L. (2001). "Reformist Conservatism and Failures of Imagination in Japanese Legal Education." Asian Pacific Law and Policy Journal **2**: 28-65 http://www.hawaii.edu/aplpj/2/16.html.

Nottage, L. (2002). "Is (International) Commercial Arbitration ADR?" The Arbitrator and Mediator [Australian Institute of Arbitrators and Mediators] **20**: 83-92.

Nottage, L. (2003). "The Procedural Lex Mercatoria: The Past, Present and Future of International Commercial Arbitration." CDAMS Discussion Paper **03-1**: http://www.cdams.kobe-u.ac.jp/archive/dp03-1.pdf.

Nottage, L. (2003). "Special Report: focusing on Australia and New Zealand"." Presented at the 4th Symposium on International Commercial Arbitration in the Asia-Oceania Region: Conditions and Policies for the Enhancement of International Commercial Arbitration, Toshi Senta Hotel, Tokyo, 11-13 September 2003.

Nottage, L. (2004). "Japan's New Arbitration Law: Domestication Reinforcing Internationalisation?" International Arbitration Law Review **7**(2): 54-60.

Pryles, M. C. (2002) ed. Dispute resolution in Asia. The Hague; Boston, Kluwer Law International.

Valcke, C. (2004). "Global Law Teaching." Journal of Legal Education **54**: 160.

Ware, S. (2003). "Teaching Arbitration Law." American Review of International Arbitration **14**: 231.

Wolff, L. (2005). "Lawyer-Led Economic Revival in Japan: A Program Glitch." CCH Asiawatch Newsletter **64**: forthcoming.

Appendix A

Arbitration Education in Australia

Dr Luke Nottage
(luken@uow.edu.au)

Visiting Associate Professor, Ritsumeikan University;
Senior Lecturer &
Co-director, Australian Network for Japanese Law
University of Sydney Law Faculty;
Special Associate, Australian Centre for International Commercial Arbitration

Overview

- Background to arbitration in Australia
- Education by
  - professional organisations
  - "versus" (or in synergy with) universities
- Defining features at the university level
- The future

Arbitration in Australia

- Following the English tradition:
  - quite well established legal infrastructure
  - significant use in limited areas, eg (domestic) construction-related disputes
- But tendency to get complicated and bogged down, in such areas; hence move since 80s to push instead for mediation
- Recently, (int'l) arbitration recovering?
  - See my report at Meijo U conference '03

Professional education

- Institute of Arbitrators and Mediators of Australia (www.iama.org.au)
  - Initially, mostly domestic – especially construction-related – arbitration, non-lawyers
- Chartered Institute of Arbitrators, Australian Branch (www.arbitrators.org.au)
  - More international links
- Not much: Australian Centre for Int'l Commercial Arbitration (http://www.acica.org.au/)

Universities

- Recently, some partnerships with professional organisations' education
  - Macquarie University
- Anyway, other collaboration: Eg Usydney '02
  - Annual arbitration lecture (sponsored by www.claytonutz.com)
  - Course prize (sponsored by CI Arbitrators)
- Slowly, part of more undergrad courses
  - Eg USydney: Dispute Resolution, Int'l Commercial Transactions [syllabus: App A]

- Mostly, entire postgrad courses
  - Semester courses: most larger law faculties, eg UMelbourne, USydney [App B]
  - (Semi-)intensive courses
    - Some semester courses this way – eg USyd '03
    - Regularly taught this way, mostly by practitioners – eg (newer, private) Bond University
    - With or for foreign universities' "summer schools" – U Queensland (Marquette), USyd (Chapel Hill, '02)

Features for university courses

- Revise and extend other legal knowledge
  - advanced undergrad elective, or postgrad
- Broad perspective (cf professional orgs)
  - Especially "glocalisation"
  - (even if domestic arbitration focus) informalism and formalism in legal processes
- Variety of skills
  - Analysis of "cases" & legislation (but less important than basic principles?)

- Drafting
  - Arbitration clauses – analysis and rewriting
  - (New idea for USyd course) Comparing and drafting arbitration rules for institutions
    - Eg '04 JCAA Rules vs ACICA [App C]
- Oral presentation: Mooting
  - (Demo) "Arbitration Interactive" DVD/book
  - (Use) Vis Moot problems [App D (PS now: also HK round, before Vienna)]

The Future

- A promising key juncture
  - Wave of new arb legislation, institutions
  - Generational changeover!
- Link arbitration more with "other ADR"!
  - Court-annexed ADR (judicial system reforms)
  - Mediation
  - Expert determination (NB eg next Lawasia conference, Brisbane March 2005)

- Cyber-arbitration
  - Potential for resolving disputes still unfulfilled
  - But meanwhile, already online arb courses!
    - Queen Mary College (U London)
  - Other inspirations: Japanese Law courses @
    - UNSW – suite of LLM courses, all already online
    - ANU – "contract negos" component added, with Aoyama Gakuin students

Conclusion

- Let's link up university-level arbitration education!
  - Asia-Pacific focus helpful, since many shared features: (int'l) arbitration still "peripheral" etc
  - But, again, always in global context
  - Start with int'l commercial arbitration
  - (Co-)teaching collaboration, and regular workshops like this!