

New alliance to enhance legal protection along China's Belt and Road

The Dubai International Financial Centre's Dispute Resolution Authority (DRA), which incorporates the DIFC Courts, signed a unique memorandum with the University of Oxford's China Centre to pool expertise on the legal certainty, protection and contract enforcement needed for Chinese and international investors to secure participation in China's five trillion-dollar Belt and Road Initiative.

The accord will focus on ways to protect large-scale investments through linking China and the world's court systems, and on enabling legal, judicial and arbitral systems to keep pace with the opportunities created by the BRI and other ventures. Through joint projects, such as research and reports, the collaboration aims to enhance understanding of the legal and regulatory challenges faced by businesses and courts in the 70 or so BRI countries, and to pave the way for effective dispute resolution and enforcement of court judgments along BRI's trade routes.

Speaking at the signing event at the University of Oxford, Chief Justice of the DIFC Courts and Head of the DRA, Dr Michael Hwang, sketched out the changing landscape of international enforcement for court judgments and arbitral awards within the BRI, and the recently announced international commercial courts to be set up in Beijing, Xian and Shenzhen. Chief Justice Michael Hwang urged BRI countries to seek knowledge of each other's procedures and, where possible, to collaborate through memorandum agreements on express recognition and enforcement of judgments. As investment flows into the BRI region, it becomes ever-more urgent to find practical solutions to enable contracting parties to solve complex commercial conflicts. In particular, BRI countries needed to find ways in which judgments and awards issued from each BRI country or territory could be enforced in other BRI countries and territories, and gathering such knowledge is only the first step hopefully to legal convergence of some degree within the BRI region.

A 2016 survey by Lexis Nexis and the China Institute of Corporate and Legal Affairs reported that half of respondent Chinese firms engaged on BRI deals face legal challenges. To date, projects worth an estimated US\$350 billion have been financed, mainly by Chinese development banks. To encourage foreign investment, robust dispute resolution systems and transnational enforcement mechanisms must be in place to foster investor confidence and legal certainty.

Enforceability of judgments across multiple judicial systems, and guarantees that money can be collected after winning a case in a foreign court, are critical enablers of international commerce. As one of the world's leading commercial courts, operating in the English-language and using common law principles for over ten years, DIFC Courts has a unique track record of fast-track connectivity and technology-enabled dispute resolution, such as virtual courts.

Launching the collaboration at the China Centre, **Michael Hwang SC, Chief Justice, DIFC Courts and Head of the DRA**, said: *“We are joining forces with the University of Oxford to look at practical solutions for the future of dispute resolution for one of the world’s most ambitious projects. As goods and services travel across the world along the BRI, they will seamlessly cross borders – so we shall need a seamless legal platform, based on legal convergence, that can start to do the same. This aim can partly be fulfilled by the near-universality of the New York Convention for recognition and enforcement of international arbitral awards. But the ideal legal platform should also include a robust regime of enforceable court judgments outside the boundaries of the issuing court. The answer is to make sure that when a dispute is resolved, court systems can deliver a judgment that can be executed across the full extent of the belt and road. Building up connectivity and enforceability will remove many of the roadblocks that could threaten the success of the Belt and Road Initiative.”*

Professor Rana Mitter, Director of China Centre University of Oxford, said: *“We are pleased to sign this important memorandum with DIFC Courts. The opportunities of the Belt and Road Initiative are substantial, but so are the potential legal complexities and risks. I am confident that our work alongside DIFC Courts will make an essential contribution to enabling and safeguarding both Chinese and international commercial interests as this remarkable initiative evolves and matures.”*

For more information: <https://www.difccourts.ae/2017/10/31/difc-dispute-resolution-authority-and-hangzhou-arbitration-commission-forge-alliance-to-develop-e-commerce-dispute-resolution/>

DIFC Courts shape future for global judges

Dubai's DIFC Courts and Canada's McGill University Faculty of Law announced their first-ever clerkship programme, a joint initiative in the Middle East to train future judges to operate across multiple legal systems.

Through the intensive programme, budding jurists are cross-trained in civil and common law codes, fostering the core skills needed to address the sort of complex international disputes that are increasingly handled by global courts

In parallel with its ten-year rise to the position of one of the world's leading commercial courts, DIFC Courts has emerged as the region's hub for judicial and legal training excellence, with a special focus on so-called "trans-systemic" law – preparing lawyers and judges to work across the world's jurisdictions. DIFC Academy of Law, working in tandem with DIFC Courts, already offers courses that bridge the gap between the civil and common law systems that co-exist in the United Arab Emirates.

Amna Al Owais, Chief Executive & Registrar, DIFC Courts, said: *"This programme with McGill demonstrates that Dubai is becoming a new destination for top Canadian law students to broaden their legal skills. We believe that globalisation drives courts like ours to innovate through trans-systemic thinking to benefit international businesses seeking dispute resolution worldwide, both now and in the future. As technology shrinks the distances between the world's markets, entrepreneurs and investors should be able to choose courts that can provide certainty based on this innovative legal knowledge."* Starting in May, the first clerkship has been awarded to third-year McGill University law student, Viva Dadwal, with the backing of the Consulate General of Canada and Air Canada.

McGill University Faculty of Law's inaugural clerkship student, Viva Dadwal, said: *"I am thrilled to have been selected for this new clerkship. For a student who is interested in learning about different legal codes at an international and commercial level, this is a once-in-a-lifetime opportunity to gain exposure to how global courts operate. I look forward to working with legal thinkers at DIFC Courts, who are designing the courts of the future and understanding how we develop global practices to deliver legal services in pursuit of justice."*

The Clerkship initiative was announced during a Canadian Business Council seminar hosted by the DIFC Courts. Addressing the future trade, representatives from Dubai FDI and the Consulate General of Canada discussed the role of UAE -Canadian commerce into global trade hubs, ranging from the UAE to China.

His Excellency Emmanuel Kamarianakis, Consul General of Canada, said: *"The Consulate General of Canada was pleased to facilitate the partnership between DIFC Courts and McGill University to offer a clerkship in trans-systemic law. For more than 150 years, Canada's legal system has been based on common law and civil law. This legal pluralism is very much a reflection and celebration of Canada's diversity. As trade and investment continue to globalise, Canadian educational institutions are not only*

well positioned to train lawyers who understand how to navigate and reconcile multiple legal traditions but are also at the forefront of creating new and innovative legal structures.”

For more information: <https://www.difccourts.ae/2018/05/15/difc-courts-shape-future-for-global-judges/>

Belt and Road Initiative: One Vision of Justice

In 2017, the United Arab Emirates and Kazakhstan celebrated 25 years of friendship and diplomacy. The [UAE](#) is Kazakhstan’s largest Arab trade partner, with close to \$643 million in bilateral trade recorded in 2017. Over the last decade, the UAE has made substantial investments, exceeding \$2 billion in a wide array of economic sectors in Kazakhstan, financing projects in strategic areas, such as oil and gas and food security.

Announced by Chinese President Xi Jinping at Nazarbayev University in Astana in 2013, the re-birth of the Silk Road as the Belt and Road Initiative (BRI) has spurred nations into hyper-connectivity mandates across trade, investment, energy and infrastructure. BRI includes the most ambitious infrastructure project the world has ever known – and the most expensive. Its expected cost is just under one trillion dollars and when complete, the Belt and Road will connect 65% of the world’s population and 30% of its GDP.

The UAE and Kazakhstan are both acutely aware that, with a supply chain composed of land and sea routes running from China to Scandinavia and the Middle East, an innovative, flexible and global legal network to support commercial rule of law is crucial. BRI should not only create opportunity, but it should also enable progressive justice in terms of security, protection and certainty that people and businesses need to trade and innovate securely.

In recent weeks, [DIFC Courts](#) and a delegation from the Supreme [Court](#) of Kazakhstan met in Dubai to discuss their role as Courts of the Future, the Fourth Industrial Revolution, China’s Belt and Road initiative and the need for the world’s courts to collaborate to provide greater access to justice.

Whilst such collaboration between institutions might be viewed as exclusively underpinning the commercial rule of law and trade, the trickle-down effect cannot be overlooked. Measures being taken by both the UAE and Kazakhstan to improve the effectiveness of justice feed into larger national plans for creating more sustainable and diversified economies. For the UAE, it is Vision 2021, and for Kazakhstan, it is Plan of the Nation – 100 Concrete Steps.

The myriad of technological advancements that define the fundamental re-shaping of businesses in the 21st century make it essential for high-level connectivity and innovation. Expectations from the private sector increasingly require the bold engagement of public [service](#) and of regulatory

agencies. The DRA's ambition, through continued outreach to global judicial systems, is to contribute in creating a level-playing field between BRI participants, by re-engineering the way commercial justice is designed and delivered.

As goods and services travel across the world along the BRI, they will seamlessly cross borders, so we need a seamless judicial platform that can do the same. The answer is to make sure that when the dispute comes into the "real world," the court system can understand that virtual supply chain and deliver a decision that can be executed around the world. The creation of a court that focuses on connectivity and the enforceability of its judgments will ensure the success of the BRI by facilitating the quick resolution of disputes in a neutral forum.

The future of courts will be one of supporting supply chains operating virtually, with dispute resolution encoded into the blockchain, with virtual currency and with the most likely dispute being one of coding. Those supply chains will develop and advance to the point that smart contracts will replace traditional contracts, and we'll see them become ubiquitous even for small- and medium-sized enterprises (SMEs) operating on a public blockchain. Soon we'll see not only the contract encoded into the supply chain, but also the applicable laws and regulations. At that point, it will be the blockchain itself which resolves most contractual disputes.

Hackathon for future justice

DIFC's Dispute Resolution Authority (DRA) and Maastricht University's Faculty of Law have signed an agreement that will explore the impact of emerging disruptive technologies for lawmakers and legal systems.

The Memorandum of Understanding (MoU) was signed during a hackathon organised by the independent law and technology community Technolawgeeks, with the support of Maastricht University and the Brightlands Smart Services Campus.

Themed as 'Rethinking Justice', the hackathon covered four different challenges: The Hague Institute for the Innovation of Law (Social Justice challenge); eBay (E-Commerce Conflicts challenge); Dubai International Financial Centre (DIFC) [Courts](#) (Courts of the Future challenge); and Maastricht University's Institute of Data Science (Data-Driven Justice challenge).

The agreement will reinforce existing work by the Courts of the Future Forum – a joint initiative between DIFC Courts and Dubai Future Foundation – to explore new ways to facilitate safe pre-legal innovation. The Forum's work focuses on three key areas. First, creating legal clarity to ensure that valuable and innovative intellectual property created by entrepreneurs and investors is protected. Second, it coordinates international efforts to ensure that courts and legal systems understand likely future developments in technological innovation and online consumer behaviour. Lastly, the Forum investigates the development of smart dispute resolution services.

Maastricht University's Faculty of Law is currently developing a research programme on law and technology that will play a pivotal role in driving collaboration with DIFC Courts. Plans for shared initiatives in the fields of law and technology will enhance research, knowledge and awareness of how law and technology interact with each other to support access to justice.

Michael Hwang SC, Head, DRA, said: *"In 2017 we made a strong commitment through our Courts of the Future Forum to unlock the power of innovation and disruptive technologies to transform the court experience for end-users and the wider legal sector. By signing this strategic agreement with Maastricht University, complimentary research, knowledge and skills will be harnessed to advance the relationship between law and technology and the future administration of justice."*

Jan Smits, Dean, Faculty of Law, Maastricht University, said: “*The DIFC Courts’ appetite for creative problem solving and pioneering technology has put innovation at [the centre](#) of its achievements. This collaboration agreement signals our commitment to share our expertise with global partners to explore and evaluate the future path for legaltech.*”

For more information: <https://www.difccourts.ae/2018/04/09/19963/>

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