



**McNair Breakfast Lecture
By Sir Bernard Eder -
The Rule Of Law And International
Arbitration : Uneasy Bedfellows?
Friday 4th April 2025**



McNair hosted senior colleagues from more than 30 jurisdictions at L'Oscar restaurant London on a warm spring day as a prelude to the 26th IBA Arbitration Day held in London.

Sir Bernard formerly sat as a Judge in the English Commercial Court and now sits as arbitrator. The lecture reviewed the foundations of the Rule of Law and questions being raised as to arbitrator duties, repeat appointments and observations generated by the abstentionist approach of domestic Courts which seek to uphold party choice of arbitration.

Khawar Qureshi KC referred to the debate ensuing in the Investment Treaty arena where party appointed arbitrators are deciding upon State acts and omissions- matters ordinarily dealt with by Courts - and Judges appointed in a manner that should safeguard their independence and impartiality. Such Awards, sometimes in sums of billions of dollars receive very little if any effective scrutiny in any forum and are not appealable.

During the ensuing discussion, leading international arbitrator John Judge observed a growing Rule of Law dichotomy in international arbitration in that parties expect the substantive law to be applied correctly whilst often excluding the prospect of judicial review of whether the tribunal has actually done so.

Dr. Judith Knieper, legal consultant at UNCITRAL, noted that many of the issues that may give rise to Rule of Law concerns in the International Arbitration field, such as arbitrator-counsel 'double-hatting' and repeat arbitral appointments, continue to receive close attention from UNCITRAL Working Group III in the preparation of conduct rules for arbitrators.

A copy of Sir Bernard's speech can be downloaded here [click here](#)

For further information please contact events@mcnairinternational.com