

## International Expertise

Neutral Daniel Yamshon has trained jurists all over the world

By Paul Jones  
Daily Journal Staff Writer

**S**ACRAMENTO — For most neutrals, mediation and arbitration involve an office and a conference room. For Daniel Yamshon, some of his work requires him to travel to villages in Africa or the Philippines.

The Sacramento neutral has traveled the world training foreign jurists. He works through the State Department and with organizations such as the Sacramento State-based Center for African Peace and Conflict Resolution and the Eurasia Foundation. He said he's been to 12 countries in five continents over the years.

"Most of my international work has to do with helping create and develop alternative dispute resolution" programs, he said.

Those efforts are focused on developing countries, where many people can't afford lawyers, and many others spend years just trying to access a court. Sometimes Yamshon works with teams training legal professionals. Other times it's a matter of communicating new skills to a village elder, who traditionally helps people work out disagreements in some areas.

Yamshon and his partners try to provide "a little more science to work with, improve their technique," he said.

Training trips last a few days to a week, and Yamshon goes on them once or twice a year. He said people benefit from adopting some Western practices and applying them to their own civil matters.

For example, "One of the real common disputes in Africa has to do with land," Yamshon said. "After civil wars and people flee, they may come back and someone is farming on that land."

Rather than impose Western legal conventions, Yamshon said the groups he works with try and teach various negotiation methods.

"It's all technique," he said. "One thing we try to do is to stress the importance of a written agreement."

That can be a challenge, because in some cultures, written agreements are a sign of distrust. In one instance — Yamshon said it was either in Kenya or Ethiopia — two people were reluctant to go forward with a written agreement.

They said, "We have a guarantee ... if there's a disagreement, we'll kill a goat," Yamshon said. "And if you die, swearing

### Daniel Yamshon

American Arbitration Association  
Sacramento

#### Areas of specialty:

Complex construction, commercial transactions, real estate

on the goat's blood, you're lying."

Yamshon said he and his partners had to think how to convince them to sign a contract without suggesting that it served as a sign of mistrust.

"[We said,] 'What if you cooked the goat, and shared it in celebration of your agreement?'" he said. "They brightened up and they agreed to sign a written agreement. ... And then they went back home and celebrated."

After working as a carpenter, Yamshon decided to go into law and focus on construction and contracting cases in Sacramento in 1974. By the late '80s, arbitration was becoming more popular, and he began doing neutral work for the Sacramento County Superior Court and was nominated to join the American Arbitration Association. He was asked to go to Russia, just after the fall of the Soviet Union, and provide arbitration training.

"I was over [in Russia] four times between 1992 and 1996," he said. "I did train a few judges — their judicial system is very interesting to say the least. ... The civil system isn't quite as corrupt as the criminal system."

That led to him being pursued by others who also wanted to promote neutral work abroad. He first helped train African jurists who came to the U.S. from Nigeria, Ghana and Senegal. Then he began going to Africa and other developing nations. Yamshon said his travels had shown him the sometimes chaotic consequences of imposing European law on other cultures.

"If [the colony] was the British, you have common law, if it was the French or Belgium, you have a civil law country," he said. "There's no uniformity."

Over the years, Yamshon said he's had the chance to see improvements due to his and others' work.

"In Nigeria ... it has definitely had a tremendously positive impact," he said. "People actually can get to resolution" despite court congestion in that country.

"Also, because it's a simplified process ... parties don't necessarily need lawyers, so it saves them a tremendous amount of money."

Yamshon focuses on construction law in Sacramento. He said his work abroad has helped his practice at home. For one thing, it's taught him to listen very care-



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fully so he doesn't miss any nuance that might be key to understanding a litigant's thinking.

"I know a couple of times a party has said something, and the lawyer wants to move on to another topic," he said. "I'll say, 'Hold on, counsel' — and I'll ask a follow-up question. And sometimes it opens a whole new area."

He said his experience with different cultures has also made him more aware of the need to rein in his biases.

"We don't know who discovered water, but we know it wasn't a fish," Yamshon said, repeating a quote by philosopher Marshall McLuhan.

Yamshon's strategy for neutral work is a mix of evaluative and facilitative. In mediations, he said he doesn't try to push parties to a specific outcome, but intervenes to give them practical advice that as they make and consider offers. One thing he emphasizes is having parties actually talk to each other at least part of the time, rather than doing everything in conference.

"I want the people to talk to one another, and build up trust," he said. "If everyone is negotiating in good faith ... that can lead to a lot of momentum."

Yamshon is heavily involved in the legal community stateside as well as abroad. He sits on the board of directors for the California Dispute Resolution Council, and he's a member of the American Bar Association Dispute Resolution Section Ethics Committee. He also served on the California State Bar Association ADR Committee between 2008 and 2012.

Legal professionals who know Yamshon praised him for his leadership. Ken Malovos, current chair of the Sacramento County Bar Association's ADR section and a former president of the county bar, said he looks to Yamshon for guidance.

"He's very knowledgeable about the

law of arbitration, and frequently speaks on that, including to our ADR section," Malovos said. "He has a very easy-going, amendable — or congenial — manner. He never offends you, but he's able to get his point across."

Maya Odulio of the American Bar Association's Rule of Law Initiative worked with Yamshon to promote mediation to government lawyers and judges in the Philippines.

"He had an affable manner, fit for someone who does arbitration," she said in an emailed statement.

In his efforts to promote neutral work, Yamshon "did not give the impression that he was better than [his partners] just because he was an American, or because he practiced longer. He was very consultative and open to ideas and opinions," and a hard worker, Odulio said.

Although 67, Yamshon said he had no immediate plans to retire. His last trip was in July, and he's still taking assignments abroad. He said he believes his travels have shown him that legal professionals can work to bridge cultural divides and deliver better justice all over the world. During a 2011 conference of the African Centre for the Constructive Resolution of Disputes (ACCORD), "the moderator wanted all the presenters to say, 'What have people learned?'" he said. "My answer was the commonality of human beings. That anywhere you go, you can find things in common."

*Here is a list of lawyers who have used Yamshon's services:*

Robert Enos, BPE Law Group Inc., Fair Oaks; William D. Kopper, Davis; Jeffrey T. Stromberg, Davis; Joseph S. Genshlea, Sacramento; James V. Nolan, Gardner, Janes, Nakken, Hugo & Nolan, Woodland; Michael L. Gums, Sacramento; Frank J. Crum, Woodland