

Nikhil Desai

Partner

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Personal Summary

Nikhil specialises in international arbitration, cross-border litigation, fraud and asset chasing and has an extensive background in Commercial, Civil and Public Law litigation in Kenya. He has represented clients in various international arbitration tribunals, the High Court of Kenya and the Court of Appeal of Kenya. Nikhil has also been involved in projects promoting the use of “green” financing in Kenya.

Qualifications

Fellow of the Chartered Institute of Arbitrators	2022
Postgraduate Diploma in Law, Kenya School of Law	2009
Legal Practice Course (LPC), Nottingham Law School (UK)	2007
Bachelor of Law LL.B (Hons), University of Manchester (UK)	2006

Experience

- Acting for a Tanzanian company in concurrent ICC and ICSID (BIT claim) arbitration proceedings against a Tanzanian State Corporation and the Government of Tanzania. The claim relates to interests in a thermal power plant and is in excess of USD 500,000,000.
- Acting for private interests in relation to a family dispute concerning offshore trusts in the Channel Islands and managing litigations in Vancouver and Kenya and representing the client in ongoing LCIA arbitration proceedings in London.
- Acting for a multi-national security company in an LCIA International Arbitration concerning the purchase of an East African security company.

- Advising and representing a Ugandan client on various debt claims against the Government of South Sudan and Jubek State. The matter involves ongoing UNCITRAL international arbitration proceedings and concurrent court proceedings in South Sudan and Uganda.
- Advising a Mozambique fast moving consumer goods company in international arbitration proceeding relating to a commodity trade dispute worth approximately USD 4,000,000. Subsequently, representing the client (with UK Barristers) in an application challenging the arbitration award under section 69 of the UK Arbitration Act.
- Assisting in ongoing enforcement and appeal stages of a multimillion-dollar ICC International Arbitration Award obtained by an international power group against an East African government power off taker.
- Acting for Rwandan interest in the enforcement of an ICC Arbitration Award in Kenya. Involved in ongoing Court Proceedings in Kenya.
- Acting for the Kenyan Capital Markets Authority (CMA) in carrying out forensic and fraud investigations against two large publicly listed companies in Kenya.
- Advising a Chinese corporation in relation to an internal fraud concerning their Kenyan subsidiaries and commencing civil and criminal proceedings.
- Acting for a Mozambique company who was the victim of internet fraud in India and Nigeria.
- Instructed by GIZ to assist the Business Regulatory Service under the Office of the Attorney General to in drafting regulations with regard to disclosure of beneficial ownership regulations in Kenya.
- Instructed by the London Stock Exchange Group and the Ministry of Energy and Petroleum to carry out a detailed review on all Kenyan legislation touching on Environmental, Social and Governance issues and identifying the gaps in the Kenyan legal framework using international standards as a bench mark. The final report was submitted in April 2019 and is aimed at assisting Kenyan companies obtaining financing through Green Bonds.

Publications

- Authored a number of articles on international arbitration, fraud and asset chasing (focusing on Kenya and East Africa generally)
- Contributor: FraudNet Compendium, *International Bar Association Asset Recovery Subcommittee's Global Survey on the Role and standing of corruption victims in criminal proceedings, notably in structured criminal settlements (FraudNet, 2020)*

- Co-Author: *A Gap analysis on standards for Environment, Social and Governance: A Guide for Kenya (FSD Africa; UK Aid, 2019)* <https://www.fsdafrica.org/wp-content/uploads/2019/10/ESG-Final-Report-29.05.2019.pdf>
- Co-Author: Nikhil Desai, Laura Lusiji and Maira Martini and Maggie Murphy. *Toward Beneficial Ownership Transparency in Kenya: An Assessment of the Legal Framework (DFID, Transparency International, 2017)*; <https://tikenya.org/wp-content/uploads/2017/11/Beneficial-Ownership.pdf>
- Editorial Team and Contributor: Miles, Fagbohunlu and Shah. *Arbitration in Africa: A Review of Key Jurisdictions (Sweet & Maxwell, 2016)*
- Co-author: *Guerrilla Tactics in International Arbitration (Kluwer Law International, 2013)*

Recent Speaking and Training Engagements

- Speaker on International Arbitration (focusing on East Africa) and fraud forums in a number of jurisdictions including: Vienna; Paris; London; India; South Africa; Zambia; Mozambique; Sudan; Uganda; Tanzania; Rwanda; and Ethiopia.
- Training the Ethics and Anti-Corruption Commission of Kenya (EACC) on an intensive 5-day course on the use of Alternative Dispute Resolution in carrying out their mandate (2019).
- Training the Attorney General's Office in Addis Ababa, Ethiopia on an intense 3-day course on international arbitration (2019).
- Participated in the roundtable discussions hosted by the London Stock Exchange Group on the launch of the Report co-authored by Nikhil on Green financing in Kenya.
- Leading a stakeholders' forum on transparency with regard to beneficial ownership in Kenya which was led by the Business Registration Service, under the Office of the Attorney General, in Nairobi (August 2018).

Positions Held

Partner, Desai & Co.	February 2021 - Present
Director, JMiles & Co.	October 2019 – Present
Assistant Director, JMiles & Co.	January 2016 – September 2019
Senior Associate, JMiles & Co.	January 2014 – December 2015
Associate, JMiles & Co.	September 2012- December 2013
Associate, Anjarwalla & Khanna,	July 2009 – August 2012
Trainee Lawyer and Associate, Daly & Inamdar Advocates	September 2008 – June 2009



Secondment

- Seconded to the law firm Stephenson Harwood LLP's London office
- Carried out a secondment with London based barristers from Essex Court Chambers and Brick Court Chambers.
- Shadowing English High Court Judge, Sir Bernard Eder (now retired), in a week-long hearing at the High Court (Commercial Division) in London.