

Hon. Justice (Rtd) Alnashir Visram, FCI Arb, EBS Legal Consultant & Arbitrator

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Personal Summary

Honorable Justice (Rtd.) Alnashir Visram is an Advocate of the High Court of Kenya, a Fellow of the Chartered Institute of Arbitration and a CEDR- accredited Mediator and Trainer, with over 50 years' experience in dispute resolution.

Justice Visram has served in the Kenyan Judiciary for a period spanning over 20 years, where he was a designated Judge of the High Court of Kenya from 1999 and 2009, and was then elevated to the Court of Appeal of Kenya in 2009 during which time the Court of Appeal was the highest court in the land. Upon his retirement in 2019, he was appointed by the then President of Kenya, His Excellency Uhuru Kenyatta, to chair various tribunals constituted to carry out investigations into the conduct of several judges following citations issued by the Judicial Service Commission.

Justice Visram has over 23 years' experience in Mediation and has trained approximately 300 mediators in Kenya, India, UK, Uganda, Tanzania and Democratic Republic of Congo. He was a member of the Judiciary Task Force for Implementation of Court-Annexed Mediation, and between 2015 and 2019, he was the Chairperson of the Mediation Accreditation Committee, a statutory body mandated to admit and provide certification to mediators applying to practice mediation in Kenyan Courts. He is currently the African representative at the International Conciliation and Arbitration Board. He was ranked top 40 arbitrators in Kenya by the Africa Lawyer Magazine.

Upon his retirement from the Judiciary, Justice Visram has been appointed to sit as arbitrator in a number of commercial disputes relating to contracts and insurance law.

Judge Visram has relevant experience in Anti – Money Laundering and Asset Chasing / Tracing, and he has heard and determined a number of landmark cases in this respect.

His experience spans across Kenya, Pakistan and Canada.

Qualifications

Member of International Conciliation and Arbitration Board (ICAB)	January 2016
Certified Trainer (CEDR)	January 2012
Master Of Laws Degree, International Law, LLM, University of Nairobi	2005 - 2006
Training Course (CEDR)	August 2000
Bachelor Of Laws Degree, LL. B, University of British Columbia, Canada	1975 - 1978
Admission as an Advocate of the High Court of Kenya	1973
Bachelor of Laws LL. B, University of Nairobi	1969 - 1972

Tribunal Appointments

- Appointed Chair of Tribunal, constituted by H.E. President Uhuru Kenyatta in 2021, to investigate the conduct of the Hon. Justice Lucy Waithaka of the High Court of Kenya, following a citation issued by the Judicial Service Commission of Kenya for removal of the said Judge.
- Appointed Chair of Tribunal, constituted by H.E. President Uhuru Kenyatta in 2020, to investigate the conduct of the Hon. Justice Martin Muya of the High Court of Kenya, following a citation issued by the Judicial Service Commission of Kenya for removal of the said Judge.
- Appointed Chair of Tribunal, constituted by H.E. President Uhuru Kenyatta in 2019, to investigate the conduct of the Hon. Justice D.K. Marete of the High Court of Kenya, following a citation issued by the Judicial Service Commission of Kenya for removal of the said Judge.
- Appointed Chair of Tribunal, constituted by H.E. President Uhuru Kenyatta in 2019, to investigate the conduct of the Hon. Justice J.B. Ojwang of the Supreme Court of Kenya, following a citation issued by the Judicial Service Commission of Kenya for removal of the said Judge.

Noteworthy Judicial Rulings/Judgments

- In June 2019, Justice Visram was part of a three-judge bench that allowed an appeal by Kenya Ports Authority against Summit Coves Lines Limited on the basis that the trial court judge erred in determining that Section 4(1) of the Limitations Act was not applicable.

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- In January 2018, Justice Visram was part of a three-judge bench of the Court of Appeal that determined that Family Bank and some of its privy employees were liable under section 44 of the Proceeds of Crime and Anti-Money Laundering Act for failing to report suspicious transactions to the Financial Reporting Center.
- In March 2011, Justice Visram was part of a three-judge bench of the Court of Appeal that held, in a precedent setting decision, the first of its kind in the country, that persons accused of capital offences where the penalty is loss of life have the right to legal representation at state expense.
- In October 2010, Justice Visram was part of a three-judge bench of the Court of Appeal that held, in a precedent setting decision, that violation of an accused person's constitutional rights did not automatically result in his/her acquittal, but could give rise to a claim for compensation in a civil court. The right, the judges said, is a right to trial without undue delay, not a right not to be tried because of undue delay" (Julius K. Mbugua vs Republic).
- In April 2010, Justice Visram was part of a three-judge bench of the Court of Appeal that defined "private parts" in a landmark case upholding a conviction on charges of defilement (M.B.O. vs Republic).
- In *Livingstone Kamadi Obuga v Uhuru Kenyatta & 3 Others* [2006], Justice Visram invoked section 6 of the Arbitration Act of Kenya 1995 and referred a dispute among the members of the political party to arbitration in accordance with the constitution of the party.
- As a Judge of the High Court, Justice Visram decided in *Unilever Kenya Ltd vs Commissioner of Income Tax* on "transfer pricing" i.e., a reference to the price which related parties transfer goods and services between each other. At the time, the Kenya Revenue Authority had not issued guidelines on transfer pricing and so Justice Visram relied on OECD guidelines to determine that Unilever Kenya had fulfilled the transfer pricing regulations under the OECD. This case was first of its kind in Kenya.

Recent Speaking Engagements

- Spoke at the International Association of Supreme Administrative Jurisdictions Conference in Sydney, Australia, on "A Review of Administrative Decisions of Government".
- Spoken on various ambits of Environmental Law at Judicial Officers' seminars.
- Delivered a speech on "Prerequisites for Introduction and Application of ICT in the administration of Commercial Justice: Evidence from emerging Economies", at the Conference on the role on Information Communication and Technology (ICT) held in Arusha, Tanzania.

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- Spoken on “The State of Constitutionalism in East Africa” at the East African Judges and Magistrate’s conference in Dar-es-Salaam, Tanzania.
- Spoken on various elements of Alternative Dispute Resolution at a number of seminars organised by the Law Society of Kenya.

Honorary Service

- Mediator and Mediation Trainer with His Highness Prince Aga Khan Ismaili International Conciliation and Arbitration Board
- Chairperson of His Highness Prince Aga Khan Ismaili National Conciliation and Arbitration Board for Kenya
- President, His Highness Prince Aga Khan Ismaili Council for Nairobi
- Member for Education, His Highness Prince Aga Khan Ismaili Education Department for Canada
- Chairman and chief Editor, Ismaili Editorial Board for Canada
- Editor, Ismosaic, British Columbia

Positions Held

Consultant, JMiles & Co.	March 2023 - Present
Consultant, Desai & Co. Advocates	March 2023 - Present
Arbitrator and Law Consultant, Visram & Company Advocates	2020 - 2022
Judge of Appeal, Court of Appeal, Kenya	2009 - 2019
<i>Appointed in 2009, which at the time was the final appellate court in Kenya</i>	
Presiding Judge, Court of Appeal, Malindi & Mombasa	2017 - 2019
<i>The team led by Justice Visram rendered 300 judgments leading the court to hear cases in real time</i>	
Head, Criminal Division, Court of Appeal, Kenya	2015 - 2017
<i>Management of the caseload in the Division; reduction of backlog</i>	
Presiding Judge, Court of Appeal, Nyeri	2013 - 2015
<i>The team led by Justice Visram rendered 378 judgments in 2 years, eliminating the entire backlog of cases, and leading the court to hear cases in real time, a ‘first’ in the history of Kenya</i>	

Judge, High Court of Kenya <i>The High Court of Kenya is a court of original and unlimited jurisdiction.</i> <i>Served in Nairobi, Nakuru and Kericho, presiding over both civil and criminal matters</i>	2001- 2009
Commissioner of Assize, High Court of Kenya <i>Served in Nairobi, Eldoret and Kitale</i> <i>Presided over civil and criminal cases</i>	1999 - 2001
Consultant and Advocate, High Court of Kenya Mohamed Madhani & Co. Nairobi	1999 - 2001
Advocate, Veljee Devshi & Bakrania	1993 - 1998
Chief Executive Officer, Aga Khan Foundation, Kenya	1987 - 1992
Manager, Resource Development, Aga Khan University, Karachi	1984 - 1987
Associate Lawyer, Peterson Stark & Fowler, Barristers & Solicitors, Vancouver, B.C.	1979 - 1983
Associate Lawyer, Ralph H. Long, Barristers and Solicitors, Vancouver, B.C.	1978 - 1979
Research Assistant	1977 - 1977
Legal Assistant, Ladner Downs, Barristers & Solicitors, Vancouver, B. C.	1974 - 1975
Associate Lawyer, Veljee Devshi & Bakrania, Advocates, Nairobi	1973 - 1974
Lecturer in Law, Universal College, Nairobi	1973 - 1974

Membership: Professional Bodies

Fellow of the Chartered Institute of Arbitrators – Kenya Branch	2022 - Present
Chair, Mediation Accreditation Committee	2015 - 2019
Member, Judiciary Task Force for Implementation of Court-Annexed Mediation in the Judiciary	2015 - 2019
Chair, Rules Committee	2012 - 2019
Member, Judicial Training Institute	2010 - 2012