

# NATASHA BEHARY PARAY

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## Education

- 2013 – 2014: LL.M International Law (University of Nottingham, United Kingdom), graduating with Distinction.

My dissertation focussed on the approach of English Courts to Mandatory Rules in International Litigation and Arbitration, in an attempt to gauge the degree of party autonomy afforded in each forum in terms of choice of law in commercial contracts and to offer a theoretical explanation for the greater level of freedom in arbitration cases.

- 2012-2013: Bar Professional Training Course (Nottingham Law School), awarded a 'Very Competent' qualification
- 2009-2012: LL.B Hons (University of Nottingham, United Kingdom), graduating with a Second Class First Division (2:1) Honours
- 2002-2008: Secondary Education, including Higher School Certificate (Queen Elizabeth College, Mauritius), ranking 27<sup>th</sup> in the Science Section, with As in Chemistry, Physics and Mathematics. I also studied Biology at A-Level as a fourth main subject and sat for the London Edexcel exams in Chemistry, Physics and Biology.

## Membership of Professional Organisation

- July 2013: Called to the Bar of England and Wales at the Honourable Society of the Inner Temple;
- January 2016: Called to the Mauritian Bar

## Professional Experience

- Employment History

25 January 2016 till 31 March 2024: Barrister-at-Law at ENSafrica (Mauritius), the Mauritian Branch of Africa's largest law firm. I am employed as a barrister-at-law in the litigation team, initially as an Associate, until my promotion to Senior Associate in March 2022.

As a member of the litigation team at ENSafrica (Mauritius), I represent clients before different judicial and administrative fora in Mauritius. My areas of practice include: corporate commercial law, insolvency, civil claims for contractual or tortious breaches, personal injury, insurance law, arbitration (domestic and international), public procurement law, intellectual property law, employment law and data protection.

**Arbitration:** A snapshot of my experience in international arbitration matters is as follows:

- *MCB v UBS AG*: Application made to the Judge in Chambers for transfer of a case to a Designated Judges' Panel under section 42 of the International Arbitration Act and subsequent application for referral of parties to arbitration in the case of a side agreement to a syndicated loan agreement containing an arbitration clause;
- *Pueblo v Emirates Trading Agency*: Application for recognition and enforcement of two partial awards delivered by a sole arbitrator seated in London under the New York Convention, together with incidental interim application pending enforcement and actual enforcement in Mauritius – seizure of shares;

- *National Bank of Canada v IBL*: resisting application for injunction on grounds of lack of jurisdiction of judge in chambers due to existence of an arbitration clause in shareholders' agreement and ensuing application before the Designated Judges' Panel;
- *Samsung v Class Cell*: Advising on future enforceability of award to be delivered by arbitral tribunal sitting in South Africa in Mauritius and temporal application of the reciprocity reservation to the New York Convention once entered into by Mauritius;
- *Galakha Enterprises Ltd v ECP Africa Fund IV A LLC* – I appeared for the Respondent in injunction proceedings before the Commercial Division of the Supreme Court and successfully raised an objection to the jurisdiction of the court based on the existence of an arbitration clause in a share subscription agreement entered into by the Applicant. The case raised the issue of the threshold test applicable to the determination of whether or not the arbitration clause was applicable. We have currently lodged an application for the main dispute to be referred to arbitration;
- *CC/Devas (Mauritius) Ltd v Financial Services Commission* – We appear for a local regulatory body engaged in regulatory action against a domestic company which is currently involved in investment arbitration proceedings against the Republic of India. The case raises issues of the interplay between the regulatory authority of a host state and the protection of investments and whether the acts of the local regulator can be seen as an attempt to defeat the arbitration claim of its national against a foreign and friendly state.
- *Massilia Limited v Golf Development International Holdings Ltd* – We appeared for the Respondent in a cross-claim between shareholders in a failed land development project. The case gave rise to a number of incidental applications, including two challenges to the arbitrator filed with the Permanent Court of Arbitration on grounds of lack of impartiality of the arbitrator and several applications to the Mauritian courts;
- *Consortium d'Etudes et de Réalisations Immobilières v Jitsing* – a domestic arbitration between partners of a joint venture for land development, culminating in one application for exequatur of the arbitral award, and one application for setting aside the award;
- *Kingdom of Lesotho v Fraser* – We appear for the Kingdom of Lesotho to resist the enforcement of an award rendered by default on grounds of absence of notice of arbitration on the Kingdom of Lesotho;
- *Advice to client on FIDIC arbitration clauses and the treatment of waterfall clauses by arbitral tribunals appointed under FIDIC Contracts*;
- *Assisting client in modifying arbitration clause under FIDIC Contracts including value of Dispute Resolution Boards*;
- *Investment Arbitration Case against the Republic of Mauritius* – I assisted to prepare an expert report on Mauritian law and the interplay between domestic law and international investment protection standards, including opinions on document disclosure and state secrets for an arbitration against the Republic of Mauritius. The Hearing has taken place and the award was delivered in December 2023;
- *Investment Arbitration Case against France* – I assisted with research into the definition of “investor” for the purposes of the French – India Bilateral Investment Treaty (BIT), the purpose of which was to understand whether dual nationals were intended to be afforded protection under the BIT;

- *Investment Arbitration Case against the Republic of Tanzania*: I am advising a Mauritian investor in relation to an international investment arbitration claim against the Republic of Tanzania. We are currently in pre-arbitration negotiations.
- **Pupillage (Mandatory legal internship following Bar Professional Training Course)**
  1. *December 2014 to June 2015 and September 2015 to January 2016: Pupillage under the tutelage of Mr Maxime Sauzier, SC*
  2. *July 2015 to September 2015: Pupillage under the supervision of Mr Thierry Koenig, SA*
- **Legal Representation**

*Between December 2012 and June 2013, I was a certified Free Representation Unit (FRU) Volunteer offering pro bono legal representation services in employment tribunals in England and Wales.*
- **Mini-Pupillage / Placement with solicitor**
  1. *April 2012 (21st – 25th): Mini-pupillage at 7 Bedford Row Chambers in London*
  2. *30 August – 6 September 2011: placement at the Office of Mr Jaykar Gujadhur, Attorney-at-Law*
  3. *August 2011 (1st – 29th ): Mini-Pupillage at the De Speville-Sauzier-Desvaux Chambers in Mauritius*
  4. *July 2011 (6th - 29th): Mini-pupillage at Banymandhub-Boolell Chambers in Mauritius*
  5. *July– September 2010: Mini-Pupillage at the De Speville-Sauzier-Desvaux Chambers in Mauritius*

#### **Additional Academic Exposure**

- **2018 (August): Arbitration Training Course** (*Grotius Centre for International Legal Studies, Leiden University and the Permanent Court of Arbitration, The Hague*)

*A week-long training course in international arbitration aimed at advanced law professionals with an overview of international commercial arbitration law and practice, interstate arbitration and investment treaty arbitration.*
- **2017 (July-August): The Hague Academy of International Law Private International Law Summer Course 2017**

*A 3-week short course on contemporary issues in private international law including a special course on the allocation of power between courts and arbitral tribunals.*

**2019 (July – August): The Hague Academy of International Law Private International Law Summer Course 2019**
- *The Inaugural lecture on the basics of arbitration law, was delivered by Pr Gary Born.*

*Two of the special courses on offer during the 2019 session of the Hague Academy Summer Courses bore the titles: (i) “The Powers of the arbitrator in international arbitration” delivered by Yas Bamifatemi; and “legal fictions in international arbitration” from Professor Edouardo Silva Romero.*
- **2022 (August): The Hague Academy of International Law Private International Law Summer Course 2022**

*Among the special courses being delivered was that of Professor Juan Bosco Lee, namely “The application of international conventions by arbitrators in international trade disputes”.*

*In addition, a series of memorial lectures were held in memory of Professor Emmanuel Gaillard, on various topics related to international arbitration.*

- 2023 (July): The Hague Academy of International Law Public International Law Summer Course 2023

### **Intervention on Panels and Teaching Experience**

- *I am frequently called upon to intervene as speaker in panel discussions on international arbitration, including international investment arbitration. My two most recent interventions were during the MIDI Conferences organised by the Mauritius Chamber of Commerce and Industry and during a Symposium co-organised by MCCI and the Indian Ocean RIM Association.*
- *I additionally offered inhouse training at ENSafrica as part of an initiative of its Arbitration Focus Group on various aspects of international commercial arbitration such as the recognition and enforcement of arbitration clauses and identifying potentially pathological clauses, practical aspects of international arbitration proceedings (including choosing an arbitrator), recognition and enforcement of arbitral awards (and setting aside under Mauritian law) and the role of the courts in assisting the arbitral process.*
- *I have been leading the seminar on copyright law as part of the Intellectual Property Workshop offered by ENSafrica (Mauritius) to students enrolled on the LL.M International Business Law programme offered by Université Paris II Pantheon – Assas in Mauritius through the Uniciti Education Hub for the academic years 2019-2020, 2020-2021, 2021-2022 and 2022 - 2023.*

*I am also currently teaching the Advanced Civil Law module for the Law Practitioners’ Vocational Course being offered by the University of Mauritius.*

### **Administrative Posts held**

*30 May 2020 till date: Non-executive director on the board of Somags Ltee, a private limited liability company incorporated under the laws of Mauritius and involved in retail business, managing super and hyper markets trading as Jumbo and Spar.*

*January 2023 to date: I am an elected member of the Bar Council which heads the Mauritius Bar Association. In addition to organising various educational and social events, the Bar Council considers complaints against barristers for alleged breaches of the Code of Ethics for Barristers.*

### **Language Proficiency**

*English (near native), French*

### **Miscellaneous**

*Computer Skills – My work experience and academic pursuits have enhanced my ease with legal research databases like Westlaw, Lexis Library and Hein Online, the website of the Supreme Court of Mauritius, Bailii, Austlii LexisNexis JurisClasseur and Legifrance. I also have some basic knowledge of programming.*