

Dato' Nitin Nadkarni

A lawyer with a reputation for energy and construction disputes

Nitin is the Head of the Firm's International Arbitration Practice and the Tax, Customs & Trade Practice. Nitin's main area of practice is in international arbitration, focusing on oil & gas, energy, construction and engineering, and infrastructure projects. Nitin also specialises in income tax and customs litigation and disputes.

Nitin has more than 35 years' experience representing major governmental organisations, multinational corporations, national and international contractors, sub-contractors, financial institutions and high-profile individuals in arbitration, litigation, income tax and customs disputes.

Nitin has acted as counsel or sat as arbitrator in disputes arising from projects in or arbitrations seated in Malaysia, Singapore, Korea, London, Switzerland, Vietnam, United Arab Emirates, Sudan, Paris and Algeria under ad hoc and institutional rules such as AIAC, ICC, SIAC, and LCIA rules.

Nitin has also acted as counsel in benchmark income tax disputes on major points of tax law.

He has been consistently ranked by **Chambers & Partners** as a leading lawyer (Band 1 from 2013-2021) who is very polished and sought-after, and by **Asia Pacific Legal 500** as a leading dispute resolution, and real estate and construction lawyer who *is very highly regarded for construction disputes*. Nitin has been recognized as an Elite Practitioner by **Asialaw 2022** and as a *Litigation Star* for Construction by **Benchmark Litigation Asia-Pacific 2021**. At the 8th **Asian Legal Business Malaysia Law Awards** held virtually in July 2021, Nitin was named Dispute Resolution Lawyer of the Year.



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Qualifications

- LLB Hons, London School of Economics and Political Science
- Called to the Bar of England and Wales (Middle Temple)
- Advocate & Solicitor, High Court of Malaya

Practice Areas

- International Arbitration
- Construction & Engineering
- Infrastructure Projects
- Energy & Natural Resources
- Media
- Income Tax & Customs Disputes

Professional Affiliations

- Council Member, Asian International Arbitration Centre (AIAC) Advisory Council
- Co-Chairman, Arbitration and Construction Law Sub-Committee of the Malaysian Bar Council (2017-2019)
- Chairman, Arbitration Sub-Committee of the Malaysian Bar Council (2015-2017, 2019-2022)
- Fellow, Chartered Institute of Arbitrators
- Fellow, Malaysian Institute of Arbitrators
- Panel Arbitrator, Asian International Arbitration Centre
- Panel Arbitrator, International Chamber of Commerce Malaysia
- Panel Arbitrator, Singapore International Arbitration Centre
- Panel Arbitrator, China Economic and Trade Arbitration Commission
- Panel Arbitrator, Bangalore International Mediation, Arbitration & Conciliation Centre
- Panel Arbitrator, Hainan International Arbitration Court
- Panel Arbitrator, China Chongqing Arbitration Commission
- Accredited Mediator, Malaysian Mediation Centre

Experience

Commercial

- Counsel in an arbitration arising from the contamination of base oils.
- Counsel for owner in commercial disputes in relation to a seawater desalination plant.
- Co-counsel in a Swiss arbitration in respect of claims exceeding Euro 60 million arising out of the breach of a logistics contract.
- Counsel for the owner in an arbitration arising out of a defective waste water treatment plant.
- Counsel for hotel owners in a commercial arbitration in Singapore.
- Counsel in series of telecommunications arbitrations in respect of the supply of a WiMax system.
- Counsel in an arbitration claiming RM30 million on a fire insurance policy.
- Counsel in a law suit for RM100 million against former directors of a listed company for fraud and breach of fiduciary duties.
- Counsel in a law suit for newspaper claiming RM300 million against media survey company.
- Counsel in an arbitration arising out of concession agreements related to KLIA.

Energy, Natural Resources & Utilities

- Counsel for various independent power producers in commercial arbitrations which have involved issues relating to, among others, operation and maintenance of power stations, generation capacity payments under power purchase agreements (PPAs), and the operation and maintenance of the Malaysian Grid System.
- Advising on payment-related disputes in relation to commercial rates for Capacity Payment and Energy Payment, including adjustments to the Fixed Operating Rate and Variable Operating Rate, under various long-term power purchase agreements.
- Counsel for owner in disputes concerning construction and design defects in boiler and auxiliary systems of a coal-fired power plant.
- Counsel in disputes arising out of the delayed construction of a power station.
- Counsel in a French-seated ICC arbitration for disputes arising out of a suite of civil law-governed agreements in relation to a water desalination plant in North Africa.
- Advising on construction and transmission-related issues concerning power transmission lines.
- Counsel in an arbitration arising out of the construction of the Bakun dam.
- Counsel in commercial litigation related to a Mobile Offshore Production Unit.
- Counsel for EPC contractor in relation to the construction of a Gas Compression System in Sarawak.
- Counsel for owner against insurers in a law suit for RM30 million in respect of a "naphtha cracker" petrochemical facility which exploded on start-up.
- Counsel for owner in a series of arbitrations (against insurer, engineer, and end user) arising out of the post-completion explosion at petroleum shore tank facilities.
- Counsel for owner in an arbitration in relation to a methanol petrochemical plant construction contract.
- Counsel for contractor in disputes arising out of the construction of petrochemical facilities in Sudan.

Construction

- Counsel for contractor in a billion-ringgit dispute arising out of a design and build contract in the Middle East.
- Counsel in an arbitration claim and counterclaim exceeding RM200 million arising out of the failure of reclamation works.
- Counsel in an arbitration claim and counterclaim exceeding RM350 million arising out of the construction of a museum and resource centre.
- Counsel in an arbitration involving claims and counterclaims exceeding RM200 million arising out of the construction of a cable stay bridge and approach roads.
- Counsel for sub-contractor in an arbitration involving construction of an elevated highway.
- Counsel for a Malaysian statutory authority in relation to an arbitration for RM110 million arising from the construction of a road in the east coast of Malaysia.
- Counsel advising a roads contractor in a dispute with the Federal Government arising out of the construction of a new road.

- Counsel for a contractor in a mediation for a claim exceeding RM100 million arising from the construction of a hospital.
- Counsel in a law suit arising out from the construction of a marine jetty in Fujairah, UAE.
- Counsel for an Australian main contractor in a RM100 million arbitration arising from the construction of the KLIA catering facility.
- Counsel for a Japanese contractor in disputes with the owner concerning the construction of a luxury apartment block and an office tower in KL.
- Counsel in an arbitration arising out of the construction of KLIA 2.
- Counsel for developers and contractors in litigation arising from various housing projects, hospitals, and buildings.
- Counsel for a main contractor in disputes arising from the expansion of the KL Monorail Fleet.
- Counsel in an arbitration arising out of the construction of military facilities.
- Counsel for owner in an arbitration arising out of the construction of a luxury hotel in Kuala Lumpur.
- Counsel for a Japanese contractor in an arbitration arising out of the construction of a high rise office tower in Johor Bahru.
- Counsel for a Malaysian owner in a law suit arising from the construction of office complex by Japanese contractor.
- Counsel for a developer in a RM100 million law suit by a contractor arising out of the construction of a hotel, shopping complex, and office tower.

As Arbitrator:

- Sole arbitrator in an international arbitration arising out of a failed commercial venture in Vietnam.
- Sole arbitrator in an arbitration arising out of a commercial contract for provision of educational services.
- Sole arbitrator in construction dispute in relation to construction of a multipurpose hall.
- Sole arbitrator in construction dispute in relation to construction of educational facilities.
- Sole arbitrator in construction dispute arising out of construction of oil & gas facility.
- Sole arbitrator in a dispute arising out of a government construction contract in relation to healthcare facilities.
- Sole arbitrator in a dispute in relation to insurance policy for the construction, completion and commissioning of a shopping complex.
- Co-arbitrator in a dispute arising out of a sale and purchase agreement for acquisition of capital of a company.

Notable Publications

- Contributor — Hishamudin Yunus: Celebrating Judicial Independence, LHAG (2018)
- Contributor — The Legal 500 (Legalease): Construction, Country Comparative Guide (Malaysia)
- Contributor — The Malaysian Civil Procedure 2013, 2015 and 2018 by Sweet & Maxwell Asia
- Contributor — Arbitration in Malaysia, A Practical Guide (2016, Sweet & Maxwell)
- Contributor — Arbitration World, International Series (2016, Thomson Reuters)
- *Trans-Pacific Partnership Agreement: The Continued March of Private Justice? [2016] Law Review 574*

Accolades

The Legal 500

Nitin Nadkarni, the head of construction disputes, is a prolific arbitrator as well as being the authority on defamation

Chambers and Partners

Leading Lawyer (Band 1) Dispute Resolution 2013 to 2021.

"Nitin Nadkarni is a leading figure in the field of construction arbitration and litigation. Described as a very competent advocate, his practice focuses on oil and gas and energy matters. He also acts regularly in commercial disputes, including media disputes."

"Partner Nitin Nadkarni is one of the most sought-after construction disputes experts. He's very polished, so when it comes to court advocacy it helps a lot and he is very thorough in his work," say clients."

"Nitin Nadkarni is highly specialised in the construction sector, particularly in arbitration proceedings. He is highly active with arbitration disputes, representing an impressive portfolio of clients."

"Sharp advocate who presents his cases decisively and convincingly."

"With over 35 years of experience, Nitin Nadkarni is frequently cited as a leading figure for construction disputes. Especially active in international arbitration, he specialises in engineering, infrastructure and energy mandates, alongside a range of general commercial cases."

Asialaw Profiles

Elite Practitioner 2020- 2022 for Construction and Dispute Resolution

Leading Lawyer 2017-2019 for Construction and Real Estate, Dispute Resolution, Energy and Natural Resources

"Construction is another area in which the firm excels. Led by partner Nitin Nadkarni, the firm is frequently involved in construction arbitration and litigation involving developers and multinational corporation."

Benchmark Litigation, Asia Pacific

Dispute Resolution Star 2019-2021 for Commercial and Transactions, Construction and International Arbitration

Asian Business Law Journal's A-List

Malaysia's Top 100 Lawyers – International Arbitration

Asian Legal Business Malaysia Law Awards

Dispute Resolution Lawyer of the Year 2021