

Riz Mokal

Called to the Bar 1997

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Riz accepts instructions in all aspects of domestic and cross-border insolvency, restructuring, bank resolution, company, commercial, and trust law, and in general commercial litigation.

He regularly appears unled in the High Court (including the Interim Applications Court) and county courts in a broad range of matters, including in relation to winding-up and bankruptcy petitions, administration applications, receivership, company restoration and dissolution, registration of charges, possession orders, injunctions, and public examinations under the insolvency legislation. He also acts as an expert witness on all aspects of international and comparative insolvency and commercial law matters.

Some of the matters in which he is or has recently been involved include:

- **Arbitration against a sovereign state brought under the Energy Charter Treaty and the UNCITRAL Rules** relating to an alleged expropriation — currently instructed as an expert witness on international and comparative bankruptcy law
- **Lady Moon SPV srl v Petricca & Co Capital Ltd** [2019] EWHC 439 (Ch) — instructed with Tom Smith QC in relation to a challenge to the English Court's jurisdiction in relation to proceedings against the English fund manager of an Italian alternative investment fund
- **Lady Moon SPV srl v Petricca & Co Capital Ltd** [2018] 12 WLUK 117 — instructed on behalf of the claimant on an application to 'roll-up' the hearing of the substantive claim together with the defendant's challenge to the English Court's jurisdiction
- **Re Lehman Brothers International (Europe)** (2016-2018, High Court in London) — instructed with David Allison QC on behalf of Wentworth in relation to (i) the treatment of claims by Barclays Capital Inc.; the matter involves questions relating to the MiFID / CASS regime, set-off, statutory interest, and a range of equitable doctrines; and (ii) the statutory interest 'Lacuna' application
- **Re Z Trust** [2018] JRC 119 and [2018] JRC 164 (Royal Court of Jersey) — instructed with Tom Smith QC on behalf of the current trustee (the treatment of insolvent trusts and the rights of the beneficiaries, creditors, and current and former trustees)
- **Beaufort Asset Clearing Ltd & Beaufort Securities Ltd** (2018, High Court in London, sitting in private on a without notice application) — instructed first with Tom Smith QC and then with Gabriel Moss QC on behalf of the Financial Conduct Authority (to place an investment bank in the special administration regime, and an associated entity in administration).
- **Re Webinvest Ltd** [2018] BPIR 182 — instructed with Antony Zacaroli QC on behalf of the insolvency officeholders (insolvency officeholder conflicts of duty; use of material compulsorily obtained under Insolvency Act powers; disclosure; privilege)
- **Re Ocean Rig UDW Inc** (FSD 100-103 of 2017, Grand Court of the Cayman Islands) — instructed with Antony Zacaroli QC on behalf of lenders in relation to a successful restructuring through schemes of arrangement

Riz completed his pupillage at South Square in 2005, was an academic member of Chambers for the subsequent decade, and joined as a practicing member in September 2016.

From 2009 to 2013, Riz served as Senior Counsel to the World Bank and Head of the Bank's Global Initiative on Insolvency and Creditor/Debtor Regimes. In this capacity, and subsequently as a Consulting Counsel to the Bank, he has worked at the invitation of and with the Governments of eighteen countries in Africa (Egypt, Kenya), Asia (Bangladesh, Mongolia, Pakistan, Vietnam), Europe (Belarus, Croatia, Kosovo, Latvia, Poland, Romania, Russia, Ukraine), and the Middle East (Jordan, Kuwait, Saudi Arabia, Turkey) on reform of insolvency and creditor/debtor systems. This work involves policy analyses of existing laws and practices, the development of new legislation, and the training of judges, lawyers, insolvency practitioners, central bankers, and other stakeholders. Also as part of this work, Riz co-authored several World Bank and joint International Monetary Fund / World Bank policy documents which are characteristically confidential to the respective Government, one of which (prepared for the Government of Belarus) was the recipient of a 2012 World Bank Team Award.

As leader of the World Bank's delegation to the United Nations Commission on International Trade Law ('UNCITRAL') from 2009 to 2013 and as independent expert member of the UK delegation from 2013 to 2017, Riz was part of the group that negotiated and authored the new UNCITRAL model laws on the enforcement of insolvency-related judgments and on the cross-border insolvency of enterprise groups, as well as the revised guide to interpretation of the Model Law on Cross-Border Insolvency and the treatment in the Legislative Guide on Insolvency Law of directors' duties in the period approaching insolvency. He also played a key role in the process to update the bankruptcy treatment of financial contracts provided for in the World Bank's Principles on Effective Insolvency and Creditor/Debtor Rights Systems. He was also commissioned by the International Association of Insolvency Regulators to draft the Principles for the Regulatory Regime for Insolvency Practitioners (2018), whose purpose is "*to assist national policymakers seeking to create or strengthen the regulation of insolvency practitioners in their jurisdiction*".

Riz held the Chair of Law and Legal Theory at University College London until 2016 and, upon resigning the Chair to take up practice, was appointed an Honorary Professor. He was a Visiting Professor in Law at the University of Florence from 2015 to 2018, and a Research Associate at Cambridge University's Centre for Business Research from 2003 to 2007.

He is the author or co-author of three books and a contributor to three others on English and comparative bankruptcy and restructuring laws, and the author or co-author of over two dozen scholarly articles in leading law journals (including the *Modern Law Review*, the *Oxford Journal of Legal Studies*, the *Cambridge Law Journal*, *Legal Studies*, the *Singapore Academy of Law Journal*, and the *Singapore Journal of Legal Studies*) on financial sector regulation; insolvency, bankruptcy, and restructuring; property and trusts; and legal theory. His scholarly work has been cited with approval by several courts, including the House of Lords, the Australian High Court, and the Courts of Appeal of England & Wales, New Zealand, Ontario, and Victoria, and in around 150 scholarly journals around the world. This work has also influenced law reform in the UK and elsewhere. Most recently, a new 'creditor best interest' test and a new 'relative priority rule' advocated in Stanghellini, Mokal, Paulus, and Tirado (2018) were incorporated in the forthcoming European Union Directive on Preventive Restructuring Frameworks (2019).

Riz is one of eight UK-based Fellows of the American College of Bankruptcy (since 2019), and a member of each of the following invitation-only organisations: the World Bank's Global Task Force on Insolvency Law (since 2009), the International Insolvency Institute (since 2014), the Bowen

Island Group (since 2015), and the International Exchange of Experience on Insolvency Law (since 2017).

Areas of Practice

- Insolvency and Restructuring
 - Banking and Finance
 - Commercial Litigation & Arbitration
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Career

2016- Honorary Professor, UCL
2015- Visiting Professor University of Florence, Department of Law
2013-2016 Consulting Counsel, The World Bank
2009-2013 Senior Counsel and Head of Global Initiative on Insolvency and Creditor/Debtor Regimes, The World Bank
2008-2016 Professor of Law and Legal Theory, UCL
2005-2016 Academic Member of South Square
2004-2008 Reader in Laws, UCL
2004-2005 Pupil at South Square
2003-2007 Research Associate, Centre for Business Research, University of Cambridge
2001-2004 Lecturer in Laws, UCL
1997 Called to the Bar of England and Wales
1996-2001 Visiting Teacher in Laws, UCL

Memberships

2018 - Fellow, American College of Bankruptcy
2017- Member, International Exchange of Experience on Insolvency Law
2014- Member, International Insolvency Institute
2009- Member, World Bank's Global Task Force on Insolvency and Creditor/Debtor Regimes

Publications and Policy Documents

Reports on the Observance of Standards and Codes

As part of his work at the World Bank, Riz co-authored several IMF/World Bank Reports on the Observance of Standards and Codes ('ROSCs') on Insolvency and Creditor/Debtor Regimes. These diagnostic reports, usually confidential to the Government requesting them, provide analysis and

recommendations for legislative and regulatory reform. ROSCs are based on analysis of legal and regulatory texts complemented by information derived from surveys and a comprehensive range of meetings with key public and private sector stakeholders, including those from the Ministries of Justice, Finance, and Economy; the Central Bank; senior judiciary; credit history and security interest registries; financial institutions; chambers of commerce and industry; and legal, insolvency, audit, and financial consultancy professionals. ROSCs are peer-reviewed by World Bank specialists and international and/or national experts. The ROSCs co-authored by Riz include:

- Vietnam (2013)
- Romania (2013)
- Kenya (2013)
- Bangladesh (2013)
- Kosovo (2012)
- Russia (2012)
- Kuwait (2012)
- Mongolia (2012)
- Saudi Arabia (2010)

Other Co-authored World Bank Policy Documents

- Vietnam – Restructuring of banking and state-owned enterprise sectors (2013)
- Ukraine – Assessment of and input into several draft statutes on debtor/creditor issues (2013)
- Kenya – Assessment of and input into Insolvency and Company Bills (2012)
- Croatia – Assessment of draft statute on credit claim enforcement (2012)
- Belarus – Restructuring of state-owned enterprise sector (2012) (*Winner, World Bank Team Award*)
- Latvia – Assessment of debt resolution legal and regulatory framework (2012)
- Pakistan – Assessment of draft Corporate Rehabilitation Bill (2010-2011)
- Turkey – Assessment of enterprise insolvency framework (2010)
- Egypt – Assessment of debt resolution legal and regulatory framework (2009)

Books and Book Chapters

- *The Insolvency of Micro, Small, and Medium Enterprises – A Modular Approach* (Oxford: Oxford University Press, 2018) co-authors: Ronald B Davis, Stephan Madaus, Alberto Mazzoni, Irit Mevorach, Rizwaan Jameel Mokal, Barbara Romanine, Janis Sarra, and Ignacio Tirado
- *Best Practices in European Restructuring – Contractualised Distress Resolution in the Shadow of the Law* (Florence: Wolters Kluwer, 2018) co-authors: Lorenzo Stanghellini, Christoph Paulus, and Ignacio Tirado
- *Corporate Insolvency Law – Theory and Application* (Oxford: OUP, 2005)
- Rizwaan Jameel Mokal and Daniel Lightman, ‘Duties and Liabilities of Administrators’, in Sir

- Gavin Lightman, Gabriel Moss, Ian Fletcher and Richard Snowden QC (eds.), *The Law of Receivers and Administrators of Companies* (London: Sweet & Maxwell, 2007)
- Daniel Lightman and Rizwaan Jameel Mokal, 'Duties and Liabilities of Administrative Receivers', in Sir Gavin Lightman, Gabriel Moss, Ian Fletcher and Richard Snowden QC (eds.), *The Law of Receivers and Administrators of Companies* (London: Sweet & Maxwell, 2007)
 - Robin Dicker QC, Adam Goodison, and Rizwaan Jameel Mokal, 'Voluntary Arrangements (Companies)', in Peter Totty and Gabriel Moss (eds.), *Insolvency* (London: Sweet & Maxwell, 2005)
 - 'The Floating Charge - An Elegy', in Sarah Worthington (ed), *Commercial Law and Commercial Practice* (Oxford: Hart, 2003), 479-509

Articles

The abstracts and 'working paper' versions of several of the following can be found on the [Social Science Research Network](#).

- Riz Mokal and Ignacio Tirado, 'Has Newton had his Day? Relativity and Realism in European Restructuring' *Eurofenix* Autumn 2018 (English); a somewhat extended version published at the editor's request in (2019) 4 *Butterworths Journal of International Banking and Financial Law* 233-235
- 'Shopping and Scheming, and the Rule in *Gibbs*' (2017), *South Square Digest* 58-63
- 'Liquidity, Systemic Risk, and the Bankruptcy Treatment of Financial Contracts' (2015) 10(1) *Brooklyn Journal of Corporate, Financial and Commercial Law* 15
- 'What Liquidation Does for Secured Creditors, and What it Does for You' (2008) 71(5) *Modern Law Review* 699
- 'At the Intersection of Property and Insolvency' (2008) 20 *Singapore Academy of Law Journal* 495
- 'Encumbered Assets and the Statutory Trust' (2008) 21(9) *Insolvency Intelligence* 129
- Look Chan Ho and Rizwaan Jameel Mokal, 'Barber v CI: Preference Equals Undervalue?' (2006) 22(5) *Insolvency Law & Practice* 183-186; arguments discussed in the Court of Appeal, and approved obiter by Lady Justice Smith, in *Re Sonatacus Ltd* [2007] EWCA Civ 31
- Michael Crystal QC and Rizwaan Jameel Mokal, 'The Valuation of Distressed Companies: A Conceptual Framework - Part II' (2006) 3(3) *International Corporate Rescue* 123-131
- Michael Crystal QC and Rizwaan Jameel Mokal, 'The Valuation of Distressed Companies: A Conceptual Framework - Part I' (2006) 3(2) *International Corporate Rescue* 63-68
- Stephen Atherton QC and Rizwaan Jameel Mokal, 'Charges over Chattels - Issues in the Fixed/Floating Jurisprudence' [2005] *Company Lawyer* 10-18; cited by Lord Walker in *Re Spectrum Plus Ltd; National Westminster Bank plc v Spectrum Plus Ltd and others* [2005] UKHL 41
- Rizwaan Jameel Mokal and Look Chan Ho, 'The *Pari Passu* Principle in English Ancillary Proceedings: *Re Home Insurance Company*' (2005) 21(6) *Insolvency Law & Practice* 207-210
- 'Administrative Receivership and Administration - An Analysis' [2004] *Current Legal Problems* 355-392
- John Armour and Rizwaan Jameel Mokal, 'Reforming the Governance of Corporate Rescue: The

- Enterprise Act 2002' [2005] *Lloyd's Maritime and Commercial Law Quarterly* 28-64
- 'Liquidation Expenses and Floating Charges — The Separate Funds Fallacy' [2004] *Lloyd's Maritime and Commercial Law Quarterly* 387-404; reprinted at (2005) 21(2) *Insolvency Law & Practice* 46-55; cited with approval by the Court of Appeal of New Zealand in *In re Strategic Finance Ltd* [2013] NZCA 357
 - 'The Harm Done by Administrative Receivership' (2004) 1(5) *International Corporate Rescue* 248-256
 - Rizwaan Jameel Mokal and John Armour, 'The New UK Corporate Rescue Procedure — The Administrator's Duty to Act Rationally' (2004) 1(3) *International Corporate Rescue* 136-142
 - 'Interplay of Administration, Liquidation, and CVA - Part II' (2004) 25(2) *Company Lawyer* 35-40
 - Look Chan Ho and Rizwaan Jameel Mokal, 'Interplay of Administration, Liquidation, and CVA - Part I' (2004) 25(1) *Company Lawyer* 3-8
 - 'On Fairness and Efficiency' [2003] *Modern Law Review* 452-467
 - 'The Search for Someone to Save: A Defensive Case for the Priority of Secured Credit' [2002] *Oxford Journal of Legal Studies* 687-728
 - 'Priority as Pathology: The *Pari Passu* Myth' [2001] *Cambridge Law Journal* 581-621; a central argument approved and adopted by Kirby J (dissenting, though not on this point) in the High Court of Australia in *International Air Transport Association v Ansett Australia Holdings Limited* [2008] HCA 3. Several of the arguments in this paper were also approved and adopted by the majority of the Court of Appeal of the Supreme Court of Victoria in *Ansett Australia Holdings v International Air Transport Association* [2006] VSCA 242. Also cited with approval by the Court of Appeal of Ontario in *Re Nortel Corporation* (2015) ONCA 681
 - Rizwaan Jameel Mokal and Look Chan Ho, 'Characterisation, Consideration, Evaluation: Transactions at an Undervalue After *Phillips v Brewin Dolphin*' [2001] *Journal of Corporate Law Studies* 359-379
 - 'The Authentic Consent Model: Contractarianism, Creditors' Bargain, and Corporate Liquidation' [2001] *Legal Studies* 400-443
 - Look Chan Ho and Rizwaan Jameel Mokal, 'Blowing Hot and Cold: *Phillips v Brewin Dolphin*' (2001) 6 *Journal of International Banking and Financial Law* 263-266
 - 'An Agency Cost Analysis of the Wrongful Trading Provisions: Redistribution, Perverse Incentives, and the Creditors' Bargain' [2000] *Cambridge Law Journal* 335-369; excerpts in Grantham and Rickett, *Company and Securities Law: Commentary and Materials* (Wellington: Brookers, 2002), 584-7
 - 'Resolving the *MS Fashions* 'Paradox'' [1999] *Company*

Education and Qualifications

2002 PhD in corporate insolvency law (UCL)

1998 BCL Hons (Lady Margaret Hall, Oxford University)

1996 LLB Hons (UCL)

1993 BSc in Mathematics, Statistics, & Economics (Government College Lahore, Punjab University)

Prizes and Scholarships

1998-2001 Overseas Research Scholar
1998-2001 Laws Dean's Scholar (UCL)
1998-2001 Denys Holland Scholar (UCL)
1996 Overseas Bursary (Oxford University)
1996 Robert Fitzgerald Prize (UCL)
1996 J.A.C. Thomas Bar Scholar (UCL)
1995 Chen-Tien Hsi Prize (UCL)
1993-1996 British Foreign and Commonwealth Office Scholar
1993-1996 ICI (Pakistan) Scholar

Languages

Urdu (fluent), Punjabi (fluent), Hindi (spoken), Arabic (reading)

Interests

Running, hill walking, travel, and philosophy, particularly applied Epicureanism