

ALB Conversations: Nishith Desai, founder, Nishith Desai Associates

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Nishith Desai founded Nishith Desai Associates (NDA) in 1990. Today it has offices in Mumbai, Silicon Valley, Bangalore, Singapore, New Delhi, Munich and New York.

Apart from being an international tax, corporate and IP lawyer, Desai is also a researcher, published author and lecturer. He specialises in the financial services sector and has assisted the governments of Mauritius and India in launching their respective individual offshore financial centres.

ALB: Tell us about your legal career so far, and how you founded NDA.

Desai: I always had a desire to change the world for the better- together and to do something different. My maternal grandfather was a lawyer and my paternal uncle was a lawyer. I was inclined to be a lawyer, but felt I was set out to be ‘distinctly different’ and independent. I started as a counsel (barrister) but ended up setting up a law firm on a suggestion in 1986 from a managing director of Bear Stearns, a top U.S. investment bank then. I then studied more than 100 professional services firms including law firms, Big Four accounting firms and consulting firms and then set up a law firm in 1990 that incorporated best practices from these organizations.

ALB: How has the legal industry evolved since you launched the firm?

Desai: The firms back then were traditional, very hierarchical. Using an electric typewriter was considered high tech, and information collation and general lawyering was the norm. Firms were focussing on becoming big.

Now it’s about flatter structures, with more focus on leadership skills, knowledge (as opposed to mere information collation), and creativity to solve problems. Fee structures are moving from time-based to value-based (most firms still need to learn the art of value billing). There’s a greater recognition and appreciation from sophisticated legal departments when it comes to investments by law firms in technology for security systems to protect and preserve client confidentiality. Specialities are getting more traction, there is increased importance on positioning of the firms rather than size.

ALB: What, according to you, makes a good law firm leader?

Desai: Leadership is about competency and inspiration. A true leader must be exceptionally competent, demonstrate “Level 5” leadership traits of great will and humility, and a role model who inspires others to emulate and become leaders themselves. I also believe everyone must be both a leader and a follower at any stage of their career. A title does not make a leader – hence we do not believe in positional title. Hence our firm believes in collaborative leadership and natural hierarchy based on capability, and comprises highly competent and responsible individuals who are committed equally to the firm, others and their own growth.

ALB: How would you describe your strategy for growing the firm?

Desai: As a nano firm, it needs to stay small, think big and do big. The strategy is to maintain a high-quality personalised culture, invest more in technology instead of hiring more lawyers, stay focussed, specialised and expert rather than becoming a supermarket that does everything for everybody.

We heavily focus on research to deliver the highest quality service in the shortest possible time, and to quickly innovate creative solutions for the problems that arise in the course of transaction or are likely to arise in the future due to the advent of new technology. This allows us to create more competency and capacity in each member and reduces the need for unnecessarily putting multiple people on any project.

We are a purpose driven firm, and our purpose is to change the world for the better, together, and to be a happy and joyous firm. So, we believe in profit with purpose. It's been a fulfilling experience for us.

ALB: What are some of the big challenges the firm has been facing in the past few months, and how are you looking to tackle them?

Desai: Obviously, the COVID-19 pandemic brought everything to a standstill and caught everyone by surprise. But our belief that in every crisis there lies an opportunity, helped us and we began to think even more creatively. We said, "the lockdown can unlock our potential." We decided to go fully virtual not only during but even after the lockdown and put in place all systems, policies, processes and technology. We launched a massive Client Continuing Education Program and opened it up for other law firms, students and others. We conducted more than 200 webinars, and thousands of people participated. That took our brand to the next level, improved respect for our firm amongst professional circles and enhanced our firm members' competencies, capacity and confidence. As a result, we have seen an increase in new clients and repeat work from existing ones. Our productivity, revenues and cash flows have actually improved.

ALB: How do you feel the pandemic will reshape not just the way your firm operates, but also the legal services industry in India?

Desai: All firms will move to become more digital. Courts in India have surprised everyone by the speed with which they have moved to e-hearings. Practice areas are converging more towards TMT, financial services and pharma/healthcare. Real estate (particularly office properties) and infrastructure are a bit down. Many law firms are facing cash flow and retention problems.

ALB: How important is law firm culture, according to you? What kind of internal culture are you looking to foster?

Desai: Culture to us is our strategy. It manifests in the way our people think, act and behave individually and collectively – and can be an unparalleled accelerator for achievement. NDA's culture emerges from our deep-rooted philosophy of democracy, trust and a hierarchy-less mind-set inspired three decades ago by Mahatma Gandhi and Charles Handy. From those roots, we have strategically evolved and embedded our organisational behaviour, our practices, and our processes and systems to create a powerful differentiation of who we are. Our pillars of research, knowledge and education, innovation and technology have bolstered the culture we set out to create. Every element of strategy or organisation design – our firm model, being nano, being expert, a no-silo mind-set, for example – shape our culture and behaviour.

Our firm model today has only two levels - members and leaders. In the first three years, a member learns and gets trained intensely, and then progresses to management and leadership after five years. We have created the concept of a networked, collective leadership based on self-responsibility and self-management. For instance, we have done away with our leave policy for those over three years in the firm. Yet we are a firm of extraordinary, high-achieving visible experts who are individually great but believe we are collectively greater, and a 'one-firm firm'. Our culture then is our most powerful asset and differentiator – and the secret sauce as to why we are able to be agile and innovative, and achieve more with less.

ALB: On that note, how would you describe your hiring and talent retention strategy? What kinds of lawyers would make the best fit for your firm?

Desai: We never poach or steal people from other firms- that's our policy. We train our people intensively every morning for an hour between 9 and 10 AM. We allow time for research, academics, thought leadership and social service. From a very early stage, they take responsibility for managing clients and people. We have created an ecosystem and reward system for nurturing a culture of innovation and creativity. At the same time, we compensate our people by being in the top quartile. We are more bonus-oriented and our bonuses go as high as up to 100 percent. Performance evaluation criteria is clear for people. Finally, instilling a sense of purpose is the best retention tool. Economics is for existence, and the intellectual quotient is for quality of existence.

ALB: What are the keys to succeeding in this market for a firm or your size and focus? What are you currently doing well, and what are potential areas of improvement for you?

Desai: Firms should build an "inverted T" model, which means they should specialise in select verticals but also remain broad-based. Work with clients who you enjoy working with and who see value in the value-adds you provide. We are market leaders in financial services, TMT and pharma/healthcare sectors and their sub-segments. We want stay as specialists; we aim for the best in what we do – not the biggest. Also, alongside excellence in value delivered to our clients, innovation and thought leadership will continue to be a way of life.

ALB: How have clients' requirements evolved recent times (either generally or as a result of the pandemic), and how are you as a firm meeting them?

Desai: Clients first see if we are experts in our field, if we have highest grade security system to protect and preserve their confidential information, if we have latest technology to service them in cost effective way, if we are gender neutral and diversity oriented, and if we are playing our due role in the society. We have focussed on building all of this into our practice, service, systems and ethos.

ALB: What motto do you live by?

Desai: Be happy and enjoy whatever you are doing, have the spirit of sharing the credit. Believe in our motto: "Our limit to growth is where our happiness ends".

ALB Conversations is a weekly series of in-depth Q&As with leaders of law firms and in-house legal departments across Asia. If you are a managing partner or general counsel based in the region who is interested in being a part of this series, please send an email to aparna.sai@tr.com.