

## INDIA'S LEGAL MARKET ON THE CUSP OF INEVITABLE CHANGE

By Reena SenGupta  
Published: Jun 23, 2005

Some of the world's leading companies have invested in India, and nearly half the Fortune 500 companies have set up call centres in the country. But the list of international law firms with offices in India is tiny. Zero, in fact. The Indian legal market, in spite of the country's accession to the World Trade Organisation, remains resolutely closed to outsiders.

Foreign law firms are not allowed to open offices in India and, under the Indian Advocates Act of 1961, they are prohibited from giving any legal advice that could constitute practising Indian law. The restrictions on foreign law firms are so strictly enforced that most have to run their "India" practices (where they advise on US or UK law) from London, New York or elsewhere in Asia.

For foreign-owned businesses, access to legal services in India can be frustrating. Only a few firms have the expertise to handle commercial work for multinationals. The vast majority of Indian lawyers do litigation in small domestic practices. Most big clients rely on their US or UK advisers to broker relationships with local firms, although some deal with the Indian market directly. But as the market has become more active, users often experience difficulties in getting access to top Indian lawyers.

Indian law firms are not allowed to have more than 20 partners or to advertise their services in any way. As a result, many of the top firms are family-run, personal fiefdoms. Michael Leigh, India researcher at Chambers Global, the international ranking of law firms, says: "You can almost smell the dust of the Raj when you talk to some of the older firms. The commercial way of being does not sit well with the older generation of Indian lawyers."

However, outsourcing, foreign direct investment and an outward-looking Indian corporate sector are bringing subtle but powerful changes to the Indian legal market. Although there is reportedly little consensus in the Indian Bar Council on liberalisation, some of the younger generation of commercial Indian lawyers see it as inevitable and necessary. And there are signs that the market is about to open sooner rather than later. For a start, the UK and Indian governments have been discussing how to liberalise the legal market and have mandated the professions to continue that discussion. In 2005, the Joint Economic Trade Committee (Jetco), comprising five UK and Indian law firms, was set up to discuss legal services.

Hugh McDermott, international policy adviser (Asia) at the Law Society of England and Wales, has been actively promoting a reform agenda. "We have gone from mass demonstrations [of Indian lawyers] when we started the process two years ago to open dialogue and regular meetings now." This dialogue between

the UK and Indian professions is a coup for the Law Society as there is no similar initiative in the US. Mr McDermott is quietly optimistic. "My opinion is that there will be an outcome this year." India effectively must put forward proposals to the WTO by December 2005.

Strong support for liberalisation comes from top Indian companies and institutions. Bharat Vasani, group general counsel at Tata, the Indian conglomerate, has definite views: "If India really wants to be an attractive destination for the foreign investor, we can ill-afford to say that we don't want foreign lawyers to have offices here."

Rahul Matthan is one of the new generation of Indian lawyers who believes that liberalisation will "help the market mature" and be beneficial for both practitioners and clients. His firm, Trilegal, set up in 2000, is an example of the new breed of Indian law firm that distinguishes itself from its more traditional peers by giving its lawyers a clear path to partnership and adopting a more business-oriented approach.

Cyril Shroff at Amarchand Mangaldas, widely regarded as the top commercial law firm in India, potentially stands to bear the brunt of foreign competition. However, he also guardedly welcomes liberalisation "if it is done in a structured way". He sees benefits to his own firm if the 20-partner rule and the ban on advertising are abolished.

However, the majority of Indian lawyers fear a deluge of foreign lawyers. One of the key demands they make is for reciprocity. Mr McDermott points out: "They have had full reciprocal rights in the UK for the last decade. A number of Indian firms are here already."

There is also no real evidence that the Indian lawyers' fears are justified. International law firms show little interest in competing with the domestically focused practices. They are also wary of opening offices to compete at the top end of the market despite the opportunity a growing corporate sector represents. Many are satisfied with working with top Indian commercial firms that have the right local connections.

Chris Wyman at Clifford Chance, the global law firm, says: "There would not be a huge business logic to go there and compete with the locals." One of the reasons behind firms' reluctance is the huge difference in fee rates. Mike Rebeiro, IT outsourcing partner at Norton Rose, says: "An Indian associate can earn as little as \$250 (£137) a month. It would be impossible for foreign firms to compete with those rates." Even Ashurst, a UK law firm and one of the few with a liaison office, is wary. Ian Scott, head of the Ashurst India practice, says: "It will make it a lot easier to have some UK lawyers on the ground but it's not an easy market."

But there are signs that fees are increasing. They have "skyrocketed" in the past three years, says Mr Vasani. The average cost for a top Indian corporate lawyer is \$225 an hour, but can be as much as \$300. He points out that although the average fee per hour for an Indian lawyer may be lower than for his foreign counterpart, usually the total number of hours on a bill is higher. As the top legal buyer in the country, Mr Vasani believes that letting foreign lawyers in will improve standards of Indian legal services and "eventually bring down the cost of legal services".