



# THE LEAPING TIGER

Current Developments  
in the Indian Legal  
Services Market

Juhi Garg

**The ascent of the tiger is no myth: over the last several years, and especially in 2009, India has become one of the world's most powerful new economic markets.**

The figures speak for themselves. Even in the teeth of a worldwide recession, India's GDP was expected to climb between 6% and 8% in fiscal year 2009. India's stock markets surged by more than 1,800 points in one month, with at least 30 IPOs in the works by the end of September 2009. Foreign direct investment in the country rose by 55% in July 2009 year over year and was forecast to cross the \$30 billion mark by financial year end. India led the world in the number of project finance deals in the first half of 2009.

The impact of these developments on the country's legal marketplace has been profound. The explosion in the domestic sector has created unprecedented scope for deals, transactions and innovation by India's legal profession. The legal sector in India has finally come of age: it can no longer be dismissed simply as a destination for supporting back-end work. Indian law schools are producing upward of 250,000 law school graduates a year, with many of the top graduates being snapped up by London's "*Magic Circle*" and other premier international firms. Some of these lawyers are staying overseas; others later return home to practice in Indian firms. It is unsurprising then that India's corporate law firms are making waves internationally, with many setting up overseas offices for the first time.

Foreign law firms are also coming to India not just to hire its new law graduates and young lawyers, but also to seek a share of the corporate legal work emerging from this economic giant. International firms such as Shearman & Sterling, Baker Botts, Jones Day, Latham & Watkins, Davis Polk & Wardwell, and Freshfields took almost 32% (according to deal value) of recent Indian M&A work -- but that still left more than two-thirds for domestic lawyers.

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In just a couple of years, the face of India's legal market has changed completely. Whether you see Indian law firms as allies and partners with which to tap into this vast market, or potential competitors for your own base of global clients, you need to know what's going on in this remarkable marketplace.

### **BEST IN CLASS**

Perhaps the best way to appreciate what's going on in India is through a case study of one of its heavyweight corporate law firms. Luthra & Luthra Law Office has long been one of India's most highly regarded law firms, in terms of the work it does, the talent it attracts and the brand value it commands. But Luthra came to realize that in the global marketplace, these characteristics weren't enough.

To transform itself into a stronger entity, Luthra underwent a structural overhaul and upgrade: opening new offices, doubling in size by hiring dozens of new lawyers, enhancing its organizational structure, and staying at the forefront of corporate conversation by bringing in large chunks of high-value work from the market. Managing Partner Rajiv Luthra led the firm into a modified lockstep model of partnership, a major cultural change for Indian firms that was viewed as preparation for the inevitable entry of foreign law firms into India.

All this hard work is paying off. During the economic whirlwind of 2009 Luthra quarterbacked six major deals totaling \$6.3 billion, directing global giants like Clifford Chance, White & Case, and DLA Piper. The firm grew by a remarkable 57%. Better again, not just for Luthra but also for India's entire legal sector, is the return of Luthra alumni from places like Allen & Overy, White & Case, Clifford Chance, Shearman & Sterling and Blake Dawson Waldron. They're returning not just because of the recession, but because India is increasingly the site of the world's financial action.

In past years, India may have been synonymous with outsourcing of back office support functions and relatively low value, process-driven legal work. This is certainly no longer the case. Indian firms are increasingly competing toe-to-toe with the world's leading law firms, for some of the most sophisticated legal work.

Foreign law firms eyeing this market and considering their future role in it should note the remarks of Bank of America's India MD & CEO:

*"The scale of infrastructure projects across sectors in India has allowed Indian law firms to showcase best-in-class global standards and intellectual depth, particularly of India's complex regulatory environment."*

## **A FRAGMENTING PROFESSION**

The stunning rise in corporate activity and the maturity of the legal marketplace has given rise to more start-up firms and big-firm breakouts, with the result that the market now has an interesting mix. Some firms are more than 100 years old, boasting full-service practices, big-ticket deals, numerous offices, hundreds of lawyers, and multiple generations of the same family in the management suite. At the other extreme, there are many more start-up law firms less than six months old that feature only a handful of lawyers, are managed by professionals rather than by family members, and that have started off with only niche practices to sustain themselves.

For example, two well-known partners broke out from Amarchand, Mangaldas & Shroff, widely regarded as India's most prestigious firm, in 2008 and set up shop as Bharucha & Partners. Already, B&P features five partners, 25 associates and 10 trainees. It has already appeared in the Chambers Global and Legal 500 rankings in 2009, and its lawyers worked on India's fourth-largest M&A in 2008. Breakout firms like these compete directly with the traditional heavyweights in the same arena for the same deals. The older firms might avoid them, but they can't ignore them.

## **LIBERALIZATION SLOWS**

Any discussion of the Indian legal sector, especially when the conversation includes foreign law firms, quickly turns to liberalization. The government has long barred non-Indian law firms from opening offices here; such firms have had to make do with setting up referral agreements or alliances with Indian firms. But for several years now, anticipation has been building that the opening of the legal sector to foreign firms was a matter of "when," not "whether."

With the support of the former minister of law and the active lobbying of the Law Society of England & Wales, things were looking very positive. For example, amendments to the Limited Liability Partnerships Act dropped the restriction on partnerships of more than 20 partners, which would facilitate the entry of foreign firms. Many leading Indian firms actually welcomed the prospect of foreign entry, seeing it as a trigger for growth and expansion and preparing to convert from the traditional complex partnership structure to the new LLP regime.

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Lately, however, the drive towards liberalization has slowed. India's Bar Association remains firmly opposed to liberalization unless there is reciprocity in terms of Indian law firms being allowed to practice jurisdictional law on foreign shores. As Seita Vaidialingam, Advocate in the Supreme Court of India and also an Executive Member of the Bar Association of India recently commented:

*“We must be allowed to do all things in their country that foreign firms wish to do in India.”*

The new law minister also seems less strongly supportive of liberalization without entirely opposing it either.

Resistance to liberalization has been led by litigators, who have long dominated India's domestic legal marketplace; corporate law is a relatively small and recent -- but growing and increasingly lucrative -- piece of the pie. If and when ADR takes hold in India, that resistance can be expected to increase significantly.

The most significant event in this regard has been a new Bombay High Court judgment, released just as this issue went to press, in which three foreign firms (Ashurst, Chadbourne & Parke and White & Case) lost their case against the Lawyers' Collective. The case had been ongoing since 1995, when the firms set up their offices in India. The court ruled that the practice of all law by foreign firms in India was illegal. No one

yet knows exactly what the decision's impact will be. Many clarifications are still to come and gaps are still to be filled, but it certainly will be very significant. However, alliances, "best friends" associations and referral arrangements will still be allowed, and international firms may continue to focus on the Indian marketplace through their own India teams and practices. Chris Seaton, a partner in UK based law firm Burges Salmon commented in an article in the 29 December 2009 edition of Economic Times Delhi, that the judgement has increased the requirement for firms in the UK and the US to have strong relations with firms in India to deal with all aspects of legal advisory work. Firms like Burges Salmon that have a network of independent "best friend" firms will now extend this model, he said. Arianna Carlotti, head of the India services of Italian law firm Pirola Pennuto Zei & Associati commented:

*"I believe in joint cooperation and in sharing engagements for the final benefit of the client. My thoughts are related particularly to cross-border operations in which complexity of issues deserve competence in domestic and foreign laws."*

Other foreign firms that were hoping for a more substantial Indian presence in the short term, however, now find themselves rethinking their strategy.

## **ALLIANCES AND INDEPENDENTS**

The "backdoor entry" method of alliances and "best friends" relationships will undoubtedly continue to grow as foreign and Indian firms create and nurture non-exclusive tie-ups. Examples of such relationships include Allen & Overy and Trilegal, Clifford Chance and AZB & Partners, Linklaters and Talwar & Thakore, and Jones Day with P&A Law Offices.

Not every Indian law firm believes in such partnership, however. Many happily remain independent, most notably Amarchand. This firm maintains solid working relationships with most foreign firms of significance, rather than forming a "best friendship" with a particular firm. Another example is FoxMandal Little, one of India's largest and oldest law firms, which is gearing up to face global competition by opening its own overseas offices. Another domestic Indian firm, Nishith Desai Associates, already has offices in Palo Alto (Silicon Valley) and Singapore. To these need to be added firms specifically formed to capitalize on

opportunities between the west and India, such as NewGalaxy in the United Kingdom, and Pangea 3 in the United States, to name just two.

Several foreign firms seem to be successfully taken the approach of maintaining good relations with many Indian firms but not diving into an actual alliance with any one. Canadian firm Blake Cassels & Graydon, which has built an impressive India practice through its 12 lawyer India-focused group, is a striking example.

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### THE TIGER LEAPS

These remarkable changes in the legal marketplace to one of the world's most populous and dynamic countries should interest anyone, most especially those with current or future interests in southern Asia. And make no mistake, these changes are irreversible: progress might be fast or it might be slow, but it will not stop and it will not reverse. India will be a driving force in the global economy throughout the 21st century. Nobody can cage the tiger, but if you're quick and determined, you can keep up with him!



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