

INDIAN LEGAL SECTOR

MYTH V/S REALITY



INDIAN
NATIONAL
BAR
ASSOCIATION

BREAKING THE MYTHS

- The issue of ‘entry of foreign law firms’ in India has been debated ever since in the legal industry.
- Most of the ‘so called concerns’ in respect of the subject have proved to be ‘Myths’ as against their respective ‘Reality’.
- This tussle within the industry has effected the development our/Indian-legal industry.
- Need of the hour is to break these ‘Myths’ as against their respective ‘Reality’ and come together and take our/Indian-legal industry, which is reported to be world’s second largest, to the next booming level.



MYTH	REALITY
<p data-bbox="271 309 674 671">(I) Advertisement by law firms - Prohibited as per the Bar Council of India Rules</p>	<p data-bbox="701 309 1960 544">All major law firms in India advertise in India and abroad by sponsoring the conference, paid listing in directories, hosting networking events, sponsored content in legal article etc.</p> <p data-bbox="701 628 1906 679">Law firms – their directory listings and publications:</p> <ul data-bbox="701 715 1666 1050" style="list-style-type: none"><li data-bbox="701 715 1368 762">•<i>Legal 500</i> – over 75 law firms<li data-bbox="701 810 1666 858">•<i>Chambers and Partners</i> – over 75 law firms<li data-bbox="701 906 1256 954">•<i>IBLJ</i> – over 20 law firms<li data-bbox="701 1002 1339 1050">•<i>Asia law</i> – over 50 law firms <p data-bbox="701 1145 1960 1321">Also, almost all major law firms have their website showcasing respective firm profile, area of practice, team profiles , etc.</p>

MYTH	REALITY
<p>(II) Setting up foreign offices by Indian lawyers / law firms – Restricted</p>	<p>As we know various major law firms have offices and are indeed operating from offices, outside India in jurisdictions like – London, USA, Dubai, Singapore.</p> <p>Firms and their respective overseas offices:</p> <ul style="list-style-type: none">•Kochar & Co. - has offices in Dubai, USA and Singapore.•Singhania & Co. has offices in London and USA.•Nishith Desai & Associates has offices in USA, Singapore and Germany.



MYTH	REALITY
<p>(III) Whether foreign law firms hire Indian lawyers</p>	<p>Yes. Various major global law firms have hired Indian lawyers in jurisdictions like – Singapore, London, Dubai, etc. Infact, for the reason foreign law firms are not allowed to set up their offices in India, therefore they have setup India desks in jurisdictions outside India.</p> <p>Some major global law firms and their Indian desks:</p> <ul style="list-style-type: none">• Allen & Overy - has around 100 partners and associates - India specialists across their international network of offices – in Dubai, Hong Kong, London, Singapore and New York, working on India-related matters.• White & Case – India practice team based out of offices at New York, Singapore and London.• Clifford Chance – has India Dispute Resolution and Regulatory practice that is run from their Singapore office.

MYTH	REALITY
<p data-bbox="280 311 728 614">(IV) Are foreign lawyers really interested in setting up their offices in India?</p>	<p data-bbox="772 311 1960 614">Yes, indeed foreign law firms are very keen to set up their offices in India. As we see that because of the restriction of not being able to do so, foreign law firms have set up their India desks in jurisdictions outside India.</p> <p data-bbox="772 710 1960 1157">It has been reported that various foreign countries such as – USA, Japan, Australia and some EU states through their representative bodies have been lobbying and approached the Government of India to seek liberalisation of India’s legal industry.</p>



MYTH	REALITY
<p>(V)</p> <p>Entry of foreign law firms in India will result in loss of opportunities for Indian lawyers</p>	<p>If foreign law firms set up offices in India, they would be hiring Indian lawyers.</p> <p>As rightly put by Mr. Harish Salve in an interview: <i>“If 20 global law firms hire 2,000 youngsters from India, whose future are we stealing?”.</i></p>
<p>(VI)</p> <p>Entry of foreign law firms is opposed by majority of Indian lawyers</p>	<p>As records show, only few are against and that too on the basis of the Myths as also discussed here. Else, majority of Indian law firms / Lawyers and Judges are in favour of liberalising the Indian legal Industry and allowing foreign law firms to set up their offices in India.</p>



MYTH	REALITY
<p>(VII) Entry of foreign law firms into India may hinder the Indian Legal Industry</p>	<p>All in all, the entry of foreign law firms into India will benefit the Indian legal industry in many ways, <i>inter-alia</i>:</p> <ul style="list-style-type: none"> • Better employment opportunities for the law graduates; • Global / broader exposure for the lawyers in the legal industry; • Vast / global range of legal services for the clients. <p>To further break this myth, it is pertinent to take note of the fact and which has been rightly put by Mr. Harish Salve in an interview:</p> <p><i>“Foreign firms are NOT interested in litigation - the bread and butter of 90% of Indian lawyers. They are here for transaction work.”</i></p>



MYTH	REALITY
<p data-bbox="271 309 674 552">(VIII) Foreign lawyers are currently not working in India</p>	<p data-bbox="701 309 1955 552">As a matter of fact, in many cross-border transactions, the foreign lawyers / team of lawyers visit and stay India for a substantial period of time to work on such transactions, resulting in <i>inter-alia</i>:</p> <ul data-bbox="701 564 1955 807" style="list-style-type: none">• no accountability as such on part of the foreign lawyers / team of lawyers;• loss of revenue to the Indian tax authorities given their source of income remains their home/workplace country. <p data-bbox="701 884 1955 1254">Also, many Indian law firms have either hired or have had foreign lawyers on secondment basis to work on their cross-border transactions and also for the purposes of expanding their cross-border business. Hence, this sector / entry of foreign law firms / foreign lawyers practicing in India must be regulated in all aspects.</p>



MYTH	REALITY
<p data-bbox="280 279 660 710">(IX) Liberalisation of Indian Legal Sector may not benefit the Indian Legal Sector</p>	<p data-bbox="705 279 1960 454">Liberalisation of Indian legal industry will rather boost the Indian legal industry in many ways thus enhancing the Indian legal industry to a global standard.</p> <p data-bbox="705 534 1960 837">UK – has the biggest market presence in the global legal industry space and benefitted from the liberalization of legal services sector having over 200 foreign law firms in UK from countries such as the United States (US), Europe, Australia and Canada.</p> <p data-bbox="705 917 1960 1157">Malaysian legal industry was recently liberalised and has seen considerable excitement amongst UK based law firms, such as Allen & Overy, Clifford Chance, Herbert Smith Freehills, Linklaters, and many other in the league.</p> <p data-bbox="705 1236 1960 1412">Another Asian legal market space is seen in China where the number of foreign law firms operating in China rose from 12 in 1992 to about 170 in 2015.</p>

MYTH	REALITY
<p data-bbox="277 277 667 644">(X) Allowing foreign law firms will not benefit the litigation lawyers as such</p>	<p data-bbox="707 277 1951 644">Given the proposed restricted liberalisation safeguarding interests of individual litigation lawyers, the same will rather result in maintaining exclusivity of Indian litigation lawyers / so to say ‘of lawyers duly registered with the Bar Council of India and practicing in Indian courts’ as they will be briefed by Indian offices of foreign law firms.</p> <p data-bbox="707 724 1951 900">Also to note that this would also let the individual litigation lawyers be exposed to international space in the legal industry.</p>



MYTH	REALITY
<p data-bbox="320 309 624 552">(XI) Only lawyers render legal opinions</p>	<p data-bbox="703 309 1962 935">Additionally, in many instances, it is seen that not only lawyers are rendering legal opinions, but also the respective fields' consultants are rendering legal service / legal opinions, such as in case of issue arising with respect to import-export policies, consultants specialising in import-export matters, though not being a lawyer are rendering services much like legal services. Likewise is the case with respect to labour law compliances, corporate compliances, and so on, where non-lawyers render services much like legal services.</p> <p data-bbox="703 1015 1939 1062">This sector also calls for some checks and to be regulated.</p>



THANK YOU

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