

Globalization of the Indian Legal Profession

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Today, the Bar Council of India is marking the closing ceremony of its Golden Jubilee celebration with the President of India, Shri Pranab Mukherjee's visit to Guwahati to inaugurate the National Seminar organised by the Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim in association with the Bar Council of India. It is a befitting occasion for us to reflect upon the future of the Indian legal profession.

Globalisation of the Indian legal profession is urgently needed not only for the modernisation of the profession, but also to significantly increase the capacity of the Indian legal system. Globalisation has created new opportunities for all, but it falls on nations and institutions to best harness these opportunities and address related challenges.

I. Global professional training of lawyers:

Even as the 1000 law schools that India has lay a foundation and serve as incubators, young Indian lawyers need fertile training grounds. India today has close to 1.3 million lawyers, but only a few thousand lawyers work in large commercial law firms in major Indian cities. There are over 50,000 law students graduating each year and they have a variety of career aspirations. While many of them may join the litigating bar and others may pursue further education and academia, a substantial number of law graduates across Indian law schools are seeking opportunities in commercial law firms. The existing Indian law firms are not able to absorb an overwhelming majority of these graduates. Indian law students stand to benefit from legal market liberalisation. Currently, a miniscule proportion of Indian students have opportunities to work in an international environment as part of law firms in New York, London, Singapore or Hong Kong. With international law firms opening offices in India, they will have more

opportunities for growth, better training and international exposure.

II. Enhancing the contribution of law firms to legal education:

A unique aspect of legal education in the USA and some other countries is their deep and pervasive engagement with law firms, corporations, non-governmental organisations, legal aid centres, think tanks, government agencies and intergovernmental organisations. Unfortunately, in India, legal academia and the legal profession are hugely separated with little interaction, let alone collaboration. While lawyers almost always lament the fact that the legal education doesn't prepare law graduates to engage in practice, when it comes to their actual involvement and contribution to teaching, training, capacity building and mentoring of law students, it is very limited or doesn't exist at all. Further, unlike law firms in the USA, Indian law firms have a rather limited role and engagement within law schools. They have historically seen law schools to be purely recruiting platforms. This needs to change. By allowing law firms from around the world to open offices in India, we can reverse the brain drain and retain legal talent in India. The collaboration between domestic and international law firms and the law schools in India can lead to funding of research centres and endowments for chair professorships, faculty and student exchanges, executive and continuing legal education, and knowledge development initiatives.

III. Developing pro bono legal work in India:

Major international law firms spend substantive time of their lawyers in promoting pro bono (free) legal work. All major international firms have well organised pro bono practices with several lawyers dedicated to coordinating the pro bono efforts of their lawyers. When global law firms enter India, they will help create a substantive culture of pro bono legal services, like they have in other countries. It is important to note that litigating lawyers largely pursue the practice relating to public interest. Many of these lawyers are distinguished senior advocates. They have played a leadership role in pursuing this agenda, but the commercial law firms in India have, unfortunately, not contributed to this effort. As international law firms establish offices in India, they will introduce a strong culture of pro bono service and it will take root even among existing commercial law firms.

IV. International firms will increase opportunities for Indian lawyers:

It is important to note that international law firms have no interest in practising Indian law or appearing before Indian courts. Instead, with Indian business increasingly expanding overseas, they wish to advise Indian businesses on foreign and international law in international commercial transactions and in international arbitrations. If international firms come in, they will be led and staffed in India by Indian lawyers. Moreover, contrary to opposing claims, it's not all bad news if international firms come in. There will be sharing of best practices and India can, like Singapore, allow entry only on the basis that only Indian qualified lawyers can advise on Indian law.

V. Regulating legal education and the legal profession:

There is an opportunity for India to democratise the legal profession so that there are more opportunities for Indian lawyers to tap the resources that are available around the world. While it is important for Indian lawyers to be able to develop global lawyering capabilities, including professionalisation of legal services, such liberalisation needs to be accompanied by appropriate regulation. The body best placed to regulate the liberalisation of the Indian legal profession is the Bar Council of India (BCI). The BCI has taken a lead in important historical developments in relation to the legal education and the legal profession, be it the establishment of the National Law Schools or for that matter, the more recent step of starting the All Indian Bar Examination (AIBE) for maintaining standards for entering the legal profession BCI has kept in mind the best interests of legal education and legal profession when it began these initiatives. In the same vein, it is important for the BCI to embrace the new changes that are taking place in the world of legal profession and create a framework that will help fulfil the aspirations of new generations of students and lawyers in India.

The Way Forward

There is a strong case for opening up of the Indian legal profession with appropriate checks and balances relating to regulation of the profession. The Bar Council of India has a duty and the responsibility to regulate the legal profession. This duty includes the duty to objectively examine the immense benefits that are inherently going to be available to a broad section of Indian lawyers and law students as a result of globalisation. This will not only provide an opportunity for the BCI to regulate the legal profession in its broadest sense, which includes, domestic and international law firms, in-house counsels in

Indian and multinational corporations and the litigating bar, but also to generate resources that will make BCI financially independent. This financial independence and empowerment of BCI is critical for the future of the legal profession. This will enable BCI to play a leadership role in continuing legal education, training and capacity building of lawyers, mentoring of law students, appointment of judges and law officers, and most of all, being a powerful voice that protects and promotes the best interests of the profession.

As BCI celebrates its Golden Jubilee, it has an amazing opportunity to assume its legitimate role as the single important regulator that embraces the legal profession in all its manifestations, but for that to happen dogmatism should give way to rationality.

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