

COURT CHAMPIONS*We pick India's top disputes lawyers***P.2****A SMARTER PATH***Law firms on their technology strategies***P.8****IN-HOUSE INSIGHT***Why digital transformations fail***P.12****ASIAN LEGAL BUSINESS****INDIA****E-magazine****Volume No. 5 / 2019**

REUTERS/Francis Mascarenhas

THIS DIWALI SEASON, SPREAD THE LIGHT OF TECHNOLOGY

Let me start by saying, a very Happy Diwali to our readers from all of us here at Asian Legal Business. As the most popular pan-Indian festival, Diwali has a very simple message at its heart: The victory of good over evil symbolised in the way light vanquishes darkness. It is thus a moment for us to reflect on the corners of darkness in our worlds, and the way we can bring light into them. For the legal industry, one obvious area of darkness is the adoption of technology. Even though lawyers have a reputation for being resistant to change, a variety of external forces are conspiring to ensure they do not have a choice but to give legal tech a go. Two important pieces in this volume of the ALB India E-magazine address that. In our Forum section, we interview representatives of three law firms to find out where they are in terms of adopting legal tech. And in our In-house Insights column, Ajay D'Cruz, corporate counsel and IT maven, talks about the challenges legal departments face in their digital transformation. Additionally, we also fete 15 top disputes lawyers in India in a listing we plan to make an annual one. I hope you enjoy this issue, and feel free to reach out to me any time you have any questions, comments or other feedback. — **RANAJIT DAM**

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In the spotlight

ALB INDIA TOP 15 DISPUTES LAWYERS 2019

In its first annual list of India's best disputes lawyers, ALB India spotlights 15 top practitioners on the basis of their high-profile cases, clients' recommendations and feedback from the market. The list, which has been compiled based on submissions received by ALB, is in alphabetical order.

TEXT BY APARNA SAI, RANKING BY ALB

RAHUL BERUAR

managing partner, Beruar & Beruar



Beruar, who has more than 17 years of legal experience, focuses on intellectual property laws. He has represented varied and important clients including renowned author J. K. Rowling and Bloomsbury in numerous copyright infringement and piracy cases – civil and criminal – throughout India. Additionally, he advised a group of the eight leading international as well as domestic publishers (Pearson Education, McGraw Hill Global Education Holdings, Elsevier, Cengage Learning, McGraw Hill India Education, Cengage Learning India, Relix India, and Pearson India Education Services) in a copyright infringement suit initiated before the Delhi High Court. Beruar believes that success lies in details and there is nothing called a shortcut; he plans to make Beruar & Beruar a force to reckon with for IP laws as well as

corporate commercial laws. A client says: "His ability to quickly grasp the situation we were in and provide us with very quick analysis was extraordinary."

VANITA BHARGAVA

partner, Khaitan & Co



Bhargava has spent 15 years at Khaitan, having joined the firm in 2004. Notable work has included successfully advising and representing Essel Mining & Industries before the Supreme Court in relation to a judgement which was passed by the Bench in August 2017 directing mining companies operating in Odisha to pay compensation for mining without Environmental Clearance and Forest Clearance and directed that after making such payment and obtaining statutory clearances, the mining companies can resume operations. Despite following the above directive and making the payment to

obtain clearances, Essel Mining did not receive permission from the state to commence operations with respect to two of its mines, and Bhargava and her team successfully argued and received a favourable order allowing the resumption of operations of the mines. She also represented an Indian telecom company in a challenge to the constitutional validity of the Aadhaar scheme. Bhargava's impressive client roster includes companies of the calibre of Aditya Birla Group, GlaxoSmithKline Pharmaceuticals, Adani Group, Rastriya Ispat Nigam and Hindustan Unilever.

H.S. 'BOBBY' CHANDHOKE

senior partner, L&L Partners



Chandhoke's practice areas include competition and anti-trust law, construction, corporate compliance, corporate governance, defence – procurement and production, dispute resolution – litigation and



arbitration, environment, healthcare and pharmaceuticals, insolvency and restructuring, insurance and re-insurance and intellectual property – patent and trademark. He is also well versed in international trade (WTO) laws and policy and advisory, management, labour and employment, media and entertainment, mergers and acquisitions, mining, pro bono work, project finance, project, infrastructure & energy, public procurement, regulatory, retail and franchising and tax (direct and indirect). Chandhoke has led on numerous important cases including on one of the world's leading manufacturers of air defence systems where there was a writ petition challenging the order of blacklisting issued by the Ministry of Defence. Besides this, he also successfully represented the consortium of lenders (led by Punjab National Bank) in a petition for interim relief under the Indian Arbitration and Conciliation Act, 1996, pending commencement of arbitration proceedings in relation to the termination of a concession agreement in respect of a project for the four lanes of the Jetpur-Somnath section of a national highway in the state of Gujarat.

ALKANSHREE DAHAR

managing partner, Law Offices of India



Dahar, who is the managing partner at Law of Offices of India, has spent around two decades at the firm.

She was appointed counsel by Indian Oil Corporation for its Jamnagar Pipeline Refinery Project in India, which was a project of national importance and significance. Dahar was also appointed as counsel for Indian Oil Corporation for drafting the guidelines governing introduction of SKO for the first time in India. Some of the noteworthy clients she has represented are Steel Authority of India, MMTC, Art Select-Bahrain, Cottage Industries Exposition, 365 Inc, Oaks India, Art Select and CIE. Dahar hopes to "make Law Offices of India one of the topmost premium law firms in Asia." She says that she would like to be the best lawyer she can be, and would like to help as many people as possible in their legal matters.

Ashraf Mir, managing director of Cottage Industries Exposition, says: "Alkanshree Dahar has knowledge and experience all kinds of litigation and arbitration in India and overseas. She is an exceptional lawyer and is a legal luminary in making."

ANAND DESAI

managing partner, DSK Legal



Currently the managing partner of DSK Legal, Desai has over 35 years of experience in the legal industry. Desai, who has represented his clients in many significant deals, has advised and appeared for "Big Bull" Harshad Mehta and his family in all their civil matters in what was popularly referred to as the "Securities Scam" between 1993 and 1997. It was a landmark judgement passed by the Supreme Court of India on various important aspects of law, including the "ready-forward"

Our Dispute Resolution Practice

- Litigation and Alternate Dispute Resolution is one of Khaitan & Co's largest practice areas and compliments our transactional practices.
- We have a pan-India presence through our offices in Delhi, Mumbai, Kolkata and Bangalore, we are able to service clients in Courts, Tribunals and other adjudicatory fora across the country and are easily amongst the top Dispute Resolution practices in the country.
- We handle the full range of disputes, including domestic litigations, domestic arbitrations, international arbitrations and investment treaty arbitrations.
- We also have extensive experience in advisory and pre-litigation/dispute strategising and provide holistic support to clients in pre-, ongoing and post-dispute situations.
- In addition to traditional litigation areas such as corporate, banking, joint ventures, infrastructure and intellectual property disputes, we have been involved in cutting-edge litigation, including matters related to India's nascent competition law, emerging environmental issues and investment disputes under bilateral investment treaties.
- Our world-class arbitration practice has also seen

us being involved in one of the largest awards being successfully enforced against a domestic counterparty for our international clients.

Number of Disputes partners across all offices: **34**

Number of lawyers in Disputes practice across offices (excluding partners): **129**

Forums We Represent At:

- Supreme Court of India
- High Courts
- National Company Law Tribunal and National Company Law Appellate Tribunal
- District courts and Small Causes courts
- Debt Recovery Tribunals
- SEBI and Securities Appellate Tribunal
- Consumer Forums (District, State and National)
- State and National Human Rights Commissions
- Electricity Regulatory Commissions and APTEL
- Co-operative courts, other local courts and regulatory authorities like RERA
- Domestic and International Arbitral Tribunals

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transactions where the two legs of the transaction were separated and the forward leg held to be illegal. A client of his says: "Anand's ability to strategize and present a case, as also to think out of the box and generate a very high-quality work product in a very short time has been the core reason why we have built a lasting relationship with him." Desai say in the future, he would like to keep building his practice and firm, and attract the best matters.

MANEESHA DHIR
*managing partner,
Dhir & Dhir Associates*



Dhir, who is managing partner at Dhir & Dhir Associates, focuses on dispute resolution and arbitrations,

restructuring and insolvency laws, mergers and acquisitions, telecom and media & technology laws. She has been involved in some landmark cases including Department of Telecommunications (DoT) as special counsel in extension of licences, auction of spectrum and 3G matters. Moreover, Dhir has advised and assisted the DoT on complex regulatory issues and various policies and guidelines. She has been the standing counsel for Bharat Sanchar Nigam (BSNL) and represented BSNL before Telecom Disputes Settlement & Appellate Tribunal (TDSAT), High Courts and Supreme Court of India. Some of the clients that she has worked with over the last few months include Airports Economic Regulatory Authority, Telecommunication Regulatory Authority of India, Hindustan Cleanenergy, Small Industries Development Bank of India and Cotton Corporation of India. Poonam Rawat, chief operating officer of Dhir & Dhir says: "Maneesha's professionalism

combined with high level of energy is truly inspiring. Under her guidance, the firm has evolved as a preferred destination amongst professionals in this domain."

NITI DIXIT
partner, S&R Associates



Dixit's practice focuses on advising multinational and Indian clients on corporate and commercial litigation, domestic and international arbitration and regulatory proceedings, as well as non-contentious matters, including internal corporate investigations and anti-corruption compliance matters. She has practised as counsel before various courts and tribunals in India, including the Supreme

Law Offices of India



Law Offices of India (LOI) is an international law firm providing comprehensive corporate and commercial legal services pan India. LOI has offices in New Delhi and Mumbai, with associate offices in Gurugram, Kolkata, Chennai and Bengaluru and overseas affiliate offices in Sydney, London and Italy in Palermo & Padova. In London, LOI has a Best Friends Agreement with Howard Kennedy, No. 1 London Bridge and in Italy with Studio Legale Sidoti & Soci in Palermo & Padova. The firms jointly offer as best friends a complete range of high quality specialized expertise in International Commercial Arbitration, Corporate & Commercial Law and Intellectual Property Law. The firms in particular has extensive experience in arbitration and Litigation, both domestic and international.

Each member of Law Offices of India has extensive knowledge and specialised expertise in their respective fields. The firm believes in closely understanding the problems of the client and solving them with a unique combination of legal and practical skills. Each vertical at the firm has been structured by carefully choosing team members, based on their expertise, to provide one stop solutions to our clientele. At LOI we strive



Ms. Alkashree Dahar
Managing Partner
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to continuously provide advice with a high level of expertise, coupled with innovation, to deliver the best possible results with top end personalised services to deliver the best possible results.

LOI clients include premium corporate, multinationals and State-owned enterprises across a range of industry sectors, including financial institutions, as well as Insurance sectors and Governments companies. Law Offices of India has, in particular, considerable expertise in dealing with the Indian Government, which still retains considerable control over investment and business activities in India. To serve the regulatory needs of its clients, the firm works with

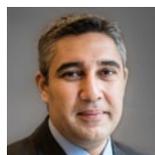
many consultants who have held senior Government positions in various Ministries. As a result of our dedicated and focused legal practice, our firm has been frequently facilitated by various corporate bodies, Legal Journals, important Business Magazines, as independent research organisations. Our Senior Partners are often invited as Expert Panellists by various media channels and also as Guest Speakers by many Universities and Law Colleges. During the journey of almost 20 years, Law Offices of India has been honoured and accredited with many trophies and certificates. Most recently, we were named "Legal Consultant of the Year-2018, and received Award of Excellence in the form of trophy and certificate of honour from CEO Magazine Group and Best Legal Consultant from Business Connect.

The firm has strength of about 35 persons, including partners in the Delhi office and 67 persons pan India.

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Court of India, the High Court of Delhi and other state high courts and specialised tribunals focusing on constitutional law, corporate and commercial laws, securities law, intellectual property law and environmental law. Admitted to the Indian Bar in 1991, Dixit has been a part of numerous high-profile cases in the country. She represented Cairn Energy in bilateral investment treaty claims in arbitration proceedings pursuant to a retrospective tax amendment and successful defence of Supreme Court public interest litigation. She also advised a global private equity firm in connection with disputes with an Indian shareholder in the Calcutta High Court and the Supreme Court of India and in international arbitration under the HKIAC rules. Besides practicing law, Dixit was recently invited to be on the jury of an Oxford-style debate on the motion "This house believes that the Arbitration and Conciliation (Amendment) Act, 2019 is progressive for the Arbitration Ecosystem in India."

RAHUL DWARKADAS
head of litigation & dispute resolution,
Veritas Legal



Dwarkadas, who is a litigation and dispute resolution expert, has represented numerous clients in his 17 years in the legal industry. He is a part of the Veritas Legal team which is representing Apex Realty, a subsidiary of Tata Housing Development Corporation against the Government of Maldives in an on-going arbitration against the Government of Maldives regarding certain contractual disputes between the parties pursuant to a contract for construction and development being awarded by the Government in its favour and the wrongful termination by the Government. Dwarkadas has

also represented Pfizer, Lodha Group, Armstrong, Walt Disney, (India) and Tata Realty / Housing. He plans on working toward making Veritas Legal one of the top litigation firms and hopes to work hard to be recognised professionally as one of the leading litigators. The firm's managing partner, Abhijit Joshi says: "Rahul is a thorough professional with attention to detail and great work ethics. He is a safe pair of hands for the clients." Besides law, Dwarkadas says that he is passionate about polo, and has participated in various tournaments both at the national and the international level.

CHARANYA LAKSHMIKUMARAN
partner, Lakshmikumaran & Sridharan

Lakshmikumaran, who has been with the firm for over a decade, was the

Drafting an Arbitration Agreement: An Indian Litigation Perspective

Listening to the speakers at a seminar on recent developments in arbitration law in India, it struck me that drafting arbitration agreements with an Indian counter party has become less about reflecting the intention of the parties and more about reflecting the state of the Indian judicial precedents and statutory amendments. This has become important to mitigate protracted litigation in India when enforcing, or resisting a challenge to, an award. To that end, some elements should be borne in mind:

An arbitration agreement to be valid must be in writing. While it is acceptable to identify a court which may have jurisdiction in respect of the underlying contract – these clauses have been used to challenge the very existence of a binding arbitration agreement. It is, therefore, advisable to specify that jurisdiction is conferred on a court subject to the parties resolving their disputes under the arbitration agreement.

Unless there is a particular reason to choose an *ad hoc* tribunal, specify an arbitral institution to administer the arbitration to provide procedural clarity to the arbitral process



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Raunaq B. Mathur
Associate

including appointment of arbitrators and ongoing administrative assistance. *Ad hoc* arbitrations in India tend to follow Indian court practice and procedures, unfamiliar and oftentimes burdensome in an international context.

Discovering the intended choice of parties as to the venue and seat of the arbitration contributes significantly to the time and costs associated with the dispute resolution process, when it is not explicit in the arbitration agreement. Eschew vague language and specify a “seat” explicitly if the intention is to have a seat outside India,

especially where the governing law of the underlying contract is Indian law. The actual enforcement of awards can be delayed for years while the issue of “seat” is separately resolved and appealed. Recent rulings of the Indian courts have unsettled the generally settled rules for identifying the seat of an arbitration and, for that reason, defining the seat (and, separately, the venue) of the arbitration precisely will save time and cost and allow parties to focus on a final determination of the actual dispute.

Disclaimer: The contents of this article do not constitute legal advice. S&R Associates and the author expressly disclaim all liability relating to actions taken or not taken based on any or all contents of this article.

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head litigation strategist in securing interim protection for Gas Authority of India [GAIL] from the Supreme court of India

against coercive recovery proceedings initiated by Government of India. The tribunal had imposed tax demand of \$20 million on GAIL for claiming a lower rate of duty for their naphtha products. More recently, she represented and argued a case on behalf of pharma and FMCG companies who were being denied exemption by the revenue department for setting up units in Northeastern India (consolidated exemption denied by Government being over \$500 million). Some of her other clients include Lenovo, Hewlett Packard, Honda, Steel Authority of India and MakeMy Trip. Lakshmikumaran’s endeavour is to always find the simplest words to articulate a complex legal proposition. She wants to break the mould that women are not the

go-to litigators for commercial disputes. In the future, Lakshmikumaran hopes to consolidate her role as a disputes counsel in tax and regulatory laws.

VAISHALI MITTAL

partner, Anand and Anand



Mittal specialises in intellectual property litigation and IP transactional advisory. Among her representations, Mittal advised

Toyota Motor Corporation, before the Delhi High Court and the Supreme Court of India, in *Toyota vs Deepak Mangal*, India’s landmark judgment on the issue of trans-border reputation. She also represented John Deere in *Deere & Co. & Anr. vs Mr. Malkit Singh & Ors.*, India’s first judgment recognizing a colour

combination of green and yellow as a trademark. Some of her other clients include Merck Sharp & Dohme Corp and AstraZeneca. A client of hers, Chris Moore of HGF, says: “I have worked with Vaishali since 2012 on numerous matters for my clients. I have found her to be an excellent lawyer. She is technically adept, commercially astute and extremely responsive. Put simply, Vaishali is the go-to lawyer for Indian IP matters.” About her future plans, Mittal says she would like to expand her existing area of practice and contribute towards pro-bono activities by assisting organizations and small-scale industries in protecting their IP in association with the Government.

SITESH MUKHERJEE

head of dispute resolution, Trilegal

Mukherjee has spent 26 years in the



legal industry. He was a part of the Trilegal team which advised ICICI Bank prior to admission of the insolvency application.

Subsequently, upon admissions, Trilegal was appointed as the legal counsel to the Committee of Creditors (CoC). Trilegal is advising CoC on various legal and strategic issues including proceedings pending before various investigation authorities such as the Enforcement Directorate and the Central Bureau of Investigation. Mukherjee has also advised OPGC, Sterlite and UPPCL. One of his clients, Vivek Gambhir, acting GC of Abu Dhabi National Energy Company, says: "His [Mukherjee] commercial acumen, vast knowledge and practicality were of great value to us." Another client adds: "He is very trustworthy and gets his point across very effectively. He has a remarkable ability to present alternate solutions."

SHANEEN PARIKH

partner, Cyril Amarchand Mangaldas



Parikh has been with Cyril Amarchand Mangaldas for nearly 25 years. During this time, she successfully represented a leading

international service provider in the steel industry and its Indian affiliate (as counter-claimants) in an international commercial arbitration against its Indian partners. The parties entered into various interconnected agreements, for financial assistance and purchase of pig iron, iron ore fines and for assisting the Indian steel provider in fulfilling its obligations under its debt reconstruction scheme. She also acted for and advised an Indian company in the outdoor media space in a complex and highly contentious cross-border dispute against a Middle Eastern private equity firm. Some of the other clients that Parikh has represented include JP Morgan Services and Moorgate Group. Besides this, Parikh is a published writer and speaker and involved in various dispute resolution-related initiatives. She says she is keen to grow and expand the arbitration practice and also contribute to the legal community by bringing in global best practices and experience in arbitration in

India. Her firm's managing partner says: "Shaneen has extensive experience in litigation and arbitration space and very well respected by clients. Shaneen takes keen interest in the firm's thought leadership initiatives and is actively involved in building the disputes practice of the firm."

ATUL SHARMA

*managing partner,
Link Legal India Law Services*



Sharma focuses on aviation, dispute resolution, projects, infrastructure and energy, restructuring and insolvency. A veteran

with over 40 years of experience in the legal industry, Sharma has represented numerous clients across the country. He has successfully assisted in relaunch of SpiceJet through a scheme under the Companies Act, 1956 after a prolonged control litigation between the then investor (Royal Holdings Services) and the then Indian management. Additionally, he counselled Delhi International Airport, the airport operator of Indira Gandhi International Airport at New Delhi in a public interest litigation filed by Resources of Aviation Redressal Association and Consumer Online Foundation before the Delhi High Court challenging the levy of Airport Development Fee from outbound passengers at the Airport. A few of his other clients include Emaar Properties PJSC (Dubai) and Emaar Hills Township, Hinduja National Power Finance Corporation, IDBI Bank and NBCC India. Sharma would like to create a legacy of a well-rounded disputes practice with imagination unbounded for the colleagues of the firm. Nusrat Hassan, the firm's co-managing partner says that Sharma "is a top-notch counsel rated amongst the best."

AMIT VYAS

founder partner, Vertices Partner



Vyas has more the 15 years of legal experience and is well versed in litigation and dispute resolution. He

has represented GOQii Technologies in the matter pertaining to predatory pricing and deep discounting against Flipkart and Walmart before the Bombay City Civil Court. Furthermore, an injunction was granted in favour of GOQii pursuant to which the matter was settled. Besides this, Vyas has represented Safari Industries before the Bombay City Civil Court, at Bombay, and represented Decent Cargo before the National Company Law Tribunal, Mumbai in a Section 9 petition. Vyas' clients include Glass Wall System (India), Man Industries India, Jyoti Structures, Zicom Saas, Metrika Enterprises, Corner Stone Technologies and Aavishkaar Venture Trustees among others. Vyas has been a part of Veritas Partners teams which have worked on significant deals, earning praise from different quarters.

AJIT WARRIER

partner, Shardul Amarchand Mangaldas



Warrier, who as more than 26 years of legal experience, has been with Shardul Amarchand Mangaldas & Co for

over six years; he was previously at L&L Partners. Key recent work has included appearing in Competition Commission of India vs Grasim Industries limited, where Warrier was part of the team representing Grasim in a writ petition filed before the Delhi High Court, challenging the jurisdiction of the Competition Commission of India to take cognizance of a report prepared by the Director General against Grasim. He was also part of the team that represented the National Dairy Development Board (NDDB) and one of its executive directors in G.K. Sood v. Union of India and Ors., a public interest litigation challenging his appointment as an executive director and his subsequent nomination as a whole-time Director on the board of the NDDB. "Ajit Warrier is an experienced disputes practitioner who is held in high esteem as an adviser. We appreciate his ability to combine his litigation expertise with a commercial approach. He has a sharp legal mind, is intellectually curious, and has strong business sense," says a client. 

The legal space might have a reputation for being archaic and inherently resistant to change, but increasingly external pressures are forcing law firms to bridge the gap between the profession and the use of technology. There is an expectation in the market that lawyers are utilising technology to provide a higher quality service, and India is no different.

AS A LAW FIRM, WHAT IS YOUR APPROACH TO LEGAL TECHNOLOGY? WHAT KINDS OF TECHNOLOGIES ARE YOU USING MOST FREQUENTLY NOW, AND WHAT HAS DRIVEN YOUR ADOPTION OF THESE?

Gaurav Agarwal, associate director - information technology, Khaitan & Co

The speed at which the information is made available to employees and business leaders will enable the firm making quick moves to always have an edge in the highly competitive market. To achieve this, and to ensure that it constantly works in the desired way, we are focusing on digital investments in a well-coordinated manner, ultimately leading to digital transformation. Bringing automation to operational processes and adopting mobility, cloud and analytics will prepare us for streamlining our operations and enhance the experience of our clients.

In the recent years, legal technology has evolved at a rapid pace exhibiting tremendous improvement, more so among cloud-based technology platforms. Our firm has already adopted and implemented cloud-based practice, document and knowledge management systems, which are running on the Microsoft platform. Moving email to Office365 cloud email eliminated issues stemming from email loss, and decreased setup time. Using SharePoint as our document management system and for knowledge management has improved our file management, and enhanced employee efficiency. Microsoft Cloud is offering vast resources for protection against threats, more than what we could have invested in separately if systems were still on-premise. It is also shouldering the burden of meeting global compliance requirements.

Since legal professionals primarily work on drafting legal documents, a lot of their time is consumed by this exercise. The firm has subscribed to an AI-enabled platform called Litera Contract Companion that allows easy error checks, customisation and access to document templates, increasing efficiency and optimal utilisation of time and resources on heavy documentation.

The firm is also extensively using digital collaboration technologies to reduce travel time and expense. Technologies like Cisco CMR, Microsoft Teams and Cisco WebEx provide a seamless digital meeting and video-conferencing experience.



AGARWAL



SAHNI



DUBASH

The firm is also evaluating certain AI-based IT products to bring the benefit of technology-enabled efficiencies for both client work and internal processes, and knowledge management.

Ajay Sahni, founder and principal, Ajay Sahni & Associates

Our focus has always been on adopting cutting-edge technology, both as a platform to deliver services to clients as well as for in-house use to improve efficiency and accuracy of deliverables. We are fortunate to work with a number of legal technology solutions, some of which were developed for exclusive captive use by our team. These include an automation based in-house IP compliance management and audit tool, and an AI-powered legal assistant that uses NLP (natural language processing) and deep learning to drastically reduce time spent on legal research. In February this year, we entered into a strategic partnership with Swedish blockchain pioneer iDefendo and became the first firm in India to offer blockchain-enabled IP protection services. The use of these technologies has enabled us to reduce costs, improve efficiency, and increase accuracy and transparency while handling matters for clients.

Feroz Dubash, partner, Talwar Thakore & Associates

There has always been a significant focus on our IT systems with a management team proactively assessing internal and external needs.

In the last two years, we have adopted new matter management and time recording systems which enable all fee-earners, in particular partners, to have a much deeper understanding of the state of the matter, resource allocation and level of fees both on a matter as well as an individual basis.

We have also adopted the software to ensure document formatting in house style is available at the click of a button.

Finally, we have updated our systems in Bombay and Delhi to ensure that remote working is seamless, quick and secure. 

Appointments



**Ravindra
BANDHAKAVI**

LEAVING
Trilegal

JOINING
*Cyril Amarchand
Mangaldas*

PRACTICE
Corporate

LOCATION
Gurgaon

POSITION
Partner



**Kunal
GUPTA**

LEAVING
*Cyril Amarchand
Mangaldas*

JOINING
Trilegal

PRACTICE
Investigations

LOCATION
Delhi

POSITION
Partner



**Manish
MISHRA**

LEAVING
BDO

JOINING
J. Sagar Associates

PRACTICE
Taxation

LOCATION
Gurgaon

POSITION
Partner



**Revathy
MURALIDHARAN**

LEAVING
J.Sagar Associates

JOINING
IndusLaw

PRACTICE
M&A

LOCATION
Mumbai

POSITION
Partner



**Arjun
RAJGOPAL**

LEAVING
K Law

JOINING
L&L Partners

PRACTICE
Corporate

LOCATION
Delhi

POSITION
Partner



**Abhishek
SHARMA**

LEAVING
Khaitan & Co

JOINING
*Cyril Amarchand
Mangaldas*

PRACTICE
Real Estate

LOCATION
Mumbai

POSITION
Partner

India government, Facebook spar over decryption laws at top court

India's government has asked Facebook Inc to help it decrypt private messages on its network, citing national security requirements in a court hearing on privacy rights on social media platforms.

India's Attorney General K.K. Venugopal told the Supreme Court on Oct. 22 that it was the responsibility of social media companies to share data wherever there was a threat to national security.

"A terrorist cannot claim privacy," Venugopal said. "For Facebook and WhatsApp to say they cannot decrypt is not acceptable."

Facebook-owned WhatsApp, which has about 400 million users in India, allows groups of hundreds of users to exchange texts, photos and videos using end-to-end encryption, beyond the oversight of independent fact checkers or even the platform itself.

The government said in an affidavit it planned to frame new rules to govern social media "keeping in view the ever-growing threats to individual rights and nation's integrity, sovereignty, and security."

"They can't come into the country



REUTERS/Dado Ruvic

and say we will establish a non-decryptable system," Venugopal said, referring to big internet platforms.

But Facebook's lawyer Mukul Rohtagi told the court the company was not obliged to share users' data with the Indian government.

The case went to the Supreme court after Facebook in August asked the top court to hear all cases concerning privacy and curbs on social media usage, local media reported.

WhatsApp has been trying to find ways to prevent its misuse, following concerns that the platform was being used to spread disinformation, but has

said it will not dilute end-to-end encryption.

Rohtagi said local laws neither mandated companies to share data with government agencies, nor placed the onus of facilitating a process of decrypting messages on them.

"The rules say if I have the key, I could give the key. But I don't have the key myself," Rohtagi said, referring to Facebook or WhatsApp servers which are located outside of India.

The Supreme Court said it will now consolidate all pending cases on the issue from lower courts across the country and hear it beginning the last week of January.

Tushar Mehta, a lawyer for the government, said there was no intention to invade into personal lives of citizens, and India merely wanted to guard its citizens against extremism.

But Judge Deepak Gupta asked the government lawyers to explain why the onus of facilitating decryption should be on the social media companies. He said the law allows the government to seek help to decrypt, but does not suggest the companies do it for the government, he told Venugopal.

"Nobody prevents you from having your own system of decryption," Gupta said. 

GREEN FOR SPEED BY APARNA SAI

The Competition Law Review Committee has introduced a “Green Channel” for faster regulatory approvals for clearing certain categories of mergers and acquisitions that may have no major implications on competition. Lawyers have praised this system for speedy approval of combinations as one that could be beneficial for India’s M&A landscape.

What is the “Green Channel” introduced by the Competition Commission of India (CCI)?

The Green Channel is a process to promote a speedy, transparent and accountable method of clearing certain categories of mergers and acquisitions that may have no major implications on competition.

According to Vaibhav Choukse, partner at J. Sagar Associates, an M&A transaction that breaches a specified set of monetary thresholds and is not eligible for any available exemptions, is required to be notified to the CCI for its approval – and this can take up to 30 working days. With the introduction of the Green Channel, a provision to fast track this approval will be provided whereby a transaction that does not involve any form of overlaps between the activities of the parties will qualify for the Green Channel Route (GCR), and such parties can carry out the transaction on receipt of the acknowledgement of a form that is filled out.

How will this impact India’s M&A landscape?

Choukse says that the introduction of the Green Channel “is a step in the right direction,” adding that this will help in creating enforcement priorities and ensure optimum utilization of the limited resources available with the CCI. He is also of the opinion that there will also be a sizeable number of transactions which could benefit from the introduction of the GCR. “For instance, first-time investors or a company having no investment in the

overlapping sector could be eligible for the GCR which will further facilitate in achieving the objective of ease of doing business,” says Choukse.

What are some of the concerns lawyers have about the Green Channel?

While lawyers have generally applauded this innovative idea, some have voiced a few concerns.

Choukse feels that mapping of the complementary overlaps between the activities of the parties by the CCI may be a challenge. Additionally, he says that while the transaction under the GCR is deemed to be approved, it is unclear as to when the CCI will assess if the GCR has been correctly taken by the parties to a transaction. Choukse also considers the manner in which overlaps between parties, including their “groups,” in all plausible

alternative market definitions will be tested, a concern.

Despite these concerns, Choukse believes that a few tweaks to the existing rules can go a long way. He suggests that CCI may consider waiving off the filing fee of 15 lakh rupees (\$21,000). Besides this, he adds that the existence of any investment in an “overlapping” business, is sufficient to rule out the application of the GCR. The CCI may consider only controlling investments when mapping overlaps between the parties. Moreover, he feels that something as small as “publishing a guidance note on the GCR listing out the manner in which it would want parties to map the overlapping businesses” can be very useful. 



VAIBHAV CHOUKSE

\$3.7 BLN

Brookfield Asset Management’s investment in Reliance Industries’ telecom tower assets

Deal Type: M&A

Firms: AZB & Partners; Cyril Amarchand Mangaldas

Jurisdictions: India, Canada

\$1.86 BLN

Financing of Bangalore Airport’s expansion

Deal Type: Project Financing

Firms: Cyril Amarchand Mangaldas; Desai & Diwanji

Jurisdiction: India

\$764 MLN

Adani’s winning resolution bid for Korba Power

Deal Type: Restructuring

Firms: Cyril Amarchand Mangaldas; J Sagar Associates; L&L Partners

Jurisdiction: India

\$394 MLN

Blackstone Group’s purchase of remainder of Indiabulls Real Estate’s commercial office portfolio

Deal Type: M&A

Firms: J Sagar Associates; Kirkland & Ellis;

Shardul Amarchand Mangaldas; Simpson Thacher & Bartlett

Jurisdictions: India, U.S.

\$293 MLN

Aditya Birla Capital’s fundraising

Deal Type: PE/VC

Firms: Cyril Amarchand Mangaldas; Khaitan & Co

Jurisdictions: India, U.S.

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CHALLENGES FACED BY GENERAL COUNSEL: WHY DO DIGITAL TRANSFORMATIONS FAIL?

BY AJAY D'CRUZ

General counsel, forget what you know about creating a world-class department, and read on to understand how to digitally transform your department. You know your business is changing, but has your service delivery kept pace? Let us explore the three key areas that will reshape your service delivery model: Automation, artificial intelligence and analytics.

Over the next three to five years, we will witness a wave of change in the way our in-house legal departments will function, and this will primarily be because of technology and digital disruptions. The question now is no longer if, but how, to digitally transform our organizations. In the past, legal departments have been slow with regards to adopting new technology tools, but today we can see an increase in focus on digital transformation programmes.

We as GCs have faced challenges in the past in the management of status of litigation, contracts, entities and records, and their abstraction and reporting. We have traditionally lacked the tools, but now, with the evolution of technology, we have what's needed. Depending upon the complexity of the organisation, legal departments today have a myriad of options to rely upon: contract management software, litigation management, entity management, board management, corporate secretarial activities, knowledge management, record management, compliance management, due-diligence tools, risk and compliance tools, metrics and dashboards, and legal intranets. Technology now covers almost all legal focus areas.

In spite of being spoiled for choice, it is common to see legal departments struggle with digital transformation. A few reasons for failed legal projects in the legal department along with key learnings are:

- A tragic combination would be that of a non-tech-savvy in-house lawyer and an oblivious in-house IT department put on the job to work on a legal digital transformation project.

This results in the software development getting outsourced to and driven by a third-party vendor who does not understand the business.

Learning: Get the right persons to handle the digital transformation.

- In-house lawyers have their hands full with their own responsibilities; they have no time for digital transformation. This results in a lack of commitment and changing expectations, while technology advancements progress rapidly.

Learning: Pay attention to digital transformation.

- Software and vendor selection needs to be well thought out. Having a single vendor versus having multiple specialised vendors have their advantages and disadvantages. The technology tool fitment should fit in with the existing organizational systems and software. APIs (application programming interfaces) help one software communicate with another.

Learning: Know your digital transformation strategy.

- The digital transformation project(s) should fill a certain need and should result in efficiency, instead of doing things the traditional paper-based way. Avoid taking up digital transformation just because everyone is doing it.

Learning: Identify the benefits and trade-offs of going digital.

- When budgets for legal transformation are limited, it is better to defer the transformation. A poor transformation is simply not worth it as it results in loss of everyone's time, loss of data and loss of confidence.

Learning: Get it right the first time.

- A digital transformation is not a one-time activity and needs continuous improvement.

Learning: Digital transformation is not a one-time project.

Questions we need to ask internally within our organization:

- Is my organization ready for digital transformation? Do we have a plan?
- How do we integrate our digital transformation program with the organizational goals and objectives?
- Are we following a piecemeal strategy for digital transformation or are we looking at it with totality?
- How to not go overboard, and how to focus on key areas of digital disruptions?

Okay, what next?

- Forming your digital transformation strategy.
- Strategic fitment with existing tools and systems.
- On the ground: Implementation and launch.
- Creating an agile organization, and being current: It is a continuous process.

The technology is here, and we have the opportunity to lead change. Success will belong to individual leaders who move to take up the challenge to transform the future. 



About the author:

Ajay D'Cruz is head of legal and secretarial at ISS India. Apart from his legal expertise, he possesses strong IT skills and believes in getting "IT" right the first time. Previously, he worked with JLL India and GKB Carl-Zeiss India in prominent legal and secretarial positions. D'Cruz can be reached via his website, <http://ajay.dcr.uz>.

ALB is soliciting articles from in-house counsel based in India for its bi-monthly e-magazine. For submission guidelines, email ranajit.dam@tr.com.