

**Sam Townend KC speech for the UK-India Legal Partnership
(UKILP) Annual Awards**

Supreme Court, Friday 31 May 2024

Namaste. My name is Sam Townend KC, and I am the Chair of the Bar Council of England and Wales. The Bar Council represents nearly 18,000 specialist advocates and senior advocates including over 2000 KCs. The British system is different to the Indian system in that we have a split legal profession of solicitors, client-facing, handle client money on the one-hand, represented by the Law Society of England and Wales, and barristers, specialist advisors and advocates on the other, who I represent. I am honoured to be here today to discuss the importance of cooperation between the legal communities of the UK and India in achieving 'Viksit Bharat', the blueprint laid out by Prime Minister Narendra Modi.

I would like to extend my gratitude to Ajit Misra and the UK India Legal Partnership (UKILP) for organising this event and for their commitment to fostering international legal collaboration. Could I also thank Justice Gogoi and the Additional Solicitor General of India, Mr Raju, for their speeches now and for our discussions earlier today.

The Role of Legal Community and International Collaboration

Viksit Bharat, encompasses economic growth, inclusive development, and the integration of technological innovation to elevate India's global standing. The legal community plays a pivotal role in achieving such a goal by ensuring that the rule of law and legal services supports economic and social progress. Global investment in India has now reached a point that it really can, and I would respectfully suggest, needs to open up, in order to position itself as a global player in arbitration and other ADR.

Collaboration between UK and Indian legal professionals can further assist in achieving this vision and can bring mutual benefits, enhancing the quality and efficiency of legal services in both countries.

India's Potential

India is brilliantly positioned to become a significant centre for international arbitration.

Multi-national companies, including many of those from and with headquarters in India, with very substantial commercial and other disputes like and expect the flexibility, autonomy and control that international alternative dispute resolution processes allow to them.

India is well placed to capitalise on this and has great natural advantages to becoming just as significant centres for international arbitration as Singapore or London.

First, you have the ever-adaptable common law system alongside other law which is shared with England and Wales (also used in 27% of the World's 340 jurisdictions).

Secondly, you use English alongside other Indian languages, which is the language of 80% of the World's international commercial transactions.

Thirdly, you have a cohort of excellent experienced domestic senior advocates as seen by the recent phenomenon of established Indian senior advocates joining London Chambers to practice international arbitration (and occasionally in Court) to complement their India-based practices (such as Harish Salve KC, Gourab Banerji, Ratan K Singh, Sharan Jagtiani, and Amit Sibal to name just a few).

Fourthly, and critically, a massive body of talented junior lawyers keen to be involved in international dispute resolution and hungry to learn and experience.

Current Restrictions and Regulatory Improvements

Despite these advantages, some international, including Indian, companies are deterred by current restrictions, choosing other venues like Singapore for their dispute resolution.

The Bar Council of India has shown leadership with rules permitting foreign lawyers to practice in India. However, further steps can be taken to simplify the process for foreign advocates to act on a case-by-case 'fly-in, fly out' basis without extensive registration requirements.

The current requirements are impractical and commercially unviable for barristers and KCs participating in occasional international arbitrations in India. We have proposed to the BCI to modify Clause 3 of the Rules - to lift the prohibition on foreign lawyers participating in international arbitration cases conducted in India involving foreign law.

We advocate for a reciprocal arrangement, akin to the one for Indian lawyers in London, allowing foreign lawyers to come to India for non-court-based dispute resolution processes, such as Indian-seated international arbitration, subject only to visa requirements.

Our aim is not to compete with Indian law firms but to work alongside them or for them to enhance the international arbitration landscape. By sharing this vision, we can help India achieve its full potential as a hub for international arbitration. Through cooperation and mutual respect, we can achieve great things for our legal communities and our nations. The benefits would be mutually shared.

I know there is a present challenge to the existing rules in the High Court in India and that there is a degree of lack of confidence that a relaxation of rules would lead to mutual benefits. I believe firmly that the benefits will be felt, however, if necessary, rule changes for advocates could be done on a pilot basis for a few years, perhaps to test the water.

Closing Remarks

In conclusion, I re-state the words of the Bar Council of India in its Objects and Reasons to the March 2023 draft Regulations "Time has come to take a call on the issue ... the opening up of law practice in India to foreign lawyers in the practice of foreign law, diverse international legal issues in ...

international arbitration cases would go a long way in helping the legal profession grow in India to the benefit of lawyers in India too.”

Thank you for the opportunity to speak today. I look forward to coming to India once again after the current rounds of elections in both India and the UK are concluded, to discuss these matters further. And I look forward to our continued collaboration and the shared success it will bring. Dhanyawad.