

# Outsourcing Legal Services Abroad

[By K. William Gibson](#)

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A *Time* magazine headline screams “Call My Lawyer ... In India.” *Legal Affairs* asks “Are Your Lawyers in New York or New Delhi?” A recent New York conference offers “Effective Strategies for Managing Offshore Outsourced Relationships.” The largest American and European law firms are setting up shop in India, the Philippines and elsewhere, or sending higher and higher levels of legal work to outsourcing companies in those countries. Why is all this work going overseas? Clients are tightening their belts and want their law firms, regardless of their size, to look for cost-saving strategies as well. Whether you want to get in the outsourcing game or not, understanding how the game is played will help you navigate in the times ahead.

Until recently, discussions about the outsourcing trend in the legal community took place mainly online, particularly among bloggers. But with the subject having moved beyond the blogs to *Time* and other mainstream media such as the *Wall Street Journal* and the *New York Times*, it appears that the “trend” has morphed into a full-blown phenomenon.

How big of a phenomenon is it? According to ValueNotes, an Indian research company that tracks legal process outsourcing, revenue from legal services outsourcing in India alone is slated to grow by almost a half-billion dollars by the decade’s close—from \$146 million for the calendar year 2006 to \$640 million by the end of 2010. The industry employed around 7,500 people in the legal offshoring space in India as of year-end 2006, and that number is expected to reach 32,000 by the close of 2010.

But what exactly is legal outsourcing and the market realities behind it? Let’s take a look.

## **Process, Parameters and Drivers: An Overview**

According to attorney Ron Friedmann, formerly of Prism Legal Consulting and now working with Integreon, a legal process outsourcing company, “Outsourcing refers to using any third party to provide services previously provided by full-time employees.”

Outsourcing may be done domestically or the work may be sent overseas. The term offshoring is often used to refer to outsourcing to a non-domestic provider. Friedmann also describes a variation, known as insourcing, a term for “shifting work to an owned-and-operated facility that is centralized and physically separate from the rest of the organization.”

Outsourcing of legal services involves a mix of domestic outsourcing, sending work offshore to be done by third-party contractors, and sending work offshore to be done by overseas employees of the law firm that is sending the work. Law firms, particularly large

ones in high-cost locations such as New York City, often outsource to lower-wage domestic locations within the United States by setting up facilities or sending work to third parties. That kind of outsourcing doesn't generate headlines, though.

The newsworthy side involves work that is flowing to low-wage regions in Asia, such as India, Bangladesh and the Philippines. Why these countries? For one thing, they have educated, English-speaking workforces. But U.S. law firms, and corporations for that matter, would not be tapping into those countries' workforces if there also weren't opportunities for significant cost savings. Those cost savings result, not surprisingly, from the fact that the workers in these offshore countries get paid a fraction of what American workers get for the same work.

Other market realities factor in as well. U.S. corporations that historically have given their legal work to U.S. law firms are now sending that work offshore—and some corporate legal departments have gone so far as to set up their own operations overseas or to establish direct relationships with -Indian law firms. In the bargain, the corporations are demanding reduced rates for the work that they are not sending overseas. That, of course, puts more pressure on U.S. firms to find ways to get work done for those clients at a lower cost. In response, U.S. law firms are now outsourcing everything from office support services to high-level legal work. ValueNotes' most recent study focuses on eight broad segments:

- Legal transcription
- Document review
- Litigation support
- Legal research
- Intellectual property
- Contract-related services
- Secretarial and legal publishing services

And there's no shortage of providers wanting to take that work. Indeed, an Internet search on "legal outsourcing" will generate advertisements from a very long list of law firms and legal process outsourcing companies in India and elsewhere, all ready and willing to handle everything from low-level clerical work to high-level patent application processing.

In addition, recent changes in federal rules regarding high-volume litigation seem to have spurred an increase in work flowing overseas. In the April 3, 2008, *Time* magazine article, "Call My Lawyer ... In India," Suzanne Barlyn writes that recent amendments to the Federal Rules of Civil Procedure regarding electronic discovery are "boosting

momentum” in legal outsourcing because document review costs “about \$1 per page in India but can range from \$7 to \$10 per page in the U.S.” The same article quotes the general counsel of -Chicago-based company TransUnion as saying that “Indian attorneys are currently reviewing more than a million litigation e-mails for the company, which costs less than \$10 per hour.”

## **Who’s Leading the Developments**

Not surprisingly, the short answer to the question of who’s turned the trend into a phenomenon is the large U.S. and international law firms and their corporate clients. The reasons are many, but it essentially boils down to the fact that they have the critical mass to justify the time and expense of everything necessary—from selecting and developing relationships with outsourcing companies, deciding what work will be outsourced, setting up systems and procedures to coordinate the work-flow processes, and setting up the technical infrastructure (both at home and abroad) to support the flow of information and documents.

Of course, even among firms of big size and scale, there are those that remain reluctant to outsource any of their work processes, much less outsource that work to foreign countries. And among the firms that do outsource work overseas, there are some that don’t want anyone to know that they are doing so.

“A challenge for us as a legal outsourcing provider,” Friedmann says, “is that our customers don’t want to go on record. Most will serve as references late in the selling cycle in a peer conversation with our prospective client law firms. We see signs that firms are becoming more open, though—for example, firms that have freely talked to the press about their outsourcing or offshoring.”

Unlike some firms that don’t want to talk about their outsourcing, Clifford Chance, which is one of the largest international firms, acknowledges its use of alternate ways to get work done. According to Sally Fiona King, chief operating officer for the firm’s Americas region, Clifford Chance uses a “follow the sun approach.” That approach includes a “mixture of onshoring, offshoring and outsourcing,” with all hubs using “consistent processes, templates and house styles.”

The Clifford Chance approach to outsourcing is elaborate and comprehensive. King reports that in 2007 her firm “formed a Global Shared Service Center in Delhi, India.” This facility is a “Clifford Chance facility—with, importantly, our employees—and built at our speed,” King says, adding that the facility “helps us consolidate some global functions and improves our efficiency and business continuity capability.” By setting up its own facility, King says that her firm must deal directly with issues such as “recruitment, motivation, training, language, and maintaining the feel of one firm. However, we already do that in 20 countries, so India is just another part of our global expansion.”

According to King, for many industries shifting work to India means dealing with stateside implications, such as reduction in staff, retention issues and morale. However, Clifford Chance's existing global footprint and single-firm approach has helped ease those burdens for the firm. "I think we've benefited enormously from the fact that our offices in New York and Washington have been working with colleagues in London, Hong Kong, Moscow and so on for some time. Adding another office in India is just the latest step in our efforts to ... improve the legal services we provide to our worldwide clients."

Some of the services Clifford Chance's Indian operations provide include IT applications deployment, packaging, online services and IT administrative tasks, as well as invoice payments and expense payments and processing. King reports that the firm plans to outsource additional accounting functions this year, including "reporting and month-end close."

Clifford Chance also outsources some of its document production requirements to an outsourcing firm in Mumbai, India (formerly Bombay). The firm has hubs in New York and London that are operated by Clifford Chance employees and housed in its offices; these hubs work in concert with the hub in Mumbai. What's been most essential to making these operations flow? "I believe communication has been the key to our efforts in India," says King. "It is important to obtain partnership buy-in and support, and open and honest communication is critical."

### **Who Else Is in the Game, and How They're Playing**

Of course, not all outsourcing efforts are as elaborate and expansive as those undertaken by Clifford Chance and other big firms. And yes, there are even opportunities for midsize and smaller firms to get in the game and reduce certain costs through outsourcing—and some are doing exactly that. Maryland lawyer Richard Granat is one example.

Granat operates a [solo "virtual" law firm](#) and is also the president of Epoq US, a Web-enabled document assembly software company. He has used temporary paralegals for many years to do a variety of legal support tasks, from automated legal support to estate tax forms. Today he's using a firm in India that is staffed with graduate attorneys to do some of that work for both of his businesses.

"Through my virtual law firm operation," he says, "I have used an Indian firm to do legal analysis for clients that I'm working with, and the results have been excellent—and it costs about 50 percent less than the cost of a U.S. paralegal. Since the person doing the work is an attorney trained in English common law, the quality of the work is often better." And he's getting similar results for the Epoq legal software company, using the same group in India to help automate documents.

“We’ve also assigned basic legal research,” Granat says, “as in compiling statutory materials on a particular subject for every jurisdiction. This work has been excellent and our cost is about \$12 an hour, and that cost includes the cost of online legal research services. This cost is less than it would cost [to have the work done by] a U.S. law student, and the work is more reliable.” While he feels more hesitant about sending more specialized legal services overseas at present, he does foresee an expansion in how smaller U.S. firms will use the Indian outsourcing firms to serve their needs and increase their efficiency going forward. (See the sidebar on page 53 for more. Also see the page 50 story for a midsize firm’s experience in using outsourcing.)

So how would a firm proceed in embarking on outsourcing to an offshore company? Many that are outsourcing work are doing so through third-party legal process outsourcing (LPO) firms, such as the one that Ron Friedmann works with—and the LPOs come in multiple sizes and flavors, like law firms themselves, so there are choices for firms of all sizes. The LPO hires the employees, secures the facility and sets up the work processes. U.S. firms thus avoid the higher costs of running their own operations in whatever area—although clearly the U.S. law firms may not have as much overall control over the operations and processes as they would if the workers and the facilities were their own.

To date, the growth in legal outsourcing has largely been in the moving of back-office operations. But as they grow more comfortable with sending tasks such as information technology and accounting overseas, some firms are moving to outsourcing not only for work that is done by support staff, but for higher-level work that has always been done by the firm’s domestic attorneys—both associates and partners.

It seems that once firms find that they can outsource repetitive clerical and support tasks done by lower-wage domestic employees, they begin to look for ways to outsource work being done at home by their higher-salaried technicians and professionals, including the lawyers. In fact, LPOs firms often “get their foot in the door” by working on clerical tasks. Once they establish a successful relationship with the U.S. law firm, they are then in a position to “sell up.”

However, as ValueNotes CEO Arun Jethmalani points out in her company’s report *Offshoring Legal Services to India*, “While most vendors start by offering lower-value services and gradually move up the value chain by demonstrating domain skills and gaining client confidence, there are others who focus on specific high-end services or niches.” Adds the report’s co-author Neeraja Kandala, chiming in on the service areas that are going to increase: “High-volume services like document review, e-discovery, legal publishing, as well as niche areas in intellectual property and contract services, will drive future growth in legal services offshoring,” she predicts.

## **Enter the Regulators**

Not surprisingly, with the increase in outsourcing, bar associations and other regulatory agencies have begun to look at the ethics issues involved. Among those weighing in to provide some guidance to lawyers about outsourcing legal work are bar associations from Los Angeles and San Diego to Florida and New York. Most of the ethics opinions address issues such as when a lawyer must advise a client that the client's work is being outsourced, as well as issues relating to fees that may or may not be charged to clients for work that is being done elsewhere.

In 2006 the ethics committee of the New York City Bar was among the first to issue a formal opinion on outsourcing. The question was whether a New York lawyer may "ethically outsource legal support services overseas" to either a "foreign lawyer" or "a layperson" and, if so, what ethical considerations must be addressed. [The opinion](#) says that "outsourcing is ethically permitted" and then lays out a list of conditions and ethical considerations, including the obligation to supervise the people doing the work, to advise the client (and get the client's permission) when the work is being outsourced, and to have a conflicts-checking system in place.

The New York City Bar also went a step further, weighing in on the "duty to bill appropriately for outsourcing overseas" by saying that "absent a specific agreement with the client to the contrary, the lawyer should charge the client no more than the direct cost associated with outsourcing, plus a reasonable allocation of overhead expenses directly associated with providing that service" (citing ABA formal opinion 93-379 (1993)).

Billing is also among the issues covered in a proposed advisory opinion on outsourcing from the Florida Bar's ethics committee, which was affirmed by the committee in January of this year. [That opinion](#) covers a range of other issues as well, including the unauthorized practice of law, conflicts, supervision and confidentiality.

To what extent this and other ethics opinions in various jurisdictions may put a damper on outsourcing—particularly by limiting firms' ability to improve the spread between what they pay for services and what they charge their clients—isn't yet clear. For today, though, as indicated by the numbers cited earlier, the outsourcing movement keeps picking up steam.

## **What Waits in the Times Ahead**

So where might things go from here? More growth in outsourcing may well result from the financial challenges that law firms are facing currently and will continue to face during the next several years. Consider how economic downturn results in lower revenue for many types of practices, and this at a time when clients are putting even more pressure on billing rates and overall legal expenses. Combine that with higher costs of doing business (including first-year associates making \$165,000 at the largest domestic firms) and the idea of shipping work elsewhere to be done at lower cost begins to sound appealing.

Many of the big players are already in the game. But just when and how other firms will approach the idea of sending work overseas remains to be seen. We'll simply have to stay tuned.

## **About the Author**

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