



Reporting for duty

The solicitor general and new chairman of the Bar Council of India speaks out on foreign law firms, reforming legal education and boosting the self esteem of Indian lawyers

Interview and photographs by Raghavendra Verma

Gopal Subramaniam, 52, was elected chairman of the Bar Council of India (BCI) in April. He is also the country's solicitor general, a post he has held since June 2009. Prior to that, he was the additional solicitor general for five years.

On a quiet weekend evening, Subramaniam spoke exclusively to *India Business Law Journal* at his home, a two-storey government-owned house in the heart of New Delhi.

IBLJ: *You are the first acting solicitor general to be appointed chairman of the BCI. How will you juggle the two roles, and do*

you foresee any potential conflicts of interest arising while you hold both positions at the same time?

Subramaniam: My role as solicitor general has given me valuable insights into government processes. The fusion of the two offices is very welcome and I certainly would not allow a conflict to develop between these roles. In fact, I see them as complementary. Fortunately, I have the support of the law minister and the honourable prime minister, who view independence as the most important facet of a lawyer, particularly a law officer of the central government.

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I must confess that it is a very heavy burden in terms of time, energy and planning, but I have taken it on as a mission and I hope I will succeed.

IBLJ: What are your key priorities as chairman of the BCI?

Subramaniam: The first is to issue a mission statement of the Bar Council. The second is to enhance the self-esteem of Indian lawyers by offering avenues to upgrade their skills and support systems. The third is to provide a very sensible [academic] curriculum that is consistent with the social and economic needs of the profession. The fourth is to have an absolutely transparent system of integrating the profession under one body instead of being fractured and divided on various lines.

The Bar Council is the regulatory body and it needs to be sustained by the legal profession with its own enterprise, imaginativeness and a sense of transparency and accountability. We should also be issuing a transparency model for the purpose of self-evaluation by lawyers. We want the lawyers in trial courts to be energized to learn more relevant and contemporary law so that India becomes a hub of the legal services sector. My view is that the Indian legal profession must be able to provide Indian legal services by itself, rather than ceding the turf to anybody else.

IBLJ: Why do you believe that measures are necessary to enhance the self-esteem of Indian lawyers? Is there a problem with self-esteem in the profession?

Subramaniam: We have to acknowledge that across the board there has been a loss of confidence due to various factors, some of which are on account of an inadequate community feeling. When I talk about community feeling, there has to be some common shared goals of the whole profession and these goals cannot be simply larger platitudes. They have to be more concrete in the present-day context and these goals have to be clearly defined and shared by the whole community through a participative process of debate.

IBLJ: You mention that you would like to see India become a legal hub. Do you think it has the potential to become an international arbitration centre like Singapore or Hong Kong?

Subramaniam: In my view we have a very big competitor in the legal services sector, which is China. It is our long-term competitor and we have to perform very well to stay

in business. Indian lawyers cannot survive on the acts and omissions of the executive. It is not enough. We need to sustain the Indian professional community as a whole. That is an important concern that the regulator must take into account. After all, it is the regulator's job to see that the profession is alive and kicking for future generations. That is the regulator's true role as I see it.

IBLJ: You are a strong proponent of reforming India's legal education system. What steps is the Bar Council taking to assist in this process?

Subramaniam: The important thing is that we are short of law teachers and our academic community has been neglected and badly paid. So the first thing we did at the Bar Council was to adopt a resolution that no teacher should get less than the University Grants Commission (UGC) pay scale. This means that good lawyers will be attracted to teach and we want them to go into academia.

We are going to reach a concerted solution with the help of the UGC, and at the same time, ask good lawyers to be part-time law teachers as a part of their service to the legal profession. We are also going to work towards the idea of a resource, or knowledge web, in the Bar Council so that whatever is missed out in university education will be completely filled up by the resource web. We would also try to facilitate internships in courts for lawyers who are willing to learn under a senior lawyer. Furthermore, we plan to have a transparent system of criteria for the recognition of law colleges and the establishment of new law colleges, which will be published on our website.

IBLJ: You have also suggested the introduction of a compulsory entrance test for lawyers. Why do you believe this is necessary?

Subramaniam: A lawyer cannot be allowed to test his assimilation on clients. We have to ensure that the profession consists of very responsible and hopefully very committed people.

We want the filtering to take place at the point of entry into the profession. The test will be taken when the students have completed their law course, i.e. after they get their LLB. We want to make sure that their fundamentals are in place and that there is a minimal threshold crossed by a person who wants to enter the profession. The biggest supporters of the test have been people from rural areas, whose merit will be recognized by a fair and objective determination, which is presently not possible because their law

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India needs competent and efficient first-generation lawyers



colleges are not the best known. So it would provide a level playing field for everyone. The test will be conducted in a very transparent, objective and fair fashion.

IBLJ: Some employers of Indian law graduates have criticized the country's legal education system for focusing on traditional areas, such as litigation, and failing to equip students with the practical skills required for emerging fields such as corporate law and intellectual property law. Do you see this as a problem?

Subramaniam: While intellectual property law, corporate law and business law are very relevant in a contemporary context, these are not the whole of the law. Still, I acknowledge [the importance of these] specializations and we are on a mission requesting the best lawyers to provide tutorials and lectures which will be freely accessible to other lawyers. Familiarity with information technology is also necessary and there is nothing wrong in acknowledging that we need to upgrade ourselves. In a knowledge-based economy, which India must aspire to become, we must look at legal knowledge as one of the most important domains. The more committed the legal profession is, the more it will be able to serve the cause of Indian society, particularly marginalized people.

IBLJ: India's legal profession tends to be family dominated and is often viewed as a profession for the wealthy. How can you improve access to legal education for all levels of society?

Subramaniam: Law is not intended to be a hereditary profession or a profession for the wealthy. [This is] a prejudice that lawyers themselves have to dismantle. Modern India needs competent and efficient first-generation lawyers who have dedication and ability. When we do the restructuring of the law colleges, we hope that we will be able to make them accessible to as many people as possible. We also want to integrate rural lawyers with urban lawyers, as those in far-flung areas must have the same skills as those in the cities.

IBLJ: India is suffering from a shortage of corporate lawyers. Does the Bar Council have plans to address this problem?

Subramaniam: India is not simply suffering from a shortage of corporate lawyers but also from a shortage of lawyers who are able to redress injustice of the poor and of the weaker sections of society. India not only has corporates,

but it also has people living below the poverty line and the Indian lawyers have to be capable of serving both. It is this dual commitment that the Indian lawyer has to have and that is what makes him unique.

IBLJ: A significant number of Indian law graduates have left the country to pursue careers with foreign firms. What action can the BCI take to stem the flow of Indian lawyers abroad?

Subramaniam: We have to provide as many opportunities as possible here in India. Also, it is important that our lawyers must be seen as equally competitive and capable as anyone else in the world. I am very happy to say that the best lawyers of the transactional business today are willing to teach the subject as a module for the Bar Council and this is a great way to provide opportunities [within the country] and to have proficient and capable Indian lawyers freely accessible to Indian industry and business.

IBLJ: Do you think that India's legal market should be opened to foreign law firms, and if it is, do you think the presence of foreign firms will drive up standards?

Subramaniam: It is not possible to simply allow lawyers from another country to come in and practise here when they do not accord reciprocity. In the absence of reciprocity, I think the case for the entry of foreign law firms is somewhat overstated.

If there was a deficiency in service [in India], then people may have a point [about allowing the entry of foreign firms]. But I do not think there is a deficiency. I think it is a matter of perception. I think that a high-quality service is being provided by Indian lawyers. We have to perform and succeed and be efficient and we have to correct this perception. I must say in fairness, when I spoke to some of the heads of bar council associations in other countries, they have considerably acknowledged this aspect.

Some of our lawyers are consultants overseas. They are consultants to foreign countries in commercial matters. So it is a complete myth that Indian lawyers cannot [provide a high-quality service]. But with humility we acknowledge that we learn by exchanges, by conventions, by seminars and by interfaces [with foreign lawyers].

IBLJ: Despite the fact that foreign lawyers are not permitted to practise law in India, many of them visit the country frequently for business development purposes or to advise clients on the international aspects of India-related deals. However, a recent writ petition in Chennai effectively threatens to ban

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foreign lawyers from visiting India altogether. What are your views on this?

Subramaniam: I have not looked at the Chennai petition, but when it comes to me I will consider it. I can only say that this is a very tricky area. At this moment we have to concentrate on ourselves and give ourselves a fair chance to see where we stand. However at the same time, I have made it very clear that we are not oblivious to the demands of international business.

IBLJ: *Do you think this petition, and the prohibition on foreign law firms, could affect India's attractiveness to investors?*

Subramaniam: We are not trying to impede investment or attempting to regress financial lawyering. On the contrary, what needs to be appreciated is that we are trying to take it forward. We do not want India to be any less attractive, whether for foreign institutional investment or foreign direct investment. However, there has to be a certain match as far as a level playing field is concerned. We want to match up to the skills and want to serve [foreign investors] with the same abilities that foreign lawyers provide. Our own professional community can do it and they will achieve this milestone.

We are competent in dealing with business and commercial cases. Our judges are dealing with production sharing contracts, international taxation, matters of arbitration and bridge-finance. It needs to be correctly projected. We also have to make our model more efficient, not only in terms of disposal, but a higher quality of disposal. That is what I am aiming for and I am happy to say that the members of the Bar Council share my vision and acknowledge that the time to take these initiatives has come.

IBLJ: *What role can foreign lawyers and law firms expect to play in India?*

Subramaniam: Their role at this stage has to be one of cooperation. They have a major responsibility to share skills and knowledge. We are looking forward to sharing these skills and knowledge. That is our first step. ■

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