

# 'Make reciprocity the law'

April 12, 2019



Lord Karan Bilimoria and Jo Sidhu are among those who believe India will be a key market for British legal services after Brexit.

**by Nadeem Badshah**

LEADING legal figures have backed calls for British lawyers to be allowed to work in India after Brexit.

Foreign solicitors and barristers are not allowed to practise in India, which is expected to become a key market after Britain leaves the European Union.

Lord Karan Bilimoria highlighted the issue in the House of Lords in March. He argued that the situation "makes it very difficult for our lawyers to provide advice not just to British companies in India, but also to Indian companies, and that is a huge loss for India and our British legal services".

The independent crossbench peer, chair of the UK-India Business Council, said, "from my experience, the UK has arguably the finest legal services in the world. The ability of our lawyers to practise abroad is crucial."

Bilimoria has been supported in his call for a review of current rules in order to allow two-way arrangements, so Indian and British lawyers have access to each other's jurisdiction.

Jo Sidhu QC, former president of the Society of Asian Lawyers, told Eastern Eye: "It is no

coincidence that international businesses prefer to settle their disputes in London, where they can be guaranteed a fair hearing from independent and impartial judges.

"But global integration and the huge growth of India as a world economic power means English commercial lawyers need to be able to provide services there too.

"However, every nation operates a closed shop for their legal profession, not just India. Therefore, what we need are reciprocal arrangements to let Indian and English lawyers have access to each other's jurisdiction.

"It can't just be one way – as president of the Society of Asian Lawyers, I tried to encourage mutual access whenever and wherever it was possible.

"At the moment, professional regulations prevent this from happening. If we can overcome that hurdle, I can see huge benefits for both countries in a post-Brexit world. It's now urgent that the leaders of the English and Indian Bars pursue serious negotiations to break the impasse."

In England and Wales, similar rules apply as foreign lawyers are not allowed to practise. To attend court, they must be either a solicitor or a barrister qualified to practise in this country.

Tamana Aziz is a business immigration director at Duncan Lewis Solicitors. She told Eastern Eye: "As we are heading towards Brexit, it is vital for the UK to have a stabilised economy.

"With a number of UK companies operating in India, it is important that UK lawyers are given permission to practise in India so they can advise their clients on foreign law on a temporary and casual basis.

"It is also vital for international commercial arbitration, which involves a party which is not Indian and law that may be foreign.

"If someone wants to practise Indian law in the UK, they can do so by setting up an office here. We are open to Indian lawyers practising in the UK, therefore our lawyers should be given similar opportunities in India."

Radha Stirling, founder of civil and criminal justice organisation Detained in Dubai, believes a change in the rules could benefit crime victims if they are represented by the same legal team throughout a case.

She said: "I agree with Lord Bilimoria's sentiments regarding the usefulness of foreign lawyers being allowed to practise in India.

"It is obviously beneficial to victims of abuse if they can be represented by the same legal team

throughout their pursuit of justice.

"Handing off a case to a local advocate midstream can be problematic, as well as a cause for delay. Trust and understanding are built between a client and attorney over the course of time.

"Indeed, if a client has been traumatised, it will be very difficult to begin establishing a relationship with a new lawyer who takes the case on weeks or perhaps months into the process.

"I would welcome a relaxing of India's ban on foreign lawyers practising in the country, both in human rights matters and commercial cases. This serves the interests of justice and best practice, and it is something India's legal system could be proud of facilitating."

Meanwhile, Lord Goldsmith QC called on the Indian government to delay amendments to the arbitration law, warning they could "set back the cause of Indian arbitration" by a generation.

In a speech in Delhi in February, he expressed concern about proposals that would require an arbitrator to be qualified as an Indian advocate with 10 years of practice experience.

Such provisions "would appear at a stroke to prohibit the appointment of foreign lawyers as arbitrators in Indian seated arbitrations," he said.

While some changes in the new bill are "welcome", Goldsmith said there was international concern over provisions for a new body, the Indian Council of Arbitration, which will not merely promote arbitration but also "regulate it".

A Ministry of Justice spokesman said: "We are already in discussions with the Indian government to improve mutual market access for legal services."

**Keerthi Mohan**

<https://www.easterneye.biz/>