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# **REASSESSING THE GOVERNANCE OF FOREIGN LAW FIRMS IN INDIA: CHALLENGES AND OPPORTUNITIES FOR CROSS-BORDER LEGAL PRACTICE**

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## **ABSTRACT**

Globalisation has fundamentally reshaped the legal services market. The steady economic growth is accompanied by increasing demands of international lawyers and foreign firms for cross-border services. With India's continuing image as a land suitable for globalisation, the future of the legal profession is crucial in terms of the regulatory framework and how the future turns out for foreign firms and lawyers. Examining the press release by the BCI with the laid-down regulatory framework for the foreign firms and lawyers. Although, the BCI guidelines strictly prohibit foreign practitioners from appearing before the Indian courts, tribunals, and statutory bodies, they have permitted non-litigious fields such as international law, foreign law, and arbitration matters to some extent. Identifying the key challenges arising from the release and addressing the ambiguity in the international legal practice with comparative regulatory models from Singapore, Hong Kong, and the UK, and the judicial developments. Evaluating the market competition regarding the legal field, the global mobility of Indian lawyers, and the possibility of foreign firms collaborating with Indian firms. By offering a structured assessment of the 2025 regulatory landscape and proposing pathways for balanced liberalisation.

## I. INTRODUCTION

The Advocates Act, 1961, embodies this philosophy by establishing a unified and exclusive regulatory framework that permits only advocates enrolled under Indian law to practice the profession of law within the territory of India.<sup>1</sup> For several decades, this statutory architecture effectively excluded foreign lawyers and foreign law firms from engaging in both litigious and non-litigious legal practice in India.

The Indian legal system sought to protect the domestic Bar from unequal competition with well-established foreign law firms, particularly those from common law jurisdictions such as the United Kingdom and the United States.<sup>2</sup> This protectionist stance was reinforced by professional conduct rules that prohibited advertising, solicitation, and commercialisation of legal services, thereby distinguishing legal practice from trade or business activities.

However, the advent of economic liberalisation in the early 1990s and the rapid expansion of cross-border trade and investment fundamentally altered the context in which legal services operate. As a result, foreign legal practice in India became a repeated topic of legal and policy debate. Supporters of liberalisation argued that allowing limited entry of foreign lawyers would improve professional standards, promote knowledge sharing, and strengthen India's position as a centre for international dispute resolution. Conversely, critics expressed concerns regarding the erosion of ethical standards, regulatory oversight, and the potential marginalisation of Indian advocates within their own legal market.<sup>3</sup> These competing considerations necessitated a cautious and calibrated approach to reform.

Judicial intervention has played a decisive role in shaping the contours of foreign legal practice in India. In *Lawyers Collective v Bar Council of India*, the Bombay High Court clarified that the expression 'practice of law' under the Advocates Act encompasses both litigious and non-litigious activities, thereby rejecting the argument that advisory or transactional work falls outside the scope of statutory regulation.<sup>4</sup> This interpretation was subsequently affirmed and elaborated upon by the Supreme Court in *Bar Council of India v AK Balaji*, which held that foreign lawyers are prohibited from practicing law in India unless they comply with the requirements of the Advocates Act and the Bar Council of India Rules. At the same time, the

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<sup>1</sup> Advocates Act, 1961, § 29, No. 25, Acts of Parliament, 1961 (India).

<sup>2</sup> A.K. Balaji v. Union of India, AIR 2012 MADRAS 124.

<sup>3</sup> Mahipal Singh Rana v. State of Uttar Pradesh, (2016) 8 SCC 335.

<sup>4</sup> Lawyers Collective v. Bar Council of India, (2010) 2 Mah LJ 726.

Court recognised limited exceptions, permitting foreign lawyers to advise on foreign law on a temporary ‘fly-in, fly-out’ basis and to participate in international commercial arbitration proceedings under specific circumstances.<sup>5</sup>

These judicial pronouncements laid the foundation for a structured regulatory response by the Bar Council of India. A significant shift occurred with the notification of the Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022, brought into effect in 2023 and subsequently amended in 2025. These rules marked a departure from absolute prohibition by permitting foreign lawyers and law firms to practice foreign law, international law, and international arbitration in non-litigious matters, subject to registration, reciprocity, and strict regulatory oversight. The 2025 amendments and accompanying press release further clarified the scope of permissible activities and articulated the policy rationale underpinning this controlled liberalisation.<sup>6</sup>

This paper argues that while the Bar Council of India’s 2025 regulatory framework marks a significant shift from prohibition to controlled liberalisation, it remains structurally conservative and risks undermining India’s potential as a global hub for cross-border legal services and international arbitration. The current model, characterised by rigid demarcation, reciprocity requirements, and restricted collaboration, prioritises protectionism over competitiveness. A calibrated but more functionally integrated approach is necessary to reconcile professional integrity with global market realities.

## II. CONCEPTUAL FRAMEWORK OF FOREIGN LEGAL PRACTICE

The concept of foreign legal practice occupies a significant position within contemporary legal regulation. A key regulation is the prohibition of domestic legal practice for the foreign lawyers.

### A. DISTINCTION BETWEEN DOMESTIC AND FOREIGN LEGAL PRACTICE

Domestic legal practice involves advising on and applying the laws of the host country, including representing clients before courts, tribunals, and statutory authorities. By contrast, foreign legal practice is generally confined to non-litigious activities such as advising clients on the law of the lawyer’s home jurisdiction, international treaties, and cross-border commercial

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<sup>5</sup> Bar Council of India v. A.K. Balaji, (2018) 5 SCC 379.

<sup>6</sup> Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022, Gazette of India, pt. III sec. 4 (Mar. 10, 2023) [hereinafter BCI Foreign Lawyer Rules].

arrangements. Most regulatory regimes reserve rights of audience and court appearances exclusively for locally qualified advocates, viewing litigation as an exercise of sovereign judicial authority.

One regulatory mechanism is the ‘fly-in, fly-out’ model, which allows foreign lawyers to enter a jurisdiction temporarily to advise clients on foreign law or international legal issues without establishing a permanent presence. Some jurisdictions also allow joint ventures or collaborative arrangements between domestic and foreign law firms, facilitating knowledge exchange while maintaining local accountability.<sup>7</sup>

In the Indian context, this distinction has assumed heightened significance due to the judiciary’s expansive interpretation of the term ‘practice of law’. Indian courts have consistently held that the practice of law includes not only courtroom advocacy but also non-litigious work such as giving legal opinions, drafting instruments, and participating in legal conferences.<sup>8</sup> Consequently, even advisory activities by foreign lawyers fall within the regulatory ambit of the Advocates Act, necessitating explicit permission through statutory or regulatory mechanisms.<sup>9</sup>

The conceptual framework of foreign legal practice is shaped by the interaction of sovereignty, professional ethics, globalisation, and market access. An understanding of these foundational principles is essential for analysing the evolution of India’s regulatory response and the significance of the Bar Council of India’s recent reforms.

### III. REGULATORY FRAMEWORKS SET BY THE BCI

The position of the foreign lawyers was primarily governed with the judicial pronouncements, notably *Bar Council of India v. A.K. Balaji*, although the Supreme Court acknowledged the limited permissibility for the foreign lawyers and foreign law firms and creating a basis for advising on foreign law and the fly-in, fly-out, it left substantial regulatory discretion to the BCI.<sup>10</sup> Without a formal rule-based framework, the scope, duration, and nature of the permissible foreign legal practice remained uncertain and fragmented.

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<sup>7</sup> Shriyanshi Chitransh, *Globalization and its effects on legal profession*, IPLEADERS BLOG (Jan. 08, 2021, 8:20 PM), <https://blog.ipleaders.in/globalization-effects-legal-profession/>.

<sup>8</sup> Bar Council of India v. A.K. Balaji, (2018) 5 SCC 379.

<sup>9</sup> Advocates Act, 1961, § 29, No. 25, Acts of Parliament, 1961 (India).

<sup>10</sup> Bar Council of India v. A.K. Balaji, (2018) 5 SCC 379.

## **A. EVOLUTION TO CODIFIED REGULATION**

The 2022 Rules departed from this uncertainty by codifying a structured framework for foreign lawyers and law firms. Instead of relying on case-by-case judicial determinations, the BCI established explicit definitions, eligibility criteria, procedural requirements, and enforceable limitations. A central feature of the 2022 rules is the clear and categorical demarcation between Indian Law and International Law. The Rules expressly prohibit foreign lawyers and foreign law firms from practicing Indian Law in any form, including appearing before courts, tribunals, statutory authorities, or any forum empowered to record evidence on oath. This explicit prohibition further reinforced the statutory mandate of the Advocates Act, 1961, under which the practice of Indian Law is reserved exclusively for advocates enrolled in India.<sup>11</sup> By drawing a bright line distinction, the 2022 Rules sought to eliminate interpretive overlap and protect the exclusivity of Indian advocates.

## **B. POLICY OBJECTIVES AND LEGAL DEMARCATION**

The rules for foreign lawyers and law firms introduced by the BCI have a policy rationale reflected by their reasons and objectives. The BCI sought to achieve a carefully calibrated balance between protection and openness. On one hand, the rules reaffirm the primacy of the advocates and preserve the sanctity of the Indian legal practice. On the other hand, they acknowledge the increasing need for foreign legal expertise in matters involving foreign law, cross-border transactions, and international arbitration.

Finally, the emphasis on reciprocity reflects a policy commitment to equitable professional access. The Rules are designed to ensure that any opening of the Indian legal market corresponds with comparable opportunities for Indian advocates abroad, thereby aligning liberalisation with national professional interests. The 2022 Bar Council of India Rules represent a decisive regulatory departure from uncertainty and judicial tolerance to codified, controlled engagement with foreign legal professionals.

## **IV. PRACTICE AND PROHIBITION**

Now that the policy rationale and general contours of the regulatory framework have been

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<sup>11</sup> Advocates Act, 1961, § 29, No. 25, Acts of Parliament, 1961 (India).

outlined, it is appropriate to situate the discussion within its operative and doctrinal context.

#### **A. PERMISSIBLE SCOPE OF FOREIGN LEGAL PRACTICE**

Under the International Law context, the foreign lawyers may advise on matters of international law, including public international law, private international law, treaty obligations, and transnational legal regimes. To facilitate with the international commerce engagement and cross-border legal practice, permission is given. However, the international law must not involve the interpretation and enforcement of Indian domestic law, even if the international legal obligations intersect with the Indian regulatory frameworks. The advisory work remains consultative and non-adjudicatory in nature. This includes advisory participation in international mergers and acquisitions, joint ventures, foreign investment structures, financing arrangements, and commercial contracts with a foreign governing law. Any component involving Indian law, whether contractual, regulatory, or compliance-related, must be handled exclusively by Indian advocates, ensuring a clear segregation of professional roles.<sup>12</sup>

Foreign lawyers are permitted to participate in international commercial arbitration conducted in India, subject to strict limitations. Their role is confined to matters involving foreign law, international law, or disputes with an international character, particularly where parties or governing law are foreign. They are barred from representing parties on issues that substantially involve Indian substantive or procedural law. Moreover, their participation in arbitration does not extend to court-related arbitration proceedings, such as applications under the Arbitration and Conciliation Act, 1996, which remain within the exclusive domain of Indian advocates. These limits ensure that arbitration does not become a conduit for circumventing restrictions on the practice of Indian law.<sup>13</sup>

#### **B. PROHIBITION ON PRACTICE OF INDIAN LAW**

The framework also imposes a prohibition on foreign lawyers and law firms from engaging in any kind of practice involving Indian law, regardless of whether it is transactional, advisory, or consultative.<sup>14</sup> The restriction is absolute, and it extends beyond courtroom activities and also applies equally to legal opinions, compliance advice, and any kind of interpretative work

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<sup>12</sup> BCI Foreign Lawyer Rules, rule 23.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* rule 4.

involving Indian statutes, subordinate legislations, or judicial precedents. It is designed to prevent indirect or incidental practice of Indian law by foreign lawyers or law firms under the guise of international law or foreign law advisory services.

## **V.COMPLIANCE MECHANISM**

The controlled liberalisation of foreign legal practice in India is operationalised primarily through a stringent registration, compliance, and disclosure framework administered by the Bar Council of India (BCI). It is a precondition of any foreign lawyer or foreign law firm intending to practice foreign law, international law, or international arbitration in India that they first register themselves with the Bar Council of India. The Rules have categorically proscribed an unregistered foreign legal practitioner from doing any legal work in Indian territory, either on a permanent or temporary basis. Registration is granted for a limited duration and subject to periodic renewal, allowing for ongoing regulatory oversight rather than only entry in the market. One of the characteristic features of Indian regulation is the principle of reciprocity.

### **A. REGISTRATION AND ENTRY REQUIREMENTS**

The foreign law firms applying for registration are required to provide detailed information about their ownership structure, partnership structure, professional affiliations, and credentials of individuals practicing law. It is to ensure that a transparent mechanism is employed to prevent any indirect control being exercised by unregulated entities. It also makes it easier for BCI to determine if a foreign law firm is aligning with professional standards similar to those of Indian advocates.<sup>15</sup>

Failure to comply with the rules and ethics is punishable through suspension or cancellation of the foreign law firm or lawyer's registration. The multi-tiered ethical compliance framework mirrors the BCI's endeavour to align global legal practice with national professional codes.

## **VI. CROSS-BORDER LAW FIRM COLLABORATION IN INDIA: PROMISE, PERIL AND REGULATORY BOUNDARIES**

One of the most debated issues in foreign legal entry is to what extent joint ventures or combined alliances are permitted for Indian and foreign law practices. While under the currently

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<sup>15</sup> *The evolving state of play for entry of foreign law firms in India: BCI notifies revised rules*, MAJMUDAR & PARTNERS (May 23, 2025), <https://www.majmudarindia.com/entry-of-foreign-law-firms-in-india/>.

existing BCI regime, combined practices are directly prohibited. Foreign law practices are not permitted to form any kind of partnership, profit-sharing agreement, or combined business enterprise with Indian practices. This is strictly mandated by judicial precedent in the case of *Lawyers Collective v Bar Council of India*, wherein the Bombay High Court forewarned against the possibility of indirect practice of Indian law by foreign entities as a result of integrated collaborations.<sup>16</sup>

#### **A. PERMISSIBLE MODES OF COLLABORATION**

The referral system represents the most generally accepted and viable form of cooperation within the existing legal framework. The Indian law firms are allowed to refer cases concerning international law or any other foreign law to the international law firms and vice versa. The Supreme Court, in the case of *Bar Council of India v. A.K. Balaji*, has tacitly acknowledged the legitimacy of such interactions based on referral, provided such interactions are occasional and do not lead to the establishment of a regular legal presence.<sup>17</sup> Joint seminars, academic conferences, professional training sessions, comparative research on law, and capacity-building events. In all these areas, it has been clearly indicated by the BCI that they do not constitute practicing law.<sup>18</sup>

Knowledge-based collaboration is crucial to the enhancement of the practice of law in such realms as international arbitration, cross-border merger, and acquisition deals, as well as regulation of securities and comparative commercial law. The BCI Rules do not allow sharing of brand names, management control, or a unified legal structure with foreign firms.<sup>19</sup>

#### **B. RESTRICTIONS AND REGULATORY CONCERNS**

The reasons are threefold for such a prohibition. First, the integrated structure presents the possibility of regulatory arbitrage, where foreign lawyers could indirectly affect the practice of law in India. Second, such structures present complications in terms of disciplinary oversight, particularly when acts constituting ethical violations occur across multiple jurisdictions. Third, integration threatens the service-oriented conception of legal practice enshrined in Indian legal

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<sup>16</sup> *Lawyers Collective v. Bar Council of India*, (2010) 2 Mah LJ 726.

<sup>17</sup> *Bar Council of India v. A.K. Balaji*, (2018) 5 SCC 379.

<sup>18</sup> Divyam Agarwal et al., *Liberalisation of the Indian Legal Sector: Small Step or Giant Leap?*, SCC TIMES (May 28, 2025), <https://www.sconline.com/blog/post/2025/05/28/liberalisation-of-indian-legal-sector-small-step-or-giant-leap/>.

<sup>19</sup> BCI Foreign Lawyer Rules, rule 3.

tradition. Critics see this stance making Indian law firms less competitive globally, but the BCI maintains that gradual liberalisation is better than free-for-all market entry.<sup>20</sup>

Though it maintains a restrictive stance regarding global practice, there are several areas that give substantial scope to practice international law. Law firms in India can take advantage of benefits such as international best practices, global clients, and specialised expertise through referrals and knowledge-sharing programmes. International firms can also take advantage of the growing importance of India in international arbitration and international trade. Controlled collaboration allows India to become a more arbitration-friendly jurisdiction, as it allows foreign counsel to appear in international commercial arbitration, which has been upheld in *Bar Council of India v A.K. Balaji*.<sup>21</sup>

## VII. IMPACT ON INDIAN LAW FIRMS AND LAWYERS

With the guidelines set by the BCI, the competition dynamics have been changed in the Indian legal market. Traditionally, Indian firms have operated within a largely closed ecosystem for domestic legal services, with foreign involvement limited to referral partnerships and transient fly-in engagements. Although, the formal entry mechanism is restricted to non-litigious work, it creates a sense of pressure on the Indian firms in high-end transactional matters or cross-border disputes. At the same time, the reciprocity requirement and strict compliance conditions aim to protect the domestic practitioners by ensuring that foreign participation does not undermine the core of the areas of Indian law.<sup>22</sup> The BCI's insistence on absolute exclusion from Indian law, even in advisory contexts involving hybrid transactions, reflects an overbroad interpretation of professional protection. In practice, modern cross-border transactions rarely operate in silos of "foreign" and "domestic" law, rendering such rigid demarcation commercially inefficient.

### A. MARKET IMPACT AND COMPETITION

The regulatory framework by the BCI serve greater mobility for Indian legal professionals, through structured collaboration with registered foreign practitioners. Conversely, the

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<sup>20</sup> *Id.*

<sup>21</sup> *Bar Council of India v. A.K. Balaji*, (2018) 5 SCC 379.

<sup>22</sup> ANI, *BCI Notifies Revised Regulations Permitting Foreign Lawyers, Law Firms to Practice in India*, ECONOMIC TIMES (May 14, 2025), <https://legal.economictimes.indiatimes.com/news/law-policy/bci-notifies-revised-regulations-permitting-foreign-lawyers-law-firms-to-practice-in-india/121168756>.

compliance requirements and reciprocity may limit the mobility of foreign talent in India, prompting the Indian lawyers to fill the advisory and arbitrary roles.

On one hand, there will be an increased foreign participation in non-litigious work and arbitrational practice segments, which could expand the range of legal work available domestically, offering exposure to global legal standards and enabling the young lawyers to build expertise in areas which were available only to a select few. On the other hand, stringent procedural requirements for foreign lawyers and law firms may slow the pace of foreign engagement, reducing the frequency of knowledge transfer and direct mentorship, resulting in uneven access to international practice opportunities. The regulatory framework's explicit allowance on these domains for foreign participation, certainly, will catalyse upskilling among Indian practitioners who seek to collaborate or compete effectively, promoting advancements in legal research, transactional structuring, and arbitration strategy.<sup>23</sup>

In corporate legal practice, the amended rules are poised to reshape client engagement models and service delivery structures. Indian corporate clients engaging in cross-border mergers, acquisitions, and financing transactions may now have the option of accessing foreign legal expertise within India's regulatory framework, especially for matters governed by foreign or international law. The need for strategic partnerships and collaboration with Indian law firms to address Indian law components of corporate transactions.<sup>24</sup>

## VIII. COMPARATIVE ANALYSIS

The regulatory framework for foreign lawyers and law firms in different countries varies little from India; for example, Singapore.

### A. GLOBAL REGULATORY MODELS

Subject to licensing and regulating conditions, foreign law firms and lawyers registered in Singapore may provide foreign law-related legal services in or from Singapore. Singapore's framework allows actual appearance and conduct of legal proceedings (in the SICC) by registered foreign lawyers, subject to conditions. This is broader than India's prohibition of

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<sup>23</sup> BCI Foreign Lawyer Rules.

<sup>24</sup> Bhavini Mishra, *BCI Amends Rules, Restricts Foreign Lawyers to Non-Litigious Matters*, BUSINESS STANDARD (May 14, 2025), [https://www.business-standard.com/india-news/bar-council-allows-foreign-lawyers-to-practice-in-india-on-reciprocity-125051401507\\_1.html](https://www.business-standard.com/india-news/bar-council-allows-foreign-lawyers-to-practice-in-india-on-reciprocity-125051401507_1.html).

foreign lawyers in domestic courts. Foreign practices may operate through foreign law practices, joint ventures, or qualifying foreign law practices, but they cannot practice Singapore law generally without specific qualifying conditions.<sup>25</sup>

Moving on to the United Kingdom (UK), in England and Wales, foreign qualified lawyers can register with the Solicitors Regulation Authority (SRA) as Registered Foreign Lawyers (RFLs) under the Courts and Legal Services Act, 1990. An RFL is a foreign lawyer who is not admitted as a solicitor or barrister in England or Wales and registered with the SRA, enabling them to work within the UK legal field under specific conditions. The UK offers a broader scope of services, including aspects of local law advice as long as they are registered and compliant with the SRA rules, while some aspects, are reserved such as advocacy, probate, and conveyancing remains restricted.<sup>26</sup>

In Hong Kong, the foreign legal practice is governed by Part IIIA of the Legal Practitioners Ordinance (Cap. 159) and the Foreign Lawyers Registration Rules. Unless admitted locally, foreign lawyers cannot practice local law, but they are free to practice international law or foreign law as long as they are registered.<sup>27</sup> A foreign law firm may establish a presence in Hong Kong if registered, and can practice the laws of the jurisdiction in which its lawyers are qualified. Under regulated terms, associations between foreign firms and local firms are permitted.<sup>28</sup> Similar to India, Hong Kong sets a clear boundary between local law practice and foreign law practice, and it allows foreign presence only if they are registered. The registered foreign lawyers may provide cross-border legal services.<sup>29</sup>

Japan regulates foreign lawyers and law firms under the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers.<sup>30</sup> If the foreign lawyers meet experience and qualification requirements, and are approved by the Minister of Justice and registered with the Japan Federation of Bar Associations (JFBA). Japan's system similarly distinguishes

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<sup>25</sup> *Types of Licence or Registration*, MINISTRY OF LAW, <https://www.mlaw.gov.sg/law-practice-entities-and-lawyers/licensing-or-registration-of-law-practice-entities/types-of-licence-or-registration/> (last visited Apr. 11, 2026).

<sup>26</sup> *Registered Foreign Lawyers*, SOLICITORS REGULATIONS AUTHORITY (Feb. 13, 2025), <https://media.sra.org.uk/solicitors/guidance/registered-foreign-lawyers/>.

<sup>27</sup> *Foreign Lawyers*, LAW SOCIETY OF HONG KONG <https://www.hklawsoc.org.hk/en/Maintain-Standards/Practice-Standards/Foreign-Lawyers> (last visited Jan. 18, 2026).

<sup>28</sup> Heidi Chu, *Establishment of a Registered Foreign Law Firm in Hong Kong*, HONG KONG LAW (Jan. 2025), <https://www.hk-lawyer.org/content/establishment-registered-foreign-law-firm-hong-kong>.

<sup>29</sup> Foreign Lawyers, *supra* note 27.

<sup>30</sup> Law No. 66 of 1986 (Japan).

between foreign law advice and domestic law practice; foreign lawyers cannot engage in domestic litigation or practice Japanese law. Registered foreign lawyers must operate under regulated titles and professional rules, displaying clear statutory demarcation of their practice.<sup>31</sup>

## **B. LESSONS FOR INDIA**

The UK's RFL model offers greater clarity on what services foreign lawyers can offer and under what conditions, potentially reducing regulatory uncertainty. Such clarity could benefit Indian stakeholders by preventing ambiguity over permissible practice areas.<sup>32</sup> Hong Kong's model of allowing associations and structured presence through registered firms indicates how collaboration between foreign and local firms can enhance service offerings without diluting domestic practice protections.<sup>33</sup>

The SRA and Singapore models also incorporate mobility aspects, such as registration based on qualifications and experience, which help recognise foreign expertise while preserving local legal standards. A similar calibrated recognition mechanism could allow Indian lawyers to expand internationally based on reciprocal recognition.<sup>34</sup>

Comparative regimes in Singapore, the UK, Hong Kong, and Japan illustrate that regulated entry of foreign legal practitioners can be balanced with protective measures that maintain the integrity of domestic legal practice. India's restrictive stance may inadvertently weaken its ambition to emerge as a global arbitration hub. Jurisdictions such as Singapore and Hong Kong have leveraged liberalised foreign lawyer participation to attract international disputes, whereas India's model risks diverting high-value arbitration work to more facilitative regimes. Key lessons for India include the benefits of tiered registration systems, explicit practice boundaries, and structured integration with local firms, which could enhance global participation while protecting Indian advocates' core professional domain.

## **IX. CHALLENGES IN IMPLEMENTATION**

While the rule permits that foreign lawyers and law firms can advise on foreign law or international law, the precise boundary between such practice and activities that implicate

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<sup>31</sup> *Id.*

<sup>32</sup> Registered Foreign Lawyers, *supra* note 26.

<sup>33</sup> Chu, *supra* note 28.

<sup>34</sup> Types of Licence or Registration, *supra* note 25.

Indian legal norms remains unclear in several aspects. While reciprocity is normatively appealing, its practical enforcement remains questionable. Given the asymmetry in global legal markets, Indian lawyers often face structural and licensing barriers abroad, making reciprocity more symbolic than functionally equivalent. Moreover, operational definitions such as what activities constitute “practice of foreign or international law” versus indirect practice of Indian law have not been exhaustively articulated in implementing forms and guidance documents, leaving room for interpretative disputes and inconsistent enforcement. For example, ambiguities persist regarding whether advice that blends international legal norms with elements of Indian regulatory compliance falls within permitted practice.<sup>35</sup>

#### **A. ENFORCEMENT AND INSTITUTIONAL LIMITATIONS**

Effective enforcement of the framework poses significant administrative challenges. The Bar Council of India (BCI) must monitor compliance across a distributed array of firms, foreign and domestic, to ensure that foreign lawyers do not exceed their permitted activities. Instances of unregistered collaborations between Indian and foreign law firms, such as joint branding, Swiss Verein structures, or referral networks, have already prompted BCI warnings, citing risks that such arrangements may amount to the practice of law in India by foreign entities in disguise. The fact that the BCI has issued such warnings and show-cause notices to entities suspected of violation underscores the difficulties in identifying and prosecuting non-compliance without detailed regulatory surveillance.<sup>36</sup>

The BCI has cautioned against unauthorised or unregistered collaborations, warning that these could be construed as indirect practice of Indian law and trigger disciplinary action under both the Rules and the Advocates Act, 1961. Monitoring cross-border collaborations between India and foreign law firms brings in a lot of enforcement challenges, such as a regulator monitoring these collaborations not only has to deal with ownership or joint ventures but also market conduct, branding, public communications, and client representations, which requires a lot of

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<sup>35</sup> Ralph C. Voltmer & Ranganath Sudarshan, *Bar Council of India's "Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2023"*, COVINGTON & BURLING LLP (Mar. 31, 2023), <https://www.cov.com/-/media/files/corporate/publications/2023/03/bar-council-of-indias-rules-for-registration-and-regulation-of-foreign-lawyers-and-foreign-law-firms-in-india-2023.pdf>.

<sup>36</sup> Satya Prakash, *BCI Warns Against Unauthorised Collaborations Between Indian and Foreign Law Firms*, THE TRIBUNE (Oct. 22, 2025), <https://www.tribuneindia.com/news/india/bci-warns-against-unauthorised-collaborations-between-indian-and-foreign-law-firms/>.

regulatory capacity.<sup>37</sup>

The BCI must reconcile the new regulatory regime with the foundational statutory principle that only Indian advocates may practice Indian law. The Advocates Act, 1961 and the professional conduct rules of limited advertising, solicitation, and public representations by advocates.<sup>38</sup> The rules for foreign lawyers necessarily entail disclosures, registrations, and public listings is not harmonised with the aforesaid ethical constraints. Moreover, the Supreme Court's reaffirmation that foreign firms cannot indirectly do what they are restricted to do under Indian law highlights this interpretative challenge, particularly as complex cross-border transactions blend with legal regimes.<sup>39</sup>

The rules for the foreign lawyers in India's legal ecosystem have a regulatory challenge, the capacity constraints of the BCI itself, in terms of specialised human resources, monitoring infrastructure and adjudicatory mechanisms, and compound implementation issues. Substantial institutional resources and procedural clarity are needed for ensuring ongoing compliance. The implementation is also hindered by other factors, such as definitional ambiguity and interpretative tensions with existing regulatory and statutory instruments. These implementation challenges expose the need for a greater alignment between the foreign lawyer regime and foundational legal practice norms under Indian law.

## X. THE ROAD AHEAD

For better governance of foreign law firms and lawyers includes clarification and refinement of key regulatory definitions. Clear statutory or rule-based definitions would reduce interpretative uncertainty for both foreign law firms and Indian practitioners; the need is underscored by reported concerns stating that ambiguous wording has contributed to enforcement challenges around collaborations and joint branding.<sup>40</sup>

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<sup>37</sup> Bhavini Mishra, *BCI Warns Law Firms Against Foreign Tie-Ups, Clarifies Cross-Border Limits*, BUSINESS STANDARD (Oct. 22, 2025), [https://www.business-standard.com/india-news/bci-warns-law-firms-against-foreign-tieups-cross-border-practice-limits-125102200850\\_1.html](https://www.business-standard.com/india-news/bci-warns-law-firms-against-foreign-tieups-cross-border-practice-limits-125102200850_1.html).

<sup>38</sup> Advocates Act, 1961, § 29, No. 25, Acts of Parliament, 1961 (India).

<sup>39</sup> Express Web Desk, *Bar Council of India Clarifies Stance on Collaborations Between Indian, Foreign Law Firms After Retracting Earlier Press Release*, INDIAN EXPRESS (Oct. 22, 2025), <https://indianexpress.com/article/legal-news/bar-council-of-india-clarifies-stance-on-collaborations-between-indian-foreign-law-firms-after-retracting-earlier-press-release-10320343/>.

<sup>40</sup> *Id.*

## A. REGULATORY CLARIFICATION

Cross-border collaborations between Indian and foreign law firms should be prioritised. Collaborative arrangements are allowed under the framework, subject to registration and compliance, yet joint branding, unregistered strategic alliances, Swiss Vereins and referral networks have prompted regulatory warnings and notices from the Bar Council of India. Client awareness and market confidence will immensely increase in legitimate cross-border engagement if mandating pre-registration disclosures, standardised governance criteria, and public transparency requirements for any Indian-foreign collaboration.<sup>41</sup> With clear boundaries, effective monitoring over defined periods would result in incremental liberalisation while protecting core professional domains. A calibrated approach like this would align regulatory evolution with structural learning rather than abrupt market shifts.

Effective implementation and enforcement of the Rules depend on the regulatory capacity of the Bar Council of India and related authorities. Periodic guidelines and interpretative notes to supplement the core Rules, addressing regulatory ambiguities and reducing reliance on ad hoc clarifications proactively.

## B. CAPACITY BUILDING AND STRATEGY

Finally, promoting skill development among Indian lawyers in cross-border transactional and international arbitration areas is essential to maximise the benefits of liberalisation. Encouraging participation in global legal forums and international professional associations would further support capacity building and integrate Indian legal talent into global practice networks.

These policy recommendations, such as clarified definitions, transparent collaboration frameworks, phased liberalisation, strengthened regulatory capacity, and targeted professional can bring in a balanced legal market in India. These reforms can bridge the gap between policy intent and practical implementation and enforcement, fostering a robust, competitive, and internationally integrated legal service. Structured access to global legal expertise and opportunities, with preservation of regulatory imperatives of protecting Indian advocates, should be the ultimate goal.

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<sup>41</sup> Satya, *supra* note 37.

## **XI.CONCLUSION**

This paper has examined the evolving Rules governing the entry and operation of foreign lawyers and law firms in India, with a focus on the Bar Council of India's amended rules of 2025 and subsequent guidelines.

The analysis further reinforces the need for a calibrated yet progressive approach to liberalisation. Limiting exposure to global practices and constraining the growth of international arbitration and cross-border transactional work in India may occur due to absolute insulation of the Indian legal market. An evidence-based opening, supported by clear definitions, robust regulatory oversight, and transparent collaboration norms, emerges as the most sustainable path forward. Such an approach preserves the primacy of Indian advocates in domestic legal practice while gradually expanding the scope for international engagement in a controlled and accountable manner.

India signals its ambition to become a credible centre for international dispute resolution and complex commercial transactions. Making this ambition come true requires more than formal or statutory rulemaking; it demands institutional capacity, upskilling of Indian lawyers, and regulatory coherence. Investment in legal infrastructure and human capital can lead to a balanced liberalisation framework, which can further enhance India's attractiveness as a jurisdiction that combines regulatory integrity with global openness. India can move toward a model that protects domestic professional interests while asserting a meaningful and competitive presence in the international legal economy.