

# PEEL-OFF LAWYERS: LEGAL PROFESSIONALS IN INDIA'S CORPORATE LAW FIRM SECTOR

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*This study is about hierarchy within the legal profession – how it presents itself, how it is retained, and how it is combated. The socio-legal literature on this subject is rich, with many roots tracing back to Professor Marc Galanter's famous early 1970s article on the 'Haves' and 'Have-Nots.' Galanter's piece and the work of those influenced by him rightly suggest that resources – institutional, financial, and demographic – contribute to whether lawyers are, and remain as, part of the 'Haves.' Yet, while resources of course greatly matter, as this study will argue other forces are significant as well. One set, in particular, relates to what the social-psychology literature has termed mobbing – a phenomenon that contributes to the reinforcing of hierarchy through certain aggressive and passive tactics that those with power use to consolidate their reigns and hinder the upward mobility of the employees beneath them. In the setting of the legal profession, the result can be an environment where 'Have-Not' lawyers within an office are commonly left to feel insecure, powerless, and stuck in the legal employment positions in which they find themselves.*

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*To evaluate how resources and mobbing interact, this study returns to the place from where Galanter’s original inspiration for the ‘Haves’ article came: India. The results of a multi-year ethnography are presented on the Indian corporate bar. Since India liberalized its economy in 1991, numerous Indian corporate law firms have thrived, even post-2008. But often steep professional pyramids exist within these firms – perpetuated by those with power exerting a combination of resource-advantages and mobbing-techniques – that can leave lower-level lawyers feeling excluded from this success. To combat this hierarchical status quo, unhappy lawyers are increasingly peeling-off to start their own new law firm enterprises. Peel-off lawyers are thus seeking to become the new ‘Haves.’ However, the goal for peel-off lawyers is not solely to earn higher incomes but also to create environments that are more democratic, transparent, and humane. As this study argues, such opportunities are now possible because of a more liberal, globalized economy, and given the commitment to greater egalitarian norms, this development is indeed welcome, especially as the next generation of corporate lawyers emerges within India.*

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## I. INTRODUCTION

For students and scholars of socio-legal studies, Professor Marc Galanter's 1974 "Why the 'Haves' Come-Out Ahead"<sup>1</sup> remains a seminal article in the literature. The 'Haves' piece has been lauded, evaluated, taught in classrooms, and deliberated extensively at conferences and symposiums for decades.<sup>2</sup> Galanter's article, in short, sought to provide a conceptual framework for understanding how those who possessed resources and experiences fared better in litigation than those who did not.<sup>3</sup> Moreover, his notions of "one-shotters" versus "repeat players" have become familiar terms of art within the literature, and his discussions of how lawyer-sophistication affects client-chances of success in court are now well-accepted, 'Galanter-invoked' propositions.<sup>4</sup>

Galanter's 'Haves' article implicates the American system of justice in its analysis, and American law and social science scholarship has been directly impacted by this research. But the real source of inspiration for the piece came from Galanter's extensive experience in India. Prior to writing the article from the confines of his office at Yale Law School where he was on fellowship, Galanter had spent much of the 1960s in India, researching legislation that sought to improve the lives of the country's most vulnerable and deprived population of untouchables, or *Dalits*.<sup>5</sup> It was through his Indian experience that Galanter's early worldview towards law and social justice was shaped; his engagement with lawyers, clients, judges, and the courts in India served as the basis for his belief that while the 'Haves' retain seemingly insurmountable advantages over the 'Have-Nots,' "utopian"<sup>6</sup> reforms ought to be pursued in the hopes that real changes to the status quo could emerge.

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1 See Marc Galanter, *Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change*, 9 L. & SOC'Y REV. 95 (1974).

2 The referencing and literature review of the 'Haves' article appears later in this article.

3 See generally Galanter, *supra* note 1.

4 *Id.*

5 See Marc Galanter, *Farther Along*, 33 L. & SOC'Y. REV. 1113, 1114 (1999).

6 See Galanter, *supra* note 1, at 144, 149.

In 1999, the journal that first published the ‘Haves’ article, *Law and Society Review* (LSR), celebrated the twenty-fifth anniversary of the Galanter-piece.<sup>7</sup> That issue of the LSR brought together luminaries in the field who each discussed the valuable contributions of the article. A few years later, a book edited by Herbert Kritzer and Susan Silbey did something similar.<sup>8</sup> In these commemorations as well as in scores of other works, scholars have sought to discern whether Galanter’s thesis applies in a range of settings, both within the United States and abroad.<sup>9</sup> Within much of this literature an underlying premise is that the ‘Haves’ are strong because they are perched in positions of power within existing hierarchical pyramids. But another question inspired by the Galanter-article arises: *How* are the ‘Haves’ able to enjoy such privilege in the first place and thereby continue their dominance over time?

For those clients who constitute the ‘Haves,’ Galanter argued that one reason was because they had resources to hire lawyers. ‘Haves-clients’ could use lawyers (particularly those with specialized skills) to be guardians of their interests. As Galanter noted, such clients would strategically employ lawyers to “structure the transaction, play the odds, and influence rule-development and enforcement policy.”<sup>10</sup> Otherwise put, lawyers were vigilant surrogates for those who they represented on a regular basis.<sup>11</sup>

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7 See L. & SOC’Y REV. Volume 33, Issue #4, 1999.

8 See HERBERT M. KRITZER & SUSAN SILBEY, IN LITIGATIONS DO THE “HAVES” STILL COME OUT AHEAD? (2003).

9 For examples of such studies, see *id.* and *supra* note 7. Also see symposium edited by Jayanth K. Krishnan and Stewart Macaulay, *Toward the Next Generation of Galanter-Influenced Scholars: The Reach of a Law-and-Society Founder*, 71 L. & CONTEMPORARY PROB. (1998).

10 See Galanter, *supra* note 1, at 118.

11 Although, it is important to note that Galanter recognizes that lawyers in this situation will not blindly follow their clients’ wishes. Lawyers, he argues, need to be protective of their own socio-economic positions. This is because “lawyers have a cross-cutting interest in preserving complexity and mystique so that client contact with this area of law is rendered problematic. Lawyers should not be expected to be proponents of reforms which are optimum from the point of view of the clients taken alone. Rather, we would expect them to seek to optimize the clients’ position without diminishing that of lawyers.” *Id.*

The luxury of being part of the ‘Haves,’ of course, was not restricted to clients. Lawyers too could be classified as such. Galanter recognized this point,<sup>12</sup> but even as he recently noted, it played only a minor role in his article.<sup>13</sup> Therefore, the aim of this study is to build upon Galanter’s insights in order to focus on how some lawyers can become and remain as the ‘Haves’ while others within the profession struggle as the ‘Have-Nots.’<sup>14</sup>

Section One of this study reviews the literature on this subject. As will be seen, there is variation as to what qualifies lawyers as being part of the ‘Haves’ regime. For example, depending upon context, ‘Haves’-lawyers may possess one or more of the following: personal wealth, government connections, politically powerful and rich clients, or an affiliation with an economically strong, high-status firm.<sup>15</sup> The way lawyers gain access to – and then eventually power over – these assets and contacts frequently depends, not surprisingly, on how talented they are. But other demographic, background, and institutional factors matter as well, which Section One documents.

Section Two introduces a second literature into the discussion, which this study contends needs greater consideration by those who examine how – at least in terms of the legal profession – the ‘Haves’ are able to retain their positions of power within their professional circles. The social psychology literature is referenced in this section, and as a review of this material shows, a set of entrenched norms and behavioural patterns exercised by those with privilege also tends to contribute to the reification of the status quo. As scholars from this field have found, certain aggressive and passive tactics are often employed by power-brokers as a means of consolidating their reigns and hindering the upward

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12 Indeed, Galanter acknowledges this point himself, noting that lawyers “are themselves RPs [repeat players].” *Id.* at 117.

13 Author conversation with Galanter (Sept. 28, 2011).

14 For two studies that have explored similar lines of inquiry, see Shauhin Talesh, *How the ‘Haves’ Come Out Ahead in the Twenty-First Century*, DEPAUL L. REV. (forthcoming 2013); Robert Gordon, *How the ‘Haves’ Stay Ahead: The Legal System’s Protection of Oligarchy*, DEPAUL L. REV. (forthcoming 2013).

15 It is conceded here that a firm with high status or prestige may not necessarily have a high, strong, or positive reputation. This point is discussed further in Section One. Further, the sources that discuss this point will be noted in Section One.

mobility of those beneath them. The result is a climate where the ‘Have-Nots’ are commonly left to feel insecure, powerless, and stuck in the employment positions in which they find themselves. In *Bourdieuian* terms, the ‘Haves’ possess and wield a type of valuable capital that greatly advantages them within this context.<sup>16</sup>

Section Three then moves to an examination of whether this evidence found within the social psychology literature applies to a legal profession setting. With the fortieth anniversary of Galanter’s publishing the ‘Haves’ manuscript soon approaching,<sup>17</sup> it seems most appropriate to return to the legal environment where he gained his first experiences on this subject: India. Relying on ethnographic and interview data collected from the field during 2010, 2011, and 2012, this section proposes to examine the corporate sector of the Indian legal profession.<sup>18</sup>

To close observers of the Indian bar, the selection of this sector will be logical. Since India liberalized its economy in 1991, corporate law firms have garnered great attention from domestic and international clients, academics, and the media.<sup>19</sup> In particular, equity partners within the elite firms have

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16 A review of these findings will be discussed in Section Two. *See also* PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGMENT OF TASTE* (1984); Pierre Bourdieu, *The Market of Symbolic Goods*, 14 *POETICS* 13 (1985); Pierre Bourdieu, *The Forms of Capital*, in *HANDBOOK OF THEORY AND RESEARCH FOR THE SOCIOLOGY OF EDUCATION* (John G. Richardson, ed. 1986). Note, on the interaction and importance of justice and social groups, also see TOM R. TYLER AND STEVEN L. BLADER, *COOPERATION IN GROUPS: PROCEDURAL JUSTICE, SOCIAL IDENTITY, AND BEHAVIORAL ENGAGEMENT* (2000).

17 The article was published in 1974, but the writing was completed three years earlier, as Galanter was not able to find a publisher for the manuscript between 1971 and 1974. Author conversation with Marc Galanter, (Sept. 28, 2011).

18 More on the methodology will be explained in Section III. Namely, some of the interview and ethnographic data on the Indian corporate bar was gathered during the course of separate research projects that led to respective publications in their own right. These publications include: Jayanth K. Krishnan, *The Joint Law Venture: A Pilot Study*, 28 *BERKELEY J. INT’L. L.* 431 (2010); Jayanth K. Krishnan & C. Raj Kumar, *Delay in Process, Denial of Justice: The Jurisprudence and Empirics of Speedy Trials in Comparative Perspective*, 42 *GEO. J. INT’L. L.* 747 (2011); Jayanth K. Krishnan, *Globetrotting Law Firms*, 23 *GEO. J. LEGAL ETHICS* 57 (2010).

19 *See generally* Krishnan, *Globetrotting Law Firms*, *supra* note 18.

reaped enormous financial gain.<sup>20</sup> Liberalization has further enhanced the power of these lawyers already at the higher-end of the pyramid.

At the same time, of course, not all Indian corporate lawyers can be part of the 'Haves.' Indeed many feel frustrated by the long hours they work, the low pay they receive, and the limitations of upward mobility. With liberalization and the continuing globalization of the Indian economy, though, these unhappy lawyers see opportunities for bettering their economic lots. Increasing numbers have made an affirmative decision to break from their current employers – usually law firms but sometimes corporate counsel in-house offices or other settings<sup>21</sup> – in order to create a new set of circumstances in hopes of achieving greater professional satisfaction. Such *peel-off lawyers* – the focus of this study – aspire to have more institutional security and more resources. In Galanter-terms, peel-offs wish to be part of the 'Haves.'<sup>22</sup>

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20 *Id.*

21 On the corporate counsel point, *see most recently*, Kian Ganz, SRGR Senior Associate, Videocon Counsel Start Up Corporate-IP Firm in Noida, GK, *LEGALLY INDIA* (Aug. 2, 2012), <http://www.legallyindia.com/201208022992/Law-firms/srgr-senior-associate-videocon-counsel-start-up-corporate-ip-firm-in-noida-gk>. In addition, lawyers have been known to peel-off from foreign law firms and return to India, but in these cases the interviews reveal it is more for a combination of personal reasons (a desire to go home) and professional opportunities (a desire to work in a relatively more vibrant market) rather than frustration at the foreign law firm itself. Less commonly found however, at least in data collected for this study, are lawyers graduating from educational institutions – within India or abroad – and directly starting up corporate law firms of their own.

22 For a recent piece on start-up firms, in which the journalist interviewed the author, *see* Kian Ganz, *Asking Clients: Can Small Legal Start-Ups Compete with the Big Boys? And Do You Have to Risk Your Neck?* *LEGALLY INDIA* (Aug. 12, 2012), <http://www.legallyindia.com/201208133008/Analysis/asking-clients-can-small-legal-start-ups-compete-with-the-big-boys-and-do-you-have-to-risk-your-neck>. For a discussion on the role of globalization and the changing nature of India's legal profession, *see* David B. Wilkins and Mihaela Papa, *Globalization, Lawyers, and India: Toward a Theoretical Synthesis of Globalization Studies and the Sociology of the Legal Profession*, 18 *INT'L. J. LEGAL PROFESSION* 175 (2012). To be sure, there are lawyers within elite law firms who have strong feelings of economic and professional frustration, who do not risk openly challenging the presiding authority as the fear of adverse consequences is simply too high. This point will be explored in Section III. At times, these lawyers employ what James Scott has famously referred to as "weapons of the weak" – or the use of more implicit means of resistance – to challenge those who subordinate them. *See* JAMES SCOTT, *WEAPONS OF THE WEAK: EVERYDAY FORMS OF PEASANT RESISTANCE* (1985). Also *see* TYLER AND BLADER, *supra* note 16. Yet for most of these recipients,

But as this Section will additionally argue, peel-off lawyers are also often motivated to leave their former environments because of an existing, debilitating hierarchical culture they perceive as being reified by those with power. As the evidence will suggest, there is a set of forces at work – exemplified by the social psychology literature – that reinforces this steep hierarchical ethos in two ways. First, actions can be taken by power-holders that are obvious and intimidating – such as overt bullying, harassment, or verbal degradation. Or second, the actions can be more indirect in nature, which also fosters a sense of superiority by the ‘Haves’ and an inadequacy by the ‘Have-Nots.’ In this latter circumstance, it is not unusual to find the former engaging in systematic behaviour such as constant name-dropping, self-aggrandizement, repeated references to prestigious ties, games of intrigue, and other passively insulting actions that breed insecurity by those who regularly feel and already are beholden. It is this constellation of actions that contributes to disillusionment and motivates the disaffected lawyers to peel-off.

Yet that there exists this peel-off phenomenon, as this article will argue, is indeed a positive development. Emerging is a new and exciting corps of legal professionals within India who are aggressively competing in the legal services space and are making their mark within this sector. However, peel-offs are not necessarily ‘one-offs.’ A group of peel-off lawyers who form a firm, for instance, can and sometimes do become much like the lawyers from whom they sought to distance themselves, thereby prompting another round of peel-offs. The result is even more players entering the evolving and rapidly growing Indian legal services sector. And while there are various challenges that confront peel-offs, there remains among them a genuine belief that the presence of a more liberal, global Indian economy now offers greater professional opportunities that were previously not available.

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they effectively ‘lump it.’ For a range of scholars who have written on this point, see: David M. Engel, *Lumping it as Default in Tort Cases: The Cultural Interpretation of Injury and Causation*, 44 LOY. L.A. L. REV. 33 (2010); see also William L.F. Felstiner, *Influences of Social Organization on Dispute Processing*, 9 LAW & SOC’Y REV. 63 (1974); Richard Abel, *The Real Tort Crisis: Too Few Claims*, 48 OHIO ST. L.J. 443, 447 (1987). For much older work on this concept, see Felice J. Levine, & Elizabeth Preston, *Community Resource Orientation among Low Income Groups*, WIS. L. REV 80 (1970); Leon Mayhew & Albert J. Reiss Jr., *The Social Organization of Legal Contacts*, 34 AM. SOC. REV. 309 (1969).



## II. LAWYERS AS THE HAVES – AND THE HAVE-NOTS

As stated, with the focus on clients (particularly those who are litigants) the Galanter-article only looked cursorily at how lawyers can be part of the 'Haves.' Still, for Galanter these privileged practitioners tended to have high socio-economic status, elite pedigrees, affiliations with prestigious firms, and clients who were wealthy.<sup>23</sup> Conversely, 'Have Not' lawyers were likely to be "drawn from lower socioeconomic origins, to have attended local, proprietary or part-time law schools, to [have] practice[d] alone rather than in large firms, and to [have] possess[ed] low prestige within the profession."<sup>24</sup> Furthermore, Galanter also argued that 'Haves'-lawyers usually had ample networks and connections that they used to enhance their professional standing.<sup>25</sup> Subsequent research on the Chicago bar in 1975 confirmed many of these intuitions.<sup>26</sup>

Galanter tapped into a conversation that earlier scholars had been addressing for some time.<sup>27</sup> In 1959, Dan Lortie found that professional environment – even more than where one attended law school – contributed most to a lawyer's reputation and standing.<sup>28</sup> Jerome Carlin drew a similar conclusion in his study of solo-practicing lawyers. Carlin documented how because they lacked resources, struggled to earn decent livings, and had weak skills-training and often little talent, solo-practitioners ultimately cut corners and engaged in disreputable ethical practices, which thereby

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23 See Galanter, *supra* note 1, at 115-19.

24 *Id.* at 116.

25 *Id.* at 115-19.

26 See two studies: JOHN P. HEINZ & EDWARD O. LAUMANN, CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR (1982); and John P. Heinz, Robert L. Nelson, Edward O. Laumann, & Ethan Michelson, *The Changing Nature of Lawyers' Work: Chicago in 1975 and 1995*, 32 L. & SOC'Y. REV. 751 (1998). For an excellent literature review of this topic, including a discussion of these two works, see Herbert M. Kritzer, *From Litigators of Ordinary Cases to Litigators of Extraordinary Cases: Stratification of the Plaintiff's Bar in the Twenty-First Century*, 51 DePaul L. REV. 219, 225-226 (2001).

27 The scholar Abraham Blumberg observed a similar point in his study of prosecutors and defence lawyers, noting that such lawyers with high professional standing exploited their connections and influence – among allies and adversaries alike. See ABRAHAM BLUMBERG, CRIMINAL JUSTICE (1967), also cited by Galanter, *supra* note 1, at 115, 118. See also Abraham Blumberg, *The Practice of Law as a Confidence Game*, 1 L. & SOC. REV. 15 (1967).

28 See Dan C. Lortie, *Laymen to Lawmen: Law School, Careers, and Professional Socialization*, 29 HARV. EDUC. REV. 352 (1959).

entrenched their poor socio-economic standing.<sup>29</sup> Other studies by scholars such as Ladinsky,<sup>30</sup> Handler,<sup>31</sup> and Smigel<sup>32</sup> also highlighted how stratification of the legal profession was directly tied to structural factors, including employment location, sources of business, and closeness to government officials.<sup>33</sup>

If not explicitly stated, the message intimated throughout these works was that the hierarchy present within the legal profession was often intentionally and purposively perpetuated by those with power. Scholars in subsequent years further pursued this point. Scholarship emerged describing how both aggressive and passive anti-Semitism kept Jewish lawyers from upward mobility within historically Protestant-dominated firms for several decades during the twentieth century.<sup>34</sup> Detailed and differing perspectives showed how various forms of gender dynamics affected – and frequently hampered – the progress of aspiring female lawyers within their employment settings.<sup>35</sup> Jo Dixon and Carol Serron, for example,

- 29 See JEROME CARLIN, *LAWYERS ON THEIR OWN* (1962). For a further discussion of Carlin's work and a series of other studies that followed it, see Leslie C. Levin, *Preliminary Reflections on the Professional Development of Solo and Small Law Firm Practitioners*, 70 *FORDHAM L. REV.* 847, 847-56 (2001).
- 30 Jack Ladinsky, *Careers of Lawyers, Law Practice and Legal Institutions*, 28 *AM. SOC. REV.* 47 (1963).
- 31 JOEL F. HANDLER, *THE LAWYER AND HIS COMMUNITY: THE PRACTICING BAR IN A MIDDLE-SIZED CITY* (1967).
- 32 ERWIN O. SMIGEL, *THE WALL STREET LAWYER: PROFESSIONAL ORGANIZATION MAN?* (1969).
- 33 On this point of stratification, Galanter notes this observation as well. See Galanter, *supra* note 1, at 116 n. 50. For more recent studies, see MILTON C. REGAN JR., *EAT WHAT YOU KILL: THE FALL OF A WALL STREET LAWYER* (2005), and see, Elizabeth Chambliss, *Measuring Law Firm Culture*, in *LAW, POLITICS, AND SOCIETY: LAW FIRMS, LEGAL CULTURE, AND LEGAL PRACTICE* (ed., Austin Sarat 2010).
- 34 On this point, see, e.g., JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* (1976); HEINZ & LAUMANN, *supra* note 26; Eli Wald, *The Rise and Fall of the WASP and Jewish Law Firms*, 60 *STAN. L. REV.* 1803 (2008); Lawrence E. Mitchell, *Gentlemen's Agreement: The Anti-Semitic Origins of Stockholder Litigation*, 36 *QUEEN'S L.J.* 71 (2010); see also Ronit Dinovitzer, *Social Capital and Constraints on Legal Careers*, 40 *L. & SOC'Y. REV.* 445 (2006).
- 35 See, e.g., CYNTHIA F. EPSTEIN, *WOMEN IN LAW* (1981). For work discussing how women lawyers are as dedicated to their positions but often face choices that are binary, as between work and family, see JOHN HAGAN & FIONA KAY, *GENDER IN PRACTICE: LAWYERS' LIVES IN TRANSITION* (1995); John Hagan & Fiona Kay, *Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice*, 41 *L. & SOC'Y REV.* 51-78 (2007); Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 *ANN. REV. L. & SOCIAL SCI.* 299

usefully explained how two main strands of thought – the human capital school versus the social capital school – accounted for much of the literature's focus on why women lawyers tended to earn less and face greater hurdles in professional advancement.<sup>36</sup> There has also been a range of empirical studies focused on the hurdles that racial minorities – particularly African Americans – faced in pursuing successful legal careers.<sup>37</sup> And in 2001, Herbert Kritzer added another dimension to this discussion by dispelling the common perception that contingency fee plaintiff's lawyers were a homogenous group.<sup>38</sup> Rather, this segment of the bar

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(2008); Fiona Kay & John Hagan, *Raising the Bar: The Gender Stratification of Law Firm Capital*, 71 AM. SOC. REV. 589 (2006). As Payne-Pikus et. al. discuss, *infra* note 37, at 554-55, against these empirical studies of women lawyers in firms lies the backdrop of Gary Becker's work, which focuses on how the human capital women expend on both their jobs and family leaves them with a less-than-optimum amount left-over for maximizing success on either front. See, e.g., GARY S. BECKER, A TREATISE ON THE FAMILY (1991); Gary S. Becker, *Human Capital, Labor, and the Sexual Division of Labor*, 3 J. LAB. ECON. 533 (1985). For a more recent study of this dynamic between work-family split and its effect on the earning power and life-satisfaction levels of women and men lawyers, see Kenneth G. Dau-Schmidt, Marc S. Galanter, Kaushik Mukhopadhyaya, & Kathleen E. Hull, *Men and Women of the Bar: The Impact of Gender on Legal Careers*, 16 MICH. J. GENDER & L. 49 (2009), and see Rebecca L. Sandefur, *Staying Power: The Persistence of Social Inequality in Shaping Lawyer Stratification and Lawyers' Persistence in the Profession*, 36 SW. U. L. REV. 539 (2007).

36 See Jo Dixon & Carroll Serron, *Stratification in the Legal Profession: Sex, Sector, and Salary*, 29 L. & SOC'Y 381, 383-88 (1995). For Dixon and Serron, the organizational nature of the professional environment and its bureaucratic make-up were the key factors in explaining workplace-stratification and employee-remuneration. *Id.* at 388-407. Also on this point relating to bureaucracies in the legal practice setting, see RICHARD ABEL, *AMERICAN LAWYERS* (1989) and John Hagan, *The Gender Stratification of Income Inequality among Lawyers*, SOC. FORCES 68 (1990).

37 See, e.g., Monique R. Payne-Pikus, John Hagan, & Robert L. Nelson, *Experiencing Discrimination: Race and Retention in America's Largest Law Firms*, 44 L. & SOC'Y REV. 553 (2010). See also David B. Wilkins, *Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers*, 45 STAN. L. REV. 1981 (1993); David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*, 41 HOUS. L. REV. 1 (1998); David B. Wilkins & G. Mitu Gulati, *Why Are So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CALIF. L. REV. 493 (1996). Indiana University Librarian, Keith Buckley, has compiled a detailed "Bibliography on Race and the Legal Profession." For a set of valuable readings, see <http://firms.law.indiana.edu/research/Race.pdf>. For a provocative debate over the situation of African American lawyers in large law firms, see: Richard H. Sander, *The Racial Paradox of the Corporate Law Firm*, 54 N.C. L. REV. 1755 (2006); James Coleman & Mitu Gulati, *A Response to Professor Sander: Is it Really All About Grades?* 84 N.C. L. REV. 1823 (2006). This debate is nicely summarized in Payne-Pikus, *supra* note 37 at 557-59.

38 See Kritzer, *supra* note 26.

was stratified along income levels, types of work performed, and client base, and this stratification, as Kritzer showed, affected the lawyers' attitudes towards issues like "fee shifting (loser pays)[,] damage caps [,] right to jury trial [, and] client solicitation."<sup>39</sup>

For many of these studies, stratification is related to the extent to which lawyers are specialized. The prevailing belief is that with greater specialization comes greater expertise. Lawyers who possess such specialized skills are thought to be in higher demand by those (typically wealthier) clients seeking more sophisticated legal services. As such, what develops are different universes – or what Heinz and Laumann have referred to as "hemispheres"<sup>40</sup> – of lawyers, with some serving elite corporate clients and the vast majority of others representing more individual-based claimants. As another important study puts it, those lawyers in the former group often wind-up 'taking it all,' in that they earn more, have more power within their profession, and are happier with their careers and more optimistic about their future professional prospects.<sup>41</sup>

All of this scholarship highlights various ways that hierarchy can be entrenched within the legal profession. This literature has hugely enlightened our understanding of lawyer-dynamics. Yet, beyond economic, demographic, and institutional factors, hierarchies are able to persist also because of certain behavioural tactics employed by those possessing positions of power. As the next section illustrates, these tactics can be exercised purposively in order to sustain the existing hierarchical pyramid and psychologically demoralize those who seek to challenge it.

### III. HIERARCHY THROUGH A PSYCHOLOGICAL LENS

Over the past two decades the social psychology literature has been at the forefront of examining how particular behaviours contribute to hierarchical structures in the workplace. The scholarship in this area has been international,

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39 *Id.* at 239.

40 See HEINZ & LAUMANN, *supra* note 26, at 130.

41 See Rebecca L. Sandefur & John P. Heinz, *Winner-Take-All Markets for Legal Services and Lawyers' Job Satisfaction*, American Bar Foundation Working Paper No. 9906 (1999). For a discussion of this paper and its implications, see Kritzer, *supra* note 26, at 224-25 (also discussing the issue of hemispheres at 223).

with much of the first empirical evidence coming from Scandinavia. During the 1980s and 1990s, the late Heinz Leymann helped pave the way for what he referred to as employment-based “mobbing.”<sup>42</sup> For Leymann, mobbing, or workplace bullying, was a complicated phenomenon that involved a range of repeated, unwanted, and intimidating acts; all had the ultimate effect of psychologically terrorizing an intended target in the employment setting.<sup>43</sup> Others from Scandinavia also explored this subject, including the Norwegian scholar Stale Einarsen, who saw workplace mobbing manifested in multiple ways.<sup>44</sup> One mobbing method could be in unfair workloads and unreasonable expectations foisted upon the target by the superior.<sup>45</sup> Another might be in the blocking of a subordinate’s career advancement.<sup>46</sup> Still another could be through more interpersonally devious methods against those with less power, ranging from purposeful ignoring, rumour-mongering, and engaging in false accusations to actions such as threats, aggression, and intimidation against these individuals.<sup>47</sup>

During the past decade, many other psychologists have followed-up on these different strands.<sup>48</sup> Two authors who have showed that workplace stress can

42 See, e.g., Heinz Leymann, *Mobbing and Psychological Terror at Workplaces*, 5 VIOLENCE & VICTIMS 119 (2000); Heinz Leymann, *The Content and Development of Mobbing at Work*, 5 EUR. J. WORK & ORG’L PSYCHOL. 165 (1996); Heinz Leymann & A. Gustafsson, *Mobbing at Work and the Development of PTSDs*, 5 EUR. J. WORK & ORG’L PSYCHOL. 251 (1996).

43 *Id.* at all cites; see also James E. Bartlett II & Michele E. Bartlett, *Workplace Bullying: An Integrative Literature Review*, 13 ADVANCES IN DEVELOPING HUM. RESOURCES 69, 71-72 (2011) (although, interestingly, this review does not include any citations to the pioneer Leymann).

44 See Stale Einarsen, *Harassment and Bullying at Work: A Review of the Scandinavian Approach*, 5 AGGRESSION & VIOLENT BEHAVIOR: A REVIEW JOURNAL 371 (2000); see also STALE EINARSEN, HELGE HOEL, DIETER ZAPF, & CARY COOPER, BULLYING AND EMOTIONAL ABUSE IN THE WORKPLACE: INTERNATIONAL PERSPECTIVES IN RESEARCH AND PRACTICE (2003).

45 *Id.* at both cites; see also Bartlett & Bartlett, *supra* note 43, at 72-75.

46 *Id.* at all cites.

47 *Id.* at all cites.

48 See, e.g., Dawn Jennifer, Helen Cowie, & Katerina Ananiadou, *Perceptions and Experience of Workplace Bullying in Five Different Populations*, 29 AGGRESSIVE BEHAVIOR 489 (2006) (discussing data from over 600 “managers, teachers, technicians, call centre operators, and engineers” on how organizations can best cope with systematic bullying in the workplace); Maarit A-L Vartia, *Consequences of Workplace Bullying with Respect to the Well-Being of Its Targets and the Observers of Bullying*, 27 SCAND. J. WORK ENVTL. HEALTH 63, 66 (2001) (noting degradation of subordinates by giving them

be exercised on a horizontal continuum as well as vertically are Gary and Ruth Namie.<sup>49</sup> Serving as both scholars and practitioners, the Namies have written extensively on how, first, mobbing behaviour can range in intensity and type by, for instance, starting off as relatively minor incidents but then escalating into acts that are much more serious.<sup>50</sup> Furthermore, while these actions are often perpetrated by a superior on a subordinate, they can occur also horizontally among members of the same cohort – a point noted too by other researchers.<sup>51</sup>

Taken together, what these many studies show is that the social and psychological difficulties encountered within the workplace are real and multi-dimensional. In 2011 Bartlett and Bartlett produced an important literature

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“meaningless tasks and “restricting a person’s possibilities to express his or her opinions”); Suzy Fox & Lamont E. Stallworth, *How Effective is an Apology in Resolving Workplace Bullying Disputes?* 61 DISP. RESOL. J. 54 (2006) (discussing how superiors often brag about their talents and make underlings feel inadequate). On this point, see also: D. Yildirim, *Bullying among Nurses and Its Effects*, 56 INT’L NURSES REV. 504 (2009); Marie Hutchinson, Lesley Wilkes, Margaret Vickers, & Debra Jackson, *The Development and Validation of a Bullying Inventory for the Nursing Workplace*, 15 NURSE RESEARCHER 19 (2008). These and other studies are nicely evaluated in an excellent literature review provided by Bartlett and Bartlett, *supra* note 43, at 72-75.

49 On this continuum-based point, see Gary Namie, *Workplace Bullying: Escalated Incivility*, 68 IVEY BUS. J. 1 (2003). Also making this same observation, see Bartlett & Bartlett, *supra* note 43 at 71. See also GARY NAMIE & RUTH NAMIE, *THE BULLY AT WORK: WHAT YOU CAN DO TO STOP THE HURT AND RECLAIM YOUR DIGNITY AT WORK* (2009).

50 *Id.* at all cites.

51 *Id.* at all cites; see also Stale Einarsen & B.I. Raknes, *Harassment of at the Workplace and the Victimization of Men*, 12 VIOLENCE & VICTIMS 247 (1997); Stale Einarsen, *The Nature and Causes of Bullying at Work*, 20 INT’L J. MANPOWER 16 (1999); Charlotte Rayner, *The Incidence of Workplace Bullying*, J. COMMUNITY. & APPLIED SOC. PSYCHOL. 199 (1997); Charlotte Rayner, *A Summary Review of Literature Relating to Workplace Bullying*, 7 J. COMMUNITY & APPLIED SOC. PSYCHOL. 181, 186 (1997); Hugo Figueiredo-Ferraz, Pedro R. Gil-Monte, Ester Grau-Alberola, Marta Llorca-Pellicer, Juan A. Garcí’a-Juesas, *Influence of Some Psychosocial Factors on Mobbing and Its Consequences among Employees Working with People with Intellectual Disabilities*, 25 J. APPLIED RESEARCH IN INTELLECTUAL DISABILITIES, 455 (2012); Ase Marie Hansen, Annie Høgh, Roger Persson, Bjørn Karlson, Anne Helene Garde, and Palle Orbaek, *Bullying at Work, Health Outcomes, and Physiological Stress Response*, 60 J. PSYCHOSOMATIC RESEARCH 63 (2006); Eva Gemzoe Mikkelsen and Stale Einarsen, *Relationships between Exposure to Bullying at Work and Psychological and Psychosomatic Health Complaints: The Role of State Negative Affectivity and Generalized Self-Efficacy*, 43 SCANDINAVIAN J. PSYCH. 397 (2008); Mogens Agervold and Eva Gemzoe Mikkelsen, *Relationships between Bullying Psychosocial Work Environment and Individual Stress Reactions*, 18 WORK & STRESS 336 (2004).

review, detailing the different emotional pressures that help entrench hierarchies within the employment context. The below visuals illustrate the different planes under which tensions can be experienced – supervisor vis-à-vis subordinate (vertical mobbing) – and colleagues vis-à-vis colleagues (horizontal mobbing).<sup>52</sup>

**TABLE 1**

**WORK RELATED MOBBING [SUPERVISORS TARGETING SUBORDINATES]<sup>53</sup>**

<b>Workload [Ways Supervisors Burden or Diminish Subordinates, Workload-Wise]</b>	<b>Work Process [Supervisors Engage in the Following vis-à-vis Subordinates]</b>	<b>Evaluation &amp; Advancement [Supervisors Inhibit Subordinates in the Following Ways]</b>
[Assigning] Work Overload	Shifting Opinions	Excessive Monitoring
Removing Responsibility	Overruling Decisions	Judging Work Wrongly
Delegation of Menial Tasks	Flaunting Status/Power	Unfair Criticism
Refusing Leave [Requests]	Professional Status Attack[s]	Blocking Promotion
[Having] Unrealistic Goals	Controlling Resources	
Setting up to Fail	Withholding Information	

52 The tables are drawn from Bartlett & Bartlett, *supra* note 43 at 73-75. Where needed to contextualize for the discussion in this paper, more description and detail are added to the tables in brackets.

53 *Id.* at 73.

**TABLE 2**  
**PERSONAL**  
**INDIRECT [METHODS OF MOBBING]**  
**[CAN OCCUR BETWEEN SUPERVISOR & SUBORDINATE OR AMONG PEERS**  
**THEMSELVES]<sup>54</sup>**

Isolation	Gossip
Ignoring	Lies
Excluding	False Accusations
Not Returning Communications	Undermining

**TABLE 3**  
**PERSONAL**  
**DIRECT [METHODS OF MOBBING]**  
**[CAN OCCUR BETWEEN SUPERVISOR & SUBORDINATE OR AMONG PEERS**  
**THEMSELVES]<sup>55</sup>**

Verbal Attack/Harassment	Personal Criticism	Negative Eye Contact/Staring
Belittling	Intentionally Demeaning	Intimidation
Yelling	Humiliation	Manipulation
Interrupting Other	Personal Jokes	Threats

Bartlett and Bartlett’s amassing of the literature also shows that these different perspectives on mobbing are not mutually exclusive. Within an employment setting there may be overlap and there may be involvement of multiple parties, some of whom are instigators in certain circumstances and victims in others.<sup>56</sup> Moreover, as they and other previous scholars have recognized, the effects of such behaviours can take a serious toll on organizations and individuals in numerous ways. For example, there is evidence that the productivity of victims declines as

54 *Id.* at 74.

55 *Id.* at 75.

56 *Id.* at 72-75.



the instigation continues or intensifies.<sup>57</sup> There are other costs, including health-care expenses for victims and legal costs associated with lawsuits.<sup>58</sup> And where the workplace is allowed to remain toxic as a result of such an atmosphere, studies show a decrease of morale, ineffective leadership, and a marked decline in the reputation of the particular institution.<sup>59</sup>

Social psychologists recognize of course that mobbing can intersect with the areas of harassment (including sexual harassment) and employment discrimination. Harassment and discrimination are often viewed by some as falling “under a bullying umbrella.”<sup>60</sup> At the same time, however, mobbing is frequently studied separately from harassment and discrimination.<sup>61</sup> Perhaps one reason is because

57 *Id.* at 75 (noting other important work; for a sample see, e.g., Mika Kivimäki, Marko Elovainio, & Jussi Vahtera, *Workplace Bullying and Sickness Absence in Hospital Staff*, 57 OCCUPATIONAL & ENVTL. MEDICINE 656 (2000); Gary Namie, *The Challenge of Workplace Bullying*, 34 EMP. REL. TODAY 43 (2007); Yildirim, *supra* note 48; Elfi Baillien, Inge Neyens, & Hans De Witte, N. De Cuyper, *A Qualitative Study on the Development of Workplace Bullying: Towards a Three Way Model*, 19 J. COMMUNITY & APPLIED SOC. PSYCHOL. 1 (2009)). Also consider, Stig Berge Matthiesen and Stale Einarsen, *Psychiatric Distress and Symptoms of PTSD among Victims of Bullying at Work*, 32 BRITISH J. GUIDANCE & COUNSELLING 335 (2004); Lars Johan Hauge, Anders Skogstad, and Stale Einarsen, *Relationships between Stressful Work Environments and Bullying: Results of a Large Representative Study*, 21 WORK & STRESS 220 (2007); Debra Jackson, Angela Firtko, and Michel Edenborough, *Personal Resilience as a Strategy for Surviving and Thriving in the Face of Workplace Adversity: A Literature Review*, 60 J. ADVANCED NURSING 1 (2007).

58 Bartlett & Bartlett, *supra* note 43, at 75-76 (noting other studies, for example, see Namie (2003), *supra* note 49; Susan L. Johnson, *International Perspectives on Workplace Bullying among Nurses: A Review*, 56 INT'L NURSING REV. 34 (2009); Susan Gardner & Pamela R. Johnson, *The Leaner, Meaner Workplace: Strategies for Handling Bullies at Work*, 28 EMP. REL. TODAY 23 (2001); Lyn Quine, *Workplace Bullying in Nurses*, 6 J. HEALTH PSYCHOL. 73 (2001); Jacqueline Randle, Keith Stevenson, and Ian Grayling, *Reducing Workplace Bullying in Healthcare Organizations*, 21 NURSING STANDARD 49 (2007); Judith Macintosh, *Experiences of Workplace Bullying in Rural Areas*, 26 ISSUES IN MENTAL HEALTH NURSING 893 (2005)).

59 Bartlett & Bartlett, *supra* note 43 at 75-76. See also Loreleigh Keashly & Joel H. Neuman, *Bullying in the Workplace: Its Impact and Management*, 8 EMP. RTS. & EMP. POL'Y J. 355 (2004).

60 Bartlett & Bartlett, *supra* note 43, at 76. See also Susan Harthill, *Workplace Bullying as an Occupational Safety and Health Matter: A Comparative Analysis*, 34 HASTINGS INT'L & COMP. L. REV. 253 (2011); Keri Lynn Stone, *From Queen Bees and Wannabes to Worker Bees: Why Gender Considerations Should Inform the Emerging Law of Workplace Bullying*, 65 N.Y.U. ANN. SURV. AM. L. 35 (2009).

61 Bartlett & Bartlett, *supra* note 43, at 75-76. See also M. Neil Browne & Mary Allison Smith, *Mobbing in the Workplace: The Latest Illustration of Pervasive Individualism in American Law*, 12 EMP. RTS. & EMP. POL'Y J. 131 (2008).

sexual harassment, in particular, is seen by some as inherently distinct from other forms of workplace intimidation.<sup>62</sup> Another possibility may be that because sexual harassment and employment discrimination have statutory and case law roots, social psychology scholars who focus on mobbing opt to eschew these subjects in their analyses, leaving them instead to be addressed by legal scholars.<sup>63</sup> Interestingly, one academic who has bridged the gap is law professor David Yamada. Yamada has spent much of his career writing on workplace mobbing from a legal perspective while also being sensitive and aware of its business, social, psychological, and human dignity ramifications.<sup>64</sup> Yamada's work helped spawn the New Workplace Institute, and he is also a key researcher at the Workplace Bullying Institute founded by the above-mentioned Gary and Ruth Namie.<sup>65</sup>

62 For work that has specifically argued for keeping the distinction between sexual harassment and more general workplace bullying, see Jessica A. Clarke, *Beyond Inequality? Against the Universal Turn in Workplace Protections*, 86 IND. L. J. 1219 (2011). See also Jordan F. Kaplan, *Help is on the Way: A Recent Case Sheds Light on Workplace Bullying*, 47 HOUS. L. REV. 141 (2010). And for two seminal pieces on the intersection of sexual harassment and workplace remedies and morale, see Vicki Schultz, *Reconceptualizing Sexual Harassment*, 103 YALE L.J. 1683 (1998); Vicki Schultz, *The Sanitized Workplace*, 112 YALE L.J. 2061 (2003).

63 For such an analysis, see, e.g., Douglas R. Richmond, *The Contemporary Legal Environment and Employment Claims against Law Firms*, 43 TEX. TECH. L. REV. 471 (2011). Obviously this is not to suggest that all social psychology scholars have omitted studying sexual harassment and employment discrimination. But as seen above, much of the literature treats bullying distinctly from these two areas. See also Katherine Lippel, *The Law of Workplace Bullying: An International Overview*, 32 COMP. LAB. L. & POL'Y J. 1 (2010) (a special issue providing a comparative approach to this development, featuring Yamada as well as Helge Hoel, Philipp S. Fischinger, Diego Lopez Fernandez, Rachel Cox, and Joan Squelch); Michael E. Chaplin, *Workplace Bullying: The Problem and the Cure*, 12 U. PA. BUS. L.J. 437 (2010).

64 For a sample of this scholar's work, see David C. Yamada, *The Phenomenon of "Workplace Bullying" and the Need for Status-Blind Hostile Work Environment Protection*, 88 GEO. L.J. 475 (2000). See also David C. Yamada, *Dignity, Rankism, and Hierarchy in the Workplace: Creating a "Dignitarian" Agenda for American Employment Law*, 28 BERKELEY J. EMP. & LAB. L. 305 (2007); David C. Yamada, *Workplace Bullying: Legal and Policy Implications*, 7 PERSPS. ON WORK 44 (2004); David C. Yamada, *Workplace Bullying and the Law: Emerging Global Responses*, in BULLYING AND HARASSMENT IN THE WORKPLACE: DEVELOPMENTS IN THEORY, RESEARCH, AND PRACTICE (Stale Einarsen & Helge Hoel eds., 2d ed. 2010).

65 For background on Yamada, see: <http://www.law.suffolk.edu/faculty/directories/faculty.cfm?InstructorID=59>. Yamada has also drafted the Healthy Workplace Bill, which is currently being deliberated by several state legislatures. For background on this bill, see: <http://www.workplacebullying.org/wbiresearch/wbi-colleagues/>; and see, <http://healthyworkplacebill.org/>. See also David C. Yamada, *Crafting a Legislative Response to Workplace Bullying*, 8 EMP. RTS. & EMP. POL'Y J. 475 (2004). Note that, for this issue of this journal, Yamada also served as editor of a special symposium on this topic.

The above literature review highlights how there is great empirical evidence to support the contention that hierarchies within work environments can be the result of systematic socio-psychological factors. The research has been international in scope and conducted in a range of professional sectors,<sup>66</sup> with the important commonality being degradation, exclusion, or intimidation meted-out on more vulnerable employees by instigators seeking to enhance their own power. As will be discussed next, that such behaviour is occurring within the Indian corporate bar importantly contributes not just to the hierarchy that exists but also to why peel-off lawyers are responding the way they do.

#### **IV. HIERARCHY WITHIN THE INDIAN CORPORATE LAW FIRM SECTOR**

##### **1. More than Just the Big Names – Demographics and Methodology**

The Indian law firm sector clearly has experienced great growth since the country liberalized in 1991. The British-based RSG Consultancy recently ranked the top forty law firms in India on the basis of satisfaction by Indian and foreign clients, as well as the views of Indian lawyers. Although the study has a few methodological limitations,<sup>67</sup> the information is useful for our purposes because

66 Indeed the concept itself, depending on country and context, varies as well – it is known as mobbing in certain parts of Europe, moral harassment in other parts of the continent, and workplace bullying in the U.S. See Maria Isabel S. Guerrero, *The Development of Moral Harassment (or Mobbing) Law in Sweden and France as a Step Toward EU Legislation*, 27 B.C. INT'L & COMP. L. REV. 477 (2004).

67 This study should be commended because it conducted important qualitative interviews with “231 clients, of which 103 were multi-nationals. The rest were Indian corporations including 41 in the ET500 [ECONOMIC TIMES] of which 11 were in the top 20. Banking and financial institutions made up 65 of all respondents, nearly 30% of the sample group.” In addition, it “also interviewed and investigated 70 Indian law firms.” And the ranking itself was based on how these respondents views each firm along the following dimensions:

- “Quality: score based on performance in deals tables for M&A, project finance, private equity and capital markets by both value and volume for the past 12 months and past 3 years; feedback from clients on quality of work, expertise and service delivery.
- Profile: score based on a count of total number of mentions and qualitative feedback from clients, Indian lawyers and foreign lawyers, with greater weight given to unprompted recommendations.
- Capability: score based on size of law firm by number of lawyers and estimated turnover, capability by practice area and locations, feedback from clients on ability to handle large scale work and client assessment of the firm's bandwidth.”

of what it shows in terms of post-1991 law firm growth. Namely, of these forty top firms, eight formed between 1991 and 1999 and fifteen emerged after 2000.

**TABLE 4**

<b>Firm (by RSG Rank)</b>	<b>Year Created</b>
1. Amarchand Mangaldas	1917
2. AZB & Partners	2004
3. J Sagar Associates	1991
4. Khaitan & Co	1911
5. Luthra & Luthra	1989
6. Trilegal	2000
7. DSK Legal	2001
8. Desai & Diwanji	1930
8. Nishith Desai Associates	1984
10. Lakshmi Kumaran & Sridharan	1985
10. Anand & Anand	1923
10. S&R Associates	2005
13. Kochhar & Co	1995
13. Mulla & Mulla	1895
15. Wadia Ghandy & Co	1883
15. Crawford Bayley & Co	1830
15. Majmudar & Co	1943
15. Bharucha & Partners	2008
19. Talwar Thakore & Associates	2007
19. Fox Mandal	1896

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*See* RSG-India: Top 40 law firms 2011 at 5, [http://rsg-india.com/sites/default/files/RSG%20Top%2040\\_2011.pdf](http://rsg-india.com/sites/default/files/RSG%20Top%2040_2011.pdf). Note, the dates of the firms' years of creation come from the on-line legal magazine, Legally India, [http://www.legallyindia.com/wiki/Indian\\_law\\_firms](http://www.legallyindia.com/wiki/Indian_law_firms). Even though these RSG data are important, there are a few restrictions. First, it is hard to determine the extent to which the clients were familiar with all forty firms in the table. Second, were solo practicing senior advocates interviewed? It appears not, and if not, why not? This point is important to consider because many senior advocates (particularly those working in the Supreme Court) serve as corporate, courtroom litigators and work hand-in-hand with many law firms and corporations. They too would be a crucial source of information on the reputation of law firms in India. And third, government officials, it seems, were not interviewed. This is significant because much of law firms' big infrastructure and project finance work is on behalf of the government.

19. Dua Associates	1986
19. Vaish Associates	1971
19. Economic Laws Practice	2001
19. Platinum Partners	2008
25. ALMT Legal	2000
25. Tatva Legal	2010
25. Kanga & Co	1890
28. Juris Corp	2000
28. Rajani & Associates	1999
28. Rajinder Narain & Co	1954
31. Udadia & Udeshi	1997
31. Phoenix Legal	2008
31. DH Law	1997
31. P&A Associates	1996
35. HSA Advocates (Hemant Sahai Associates)	2003
35. Indus Law	2007 <sup>68</sup>
35. ARA Law	1996
35. Tyabji Dayabhai	1872
39. India Law Services	1998
39. Lexygen	2006

In addition, on a key corporate law front – mergers and acquisitions (M & A) – even though there has been a decline in work over the past year,<sup>69</sup> the total value

68 The firm Indus Law originally formed as Indus in 2000. In 2007, Indus merged with another law firm, G & D Law. Then in 2010 this merged firm re-branded itself as Indus Law. See Kian Ganz & Neha Chauhan, Induslaw Profile: On the Cusp of Pan India, LEGALLY INDIA (June 10, 2011), <http://www.legallyindia.com/Law-firm-profiles/induslaw-firm-profile-on-the-cusp>.

69 See Kian Ganz, *2011 M & A League Table: Reliance Help AZB to Top Spot in Small Fry Year Ahead of TTA, S & R, Amarchand, Khaitan, JSA*, LEGALLY INDIA (Jan. 18, 2012), <http://www.legallyindia.com/201201182497/Corporate/-MA/2011-maa-league-table-reliance-helps-azb-to-top-spot-in-small-fry-year-ahead-of-tta-sar-amarchand-khaitan-jsa>. Also there has been a lull in public offerings work. See Kian Ganz, *Amarchand Tops Bear Cap Markets IPO League Table 2011-2102: Lawyers Hit Rough Patch in Tanking Market*, LEGALLY INDIA (May 12, 2012), <http://www.legallyindia.com/201205252846/Capital-Markets/amarchand-tops-bear-cap-markets-ipo-league-table-2011-12-lawyers-hit-rough-patch-in-tanking-market>.

and number of deals completed between 2009 and 2011 remain impressive, with post-1991 Indian law firms making their mark here as well. Table 5 aggregates and compares the number of pre-1991 versus post-1991 firms working on these top deals.

Table 5	M & A Deals and Indian Law Firms <sup>70</sup>		
Year	2011	2010	2009
Total M & A deals involving Indian law firms	214	216	160
Total value of M & A deals involving Indian law firms	~\$47bn	~\$88bn	~\$22bn
Pre '91 Indian firms involved	5	6	5
Post '91 Indian firms involved	10	7	7

70 See Ganz, *2011 M & A League Table*, supra note 69 (citing Merge Market, [www.mergemarket.com](http://www.mergemarket.com), as the source for the data). See also *Indian M & A Roundup*, MERGER MARKET (Jan. 13, 2010), <http://www.mergemarket.com/pdf/Indian-M&A-Year-End-2010-roundup.pdf>; Neha Chauhan, *Desai & Diwanji Rules 2009 M & A Roost with Amarchand, AZB, Khaitan*, LEGALLY INDIA (Jan. 13, 2010), <http://www.legallyindia.com/20100113388/Corporate/-MA/desai-a-diwanji-rules-2009-maa-roost-with-amarchand-azb-khaitan> (citing Merge Market data for this year). Note, for the 2009 and 2010 data, foreign law firms were included in the tables produced by Merge Market, whereas for 2011 foreign law firms were separated out. As such 2009 and 2010 data were calculated by counting them from two locations. For 2010, this included: a) the table entitled: "Legal Advisor League Tables by Value – 2010" and b) "Legal Advisor League Tables by Deal Count – 2010." (<http://www.mergemarket.com/pdf/Indian-M&A-Year-End-2010-roundup.pdf>). For 2009, this included: a) the table entitled "M&A advisers by volume, 1 January - 31 December 2009" and b) the table entitled "M&A advisers by volume, 1 January - 31 December 2009." <http://www.legallyindia.com/20100113388/Corporate/-MA/desai-a-diwanji-rules-2009-maa-roost-with-amarchand-azb-khaitan> (citing Merge Market data for this year). The result was that for 2010, when drawing on the two tables to ascertain the Indian firms, the list included: AZB, Trilegal, Talwar, Thakore and Associates, Amarchand, S & R, Crawford Bayley & Co., Luthra & Luthra, Desai & Diwanji, Tatva, Khaitan & Co., Nishith Desai Associates, J. Sagar Associates, and DSK Legal. For 2009, the list included: Desai & Diwanji, Khaitan & Co., AZB, Amarchand, Trilegal, J. Sagar Associates, Luthra & Luthra, Nishith Desai Associates, Platinum Partners, DSK Legal, P & A Law Offices, and Talwar, Thakore and Associates. For both years, the respective number of deals and their values were tallied for each firm to produce the number in Table 5. Admittedly, this is not the ideal way of comparing all three years, but given the lack of separation of foreign firms from the 2010 and 2009 Merge Market data, this approximation is the best that can be done; and moreover, it highlights the main point: post-1991 firms have played a major role in M & A deals in India.

Per respective year, more post-1991 law firms have been involved in these deals over this three year timeframe, with AZB (formed in 2004) handling the most M & A work in 2010 and 2011.<sup>71</sup> AZB has become an elite powerhouse and is spoken of in the same league as India's historic and largest firm, Amarchand & Mangaldas & Suresh A. Shroff & Company.<sup>72</sup> Furthermore, another report discusses how for the 2011 calendar year, ten Indian law firms were involved in the representation of 186 infrastructure and project finance deals that were worth over 79 billion U.S. dollars.<sup>73</sup> Significantly, the ten firms represent an admixture of old and new. Three of the most prestigious Indian law firms – Amarchand (1917), Luthra & Luthra (1989), and Fox Mandal (1896) – were part of this group. So too, though, were several post-liberalization newcomers, including Clasis (2010), India Law Services (1998), Link Legal (1999), R&A (1999), Trilegal (2000), and SJ Law (2008).<sup>74</sup> And one of the firms, KJSV, formed in 1996, is an interesting combination of old and new, serving as a recent offshoot of the historic Khaitan & Company which was founded in 1911.

These examples highlight how lucrative corporate law work in India is being done by a variety of firms with a range of histories. Some pre-1991 firms trace their roots to the colonial era, like Amarchand and Fox Mandal, but also include others such as Crawford Bayley, Tyabji Dayabhai, Wadia Ghandy, Kanga

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71 See Ganz, *2011 M & A League Table*, *supra* note 69 (citing Merge Market as the source for the data). See also *Indian M & A Roundup*, MERGE MARKET (Jan. 13, 2010), <http://www.mergermarket.com/pdf/Indian-M&A-Year-End-2010-roundup.pdf>.

72 Much ink has been devoted to these two firms. For a sample of background pieces, see Rajeev Dubey, *The Art of the Deal*, BUSINESS WORLD (Aug. 20, 2011), <http://50.17.217.105/businessworld/businessworld/content/Art-Deal.html>. See also interview of Zia Mody by Abha Bakaya, *The Date: Pathbreakers*, Bloomberg Television (Aug. 7, 2011), <http://www.youtube.com/watch?v=vXLBgAYNPBY>; Anthony Lin, *Not Just a Family Matter*, THE ASIAN LAWYER 22 (Summer 2012).

73 Prachi Shrivastava, *Amarchand Replaces Luthra at Top of 2011 Project Finance League Table*, LEGALLY INDIA (Feb. 8, 2012), <http://www.legallyindia.com/201202082558/Projects/amarchand-replaces-luthra-at-top-of-2011-project-finance-league-table> (citing data from Dealogic, and noting: "In seventh place on the list is one-year-old project Clasis Law, where Mumbai-based projects partner Ishtiaq Ali completed 14 deals worth \$3.6bn, after it broke away from ALMT Legal.").

74 *Id.*; see also *infra* Table 6; Neha Chauhan, *Khaitan Jayakar Sud and Vohra (KJSV) Opens in Pune and Makes Two New Partners*, LEGALLY INDIA (May 11, 2010), <http://www.legallyindia.com/20100511803/Law-firms/khaitan-jayakar-sud-and-vohra-kjsv-opens-in-pune-and-makes-two-new-partners>.

& Company, and Mulla & Mulla.<sup>75</sup> Then there are what might be called pre-1991/post-independence (1947) firms like Luthra, but also include firms like Rajinder Narain & Company, Bhasin & Company, Vaish Associates, Nishith Desai Associates, and Dua Associates.

For all these firms, including Amarchand, which has over 500 lawyers today, each started with small numbers and has grown with the opening of the economy.<sup>76</sup> However, the manner in which they have historically governed themselves has tended to follow one of two models – the family-based, kinship approach or the personality-driven approach. Kinship firms typically have adhered to deeply-wedded rules and norms that limit upward mobility for the vast majority of lawyers within them. In addition, although these firms tend to be wealthy and prestigious, there is great disparity in compensation between those (relatively few) who are equity partners (typically family members) and the rest of those who are not.<sup>77</sup> Personality-driven firms have tended to see a single lawyer (or perhaps two or three lawyers) serve as the defining figure of the particular law firm.<sup>78</sup> In these firms, most major executive decisions must be approved by this individual, including compensation, work assignments, significant client-related matters, and

75 See *infra* Table 6; see also Krishnan, *Globetrotting Law Firms*, *supra* note 18.

76 Colleagues of mine in the Harvard Globalization, Lawyers, and Emerging Economies project have worked on this point. However, their important work is not yet available for citation; when it does become so, it will of course be cited. For parallel reference support, see *Id.* at both cites. See also Lin, *supra* note 72; note also that Amarchand had just 30-plus lawyers during the late 1990s. Such increase in personnel parallels a point made in the literature by Marc Galanter and Simon Roberts in their evaluation of elite British law firms. As they note, today's mega-powerful, mega-sized 'Magic Circle' firms started off in London as boutique, family-based enterprises in the early twentieth century but then grew exponentially following the economic boom after the Second World War. With economic growth, whether it is in the United Kingdom or in India during the 2000s, the legal services sector expands. See Marc Galanter & Simon Roberts, *From Kinship to Magic Circle: The London Commercial Law Firm in the Twentieth Century*, 15 INT'L J. LEG. PROF. 143 (2009).

77 Colleagues of mine in the Harvard Globalization, Lawyers, and Emerging Economies project have worked on this point. However, their important work is not yet available for citation; when it does become so, it will of course be cited. For parallel reference support, see generally Krishnan, *supra* note 18; see also Kian Ganz, *Indian Law Firms: Too Young to Live*, LIVEMINT.COM (Feb. 16, 2012), <http://www.livemint.com/kianganz.htm>; Kian Ganz, *India's Biggest Law Firm Prepares for Next Stage of Evolution*, LIVEMINT.COM (Feb. 17, 2012), <http://www.livemint.com/2012/02/17011534/India8217s-biggest-law-firm.html>.

78 *Id.* at all cites.



the hiring, firing, and promotion of other lawyers in the firm. Yet with kinship and personality-driven firms there can be and is overlap between the two in how these businesses operate, with some of these firms affirmatively implementing strategies meant to adapt to the changing times, including the embracing of principles such as greater inclusiveness and participation, transparency in governance, and meritocracy.<sup>79</sup>

Since the opening of the markets, the dynamics of this traditional legal services space has changed the face of the Indian law firm sector. Within the past decade – although really dating back to 1991 – peel-off firms have become important providers of legal representation to a greater array of clients. Newer firms with purposefully bold names like Platinum Partners, Phoenix Legal, Indus Law, and Tatva Legal<sup>80</sup> have been in the thick of several noteworthy corporate and transnational deals over the past decade. So too have firms like S & R Associates, Talwar Thakore & Associates, and Bharucha & Partners,<sup>81</sup> each having peel-off lawyers within them with tremendous corporate experience.

Moreover, contrary to conventional wisdom, the corporate law firm sector in India is *not* restricted to just three or four dozen firms. The website HG.Org lists approximately 600 Indian corporate law firms in its directory.<sup>82</sup> Admittedly, this site is imperfect because lawyers pay a small fee (under \$200) to list their firms on it, thus contributing to a possible over-inclusive element to the database.<sup>83</sup> (There is also under-inclusiveness to the site, as several well-known firms are not on it.) But the fact is that even if a fraction – say twenty percent – are actual law firms in the way typically conceived (rather than an individual Indian courtroom advocate calling him or herself a firm), then already the number of such Indian firms present in the marketplace exceeds one-hundred. As an alternative source,

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79 *Id.* at all cites.

80 *See infra* Table 6.

81 For a listing and dates of establishment of these firms, see *id.*

82 *See* hg.org, under the law firms tab. In order to see the listing, select India under the “country” category. Then in the word-search box, enter “corporate.” Twelve pages with approximately fifty firms per page will appear.

83 Furthermore, the data on the firms vary considerably. For some, there are extensive backgrounds and histories, while for others there is little information at all – thus begging the question of which firms are actual business operations and which ones are not.

the author and his research assistant mined every news story from *Legally India*, the most in-depth electronic magazine of its kind that covers Indian law firms, from August 12, 2012 back to 2009 when this e-daily first appeared. The author and his assistant also conducted searches from other databases,<sup>84</sup> and during the ethnographical research in India the author learned of additional firms as well. The results appear in Table 6, which highlights over two hundred corporate law firms within the country, with the likelihood being that there are many more.<sup>85</sup> (For the purposes of this study, a firm is an organization that is consistently engaged in transactional, corporate matters and/or corporate litigation. Such a firm may do non-corporate litigation as well, but corporate work remains a part of the regular routine. Note, some observers may contend that a firm must mean having at least two partners within it whose agreement comports to the Partnership Act of 1932. But not all firms within the country follow this model and thus register under this law. For this reason, the study employs a necessarily broader definition of what a corporate law firm is.

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84 Great thanks go to the excellent and indefatigable research-work of my student, Patrick W. Thomas. The table draws upon multiple sources to bring this information together, including *Legally India*, the *India Business Law Journal*, Martindale Hubble, RSG, the websites of different law firms, the Society of Indian Law Firms website, contacts within the bar, various internet searches, BarandBench.com, ChambersandPartners.com, LinkedIn.com, Economictimes.Indiatimes.com, Who's Who Legal, Legal500.com, Practical Law Company, Indianlawyer250.com, www.scribd.com, and www.worldtrademarkreview.com. In addition, the following rules were followed to establish the year that a firm was founded: 1) Where there was no question as to the founding, that year was obviously used. 2) If one firm absorbed another, and the absorbing firm kept the same name, then Table 6 proceeded with listing when that absorbing firm was originally founded as the founding year. 3) If there was a merger and then the name of the firm changed, then indeed the date of the merger was considered the founding year. 4) If a firm simply changed the name without changing itself, then the name of the date-change would *not* count as the founding year, and what would be used would be the date the firm (before the rebranding) came into existence. 5) If two firms merged and then split-up, and both continued to remain afterward as individual entities, Table 6 referred back to the dates they each emerged as the respective founding years.

85 As stated, there is not a comprehensive directory of corporate law firms in India; thus there is a need to compile and triangulate the data in this manner, and with this type of endeavour there are firms sure to be inadvertently omitted.

<b>Firm</b>	<b>Year Established</b>
<i>A&amp;M Law Offices</i>	2007
<i>A.K. Mysamy &amp; Associates</i>	1978
<i>Abacus Legal Group</i>	1992
<i>Acuity Law</i>	2011
<i>Aditya &amp; Associates</i>	2001
<i>Advani &amp; Co.</i>	1986
<i>Advaya Legal</i>	2010
<i>Agarwal Jetley &amp; Co.</i>	Unknown
<i>Agarwal Law Associates</i>	1964
<i>Akash Chittranshi &amp; Associates</i>	2001
<i>Alliance Corporate Lawyers</i>	2007
<i>Alliance Legal</i>	2011
<i>ALMT Legal</i>	2000
<i>Alpha Partners</i>	2012
<i>Altacit Global</i>	2003
<i>Amarchand Mangaldas</i>	1917
<i>Amarjit &amp; Associates</i>	1998
<i>Analyst Law Associates</i>	2000
<i>Anand &amp; Anand</i>	1923
<i>ANS Law Associates</i>	2002
<i>Anup S. Shah Law Firm</i>	1993
<i>APJ-SLG</i>	1993
<i>ARA Law</i>	1996
<i>Associated Law Advisers</i>	1994

<i>Amitabha Sen &amp; Co.</i>	1997
<i>Altman Law Partners</i>	2009
<i>Augustus Law Chambers</i>	2012
<i>Axon Partners LLP</i>	2009
<i>AZB &amp; Partners</i>	2004
<i>Bharucha &amp; Partners</i>	2008
<i>Bhasin &amp; Co.</i>	1970
<i>Bhate &amp; Ponkshe</i>	1965
<i>BMR Legal</i>	2004
<i>BN Anand</i>	1951
<i>C&amp;C Associates</i>	2004
<i>Chadha &amp; Chadha</i>	1967
<i>Chadha &amp; Co.</i>	2002
<i>Chennai Law Associates</i>	2010
<i>Chitale &amp; Chitale</i>	1993
<i>Chri Amrit Law Chambers</i>	2005
<i>Clarus Law Associates</i>	2007
<i>Clasis Law</i>	2010
<i>Corporate Law Group</i>	1998
<i>Crawford Bayley &amp; Co</i>	1830
<i>Dave &amp; Girish</i>	1978
<i>Dayal Legal Associates</i>	1919
<i>De Penning &amp; De Penning</i>	1856
<i>DeePLegal</i>	2007
<i>Desai &amp; Divanji</i>	1930
<i>Desai Desai &amp; Carrimjee &amp; Mulla</i>	2007

<i>DH Law</i>	1997
<i>Dhall Law</i>	2008
<i>Dhir &amp; Dhir Associates</i>	1993
<i>Dipen Shah &amp; Associates</i>	2002
<i>DM Harish &amp; Co.</i>	1957
<i>DP Ahuja &amp; Co</i>	1971
<i>Dr. Kainth &amp; Associates</i>	1995
<i>DSK Legal</i>	2001
<i>Dua Associates</i>	1986
<i>Dutt Menon Dunmorrsett</i>	Unknown
<i>Economic Laws Practice</i>	2001
<i>El' Serv</i>	2010
<i>Federal &amp; Rashmikant</i>	1980
<i>Finsec Law Advisors</i>	2010
<i>Fox Mandal</i>	1896
<i>Gagrats And Co.</i>	1999
<i>Gandhi &amp; Associates</i>	2003
<i>Gopakumar Nair Associates</i>	2002
<i>Goswami Associates</i>	1995
<i>Gour Law Associates LLP</i>	2011
<i>Gragrats</i>	2005
<i>Hammurabi &amp; Solomon Foundation</i>	2001
<i>Hareesh Jagtiani &amp; Associates</i>	Unknown
<i>Hariani &amp; Co. Advocates &amp; Solicitors</i>	1991

<i>HSA Advocates</i>	2003
<i>I.C. Sancheti &amp; Co.</i>	1956
<i>Independent Law Chambers</i>	2010
<i>India International Jurists</i>	1993
<i>India Law Alliance</i>	2004
<i>India Law Partners</i>	1999
<i>India Law Services</i>	1997
<i>Indus Law</i>	2007
<i>Intel Advocates</i>	Unknown
<i>INTLL Advocate</i>	1991
<i>International Law Affiliates</i>	1998
<i>International Trade &amp; Investment Consultants</i>	Unknown
<i>International Trade Law Consultants</i>	1992
<i>IPR International Services</i>	1971
<i>J Sagar Associates</i>	1991
<i>Jayakar &amp; Partners</i>	2000
<i>Joseph &amp; Joseph</i>	2005
<i>Juris Corp</i>	2000
<i>Jurisconsultus</i>	1993
<i>K&amp;S Partners</i>	1994
<i>Kachwaha &amp; Partners</i>	2002
<i>Kanga &amp; Co</i>	1890
<i>Kanth &amp; Associates</i>	1998
<i>Karanajawala &amp; Co., Advocates</i>	1983

<i>Khaitan &amp; Co</i>	1911
<i>Khaitan &amp; Partners Advocates &amp; Notaries</i>	2008
<i>Khaitan Sind &amp; Partners</i>	1997
<i>KLAA LLP</i>	2011
<i>King Stubb Kaisvia</i>	2006
<i>Kochhar &amp; Co</i>	1995
<i>Koura &amp; Co. Advocates &amp; Barristers</i>	1973
<i>KR Chawla &amp; Co.</i>	1996
<i>Krishna &amp; Sanrastri Associates</i>	1992
<i>Krishnamurthy and Co</i>	1999
<i>Lakshmikumar &amp; Sridharan</i>	1985
<i>Lall Lahiri &amp; Salhotra</i>	1983
<i>Lall &amp; Sethi</i>	1993
<i>Law at Work</i>	2012
<i>Law Office of Ramni Taneja</i>	2006
<i>Law Point</i>	2002
<i>LawQuest</i>	2003
<i>Laware Associates</i>	2007
<i>LexCounsel</i>	2004
<i>Lex Forska Law Offices</i>	2009
<i>Lex Orbis</i>	1998
<i>Lexygen</i>	2006
<i>Link Legal Advocates</i>	1999
<i>Little &amp; Co.</i>	1856
<i>Luthra &amp; Luthra</i>	1989

<i>LIV Iyer</i>	2002
<i>M Mulla Associates</i>	2010
<i>Maheshwari &amp; Co.</i>	1994
<i>Majmudar &amp; Partners</i>	1943
<i>Malvi Ranchoddas &amp; Co.</i>	1896
<i>Manilal Kher Ambalal &amp; Co.</i>	1918
<i>Manoj &amp; Ashok Associates</i>	2000
<i>Mani Chengappa &amp; Mathur</i>	2012
<i>MARS &amp; Partners</i>	2003
<i>Mason &amp; Associates</i>	2006
<i>MDP &amp; Partners</i>	1973
<i>Mine &amp; Young</i>	1997
<i>MM Legal Associates</i>	2002
<i>MMB Legal</i>	2007
<i>Moson Le Exparts</i>	1994
<i>MPC Legal</i>	2012
<i>Mulla &amp; Mulla</i>	1895
<i>Mundkur Law Partners</i>	2007
<i>MV Kini &amp; Co.</i>	1978
<i>N South</i>	2000
<i>Nachiketa Associates</i>	1978
<i>Naik Naik &amp; Co.</i>	2004
<i>Nanavati Assoc. (Gujarat)</i>	1996
<i>Nanavati &amp; Nanavati</i>	1943
<i>Narasappa, Doraswamy &amp; Raja</i>	2005

<i>Nasikwala Law Offices</i>	2011	<i>Seth Dna &amp; Associates</i>	1998
NDLO	1992	<i>Shah &amp; Sanghavi</i>	1996
<i>Neolegal Associates</i>	2007	<i>Singh &amp; Associates</i>	2002
<i>Nishith Desai Associates</i>	1984	<i>Singh &amp; Singh</i>	1997
<i>OP Khaitan &amp; Co.</i>	1990	<i>Singhania &amp; Co.</i>	1969
<i>P&amp;A Associates</i>	1996	<i>Singhania &amp; Partners</i>	1999
<i>Paras Khandelwal Associates</i>	1989	<i>Singhi &amp; Co.</i>	2000
<i>Parekh &amp; Co</i>	1975	<i>SJ Law</i>	2008
<i>PAV Law Offices</i>	2008	<i>SKS Law Associates</i>	2007
<i>Perfexio Legal</i>	2011	<i>SN Gupta &amp; Co.</i>	1962
<i>Phoenix Legal</i>	2008	<i>Solomon &amp; Co.</i>	1909
<i>Platinum Partners</i>	2008	<i>SRGR Law Offices</i>	2009
<i>Poonayya &amp; Co.</i>	1996	<i>SS Rana &amp; Co.</i>	1989
<i>PRA Law Offices</i>	2001	<i>Sundaraswamy &amp; Ramdas</i>	1926
<i>PSA Legal</i>	1997	<i>Surana &amp; Surana</i>	1971
<i>PXV Law Partners</i>	2011	<i>Suri &amp; Co.</i>	1986
<i>R Ginodia &amp; Co.</i>	1967	<i>Sushant M. Singh &amp; Associates</i>	2008
<i>Ranjan Narula Associates</i>	2004	<i>Swarup &amp; Co.</i>	1981
<i>Rajani &amp; Associates</i>	1999	<i>Talwar Thakore &amp; Associates</i>	2007
<i>Rajinder Narain &amp; Co.</i>	1954	<i>Tatva Legal</i>	2010
<i>RDA Legal</i>	2012	<i>Thiru &amp; Thiru</i>	1983
<i>Remfry &amp; Sagar</i>	1827	<i>Titus &amp; Co</i>	1997
<i>RK Dewan &amp; Co.</i>	1942	<i>Trustman &amp; Co.</i>	1999
<i>RS &amp; Co. Law Offices</i>	2011	<i>Trilegal</i>	2000
<i>S&amp;R Associates</i>	2005	<i>Tuli &amp; Co.</i>	2000
<i>Sahu &amp; Co.</i>	1971	<i>Tyabji Dayabhai</i>	1872
<i>Saikerishna &amp; Associates</i>	2000		
<i>Seth Associates</i>	2003		

<i>Udnadia, Udeshi &amp; Ar- gus Partners</i>	2012	<i>Vipra Legal</i>	2010
<i>Universal Legal</i>	2004	<i>Virender Sood &amp; Co.</i>	1967
<i>Vaish Associates &amp; Ad- vocates</i>	1971	<i>Wadia Ghandy &amp; Co</i>	1883
<i>Venus Advocates</i>	2011	<i>Wakhariya &amp; Wakhari- ya</i>	2000
<i>Vidhi Partners</i>	2009	<i>YJ Trivedi &amp; Co.</i>	1970
<i>Vigil Juris</i>	2005	<i>ZeusIP</i>	2003
		<i>ZEUS Law Associates</i>	2005

Of the above group over one-hundred have emerged just since 2000, with virtually all having a peel-off character to them.<sup>86</sup> Hence, India's corporate legal sector continues to grow, and one reason is because of peel-offs, which have made the market increasingly exciting and promising for clients, law school graduates, and the lawyers themselves.<sup>87</sup>

In terms of who precisely peel-off law firm lawyers are, they tend to be in their late twenties and early thirties. (Although that is not always the case – consider that three of the most prominent peel-off lawyers in recent years were senior partners in highly-reputed firms.<sup>88</sup>) Furthermore, those who have peeled-off from

86 The exact number is one hundred and two. Having a 'peel-off character' means that in most cases these firms emerged as a result of lawyers leaving a previous firm to establish a new entity. However, in some cases, a firm already existed, but then a lawyer left a previous firm, joined with this already-existing firm, and thereby altered the nature and structure of the already existing firm. The most common example occurs when a peel-off joins a solo practicing courtroom advocate, to whom he/she is typically related. From there the new entity takes on a much more firm-type of existence – hiring more lawyers, moving into transactional work (instead of purely litigation), and likely moving into an office that conveys a more traditional firm-like presence.

87 This point was made very astutely in a business journal article in 2009. See Alfred Romann, *Rising Stars, Unsung Heroes*, INDIA BUSINESS LAW JOURNAL 37 (March 2009). The *India Business Law Journal* is an extremely helpful resource for those interested in tracking law firms in India. The magazine dates back to 2007, and this study relies on the journal's discussions of the different firms in its various issues in order to create Table 6.

88 Colleagues of mine in the Harvard Globalization, Lawyers, and Emerging Economies project have worked on this point. However, their important work is not yet available for citation; when it does become so, it will of course be cited. (For parallel supporting cites, see ones below.) There will be a further discussion of the peel-off youth in the

the traditional corporate law firms generally are graduates from the more highly reputed Indian law schools. They have also had some international experience – as a student in an international moot court competition, or as a holder of a foreign law degree, or having done work abroad while a lawyer in a former firm. Peel-offs typically favour liberalizing India's legal services market as well. In fact, from a self-perception point of view, they see themselves as global lawyers, as professionals who are intimately familiar with the global legal landscape.<sup>89</sup>

This phenomenon of peel-off lawyers, while seeming to occur in greater numbers today, is not entirely a recent occurrence, however. One of India's largest and most successful and respected firms, Jyoti Sagar Associates, has been described by its founder as a firm that was a start-up in the 1990s, after this lawyer broke-off from his uncle's firm, which was and remains a well-known outfit in its own right.<sup>90</sup> While it started as a peel-off, JSA has become a type of establishment firm, where although attrition rates are comparatively not as high as other firms, there are those who do leave and do seek to pursue their own paths – much in the same way as the organization's original peel-off lawyer, Jyoti Sagar, did years ago.

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next section, but some examples of senior peel-offs departing their formers places of employment include the following prominent lawyers: Suresh Talwar, who spent decades at the firm of Crawford Bayley before starting-up TTA, Talwar, Thakore, and Associates, in 2007. See Monica Behura, *A Host of Start-Up Law Firms Show the Way*, ECONOMIC TIMES (Sept. 11, 2009), <http://economictimes.indiatimes.com/opinion/india-emerging/a-host-of-startup-law-firms-show-the-way/articleshow/4996959.cms>. Then there are Alka and M.P. Bharucha. The former started her career at Mulla & Mulla and then went to Amarchand, before starting up Bharucha & Company in 2008. M.P. Bharucha was also a partner at Amarchand prior to the formation of the peel-off with his wife. He also was at Mulla & Mulla as well. See INDIAN LAWYER 250, <http://www.indianlawyer250.com/people/41059/inl250/5/alka-bharucha/>; also see <http://www.indianlawyer250.com/people/22962/inl250/99/mp-bharucha/>. And recently, the famed arbitration lawyer and former partner at Amarchand, Ciccu Mukhopadhaya, left the firm to go to the courts as a senior advocate. See Kian Ganz, *Amarchand Senior Equity Litigator Ciccu Leaves with Gown & Blessing to Start Senior Counsel Practice*, LEGALLY INDIA (Jan. 4, 2012), <http://www.legallyindia.com/201201042465/Law-firms/amarchand-senior-equity-litigator-ciccu-leaves-with-gown-a-blessings-to-start-senior-counsel-practice>.

89 This summary of attitudinal information comes from a summation of the interviews, which will be discussed in the next section.

90 See Moinak Mitra, *How Jyoti Sagar and Berjis Desai Made JSA Partners in Profit*, ECONOMIC TIMES (Feb. 10, 2012), [http://articles.economictimes.indiatimes.com/2012-02-10/news/31046381\\_1\\_law-firm-equity-partners-azb](http://articles.economictimes.indiatimes.com/2012-02-10/news/31046381_1_law-firm-equity-partners-azb).



Thus, to better understand today's landscape interviews were conducted between 2010 and 2012 mainly with lawyers from firms listed in Table 6.<sup>91</sup> In total, interviews with thirty-six lawyers representing twenty-five family and personality-driven firms were completed. In addition, interviews occurred with twenty-five peel-off lawyers. Most of these peel-off lawyers have indeed formed firms, but interestingly not all have, which will be discussed below as well. Furthermore, beyond just the interviews, for several of these peel-offs, the author was allowed to shadow these lawyers and spend time within their settings. This methodological technique of "soaking and poking"<sup>92</sup> – famously associated with the social scientist Richard Fenno's ethnographical style (although used of course by others) – rendered a greatly nuanced picture of the respective environments. The next section will shed insights into both the culture of the corporate firm sector and the motivations for this departure-phenomenon by peel-off lawyers.

## **2. Why Peel-Off Lawyers Peel Off**

### *i. Galanter's Haves' Motivations*

Lawyers who have left firms that are more traditional (family-based) or personality-driven in order to form new firms of their own cite several resource and institutional justifications for their decisions. Without exception, one key contributing factor to the departures was the perception of the inequity in compensation packages. As one peel-off lawyer who left a prominent law firm stated, "From the moment we started, our salaries were so low. We made in a year what first-year associates in Western firms make in month!"<sup>93</sup> From the interviews, as well as from data gathered by another resource, it appears that yearly starting salaries for entering associates within the country's traditional and more established personality-driven firms range from \$15,000-\$25,000.<sup>94</sup> These

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91 To protect the anonymity of the respondents, they will not be identified.

92 See RICHARD E. FENNO, *HOME STYLE, HOUSE MEMBERS IN THEIR DISTRICTS* 249-250 (1978).

93 Author interview (May 18, 2010).

94 This information is based on the aggregate interviews conducted between 2010 and 2012. It is also confirmed by other sources, including Lin, *supra* note 72; see also *Legally India's* research page on salaries for lawyers, [http://www.legallyindia.com/wiki/Indian\\_lawyer\\_salaries](http://www.legallyindia.com/wiki/Indian_lawyer_salaries).

figures do not include potential bonuses or year-end raises based on performance, but even accounting for these additions, a first-year associate is unlikely to earn higher than \$30,000 per year.

To counter the charge that first-year associates are underpaid, senior level partners at four different established firms argued that the comparison to American or British salary structures was not appropriate. For one thing, they contended, the purchasing power of Indian associates is far greater than that of their counterparts in the U.S. or U.K. “10 lakhs a year [roughly \$20,000], plus benefits, plus mobile [phone] is a bloody lot here,”<sup>95</sup> decried one partner. Moreover, there is a market and fairness-to-clients issue. According to these different partners, in the Indian context clients are unwilling to pay exorbitant hourly rates for the work-product of junior lawyers – who, while smart, often do not know much substantive law and tend to be adequate writers at best.<sup>96</sup> Partners at such firms who are in charge of billing-rates do not – as one lawyer suggested – seek to bilk clients.<sup>97</sup> With comparatively less revenue generated than what American and British firms enjoy, such Indian firms have to adjust their compensation packages to associates, which is why salary structures are what they are. A final defence given is two-fold, namely that Indian associates are not saddled with as much law school debt as American graduates and thus do not demand such high salaries. And that as Indian associates continue their tenure within the firm, salaries do escalate. As one partner commented, “especially if they are good, they can be very well-off without even being a partner.”<sup>98</sup>

Many peel-off lawyers, though, scoff at these arguments. Kinship and personality firms by their very nature, they suggest, are not flat but rather pyramid-structures where disproportionate influence is vested by those who control the reigns. (Even a senior partner at a smaller, but well-known family-based firm, conceded as much.<sup>99</sup>) Take salaries, for example, which in these firms are not

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95 Author phone interview (Feb. 18, 2012).

96 *Id.*; author interview with respondents (May 18-19, 2010).

97 Author phone interview with respondent (Feb.18, 2012).

98 *Id.*

99 Email quote: “Most of the law firms are proprietary in nature (being dominated by one individual or in some cases by 2 - 3 members of the same family). The firms are

uniformly distributed but rather are discretionary. Even a senior level associate can expect only a percentage of her/his salary to be fixed at the start of the year, leaving a portion (sometimes upwards of 40-45%) to be determined at the end of the fiscal year by the partners in charge. Otherwise put, there are built-in glass ceilings for those who are not family-members or who are not part of the 'in-control' group. Thus, a key motivation for peel-offs who leave is to be part of – or to create – a more transparent, merit-based organization where there is satisfying and predictable remuneration.<sup>100</sup>

The idea that firm governance and the decision-making processes should be less top-down and more transparent goes beyond salary. The manner in which traditional and personality-driven firms delegate work-assignments also can be frustrating, particularly for already disaffected associates. This point plays out in two cross-cutting ways. On the one hand, some lawyers who depart do so because they feel too pigeonholed and intellectually constrained. These are lawyers who wish to be exposed to a range of legal areas and often also want to do *pro bono* work. Instead they find themselves limited to certain practice sectors where the pressures of billing and meeting client and partner demands prevent experiencing other opportunities.

On the other hand, there are those who peel-off because they want to move in a much more specialized direction. These lawyers seek to maximize their time working in areas they especially enjoy, without having to answer to superiors who may not be attuned to, or interested in, these particular sectors. Three examples highlight this point. The first involves a peel-off boutique that focuses mainly on two legal sectors. This firm has just a handful of equity partners and associates, and a small number of staff assistants. One of the founders was at a traditionally elite law firm before forming this partnership, and the motivation was clear. This person wanted independence, to be a boss, and to focus exclusively on those practice areas that was the individual's inspiration to become a lawyer from the outset. At the former place of employment, the lawyer was spread too thin and

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styled as partnership firms but the control vests with one individual at the top or with the family.” Author received email March 27, 2012.

100 Author interviews (July 12-13, 2011).

described it as “wearing ten different hats.”<sup>101</sup> Another partner at this same peel-off firm stated it another way about his previous place of employment – that he was constantly (and poorly) multi-tasking for different partners who worked in different departments.<sup>102</sup> When they finally could work on their areas of interest, they were not given opportunities to interact with the clients, because of their status as associates.

Second, this idea of peeling-off to concentrate on specific areas has made public news for another firm, Verus Advocates. Started in February of 2011, Verus has already opened four offices (Delhi, Mumbai, Kolkata, and Hyderabad) and has a total of fifteen lawyers – five equity partners and ten salaried lawyers.<sup>103</sup> The story of Verus is one of exciting entrepreneurialism. The founding partner is Krishnayan Sen, a graduate of the elite NALSAR law school in Hyderabad, who spent time apprenticing under the famous Supreme Court lawyer, V.R. Reddy. Sen then took over his father’s kinship-based firm, Udayan Sen & Company, in Kolkata.<sup>104</sup> In 2009, Krishnayan Sen decided to close the family firm and join a highly-regarded peel-off, Bharucha & Company, whose two founding partners are the extremely well-respected husband-wife team of Marezban and Alka Bharucha.<sup>105</sup> (The Bharuchas were formerly partners at Amarchand & Mangaldas until they left in 2008.<sup>106</sup>)

Less than two years into his tenure, however, Sen left the Bharuchas to start his own firm, Verus.<sup>107</sup> Boldly, Sen opened three offices at the same time, in Mumbai, Delhi, and Kolkata. He soon added an office in Hyderabad. He

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101 Author interview (July 11, 2011).

102 Author interview (July 11, 2011).

103 See Kian Ganz, *4 NUJS Partners Join 4 City Start-Up Verus from Courts and Bharucha*, LEGALLY INDIA (Mar. 3, 2012), <http://www.legallyindia.com/201203312699/Law-firms/breaking-4-nujs-partners-join-4-city-start-up-verus-from-courts-and-bharucha>.

104 See Kian Ganz, *Young Entrepreneur Krishnayan Sen Starts Forthright 3 City Firm Verus*, LEGALLY INDIA (Feb. 14, 2011), <http://www.legallyindia.com/201102161808/Law-firms/young-entrepreneur-krishnayan-sen-starts-forthright-3-city-firm-verus>

105 *Id.*

106 See Profile at <http://www.indianlawyer250.com/people/22962/inl250/99/mp-bharucha/>; also see profile at <http://www.legal500.com/firms/33844-bharucha-partners/offices/34099-mumbai/lawyers/93179>

107 See Ganz, *4 NUJS Partners*, *supra* note 103.

made this decision to peel-off to focus on his two passions, corporate law and litigation – where he could be the leader of his own organization, and where he could pursue his dream of creating a firm that could be of value to domestic and foreign clients on these two fronts.<sup>108</sup> In 2012, Sen attracted two associates away from his former employer to join Verus as equity partners and two other litigators from Delhi to lead his office in the capital city.<sup>109</sup> For the entire Verus team – particularly the equity partners – not only is the firm now national and a prime example of how there are different layers to the peel-off process, but there is also a focus and in-depth commitment towards two areas of the law that most appeal to the group. As Sen has noted, “I think it’s possibly going to be a distinguishing factor, having a very strong balance of both corporate [lawyers] and litigators.”<sup>110</sup> And Verus’ Jay Parikh (one of the new equity partners) has commented that, “It was the entrepreneurial bug that bit me . . . . This was always something on the backburner in a sense, because I had always thought of doing something on my own and it came up as a brilliant opportunity.”<sup>111</sup>

The third example relating to specialization is that for many peel-offs a key motivation for leaving firm practice is to become experts not in two or three areas, but rather in one – litigation in the upper courts, namely the Supreme Court. Most of India’s practicing lawyers are solo advocates who work as litigators in the country’s courts. The lower level district courts house the largest percentage of these lawyers, with smaller numbers working in the state appellate High Courts, and even fewer practitioners working exclusively in the Supreme Court. (Particularly in the north of the country, it is not uncommon for upper judiciary lawyers to slide back-and-forth between a state High Court and the Supreme Court.)<sup>112</sup>

Within each of these arenas, there is a hierarchy that exists where prestige and wealth accompany those at the top of the respective pyramids.<sup>113</sup> Overall,

108 *Id.*; see also Ganz, *Young Entrepreneur*, *supra* note 104.

109 *Id.* at both cites.

110 See Ganz, *supra* note 103.

111 *Id.*

112 See Jayanth K. Krishnan, *Lawyer for a Cause and Experiences from Abroad*, 94 CALIF. L. REV. 575-615 (2006); Jayanth K. Krishnan, *Transgressive Cause Lawyering in the Developing World: The Case of India*, in *THE WORLDS CAUSE LAWYERS MAKE*, 349-382 (Austin Sarat & Stuart Scheingold eds., 2005).

113 *Id.* at both cites.

however, those at the top of the Supreme Court bar are viewed as the most reputed, famous, powerful, and richest lawyers in the country – sometimes even financially surpassing the top equity partners working in the most elite law firms in India.<sup>114</sup> This select corps of solo practicing advocates comprises a number of no more than one hundred, with many having the luck of inheriting their business from their (typically male) relatives.<sup>115</sup>

These specific professionals serve as role models, or what one peel-off lawyer redundantly called “aspirational inspiration”<sup>116</sup> for those with the ambition to be purely litigators. This individual described his time at his old firm in this way: “I did the sh\*t work that was crucial, but my boss met the clients and would be the one in court.”<sup>117</sup> Although he might accompany his supervisor on such trips to court, his role was nevertheless marginal. Moreover, even his firm would at times turn to a set of esteemed Supreme Court advocates on complicated, high-value matters, which only further enticed this lawyer to leave. As the interviewee remarked:

*I think if I work hard, maybe I can be the next Fali [Nariman] or Harish Salve [two of India's most famous Supreme Court litigators]. Who knows? But those are the guys who have made it, and they have the power and money to do other good things too.*<sup>118</sup>

The “other good things,” to which this lawyer refers involve, for example, assisting on public interest litigation petitions or writing influential books or being involved in education (through adjunct teaching, for instance). Empirical research on this point shows that, in fact, solo practicing advocates in the upper judiciary often have relatively more social capital, influence, and resources to take on a diverse array of community-based activities.<sup>119</sup>

Beyond seeking to practice more generally or, alternatively, in a more specialized manner, some lawyers peel-off for other reasons. Some depart to

114 *Id.* at both cites. See also Marc Galanter & Nick Robinson, India's Grand Advocates: A Distinctive Segment of the Indian Legal Profession in the Age of Globalization, forthcoming.

115 *Id.* at all cites.

116 Author interview (July 12, 2011).

117 *Id.*

118 *Id.*

119 See Krishnan, *Lanyering for a Cause*; Krishnan, *Transgressive Cause Lanyers*, *supra* note 112.

pursue higher educational degrees in hopes of entering academia, whether in India or abroad.<sup>120</sup> Others leave to be part of a policy think-tank or non-governmental association. Still others peel-off but stay in the corporate world, by laterally moving to another firm or joining a corporation as an in-house counsel lawyer. For this last set, the decision to remain in the corporate sector is based upon two factors: being able to maintain a similar or even better standard of living and having the assurance that there will be greater time, flexibility, and opportunities to engage in not-for-profit causes to which they feel committed.<sup>121</sup>

One other institutional and resource-based reason for why peel-offs leave can relate to gender. Nearly three-quarters of peel-offs interviewed here were men. It is not known for certain whether this percentage reflects the situation throughout the country, but given information received from informed participants, the figure may indeed be representative. Of the women lawyers from whom data was gathered, several left their employers to join-up with a peel-off firm because these new settings offered greater institutional support for starting a family. One lawyer, who was married, said that because of how few women were in her former workplace, let alone in positions of power, there was a sheer lack of understanding of the pressures she faced at home, at her job, among her extended family, and within her social community.<sup>122</sup> Another expressed frustration that time away to have a baby counted against her in terms of salary, promotions, or both.<sup>123</sup> By peeling-off and finding firms where accommodating family-leave policies were in place, these lawyers were able to have a much better work-family balance.

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120 For a discussion on Indians coming to the United States to obtain LL.M. degrees, see Swetha Ballakrishnen, *Homeward Bound: What Does a Global Legal Education Offer Indian Returnees?*, 80 FORDHAM L. REV. 2441 (2012). The leading scholar on the subject of foreign students seeking graduate legal education is Carole Silver, see e.g., Carole Silver, *States Side Story: Career Paths of International LL.M. Students, or "I Like to Be in America,"* 80 FORDHAM L. REV. 2383 (2012).

121 For a recent article on the growth in in-house counsel within Indian companies, see Maulik Vyas, M.V. Ramsurya, & Kala Vijayraghavan, *India Inc in Favour of Setting-Up In House Legal Teams*, THE ECONOMIC TIMES (Feb. 10, 2012), [http://articles.economictimes.indiatimes.com/2012-02-10/news/31046258\\_1\\_legal-advisors-legal-team-aditya-birla-group](http://articles.economictimes.indiatimes.com/2012-02-10/news/31046258_1_legal-advisors-legal-team-aditya-birla-group). And for the changing dynamics of corporate in-house counsel, see Vikram Khanna and David B. Wilkins, *Passage to India? Globalization and the Rise of the In-House Counsel Movement in India*, forthcoming.

122 Author interview (Feb. 19, 2010).

123 Author interview (Mar. 13, 2012).

At the same time, several women lawyers at certain traditional and powerful personality-driven firms have had chances to leave for promising peel-offs, but they have opted to say no. For some of these women lawyers, they are simply not interested in having a family and their main ambition is moving-up the professional ladder.<sup>124</sup> They are satisfied with their remuneration, the prestige of the firm, and the work they are doing. For others who have family ambitions, they remain because their present firms provide institutional benefits, including maternity leaves and accommodating environments that allows for success at work and the opportunity to have a family.<sup>125</sup> A few firms even provide daycares (or what in India are called *crèches*) for employees' children.

In reflecting on the difference between women lawyers who peel-off and those who do not, it appears that the latter tend to be in firms that are at the very top of the 'Elitelaw' pyramid. Those less satisfied with their circumstances, by contrast, can be in a range of other places. However, when women lawyers do peel-off, a common reason is because they perceive their respective settings as having insufficient institutional support and resources dedicated to the issues that they feel are important to them. Their motivation to leave, therefore, tends to be based on a desire to be in a climate that is structurally committed to providing them professional and personal satisfaction.

Decades back, when Marc Galanter discussed why the Haves have advantages, access to strong institutions and availability of resources served as his underlying explanations. The above discussion involving peel-offs offers just another layer of proof supporting his classic argument. Yet are such tangible factors all that matter in this analysis? The next section suggests that important psychological forces play a role as well.

### **3. Psychological Motivations for Peeling-Off**

It has already been observed that India's legal profession is extremely hierarchical. Within the corporate legal sector, visible cleavages are present as well. To start, in many corporate law firms there are multiple layers that lawyers

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124 Author interview with one such lawyer (Nov. 10, 2010).

125 Author interview (with a different lawyer) (Nov. 10, 2010).



must climb before reaching the top of the leadership-pole.<sup>126</sup> A first-year lawyer is referred to as a new associate and upon promotion can move to senior associate, then to principal associate, then to salaried partner, and finally to equity partner. The time it takes to make these upward jumps vary, and in several kinship and personality-driven firms it is difficult to become an equity stakeholder without being part of the family or the founding team of lawyers.

That lawyers who peel-off feel frustration at this hierarchy is palpable. Knowing that the odds of making partner – salaried or equity – are long, junior level lawyers resignedly accept that this is part of the corporate firm system in which they work. Yet what they have difficulty accepting, and ultimately what helps to contribute to their departures, is that the hierarchy is reified by the incorporation of emotionally harmful norms into the workplace. Indeed as highlighted above, these hurtful behaviours reflect the mobbing actions that the social psychology literature has been describing over the years, and the application to the Indian corporate legal sector, in particular, appears to manifest in different ways.

Yet before detailing these accounts, it is crucial to note the extreme sensitivity that peel-off lawyers have towards publicly discussing the impact of mobbing. Repeatedly, peel-offs emphasized that they would never publicly acknowledge the ill-treatment they felt at their former firms. Where press releases announcing their departures were involved, for example, several peel-offs noted how they happily touted their terrific relationships with their ex-colleagues and the amount that they learned while working in their previous posts.<sup>127</sup>

Peel-offs frequently take extra efforts to stay in contact with those whom they formerly worked; they send holiday cards, invite their former colleagues to social gatherings, and even sometimes refer business to them. The reason is simple and often is one of self-interest. Peel-off lawyers wish not to burn bridges and believe that maintaining good relationships (at least publicly) will reap benefits for them as they seek to pave their new career paths. Given that many of these peel-offs

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126 This information and the information in the remaining part of this paragraph are based on cumulative years of study on the Indian law firm sector undertaken by the author.

127 This point was repeated in almost all of the multiple interviews the author had with the different peel-off respondents. *See* methodology section, III. *A supra*.

are young, and that the legal services market in India is a series of interconnected networks, they simply cannot afford to alienate colleagues who may be helpful to them in the future.<sup>128</sup>

That said, the motivation to depart along with seeking material gains, is also tied to a keen desire to be in a more emotionally conducive environment that fosters professional development and personal fulfilment. To begin, on the professional side, by far the most frequently cited frustration by peel-offs is a feeling that, work-wise, they are in situations where they cannot succeed. Examples within various levels of the law firm pyramid highlight this point. Consider those instances where an upper-level associate is given an over-abundance of responsibilities with unreasonable deadlines and little staff support. Here such work can include managing multiple partners' case files, drumming-up client business, mentoring junior-associates and law student interns, serving on various firm-committees, and being expected to participate in a range of external bar association activities. Upper-level associates with these tasks are often told by their superiors that it is because the firm has faith in them that they are in charge of so much. "We believe in you, we trust you, and we need you," recounted one upper-level associate's conversation with a partner who repeatedly saddled the former with multiple tasks.<sup>129</sup>

And certainly this type of comment is not always gratuitous. Upper-level associates who receive such responsibilities frequently are highly respected within the firm. They are seen as smart, personable, multi-talented, and hard-working. They receive these busy workloads because they are known "to get things done."<sup>130</sup> After all, they have made it as a senior or principal associate – a feat accomplished by only a select few within Indian 'Elitelaw' – because of their intelligence, impressive work-product, and political skills. It is only rational then for partners-in-charge to rely upon these lawyers to do the necessary (albeit more time-consuming) work of the firm.

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128 These consistent patterns, again, came through in the multiple interviews the author had with the different peel-off respondents. See methodology section, III. A *supra*.

129 Author interview (Nov. 13, 2010).

130 *Id.*

Yet for many upper-level associates, there is scepticism that increased responsibility is a reward for being appreciated. In fact, they believe it is just the opposite. One peel-off's story serves as a nice representation. This lawyer started as a first-year associate at a well-known but smaller family-firm and progressed up the ladder to an upper-level associate in a shorter-than-usual span of time. His ambition for becoming an equity stakeholder, he concedes, was well-known, which he claims led to the imposition of a 'glass-ceiling' upon him by the partners.<sup>131</sup> Because these partners knew that they could not legitimately cast him as incompetent or as rendering poor services, this lawyer contended that they instead saddled him with an extraordinary amount of "busy work."<sup>132</sup>

As such, he routinely would be at the firm working seventeen-to-eighteen hour days. Yet he still would not be able to complete all of his assignments. As the social psychology literature might call it, this lawyer was literally mobbed with work. The lawyer's inability to meet the demands of his superiors soon resulted in negative feedback. At first the comments were snide – implied remarks that if he could not handle this amount of work now, how would he be able to make it as a partner where the responsibilities are that much greater? The criticism intensified, and although the lawyer knew it was pretext, he could not help but begin to feel some self-doubt in his abilities. This insecurity became especially pronounced during those times when his superior would berate him in front of others. Finally, he decided – as is said in India – *to submit his papers*, informing his superiors that he would be leaving to join another recent start-up firm.<sup>133</sup>

In settings where there is intense pressure from the top, it is not surprising to see similar behavioural patterns trickle-down. As another upper-level lawyer mentioned, although he sometimes felt badly about it, he was very demanding on his juniors. Not only would he give them difficult projects, but he would be critical, and at times, yell at them.<sup>134</sup> Senior associates at other firms acknowledged they behaved similarly, and they too conceded that they verbally accosted their younger colleagues. Too often the standard of behaviour would be to scream first and

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131 Author interview with lawyer (different than *id.*) (Nov. 13, 2010).

132 *Id.*

133 *Id.*

134 Author interview (May 17, 2010).

listen or ask questions later. While not seeking to be excused, their explanation was that as upper-level associates they were being squeezed by their supervisors and as a means of seeking relief they delegated matters to those beneath them. However, frequently these junior level associates were only one-to-two years out of law school, and they were too inexperienced. Their writing was poor and they had little ability to grasp key legal concepts. Simply put, they were untrained – and because their immediate superiors were under intense pressure themselves, these young lawyers ultimately received great amounts of scrutiny and scolding and little of what they needed most – mentorship.<sup>135</sup>

Indeed consider two junior peel-offs who were each previously in smaller but respected firms. The patterns for these junior lawyers were similar. Work would be assigned, but it would be in an area of the law with which the associates had little familiarity. In each case, they would study and research the respective subject-matters, but they inevitably would have questions and need assistance. Emails would be sent to supervisors but replies were rare. “Getting an audience,”<sup>136</sup> as one of the associates mentioned, with the superior was difficult because of how infrequently the latter was in the office. In the beginning, these junior lawyers also sought help from others in their cohort, but this was not a reliable source of assistance; fellow associates either had little time to aid or were as clueless on the legal matter being researched. Moreover, there was a general fear that asking too many questions – whether to peers or supervisors – might lead people to make assumptions about the lawyers’ competency levels.<sup>137</sup>

The ramification of such absentee mentorship was that the work-product, which was often a memo or draft of a client-letter, was inadequate. Even the junior lawyers conceded as much.<sup>138</sup> But to them, the lack of tutelage signalled something more, especially when they encountered frustration from their supervisors over the poorly-submitted product. Namely, it represented a deliberate tactic where the junior

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135 This account was reflected during the interview with *id.*, but also was a pattern cited during interviews with other similarly-situated lawyer. See methodology section, III. A *supra*.

136 Author interview with the two lawyers (May 18, 2010). (Quote from just one of these two).

137 *Id.*

138 *Id.*

lawyers believed they were being set-up to fail. In the eyes of these associates, they were being placed in a sink-or-swim environment. They knew they were cheap to hire and expendable. Those few who 'got it' – because they knew how to politic, learned quickly on their feet, or for some other reason – remained, and those who struggled left, which is exactly what happened to these two lawyers.<sup>139</sup>

If being mobbed with assignments and suffering – as well as engaging in – castigation represent one set of experiences of certain lawyers who peel-off, there are other ways lawyers can feel alienated. For example, both junior and senior level associates can often feel as though they are not given proper credit by their respective superiors when jobs are performed well and, as already stated, too frequently feel blamed when projects go awry.<sup>140</sup> In addition, lawyers can experience frustration because of how *little* work they are given, a sign they can perceive to be as purposive. Above, it was mentioned that the Indian economy in the post-2008 period has not seen as much drag compared to other industrialized countries; nevertheless, legal work has tapered some. An interesting phenomenon though has occurred within many corporate law firms. While acknowledging that specific legal sectors have not been as busy, partners from different law firms hasten to point out that their hiring of lawyers continues.<sup>141</sup> Corresponding media accounts, discussions with junior lawyers, and observations of specific firm environments all indicate that the recruitment of associates remains.<sup>142</sup> The reason seems to be two-fold: with salaries for first and second-year associates still being affordable for management, firms can continue to hire without taking much of a financial hit. Furthermore, firms worry that if they do not hire, that would send a negative cue to present and potential clients that business is suffering, which would be bad publicity.

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139 This account is based on *id.*

140 These consistent patterns, again, came through in the multiple interviews the author had with the different peel-off respondents. See methodology section, III. A *supra*.

141 This sentiment was expressed repeatedly during the author's conversations with a range of law firm partners. See methodology section, III. A *supra*. The two main areas cited as experiencing a downturn were capital markets and banking.

142 Regular placement data from *Legally India* tracks law school placement, at least in terms of the more prominent law schools in the country. See, e.g., Kian Ganz, 2013 Recruitment Day Zero at NALSAR, GNLU, NLSIU: Amarchand, Trilegal Hire 30, LEGALLY INDIA (Apr. 25, 2012), <http://www.legallyindia.com/201204242767/Law-schools/2013-recruitment-day-zero-at-nalsar-gnlu-nliu-amarchand-trilegal-hire-30>.

The result is that at firms where business has been slow, associates often find themselves without much work to do.<sup>143</sup> Then when a project does emerge, the dynamics of who is appointed to work on what becomes more than just routine delegation. Those who are given projects from their higher-ups tend to be ‘repeat-receivers’ (assuming their performance is good), while those who are passed-over continue to remain idle. A climate of dissonance ensues between those who are busy and those who are not, where the latter feel shunned by their superiors and resentful towards their fellow associates. In fact, un-busy lawyers firmly believe that they are being ignored because of personal politics, not because they lack talent or are in the wrong department. The perception is that they simply are not part of the in-group.<sup>144</sup>

Add to this the fact that concurrently such supervised lawyers can face a range of personal indignities, or what the literature has described as direct personal mobbing. Such put-downs might include charges of stupidity and an overall lack of intelligence to derogatory comments on appearance. One lawyer, for instance, remarked how his boss was known to say harshly, “How can you be so dumb?”<sup>145</sup> Another commented that he was regularly denied permission to be part of client-meetings because the superior bluntly stated that the junior would not make a good physical impression.<sup>146</sup> (According to this associate, he felt the real reason for exclusion was based on the supervisor not wanting to share the spotlight.<sup>147</sup>) Other direct insults cited by different subordinates involved laughing at an associate’s use of the English language, being teased (in front of others), given only negative reinforcement, and relatedly, being constantly yelled orders at, all which effectively eroded the individual’s dignity and self-worth.<sup>148</sup> Even one upper-level associate remarked that in all his time at his firm, he could not recall

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143 This trickles down to interns as well, who may go many days without any assignments at all.

144 These consistent patterns, again, came through in the multiple interviews the author had with the different peel-off respondents. See methodology section, III. A *supra*.

145 Author interview (May 17, 2010).

146 Author interview (May 18, 2010).

147 *Id.*

148 These points are based on multiple conversations author had with different interviewees over the course of the information gathering process. See methodology section, III. A *supra*.

his boss ever using the words “may”<sup>149</sup> or “please.”<sup>150</sup> Instead, harshly-stated phrases such as “get me this”<sup>151</sup> or “do that”<sup>152</sup> were ones regularly employed.

For anyone familiar with Indian workplaces, these accounts will not appear to be the least bit surprising. Several of the lawyers interviewed resignedly noted that most people simply accepted the persistence of such demeaning behavioural patterns. There also appears to be a significant and worrying amount of *indirect* personal mobbing that breeds insecurity among those targeted. There are numerous forms that this particular mobbing can take. When it occurs, however, especially over a prolonged period, it contributes to an enormous lack of confidence for those who endure it, and the overall effect on firm-culture is negative. Cleavages develop and fester and feelings of ostracism grow, resulting in an inharmonious climate.

Much of this behaviour described by the respondents was based on subtle, often tacit, and difficult to quantify metrics. These were their impressions and perceptions, but ones that mattered and affected why these lawyers were unhappy, and why they sought to depart their workplace environment. Moreover, while much of the indirect mobbing was discussed in terms of superiors vis-à-vis subordinates, it was occasionally cited as occurring laterally among peers as well.

To begin, for associates who felt indirect personal mobbing from the top down, most of them stated that it happened through the process of being ignored or facing subtle verbal jabs from their supervisors.<sup>153</sup> The comments could range in nature, but fundamentally they dealt with the associates feeling as though they were not part of the right social circles or socioeconomic backgrounds as their bosses.<sup>154</sup> If the subordinates came from elite schools and their bosses did not – or vice versa, that might prompt a series of indirect, snide, and offensive

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149 Author interview (July 11, 2011).

150 *Id.*

151 *Id.*

152 *Id.*

153 These points are based on multiple conversations author had with different interviewees over the course of the information gathering process. *See* methodology section, III. A *supra*.

154 *Id.*

comments. If the subordinates were from economically privileged backgrounds while their bosses were not – or vice versa, that too might generate subtle verbal accosting. For example, some noted finding themselves on the receiving-ends of remarks highlighting a silver-spooned upbringing or, conversely, being from a less-developed part of the country. Or if there were differences based on language or gender, mildly but still hurtful and repetitive insults might ensue. Or, simply put, where personalities did not mesh, that could be enough to foster passively-aggressive, negative comments from the superior.<sup>155</sup>

Beyond words, indirect mobbing could occur through different types of social encounters. So, superiors might dine, have drinks, or just pleasant visits during office-hours with only those who were like the superiors themselves.<sup>156</sup> Relatedly, those associates who were part of the in-group, as opposed to those who were not, would be privy to more information on such matters like the business-state of the firm, who the new hires-and-fires were, as well as random gossip ruminating within the office.<sup>157</sup> And within group-settings, the self-perceived excluded lawyers regularly could feel isolated, believing that superiors subtly (but purposely) would undermine them or dismiss their input in front of the others, which would only further lower the targeted associates' confidence-levels. Again, for these subordinates it was nothing overtly done by their superiors; rather, it was the subtle, implied, but still real conduct that left them insecure.

Advantaged-associates also participated in diminishing the identity of the targeted lawyers. This *lateral indirect mobbing* could be seen as an adult-form of what is referred to in India as 'ragging.' In these cases, the advantaged lawyers could team-up on the marginalized individuals by engaging in similar subtle actions that the superiors were described as doing. Targeted associates here might experience the quiet jokes, sarcasm, and affirmative exclusion. Targeted lawyers might also see their peers whispering or glaring in an intimidating manner. Here too, these behaviours, while not overtly aggressive, still could have the effect of shaking the confidence of the marginalized lawyers. These were hostile, disruptive actions

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155 *Id.*

156 *Id.*

157 *Id.*



surreptitiously clothed in indirect conduct upon which it was difficult to complain. After all, how might an aggrieved individual frame a complaint without looking feeble or paranoid? And would not a complaint of these types only lead to further acts of indirect intimidation?<sup>158</sup>

Clearly then these targeted-lawyers felt serious barriers in terms of remedying their circumstances. In theory, this group could organize and form a clique of its own. They could mock, chide, and openly stand-up against their 'Haves' peers. But there was no evidence of such collective, rebellious behaviour occurring based on the research conducted. The reason seemed simple enough: these lawyers already felt in a tenuous spot; they were fragmented, had little political, economic, or social capital, and were afraid of losing the little they had.

Still, this is not to say that those who were the targets did nothing in response. Both as a means of coping as well as exhibiting some defiance, these lawyers employed different passive forms of resistance. Within their own circles, some engaged in private ridiculing of those who hazed them. Imitating idiosyncrasies, gestures, and accents of superiors or advantaged-peers were not uncommon.

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158 *Id.* There is another area where pressure can be applied – both in an indirect but also direct manner: sexual harassment. As stated earlier, sexual harassment is often analysed distinctly from mobbing. In India, however, there has been an absence of serious anti-sexual harassment legislation to date. In 1997, the Indian Supreme Court issued a judgment that recognized sexual harassment as violating the Constitution's Fundamentals Rights, (*see Vishaka v. State of Rajasthan*, A.I.R. 1997 S.C. 3011). *See also* Avani Mehta Sood, *Redressing Women's Rights Violations Through the Judiciary*, 1 JINDAL GLOBAL L. REV. 137, 149 (2009). But bills codifying protections for victims have stalled in Parliament for years, with the most recent detailed one languishing since 2010. *See* Protection of Sexual Harassment in Workplace Bill, 2010 <http://pib.nic.in/newsite/erelease.aspx?relid=66781>. For these reasons, sexual harassment would reasonably fall under the mobbing-framework. Nicole Oversier, *Sexual Harassment and Consensual Flirting, The Firm Video Review*, LEGALLY INDIA (Aug. 30, 2010), <http://www.legallyindia.com/201008301239/Dispute-resolution-arbitration-litigation/sexual-harassment-and-consensual-flirting-the-firm-video-review>. However, of the respondents interviewed for this study, sexual harassment was not cited as a motivation for peeling-off. Recall that the number of female peel-offs interviewed for this study was comparatively small. There thus is likely an under-representation of respondents affected by sexual harassment. This point seems underscored by the fact that women's organizations and different governmental bodies have documented that sexual harassment – applied against victims both indirectly and directly – is a serious problem within the Indian corporate sector. More research and greater sample sizes on this important topic are required with respect to law firms before specific conclusions are drawn.

Others looked to staff workers or those lower on the hierarchical ladder for support, airing their complaints about those whom they disliked.<sup>159</sup> Then there was the tactic of gossip and hearsay. In one case, a disgruntled associate took pleasure in telling a story he had heard about another associate submitting a purposely faulty assignment to a group of partners and then blaming the poor work-product on improper instructions from the immediate supervisor – who apparently was thereafter disciplined. In another instance a lawyer claimed to know that favoured-associates received “money under the table”<sup>160</sup> as an incentive to join the firm. (The money would then not have to be reported as taxable). Neither of these two instances could actually be proved during the research for this project, but the point is that the author heard permutations of both of these episodes during other unrelated conversations with different parties in different firms. Each time, the conveyors of the stories exuded confidence and a sense of empowerment in being able to cast their colleagues in such a bad light.

Notwithstanding these forms of passive resistance, for those who felt on the periphery, they by and large continued to “lump it,”<sup>161</sup> until the lack of professional satisfaction *combined* with the personal unhappiness reached a level they could no longer endure, leading them to peel-off to pursue another career path. For those who went to another firm, or who created their own firm, their desires could not be clearer. They wanted exciting work, but as importantly, they yearned for less hierarchy, more mentoring, and greater collegiality, and their view was that being part of a peel-off operation offered such an opportunity. As will be summarized next, these hopes have had to confront the challenges of working in the hyper-competitive Indian corporate legal services space. In many cases, practical realities have taken priority over aspirational ideals.

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159 This turning to lower-ranking people also gave the confidants a sense of importance, which in-turn produced a certain level of trust, loyalty, and respect – feelings otherwise so absent in the targeted-lawyers daily professional lives.

160 Author interview (Feb. 19, 2012).

161 See information provided in *supra* note 21.

## V. CONCLUDING THOUGHTS ON BEING A PEEL-OFF: EXPECTED AND UNEXPECTED CHALLENGES

While there is much excitement and anticipation from peel-off lawyers about starting a new chapter of their lives, it is important to realize that not all have had the same experiences once leaving their former places of employment. This concluding section will focus on the challenges peel-offs face in two settings: in their new firms and in the courts, the latter being where some have sought to make a career as solo-practicing advocates in the upper judiciary.

For those who have left to be in a newer firm setting, there are three dimensions to this type of departure. First, lawyers can move to existing firms that are not peel-offs. One recent and high profile example involves Sumes Dewan and his shift from Fox Mandal to Desai & Diwanji.<sup>162</sup> Both firms here trace their roots to pre-independence times,<sup>163</sup> and Dewan, prior to joining Fox Mandal, was at K.R. Chawla & Company, established in 1996 by Harvansh Chawla that boasts offices in Delhi, Bangalore, and Singapore.<sup>164</sup> Dewan's most recent lateral move is especially important to note for this study, because it highlights that peel-off lawyer-departures from one firm to another do not necessarily mean starting anew.

Of course, becoming familiar with new faces and new office politics takes time and there are certainly learning curves on these fronts. But going from a firm like Fox Mandal that dates back to 1896 to a firm like Desai & Diwanji that originated in 1930 is inherently different than joining a newer peel-off firm, let alone starting-up one from scratch. This is also the message from others in similar

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162 Kian Ganz, *Fox's Sumes Dewan Bolster Desai & Diwanji Delhi, Says Clients Will Join*, LEGALLY INDIA (July 12, 2012), <http://www.legallyindia.com/201207052936/Law-firms/foxs-sumes-dewan-bolsters-desai-a-diwanji-delhi-says-clients-will-join>. (Note, Dewan was not interviewed for this project).

163 Fox Mandal traces its roots back to 1896 and Desai and Diwanji traces its roots to 1930. See Table 6 *supra*.

164 See Ganz, *Fox's Sumes Dewan*, *supra* note 162. Dewan's departure from KR Chawla seems to have been somewhat contentious, at least according to Legally India. See Kian Ganz, *Fox Mandal Recovery: 2 Partners, Office Leaseback*, LEGALLY INDIA (Jan. 12, 2010), <http://www.legallyindia.com/20100111383/Law-firms/foxmandal-delhi-recovery-2-partners-office-leaseback>. On KR Chawla's founding, see 2009 *Directory of Indian Law Firms*, INDIA BUSINESS LAW JOURNAL, 59 July/Aug 2009 <http://www.indilaw.com/pdfs/2009%20Directory%20of%20Indian%20Law%20Firms.pdf>.

positions as Dewan. Several associates and partners who have moved from one established firm to another have done so because of the relative stability present at the subsequent place of employment. Going to a firm that is well-known and perceived as legitimate can also make it easier for the departing lawyers to bring their existing client-bases with them; arguably this is what appears to have occurred in Dewan's move to Desai & Diwanji.<sup>165</sup>

A second way lawyers can depart from one firm to another is where the latter place of employment is not an established firm but rather a peel-off itself. Here, the type of peel-off office to which the lawyer is moving can vary, as described above. Where the firm is longer-standing, the transition can likely be less dramatic than compared to going to a newer start-up. And third, lawyers can depart to form their own firms.

Lawyers going to a newer peel-off and those creating their own firm often face similar challenges. Initially, many from both camps may envision less hierarchy. They may believe that there will be greater merit-based evaluations, enjoyable camaraderie, and exciting opportunities to engage in diverse legal matters, including *pro bono* work. Also, they may imagine that this new enterprise means more democracy and participation in terms of how the firm functions on a day-to-day basis.

To be sure, for some peel-off lawyers these expectations are met at their new workplace environments. For certain others, though, the outcomes do not manifest in the ways they anticipated. As this latter group comes to learn, even in peel-off settings pyramid-structures exist, as do cliques, favouritism, and competition for social capital.

Consider several instances of junior lawyers departing their places of employment to existing, albeit younger peel-off firms. One lawyer described the firm to which he was moving as having "no big name lawyers"<sup>166</sup> in it. Apportioning the little work that existed by the partners among the associates was difficult and always political. Another mentioned that he felt pressure to bring in

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165 See Ganz, *Fox's Sumes Dewan*, *supra* note 162.

166 Author interview (Mar. 13, 2012).

business for which he had no training.<sup>167</sup> Still another lawyer relayed that it was impossible not to see partners privileging certain associates over others.<sup>168</sup> And multiple peel-off lawyers recounted mobbing episodes occurring – in similar ways as it was discussed above.<sup>169</sup> Overall, for those who felt disaffected after joining an existing peel-off, the sentiment was that it was a struggle to find professional satisfaction, to work on diverse legal matters, and to be free from interpersonal politics. Furthermore, because they were now in much smaller environments, when tensions did arise the whole office had the potential for becoming poisoned with bad feelings, which has been the result in some of these situations.

For those who have left to start firms where they could be partners, there have been challenges as well. So much of how the transition unfolds depends upon the professional reputation of these lawyers. “Big-name lawyers” find the change to be less financially worrisome, mainly because they are often able to bring a lucrative client-base to their new setting. An endowed portfolio brings instant credibility and social capital, and having financial security allows for energies to be devoted to other necessary matters.<sup>170</sup> Conversely, lesser-known partners can struggle not just to attract clients but also to manage the day-to-day affairs of the office.

Regardless, both types of partners can and do encounter difficulties. For several of these lawyers, they have never been rainmakers or the public face of their place of employment. To be sure, having this opportunity can be what motivates lawyers to start their own practices. But once that reality sets in – that they are responsible for bringing in business, meeting payroll, overseeing staff, and the like – the pressure to perform can be intense. As some of these lawyers

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167 Author interview (Sept. 3, 2011).

168 Author interview (July 15, 2011).

169 This information is based on multiple conversations author had with different interviewees over the course of the information gathering process. *See* methodology section, III. *A supra*.

170 These lawyers can gain seek to gain lines of credit from banks. They are also more easily able to lease office space, hire staff, and purchase necessary technological equipment – including the much-needed back-up electricity generators. ‘Haves’-partners who peel-off, therefore, can have an easier time, especially in comparison to those who do not have such initial resources.

have learned, there is a different suite of skills between being a good lawyer with legal talent and being an effective administrator and leader.<sup>171</sup>

These peel-off partners can also face management conflicts in their new environments. Recall that many of these lawyers departed from their former employers because of a desire to be part of a more democratic and transparent system of evaluation and accountability. However, in their new legal settings they are now the ones responsible for ensuring that there is openness, and as several peel-off partners have come to learn, they are often unable to satisfy the different constituencies on this front.<sup>172</sup>

Take two cases, which although different, are similar in the types of experiences felt by peel-off partners. The first is of a former associate from a small, well-known firm who left to form a new firm where he is partner. This person shares power with a group of other colleagues but has come to believe that egalitarianism is not always the best method of running a law firm. He and the leadership have made a number of unpopular decisions. Certain associates have been promoted in an accelerated manner to the outrage of those who have not. Some associates are relied upon for important projects more heavily than others, and input is sought from specific associates while contributions from others are impliedly ignored or dismissed.<sup>173</sup>

This peel-off partner insisted that these decisions were based on justifiable reasons. At his previous job this lawyer was not involved heavily in the governance of the firm. Presently, however, these responsibilities are part of his portfolio. He has learned that some associates are simply better, more likable, more dependable, and harder-working than others. To not distinguish among the stronger associates from the weaker ones, he argues, would hurt the firm financially, demoralize the productive personnel, and ultimately affect how clients are treated. Yet he now recognizes the impact such differentiation can have and how it can be negatively interpreted by his junior colleagues.<sup>174</sup>

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171 This information is based on multiple conversations author had with different interviewees over the course of the information gathering process. *See* methodology section, III. *A supra*.

172 *Id.*

173 Author interview (June 2, 2011).

174 *Id.*

The case of a second peel-off partner who started his own firm some years back sheds further light. This office has a handful of equity partners and a group of associates as well as a small number of staff assistants. In addition to the tough choices this lead partner must make, perhaps the most difficult is how he feels a need to be 'top-down' in much of the decision-making process. He is conflicted all the more by the fact that at his previous position he was an associate who struggled and felt excluded from the governance of the firm. That was his motivation to leave. But being in a leadership role has led him to do things that he never anticipated. He admits he often cancels or cuts-short appointments with people who are "low priority."<sup>175</sup> He frequently ignores what he categories as unimportant emails or texts. He delegates assignments and expects immediate results, even when he knows he has not given proper instructions or been a good mentor. He often finds himself micro-managing matters in an unpredictable fashion, which can shake the confidence of associates and staff-members.<sup>176</sup>

If this lawyer's only drawbacks were that he was a bad manager of his time, he could probably justify his behaviour along cost-benefit lines. But he also yells. He screams and makes demands in often rude and unpleasant ways. He can treat subordinates poorly, harshly, and derogatorily.<sup>177</sup> While surely not universal, the same patterns were observed among other partners who peeled-off and formed their own firms. Otherwise put, and conscious or not, these peel-off partners can and do engage in mobbing, which is of course sadly ironical.

Many peel-off partners were not willing to discuss this aspect to their management style. Some took great offense when questions were raised about why there appeared to be such a culture of aggressiveness towards subordinates. Compared to how they were treated at their old firms, a few partners retorted, their current workplace environments were serene.<sup>178</sup> Yet the observations spent at different peel-off firms showed the definite presence of mobbing. Many peel-off partners engaged in behaviour that they abhorred while at their

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175 Author interview (Nov. 8, 2010).

176 *Id.*

177 *Id.*

178 This information is based on conversations author had with different interviewees over the course of the information gathering process.

former places of employment. However, the direct, indirect, professional, and personal mobbing they experienced and sought to escape appeared within the new workplace settings. Despite the rhetoric of wanting a more flat governing structure, hierarchy can and did persist and was enforced in part through the same types of mobbing techniques described above. And when there was push-back from junior colleagues unhappy with this treatment, partners responded by reverting to behaviour with which they were familiar – mobbing, which then led to even more deepened cleavages.

Thus far this concluding section has focused on lawyers peeling-off to firms. Another setting where they can go, and unfortunately experience and exhibit mobbing behaviour, is in the judiciary working as courtroom advocates. It is difficult to know the number of law-firm lawyers that have left to work exclusively in the courts. There is no systematic tracking mechanism, and the departures that are known tend to be ascertained through word-of-mouth or by media reports. (These were the two methods used in this study.)

But for those who have made this move, it appears primarily to be with the intent of working within the upper-judiciary.<sup>179</sup> Yet these lawyers, especially if they are relatively unknown, often bear even worse mobbing than in the firms they left. There is, for example, the firm-associate who peels-off and apprentices under an established senior advocate in the courts. It is not unusual for the apprentice to work long and gruelling hours often in uncomfortable chambers at a low salary. Furthermore, the apprentice can be a witness to – or even a victim of – intense verbal abuse by the superior.<sup>180</sup>

Apprentices in this situation tend eventually to peel-off and start a solo-practice. Once again, they can be the recipient of mobbing, particularly if they do not have family connections or other ties within the bar that can help them succeed. Such peel-offs can be shunned by senior advocates who may not refer

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179 In fact, while it can and likely does occur in some parts of the country, no peel-off for this study was observed to move from a firm to the district courts.

180 This information is based on conversations and observations the author had with different interviewees over the course of the information-gathering process. See methodology section, III. A *supra*.



clients to them, who may not involve them in professional or social events, or who may speak ill of them to judges, other lawyers, and clients as a means of undercutting their professional ascendancy. These peel-offs effectively encounter a glass ceiling, which makes it very difficult for them “to make-it,”<sup>181</sup> as one interviewee frustratingly concluded.<sup>182</sup>

There are of course those instances where lawyers who break-away from firms to move into the courts succeed with little adversity. These circumstances tend to be when the lawyer has a reputation as a strong litigator or kinship connections with an already prospering courtroom advocate. When these factors are absent though the likelihood is that the peel-off lawyer entering the courts will face difficulties, both in terms of mobbing as well as the usual challenges that accompany any start-up law practice. Finally, what is disheartening is that many of these same lawyers engage in several of the harsh bullying tactics vis-à-vis those lower in status to them. In other words, the cycle of mobbing continues to repeat itself in the courts as well.

This study has sought to describe the pluralism and diffusion within the Indian corporate law firm sector, including the impact psychological forces play. One natural follow-up question – but which is for another day – is why, when it comes to mobbing in particular, do those who have suffered and been victims often participate in these demeaning tactics against those who are less powerful than them? Should these victims not be more sensitive, especially since they know how debilitating these actions can be? Briefly, for those familiar with the literature on this subject, the answers are mixed.<sup>183</sup> Some studies have found a relationship

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181 Author interview (May 17, 2010).

182 A similar set of experiences can occur for the law firm peel-off who moves directly into a solo-practice without doing an apprenticeship.

183 This debate has been perhaps best documented and reviewed, in terms of the literature, by Cathy Widom, who has discussed the cycle of violence as it relates particularly to children and abuse. For a sample of Widom's work that reviews many of the debates, various studies, and empirical findings, see Cathy Widom, *Does Violence Beget Violence? A Critical Examination of the Literature*, 106 PSYCHOL. BULLETIN 3 (1989); Cathy Spatz Widom, *The Cycle of Violence*, 244 SCIENCE 160 (1989); Cathy Spatz Widom & Helen W. Wilson, *How Victims Become Offenders*, in CHILDREN AS VICTIMS, WITNESSES, AND OFFENDERS: PSYCHOLOGICAL SCIENCES AND THE LAW 255 (Bette L. Bottoms, Cynthia J. Najdowski, & Gail S. Goodman, eds. 2009).

between being a victim and then having that victim become an abuser.<sup>184</sup> The theory here is that victims are socialized to believe that the treatment they received is acceptable and thus repeating this behaviour too is acceptable. Other studies, however, show less of a causal connection.<sup>185</sup>

There are alternative answers that may emerge as being more India-specific. One might be the notion fact that in India nothing ever gets done unless people are prodded and aggressively pushed. As this argument might follow, because there is such inertia within Indian society, verbally accosting subordinates is necessary in order to have basic tasks completed, let alone more complicated ones. Another response might be that given India's historic caste structure, it is not surprising to see such variations of hierarchy manifesting in the workplace. Still others may suggest that it is unfair to judge Indian workplace actions through a single normative lens. Believing that Indians ought to act a certain way towards one another in professional settings, without recognizing there may be cultural nuances and accepted-understandings among the negotiating parties, ignores the reality that Indians might well operate under different norms than those found in other societies.

Obviously these essentialist and culture-based arguments will resonate with some. For example, might certain lawyers be guilty of mobbing others on the basis of caste? Perhaps. But caste is complicated because while traditional upper-castes may have advantages in some settings, in other contexts this is not the case. Rather, as discussed above, being a member of a particular family or religious community, or linguist group, or coming from a specific law school or region of the country may be more indicative of what is behind the relationship between a superior and subordinate. Surely caste can be intertwined with all of these factors but, simply put, more research and subtle investigation of caste are needed before blanket-conclusions can be made in this regard.

There is also a response to the claim that Indian workplaces are distinct and should not be normatively judged. The fact is that the above data show that

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184 *Id.* at all cites.

185 *Id.* at all cites.

mobbing is not something that victims enjoy. For these victims, mobbing is a transgression of their human dignity. That it continues in newer contexts by newer perpetrators only confounds those striving to end its dominance.

With that said, the fact is there are now more ways out than ever before. Because of liberalization and globalization, increased opportunities exist for lawyers to peel-off. More Indian lawyers have real hope that they too can become part of the 'Haves.' To be sure, achieving this goal remains difficult,<sup>186</sup> yet that is what makes studying the Indian legal services sector so interesting. Yes, yesterday's legitimately disgruntled recipient of mobbing may be tomorrow's aggressor – but tomorrow's victim may respond by peeling-off from the peel-off. If this pattern continues, the number of peel-off lawyers will only further increase, which will spawn even greater competition within this space. Moreover, consider if foreign law firms are introduced into the market – something that even various Indian opponents predict will occur:<sup>187</sup> more players will be in the arena, which will likely mean more and newer norms emerging, with a hopeful one being the reduction of mobbing as a standard practice. For many, this development would be welcomed by victims enduring such hardship as well as by those who seek a greater level of professionalism and respect within the workplace.

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186 This may explain also why once they attain a certain amount of power, peel-off lawyers seek to consolidate their position through the tactic that they so despise – mobbing.

187 For a discussion of this topic, see Krishnan, *Globetrotting Law Firms*, *supra* note 18.