

The
**LEGAL
500**

India
Disputes
Summit
2020



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FOREWORD

James Wood, The Legal 500



The Legal 500 is delighted to welcome you to the India Disputes Summit 2020. With over 150 of the country's leading legal figures joining us today, the event underscores India's importance as a hub for international businesses and their advisers.

Today we will hear about some of the most important developments shaping dispute resolution in India today, from the burgeoning asset class that is third-party funding to the practical impact of legislative changes such as the Arbitration Act. However, above all, this Summit is about the considerations GCs and in-house counsel must undertake when facing a dispute. We were fortunate to have received the support and opinions of a number of leading GCs in the run-up to this conference. Their views are reflected in the sessions we will enjoy throughout the day.

There has never been a better time to discuss the role of GCs and private practice advisers in helping businesses to negotiate an increasingly difficult landscape. As the popularity of arbitration

continues to rise, clients are increasingly questioning the time and cost of established dispute resolution mechanisms.

In putting together today's event, we have benefitted from the invaluable support and insight provided to us by headline sponsor Singh & Associates, and co-sponsors Atkin Chambers, Cyril Amarchand Mangaldas, HSA Advocates, Stephenson Harwood and Tuli & Co.

We hope you will find this gathering a useful opportunity to discuss how dispute resolution can more effectively serve the needs of business.

The Legal 500 will continue to work on new and innovative ways of bringing GCs and their advisers together. If you have any suggestions for how we might make next year's conference even better then please do let us know.

We hope you enjoy the conference.

James.Wood@legal500.com

UPCOMING EVENTS INTERNATIONAL ARBITRATION

February 2020

Commercial Arbitration Summit Germany | Frankfurt

March 2020

The Legal 500 Asia Pacific Disputes Summit: Hong Kong | Hong Kong

Kazakhstan Disputes Summit | Nur-Sultan

April 2020

Middle East Disputes Summit | Dubai

May 2020

Australia Disputes Summit | Sydney

November 2020

Nordics Disputes Summit | Stockholm

Switzerland Disputes Summit | Zurich

December 2020

Turkey Disputes Summit | Istanbul

FOREWORD

Manoj K Singh, founding partner, Singh & Associates



I am happy and feel privileged to welcome you all to *The Legal 500's* maiden India Disputes Summit. Singh & Associates (S&A) is honoured to participate as headline sponsor for this Summit. It is my utmost pleasure to welcome all attendees and I thank you all for taking the time out from your hectic schedules to grace the occasion.

Without a doubt, *The Legal 500* team have done a marvelous job in steering this Summit to its present shape and magnitude.

The Summit comprises of very interesting topics which will be deliberated upon by industry leaders and legal experts and I am sure every attendee here will go back enriched, may be also with further clarity on certain issues.

In the first session of the day, Manoj K Singh of S&A will set the tone for the Summit by speaking on relational contracts and implied faith in long-term contractual disputes (including role of discovery and computational models used to assess claims). The idea of a relational contract has been discussed in sociology, economics and law. The concept has recently been adopted by the judiciary in the United Kingdom and also in other common law countries. Now the question is, what does the idea of a relational contract mean? If the notion of relational contract applies to a contract, does it have particular legal implications for the transaction, such as an expansion of mandatory or supplementary duties of disclosure and obligations to perform in good faith?

Thereafter, a session on current challenges in private equity and investment funds disputes will be taken up by Tuli & Co. Over the last few years, a number of private equity funds have invested across different lines of business in this jurisdiction and the process of safeguarding and recovering those investments has thrown up disputes and differences. Leading figures from the world of private equity will give their views on how to manage this process

successfully and their experiences in dealing with these disputes through arbitration. We consider whether disputes arising as a result of economic uncertainty can be used as a strategic tool to renegotiate a deal, and also the potential means of streamlining the dispute resolution mechanism so that this can contribute to strengthening the legal infrastructure in this jurisdiction.

Going forward, Cyril Amarchand Mangaldas will present a session on 'third-party funding: the dos and don'ts of disputes funding in the Indian market' immediately followed by a session looking at the GC's role in proactive preparation for international arbitration (led by Andrew Goddard QC of Atkin Chambers).

After lunch, we shall be hearing views on 'strategic considerations at different stages of arbitration' by Stephenson Harwood wherein crucial issues such as when you're drafting the contract, when you have a dispute, engaging panels, position as an organisation on settling disputes – is there a process in place or is it ad hoc?, how much is the board involved? etc will be discussed.

Subsequently, a fireside chat by S&A on 'preparing witnesses in a dispute' will ponder over importance and best practices to be kept in mind while preparing witnesses for the dispute proceedings. Lastly, we will hear a panel discussion moderated by HSA Advocates on the topic of 'the arbitration adjudication ecosystem: a discussion on practical challenges' will bring the Summit to a productive conclusion.

I sincerely hope that you find the day's agenda fruitful and, above all, trust that you leave with something of value that you can practice in your respective roles.

To conclude, heartfelt thanks again to *The Legal 500* for hosting this Summit and to our co-sponsors, moderators and speakers for supporting the event.

manoj@singhassociates.in

AGENDA

- 8.30 Registrations
- 9.00 Opening remarks
- 9.15 **Relational contracts and implied faith in long-term contractual disputes**
 The idea of a relational contract has been discussed in sociology, economics and law. The concept has recently been adopted by the Judiciary in the United Kingdom and also in other common law countries. But what does the idea of a relational contract mean? If the notion of relational contract applies, does it have particular legal implications for the transaction, such as an expansion of mandatory or supplementary duties of disclosure and obligations to perform in good faith? Our panel discusses these issues, while also considering the role of discovery and computational models used to assess claims.
Moderated by
 Manoj K Singh, Singh & Associates
- 10.15 **Current challenges in private equity and investment funds disputes**
 Over the last few years, a number of private equity funds have invested across different lines of business in this jurisdiction and the process of safeguarding and recovering those investments has thrown up disputes and differences. Leading figures from the world of private equity will give their views on how to manage this process successfully and their experiences in dealing with these disputes through arbitration. We consider whether disputes arising as a result of economic uncertainty can be used as a strategic tool to renegotiate a deal, and also the potential means of streamlining the dispute resolution mechanism so that this can contribute to strengthening the legal infrastructure in this jurisdiction.
Moderated by
 Rajat Taimni, Tuli & Co
- 11.15 Coffee break
- 11.30 **Third-party funding: the dos and don'ts of disputes funding in the Indian market**
 Third Party Funding of disputes (TPF), as an asset class, has outperformed private equity, real estate, credit and hedge funds in several jurisdictions. This panel will focus on the untapped potential of TPF, which is currently 'an asset class in waiting' in India. The panel will bring together diverse perspectives and bring to fore practical considerations and key issues relevant for users (companies and in-house counsel), funders, practitioners, arbitrators and judges.
Moderated by
 Cyril Shroff, Cyril Amarchand Mangaldas
- 12.30 **The GC's role in proactive preparation for international arbitration**
 Our panel explores how GCs can take the lead on preparing and managing an international arbitration, covering everything from the importance of understanding the applicable arbitral procedure (such as institutional rules and emergency procedures), the value and limitations of obtaining early advice on merits, and establishing clear lines of communication during a dispute.
Moderated by
 Andrew Goddard QC, Atkin Chambers
- 13.30 Lunch
- 14.30 **Strategic considerations at different stages of arbitration**
 Surveying the life cycle of an arbitration, we survey various GCs on how they manage the life cycle of an arbitration, from drafting the contract to settling a matter. The panel will consider considerations: When drafting a contract; when a dispute goes live; engaging panels; the relevance of an organisation's position when it comes to settling a dispute (is there a process of it is ad hoc?) and the level of involvement of the board.
Moderated by
 Rovine Chandrasekera, Stephenson Harwood
- 15.30 **Fireside chat: preparing witnesses in a dispute**
Moderated by
 Manoj K Singh, Singh & Associates
- 16.00 Coffee break
- 16.15 **The arbitration adjudication ecosystem: a discussion on practical challenges**
 Our panel of experts surveys developments in the Indian arbitration space to discuss the following: Has court intervention in arbitration matters decreased in India over recent years (especially after the Arbitration Act of 2015)? How can the Indian arbitration ecosystem improve service delivery across all stakeholders, including arbitrators, counsel, the Bar and expert witnesses. Does India need to have more dedicated professional arbitrators from their respective subject fields of expertise rather than a generalist arbitrator such as retired judges? What are the major recent developments clients should know when it comes to considering India as a seat of arbitration?
Moderated by
 Hemant Sahai, HSA Advocates
- 17.15 Closing remarks
- 17.30 Drinks and canapés

SPEAKERS

**BHASKAR CHANDRAN** GMR GROUP

Bhaskar Chandran is currently the group general counsel of GMR Group responsible for the overall legal function spanning the energy, airports and transportation and urban infrastructure sectors. He holds extensive experience in handling arbitration disputes, domestically as well as internationally and brings over three decades of rich experience in a variety of legal and regulatory fields. He has previously worked with Tata Teleservices, Syngenta India, Monsanto India, Vinmar, Enron, Tata Cellular and other major companies.

**ROVINE CHANDRASEKERA** STEPHENSON HARWOOD

Rovine Chandrasekera is managing partner of Stephenson Harwood's Dubai office and a commercial litigation and shipping partner. He advises on a broad range of commercial disputes and deals with matters regarding asset recovery, enforcements and contracts relating to offshore oil and gas, shipbuilding and shipping. He has extensive experience of litigation and international arbitration within England as well as UAE market leading experience in the Sri Lankan markets.

**RAJDEEP CHOUDHURY** HSA ADVOCATES

Rajdeep Choudhury is a partner at HSA advocates who specialises in dispute resolution, project claims and dispute management. With 17 years of experience, he represents clients in dispute adjudication boards, ad-hoc arbitrations, institutional arbitrations (including international commercial arbitration) and courts of law. In addition, he undertakes a broad range of advisory work in relation to project claims and dispute management and is adept at advising EPC (engineering, procurement and construction) contractors, O&M (operation and maintenance) contractors, and other project stakeholders such as owners, investors, lenders and off takers.

**SAMEER CHUGH** BHARTI GROUP

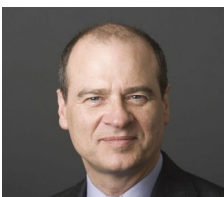
Sameer Chugh is group general counsel at the Bharti Group. He is responsible for shareholder matters across the group in all geographies and also provides counsel and advice to the operational entities on strategic and group wide matters. Chugh has handled a total of over \$22bn worth of transactions in his career having been involved in cross-border deals in various parts of the world including, the US, UK, South Africa and Singapore and has extensive experience in the telecom sector and has knowledge on both the B2C and B2B side of the telecom business. He has previously served as in-house counsel at NCR Corporation India and as head of legal and regulatory at BT India.

**SAMEET GAMBHIR** DCM SHRIRAM

Sameet Gambhir is a corporate legal professional and company secretary with three decades of experience in different fields. He is presently joint vice president (corporate law) and company secretary of DCM Shriram, New Delhi. His expertise include matters related to regulatory and corporate legal matters, contract management, legal documentation, corporate compliance under various laws, SEBI regulations, RBI and FEMA matters. He carries vast experience in handling board meetings, shareholders meetings, investor relations, litigation support, due-diligences, and has handled mergers, acquisitions, setting up foreign subsidiaries, formation of JVs, restructuring, winding up, liquidation in his role with various companies.

**CHANDAN GARG** PETRONET LNG

Chandan Garg is senior legal manager at Petronet LNG Limited, a leading oil and gas company that established India's first LNG receiving and regasification terminal. Garg has worked in-house for the last 16 years, both at Petronet LNG and Jindal Steel & Power, and has extensive experience handling commercial, regulatory, criminal and civil litigation arbitration proceedings in the steel, power and gas industries at various levels. He also has a wide experience drafting and vetting long-term LNG and gas sale and purchase agreements, cross-border joint ventures and other commercial contracts.

**ANDREW GODDARD QC** ATKIN CHAMBERS

Andrew Goddard specialises in the law of commercial obligations, professional negligence and international arbitration, particularly in the context of disputes concerning major construction and engineering contracts and IT projects. He has had much involvement in infrastructure, telecoms and energy disputes, and has acted for main contractors, sub-contractors, professionals and employers, including national and foreign governments. Andrew has experience of PPP and PFI projects in the UK and various Commonwealth jurisdictions, and is a director of the Caribbean Procurement Institute.

**YOGESH GUPTA** L&T CONSTRUCTION

Yogesh Gupta has two decades' of experience in wide spectrum of practice areas including in core infrastructure sector projects advisory, construction projects, dispute resolution, arbitration matters, civil commercial litigation, banking and finance transactions. He has handled major infrastructure projects advising both government agencies and private developers/contractors on various stages of the project cycle, from the planning and bid stage to project financing, construction and execution. He also handles complex disputes and arbitrations arising out of these projects.

SPEAKERS (CONTINUED)



AMITA KATRAGADDA CYRIL AMARCHAND MANGALDAS

Amita Katragadda has extensive experience in mergers and acquisitions, joint ventures and securities laws, and has led several complex and path breaking commercial transactions. She has a nuanced understanding of governance issues from a business and legal perspective and has undertaken training for directors of several listed companies. Katragadda has advised on significant constitutional and commercial matters in the 2G cases and is integral part of the Amarchand Mangaldas' corporate governance centre. She is a lawyer qualified to practice in India and also holds a Masters in Business Administration from the Graduate School of Business, Stanford University.



PARVESH KHETERPAL FEEDBACK INFRA GROUP

Parvesh Kheterpal is head of legal and company secretary at Feedback Infra, a leading infrastructure services company that has executed projects in 28 Indian states and 37 countries across Africa, Middle-East and Asia in the transportation, energy and urban infrastructure sectors. A seasoned power and infrastructure industry counsel with nearly two decades' worth of experience serving market leading companies, Kheterpal is responsible for a range of legal, secretarial and governance matters including advisory to management contracts (negotiation and finalisation), and high-stakes civil and criminal litigations.



PARVEEN MAHTANI TATA HOUSING

Parveen Mahtani is general counsel at Tata Housing Development Co Ltd and Tata Realty and Infrastructure Ltd, a fully owned subsidiary of Tata Sons and one of the leading real estate development companies in India. Prior to joining Tata Housing in 2017, Mahtani led the litigation and non-litigation practice at the Wadia Group of Companies. She began her career at the Mumbai and Palo Alto offices of Nishith Desai Associates. She moved on to join IL&FS Trust and subsequently Lodha Developers where, as vice-president legal, she spearheaded the largest private investment in London's prime residential market as well as one of India's largest FDI deals in real estate.



DILIP MASSAND PHOENIX ADVISORS

Dilip Massand is chief executive officer of Legal Ventures, a UAE based fund by Phoenix Advisors that specialises in emerging markets. It is backed by Dalma Capital, a leading alternative investment manager. Massand has over two decades of experience working on cross-border matters involving India, the Middle East, and the US. He was previously managing director for SAS Asset Recovery, an asset recovery, litigation finance, and dispute resolutions firm specializing in complex cross-border matters. He has also served as co-chair of the emerging markets practice for New York-based firm McLaughlin & Stern.



NITIN MITTAL SIGNIFY INNOVATIONS INDIA

Nitin Mittal is currently general counsel, head of legal, compliance and company secretary – South Asia of Signify Innovations India (earlier Philips Lighting India). He is part of the India lighting leadership team and part of the growth markets legal team. He also supports business and legal teams in other international markets for various projects and assignments. He has previously worked as head of legal, compliance and company secretary for OSRAM India where he spent around 10 years in the legal function. He also served as a director in OSRAM Lighting as part of the carve out project of OSRAM in India.



BHARGESH OJHA KOTAK MAHINDRA BANK

Since 2015, Bhargesh Ojha has served as senior executive vice president and general counsel at Kotak Mahindra Bank and a member of the Kotak leadership team. He joined the bank in 2003 as vice president legal, heading the 125 member legal function and reporting to the group CFO. During his time at Kotak he has successfully obtained a quashing order in an appeal filed against the bank and its directors under FERA, advised on and implemented a strategy for filing and defending litigations, and successfully defended trademark cases of infringement and passing off against the Kotak brand.



TEJAL PATIL GE SOUTH ASIA

Tejal Patil is general counsel for GE South Asia (covering India, Bangladesh, Sri Lanka, Bhutan and Nepal) where she leads a large team of legal and compliance professionals in the company supporting nearly 40 legal entities within the group. She sits on the board of GE India Industrial, the flagship company for GE in India which houses several of its businesses and shared services, and is a key member of the region leadership team reporting to the CEO, GE South Asia and the general counsel of GE Global. Patil has previously served as general counsel to GE businesses in Singapore.



AKHIL PRASAD BOEING

Akhil Prasad is country counsel India and company secretary with Boeing International Corporation, based at New Delhi. He has previously held positions as head of legal and company secretary with Fidelity Worldwide Investment (2007-13); director of legal affairs and company secretary of The Walt Disney Company India (2005-07); as senior attorney and company secretary of General Motors India (2003-05); and as assistant general manager legal with Electrolux Kelvinator (2000-02). He has also worked in various legal teams across Modicorp Group (including Modi Xerox and Graphtech India from 1995-00).

SPEAKERS (CONTINUED)

**HEMANT SAHAI** HSA ADVOCATES

Hemant Sahai is the founding partner of HSA Advocates. For the last three decades, he has been a trusted legal counsel to some of the largest corporates in India and overseas and is widely recognised for his role in shaping the Indian legal industry. Hemant has served as an adviser to several working groups and committees formed by top government bodies/institutions including certain extra ministerial policy advisory bodies set up by the Prime Minister's Office, Ministry of Power, Ministry of New and Renewable Energy and other government bodies, from time to time.

**GOPAL SANKARANARAYANAN** SUPREME COURT OF INDIA

Gopal Sankaranarayanan is an advocate at the Supreme Court of India. He graduated from NLSIU, Bangalore in 2001 before undertaking a Masters in Criminology at the London School of Economics. He is a prolific writer in various journals and a co-founder of the independent, volunteer organisation Care for Air.

**KAMAL SHAH** STEPHENSON HARWOOD

Kamal Shah is the head of Stephenson Harwood's Africa and India groups. He specialises in complex, cross-border international arbitration, litigation and fraud and asset tracing in Africa and India, and frequently acts for governments, government entities, banks, private corporations and high net worth individuals in a range of matters including those relating to projects and infrastructure, joint ventures, banking and finance, shareholder arrangements, energy and a range of schemes commonly used to defraud individuals and corporations.

**NAVAL SHARMA** TULI & CO

Naval Sharma is a partner in the dispute resolution team of Tuli & Co. He has over 10 years of experience and specialises in advising on and handling disputes involving insurance and reinsurance contracts, joint-venture disputes, construction disputes, sports and media, white-collar crimes, employment, aviation, insolvency, recovery actions and defence contracts. Naval was featured in The Legal 500 Asia Pacific Guide 2019-20.

**CYRIL SHROFF** CYRIL AMARCHAND MANGALDAS

Cyril Shroff is managing partner of Cyril Amarchand Mangaldas. He has over 37 years of experience in a range of areas, including corporate and securities law, disputes, banking, infrastructure, private client, financial regulatory and others. He is recognised as a leading figure in the Indian legal community and regarded as the 'M&A King of India'. Mr Shroff was a member of the SEBI constituted Uday Kotak Committee on Corporate Governance and SEBI Committee on Insider Trading. He is member of first apex advisory committee of the IMC International ADR Centre.

**JUSTICE AK SIKRI (RETIRED)** SUPREME COURT OF INDIA

Arjan Kumar Sikri is an eminent jurist and a former judge of the Supreme Court of India. He was sworn in as a Supreme Court judge in 2013, having earlier served as the chief justice of the Punjab and Haryana High Court. Presently, he is an international judge, at the Singapore International Commercial Court, [SICC] Singapore Supreme Court, having been sworn in to the post in August 2019 by the President of Singapore. He is also the Chairperson of News Broadcasting Standards Authority.

**MANOJ K SINGH** SINGH & ASSOCIATES

Mr Manoj K Singh, founding partner of the law firm Singh & Associates, Advocates and Solicitors, specialises in litigation and ADR practice. He has extensive experience and is a name to reckon with for large-scale commercial litigation along with domestic and international ADR matters including ad hoc and institutional arbitrations. He has successfully undertaken and represented clients in many international arbitrations including under the rules of International Chamber of Commerce, the London Court of International Arbitration and the Singapore International Arbitration Center.

**AMAR SUNDRAM** ROYAL BANK OF SCOTLAND

A multifaceted professional with 22 years of corporate experience, Amar Sundram is India head of legal, corporate governance and regulatory affairs for Royal Bank of Scotland. An in-house senior corporate legal professional with wide experience in strategic thinking, formulation of operational guidelines and a business enabler to complex legal issues. Sundram has worked with the best Indian and multinational business houses, such as DCM Shriram, Birla, TATA, AT&T, Reliance, Citi and E&Y.

**RAJAT TAIMNI** TULI & CO

Rajat Taimni joined Tuli & Co in 2001 and is partner and head of the firm's dispute resolution practice. With 20 years of experience, Rajat specialises in high-profile and complex domestic as well as international arbitrations and litigation. His core practice is advising and handling disputes involving, among others, equity funds, investment treaties, insurance and reinsurance matters, sovereign funds, charterparties, sports and media, white-collar crimes, construction, inter-government litigation, joint venture disputes, railways, insolvency proceedings, aviation and defence contracts.

