

Few law firms in Canada are outsourcing legal work to India

By Luigi Benetton
Toronto

It's already happened for a variety of manufacturing, accounting and information technology companies who seek cost advantages that Canadian industry can't match. How easily could legal services follow suit offshore?

More easily than you might think. Consider: when my editor asked me to write this story, he told me to buy a long-distance phone card and charge it back to the newspaper. After all, he figured I'd spend plenty of time on the phone to India, the poster child for knowledge process outsourcing (KPO).

I never bought a phone card. I didn't need it. Many offshore legal service providers have offices in the U.S. staffed by North American representatives. The one time I did need to call India, my contact, Ram Vasudevan, CEO of legal service provider Quislex, was very happy to call me between other calls he had scheduled during the late hours of his Indian night, which corresponds to an Eastern Daylight Time morning.

Nobody argues the facts: offshore legal service providers have the talent and the infrastructure to meet their clients' business needs. They're ready to serve Canadian lawyers. Are Canadian lawyers ready to take them up on it?

Perhaps. Chris Goodridge, director of corporate development and legal counsel for Torstar Corp., admits that continually rising legal fees have him trying to do as much work as possible in-house. Although Torstar hasn't gone the outsourcing route, Goodridge didn't rule it out.

Offshoring, a form of outsourcing, initially attracts interest because it's cost-competitive. Service providers work on different continents where labour costs are substantially lower.

Knowledge process offshoring became practical only recently. According to Thomas Friedman's tome *The World is Flat*, a trillion dollars of broadband capacity was strewn all over the globe during the Information Superhighway 1990s. When the dot-com bubble popped, opportunistic service providers acquired the wires at fire sale prices, and today they deal with far lower overhead than that which plagued their predecessors. Connect highly commoditized computing capacity and advanced workflow software to those fast wires and you have the express lanes that permit internationally dispersed teams to collaboratively drive a project.

The cost advantage Indian knowledge process outsourcers enjoy doesn't seem set to disappear anytime soon. Consider: widely quoted statistics put the number of lawyers in India at one million, and Indian law schools graduate another 80,000 each year. Economics 101 dictates that wherever supply outstrips demand, prices fall or, at worst, stay stable. All things being equal, India's legal industry should continue to reap huge crops of talent from which KPOs can pick the cream.

Their learning curve isn't particularly steep, either. Indian lawyers receive training in English, in a common law system that has its roots in the U.K., the same place as that of Canada, the U.S. and Australia. Vasudevan himself worked for a major firm in New York, and in this he isn't unique — many Indian lawyers gain experience in English-speaking countries before signing on with firms in their home countries.

"Nobody ever went to the top of the mountain and screamed 'This is the cheapest legal work I've ever purchased'," said Kevin Colangelo, VP of corporate services and contracts management for outsourcer Pangea3 LLC. That's why proponents are doing all they can to trumpet the advantages of offshoring besides labour cost arbitrage, which can easily reduce costs by 50 per cent.

Consider the time zone advantage. Law firms may not be under the same "time to market" pressures technology companies commonly face, but clients often appreciate better turnaround times.



Few law firms operate like manufacturing plants — they don't ask associates to work a night shift to boost production. Unlike manufacturers, though, lawyers can send projects to Indian service providers at the end of the Canadian work day to have certain "assembly" tasks continued while Canadians sleep.

Similarities between legal systems and other circumstances reduce offshore relationship start-up investments to training on client-firm-specific processes and end-client-specific work needs. That's why offshore providers are doing whatever they can to make the acclimatization process as trouble-free as possible. Colangelo noted many of the standard steps offshore providers take to this end, like hiring top Indian lawyers to do the work, hiring American lawyers to manage relationships, and investing heavily in both their training and the technology tools they rely upon.

As the legal outsourcing market gets more crowded, many providers seek to stand out from the crowd. For instance, Pangea3 took a page from the business plans of information technology service providers — they are currently aiming for ISO 27001 certification to assure their clients and the market of top-notch information security.

Curious about the potential benefits, technology lawyer Rob Hyndman first offshored two mandates about 18 months ago. What he didn't tell the provider was that both projects were fictional — made-up clients, made-up needs. The bills he paid and the time he spent, on the other hand, were very real. The exercise gave both parties the chance to see how the other one worked.

Jason Brennan, vice president of legal services for RR Donnelley, agrees that careful up-front work helps his firm develop working relationships with clients. "Partnerships are better than one-off outsourcing... Within legal, trust is crucial."

So is a long-term relationship. "Several areas could be made much more efficient through the application of outsourced legal help," said Hyndman. "In a large mergers and acquisitions transaction, there are dozens of ancillary contracts, certificates and documents that are prepared by a variety of people, from legal associates to clerical staff. Much of this work is formulaic, the repetition of patterns."

In the future, Hyndman predicted, "This work will be done increasingly by automated systems or offshore legal support. It's very easy work to do."

Finding testimonials for offshore KPOs can be tricky. Lawyers like Hyndman won't name the offshorers they use. Hyndman considers the relationship he built with his provider a competitive advantage that he wouldn't want other law firms to leapfrog.

Hyndman pointed out that the offshorer he works with is not actually a law firm. It's a denotative detail worth noting — offshore providers don't call themselves law firms, preferring instead names like knowledge process outsourcers and legal service providers.

This means that the client firm is fully liable to its "end clients" for negligence, which is why lawyers like Hyndman review all work that comes back to them from India. "It doesn't go anywhere near the end client until I'm satisfied," Hyndman said. He has no quality concerns, though — he ranks the work he reviews as among the best to be had anywhere in the world. "I have to spend very little time correcting work from India," he said.

The topic of legal service offshoring can be as gauche as politics and religion. South of the border, politics is partly to blame. The 2004 American presidential election created a chill among offshoring enthusiasts when Democratic Party candidates John Kerry and John Edwards used offshoring as a scapegoat for Americans losing their jobs.

Liability and confidentiality concerns also give pause to Canadians considering offshoring. Interestingly, neither concern has stopped the growth of offshoring worldwide. Is counter-offshoring FUD (Fear, Uncertainty, Doubt) to blame? Peter Mendell, a partner at Davies Ward Phillips & Vineberg who's in charge of international strategy, doesn't think so. "I believe that once lawyers outsource work that was meant to be done by lawyers in their firm, it borders on being irresponsible and possibly even negligent," said Mendell.

Security slips are on people's minds as well, but providers vociferously defend their security processes. Colangelo listed several measures a typical offshorer takes — posting security guards, banning cell phones with cameras and disabling USB ports — to say nothing of Pangea3's ISO 27001 certification process. They also accommodate specific requests. "Several clients ship us laptops that are configured only to tunnel in to their systems so that we can only see the information they want us to see," Colangelo said.

When deciding what tasks to outsource, the nature of the tasks themselves is often the deciding factor. Word processing, one of the first tasks lawyers sent overseas, is a highly systematized and consistent task. Legal work that has since followed office support work across the Pacific includes patent, IP, compliance and contract work.

De facto international standards tend to govern practices that lawyers feel they can offshore. For instance, Hyndman noted uniformity in technology-related legal practices. He credits major multinationals such as IBM, Cisco, HP and Oracle for defining this trend. In addition, technology firms, regardless of their size or location, pay close attention to American patent law. "Everybody wants to do business in the U.S.," said Hyndman.

Work involving face time, human relationships and highly complex project work is more difficult to transfer to people who don't work in the same office or geographic region. Highly localized types of law, such as family or municipal law, are not likely to sail across the Pacific either.

Widely acknowledged expertise can also trump the cost card. For instance, in a form of "reverse offshoring," widely recognized Canadian natural resource law experts can serve Indian resource firms who seek help exporting their products.

Nobody, pro or con, puts down the quality of Indian legal services. "There are great lawyers in India — I send work to lawyers in India all the time when it is meant to be done by lawyers in that country," said Mendell.

"This has nothing to do with the quality of the training lawyers there receive. It has to do with why clients walk in our front door and what they expect when they come to us. They're coming to us because they want to make sure that whoever does the work has been trained by and has the stamp of approval of Davies Ward Phillips and Vineberg, and we can't do that with total unknowns from far away."

While Hyndman echoes Mendell's attitude to oversight, he espouses a different philosophy regarding client service. "You absolutely need to disclose and seek permission from clients for offshoring," he said. "Clients are asked to consent to all manner of different things all the time. They're perfectly capable of doing this and they want to do it when they understand what the possible benefits are."

A sole practitioner, Hyndman compared the effort needed to hire his own associates to that of outsourcing. "I'd have to headhunt, interview people, get them to accept my offer, train them in technology law, supervise them on every individual mandate until I was satisfied that they were adequately trained to perform the work without that kind of direct supervision," Hyndman said. "Every minute I spend doing that, I can't work for my clients."

That is the main carrot offshoring offers onshore lawyers — the ability to spend more time on higher value-added activities as a huge offshore legal workforce willingly takes care of the details. To build on this argument, Ron Friedmann, senior vice-president of legal service provider Integreon, claims that the supply of lawyers in developed countries is far tighter than that in India. The situation is especially tight in the U.K. and the U.S. "That's why salaries in New York law firms keep going up, and U.K. firms recruit heavily out of Australia."

Putting Canada into the same category — Anglo countries where demand for legal services continues to grow at a healthy pace — Friedmann doesn't think offshoring will depress domestic demand for new lawyers. Instead, echoing Hyndman, Friedmann said offshoring "may actually improve the satisfaction lawyers get from their work."

It's a good argument to make at a time when many firms are beefing up retention practices as well as recruiting efforts. And as both sides in this debate use client satisfaction as their main argument and lawyers deliberate their own needs, people like Vasudevan from Quislex are ready to take their calls on the other side of the globe.

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