

Asia: Opportunities and challenges

WORKING AS A LAWYER IN A FOREIGN JURISDICTION CAN BE INTIMIDATING BUT ALSO AN UNFORGETTABLE EXPERIENCE.

The past five years have seen a major restructure in the Australian legal market, presenting both challenges and opportunities to Australian law firms and lawyers. Asia in particular is now a source of potential business to Australian law firms and a market where Australian lawyers can aspire to work.

Before 2012 the Australian commercial legal market revolved around the Big Six – Allens Arthur Robinson, Blake Dawson, Clayton Utz, Freehills, Mallesons Stephen Jaques and Minter Ellison. Each was born out of mergers of big state-based firms between 1983 and 2001, usually from a leading Sydney firm joining with a leading Melbourne firm. These mergers, in turn, followed from a shift from state-based to national regulation, through the *Trade Practices Act* of 1974, the formation of the National Companies and Securities Commission, ASIC's forerunner, in 1979, and the *Companies Act* and co-operative scheme of 1981.

Now the process has been repeated but with international rather than national mergers. The GFC in 2008 demonstrated just how integrated the global economy had become, with the collapse of financial services firm

Lehman Brothers triggering litigation around the world, including in Australia, forcing Australian lawyers to come to terms with overseas insolvency law.

Four of the Big Six have merged internationally. Three London-based firms entered the Australian market in 2012. Freehills merged with Herbert Smith, Blake Dawson merged with Ashurst, and Allens formed an alliance with Linklaters, where the firms referred business to each other and began running some Asian operations as a joint venture. Mallesons Stephen Jaques went down a different road, merging with King & Wood, one of the first private Chinese law firms (not named for anyone named King or Wood, though – the name was chosen for its sound).

But in some cases, the mergers brought about massive changes in market position. When Anglo-American giant DLA Piper merged with DLA Phillips Fox in 2011, the mid-tier Australian firm immediately became part of the largest law firm in the world.¹ The merger of mid-tier Australian firm Middletons with large American firm K&L Gates had a similar effect. Never before had the Australian legal market been shaken up so much in such a short time.

By the end of 2012, total revenue of international firms exceeded total revenue of domestic firms in the Australian market for the first time.² This has created an environment of challenges and opportunities for Australian lawyers and law graduates. With the economy still sluggish, companies have cut back their legal expenditure, and when they do seek legal advice they are often looking at the cheaper option of a mid-tier or boutique firm. The local market is saturated – between July 2013 and July 2014, Australia's top-tier firms shed 10 per cent of their workforces and 5 per cent of their partners.³

But there are also opportunities, both on a firm and individual level. China has fewer lawyers per capita than Australia and a rapidly modernising economy that needs legal services. Other Asian countries also offer a new potential market for Australian law firms with the right expertise. Australian lawyers now have the opportunity to work not just in London, as they have long been doing, but in places as diverse as Jakarta and Dubai.



One lawyer's experience in Japan

To get an idea of what this can mean for young lawyers, the *YLJ* spoke to Celeste Koravos, a fourth-year lawyer with DLA Piper who worked in Tokyo. Celeste had a great interest in Japan and had studied Japanese at high school and university. However, she did not expect to use it in her legal career. "When I was at law school, overseas opportunities tended to be human rights-related and centred on the United Nations and similar organisations, mainly in Europe. There was little globalisation of the Australian legal market."

But when her firm offered a graduate rotation in Asia, she worked on making the strongest business case possible for sending her to Tokyo.

There were a few big differences between working in Australia and Japan, including the language and the fact that Japan is a civil law jurisdiction. "It was a joy to be able to pick up a piece of legislation and take it at face value, without having to worry too much about case law," Celeste said.

And there were also dozens of small differences: "The view of the Imperial

Palace from my office window, queuing up for lunch with kimono-clad women, having six types of tea on tap in the office kitchen, incredible Japanese food at team meetings and the earthquake helmet permanently positioned on my desk for daily tremors."

Culturally, however, there were some very significant differences that could easily catch an Australian unfamiliar with Japan. Collective rather than individual decision-making is preferred, the language and people can be confusingly indirect, client loyalty is stronger, there is an aversion to litigation, and lawyers are more respected. "Whenever a Japanese person found out that I was a lawyer, they would bow deeply and compliment my intelligence... a nice change from the sometimes negative perception of lawyers in Australia."

Celeste was able to undertake fascinating legal work, including researching old samurai practices of executing documents with blood, and drafting the official English translation of Japan's Basic Law for a Gender-equal Society. Her life outside the office was just as interesting too – singing a karaoke Beatles duet with a partner of the firm was a highlight.

Celeste provided us with some final tips for Australian law students or graduates considering working in Asia: to be up-front with your employers or potential employers about your goals, join relevant groups, learn some of the language, and above all, think about how you can demonstrate value to potential employers in Asia. It is also easier to do an overseas rotation after you've been admitted, provided that your work and life generally can accommodate it. And while working as a lawyer in a foreign jurisdiction can be intimidating, it is quite manageable. "We learn such a small amount of law at uni that whether you're working in Australia or Asia, you're bound to learn most of it on the job," she said. ■

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- 1 DLA Piper press release, 2 May 2014, available at: <http://news.dlapiper.com/Press-releases/DLA-Piper-tops-The-Am-Law-100-for-second-consecutive-year-88b.aspx>.
- 2 Chin, Eric (2012) "Top 20 Australian law firms, Part 1: Australian legal industry reaches the globalisation tipping point" in *Beaton Capital*, 4 September, 2012, available at: www.beatoncapital.com/2012/09/the-australian-legal-industry-reaches-the-globalisation-tipping-point/#sthash.YCQFINNf.dpuf.
- 3 Merritt, Chris (2014) Top-Tier Firms Axe Hundreds of Jobs in *The Australian*, 4 July, 2014, available at: www.theaustralian.com.au/business/legal-affairs/top-tier-firms-axe-hundreds-of-jobs/story-e6frg97x-1226977046424.