

Spotlight on: **Peter Godwin** Managing Partner - Kuala Lumpur

Peter Godwin is head of our market leading Asia Disputes practice. He has been based in Asia for 20 years and recently relocated from Tokyo to Kuala Lumpur to launch our new office. He is an arbitration specialist with expertise in construction and infrastructure disputes. Here he gives us an insight into his career in Asia and the opportunities he sees in the Asia region, including in his new home, Malaysia.



What brought you to Asia?

As a trainee solicitor, I was fortunate to have the opportunity to spend six months in Hong Kong. It is difficult not to enjoy such an experience, but when I returned to London, I never dreamed I would return to Asia for the best part of my career. However, a few years later my wife was offered a position in Hong Kong and I needed little encouragement to join her as her trailing spouse. Three years on, as we were debating whether to extend our stay in Hong Kong or return home, HSF opened an office in Tokyo and I was offered the opportunity to relocate to establish our disputes practice.

I guess I like a challenge, as to move as a foreign disputes lawyer to a jurisdiction which was renowned for being dispute averse and whose companies, and their lawyers, barely recognised what an arbitration was, was certainly going to be a challenge. However, the decision to move was made surprisingly straightforward as my wife and I took our then three year old son to have a look at this weird and wonderful place called Tokyo. Having dragged him around apartments, supermarkets, offices, schools, etc, we rewarded him with a day at Tokyo

Disneyland. Over dinner that evening he left us in no doubt that we were moving to Tokyo!

So to Tokyo I went for two years, only to stay for 16 years!

Why did you stay so long in Tokyo and, having done so, why the move to Kuala Lumpur?

Tokyo is a fascinating, and at times baffling, place to live and an extraordinary, very safe, place to bring up one's children, which made it easy to stay. However, what kept me there were some loyal clients, who had the happy habit of investing very large sums of money in very tricky jurisdictions, which gave rise to some big and complex disputes. They entrusted the resolution of these problems to me and my team and this enabled us to succeed (arguably against the odds) where many have tried and failed. Over the years the team grew from one person (me) to become a five partner practice doing high value work as complex as any in our global network. Having grown this from scratch, it was a wrench to leave. I remember describing the feeling sitting on the plane as I had surrendered my visa as akin to having abandoned a teenage child!

However, notwithstanding these thoughts, it was time for a change and, most importantly, a new challenge. So off I went to Kuala Lumpur. With the market only just having opened up to permit foreign law firms to operate there, it is another greenfield site, so not too dissimilar to the situation I had found myself in when I first arrived in Tokyo.

Kuala Lumpur is, of course, very different from Tokyo in many respects, but the challenge of building a practice in a market where many might expect me to fail was familiar. Time will tell - but I don't do failure, so I look forward to reporting on our success in the years ahead. Watch this space.

The office will focus on assisting Malaysian corporations as they invest overseas and inevitably then get into problems overseas too. We will also work alongside local Malaysian lawyers to assist our international network of clients as they seek to invest into Malaysia.

What are your early observations about the legal landscape in Malaysia, and especially the opportunities in the construction and infrastructure arena?

I have only been resident in Malaysia for a few months, so my views on the local market are still developing. However, it is clear that the growth and development of South East Asian economies brings with it a huge demand for infrastructure in those economies. The figures are startling. For example, the Asian Development Bank has forecast a need for over US\$60 billion per year in infrastructure expenditure across the region. Private sponsors and investors have a huge role to play in meeting that demand. Japanese and Chinese sponsors, contractors and investors in particular remain keenly interested in South East Asia. But the fact is, governments hold the key to facilitating the necessary input of financial and technical capital into the region. They are, in many cases, and particularly when it comes to the 'mega projects' needed to meet transportation demands in urban centres, the buyers of infrastructure. So, it is up to governments to shape projects with sufficient certainty and sufficiently robust risk profiles to ensure that projects progress. Large scale infrastructure projects in South East Asia are often characterised by a 'stop-start' process, or processes that are driven more by political motives than rational social and economic considerations.

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Happily, if governments come to the table and deliver policy and tender frameworks that have the requisite degree of certainty and credibility, private enterprise is very likely to come to the table too. This includes funds, even 'western managed' funds (for example, funds managed out of the U.S., Canada and Australia), who increasingly have a mandate to invest in South East Asian infrastructure. This is driven, in part, by lower margins on infrastructure in OECD economies, and in part by their own investor bases, which are increasingly Asian dominated. Not only do they provide additional sources of capital in the short term, the willingness of large infrastructure funds to invest in South East Asia will create a market for secondary investments that previously did not exist on a material scale. This will give development investors the confidence to commit capital, knowing that there is potential for an exit and the opportunity to recycle their development capital. Coupled with consistent and credible state procurement processes (if they are forthcoming), there is real potential

for South East Asia's infrastructure boom to take off in the near term.

As for construction and infrastructure within the legal sector, this is a thriving part of the local legal scene. A number of contentious lawyers focus exclusively on this field, whilst most seem to do some work in this field. The new adjudication rules have transformed this area of practice, with fewer cases now going to arbitration as the number of adjudications booms (well over 600 adjudications are expected in 2017).

Whilst the means of resolving disputes in the sector may have changed fundamentally, there remains a good deal of work to be done in this sector and no sign of that changing any time soon. With major projects such as the Singapore - KL High Speed Rail project gathering momentum, alongside other major infrastructure projects both in Malaysia and the South East Asia region, as well as the likely impact of China's Belt and Road Initiative, lawyers in this sector appear to be set for a fruitful few years to come.

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