

BUSINESS

Lawyers in India

Legally Barred

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Will India open up to foreign lawyers?

IF YOU want to find the legal chiefs of big defence companies such as Boeing or BAE Systems, a good place to start looking is the foyer of the Taj Mahal Hotel in Delhi. The in-house legal bosses are in town to appoint law firms to support their push into the Indian market, as the government updates its military equipment. They have to go in person, rather than sending their usual lawyers, because of the 1961 Indian Advocates Act, which prevents foreign firms from practising in the country.

Global law firms see India as one of the last untouched goldmines of the international legal scene. It has a booming economy, a strong legal system and a deep well of talented lawyers. The recent purchase of Jaguar and Land Rover, two luxury car brands, by Tata Group, a giant conglomerate, is the latest sign that Indian companies are ready to do the kind of deals that get international lawyers salivating. For the moment, however, all they can do is crane their necks to get a better look.

But that could change. On April 25th some of India's most distinguished judges were due to hear the final submissions in a High Court case that could be the first step towards opening the country to international competition. The judgment in the dispute between three international law firms and a group of prominent local lawyers will be a deciding factor in how the 47-year-old rule is interpreted.

The disagreement came about in the 1990s, after a British firm, Ashurst, and two American firms, White & Case and Chadbourne & Parke, opened representative offices in the country. The Indian lawyers sued. A heated debate ensued about the merits of opening up the market. India's 15,000 corporate lawyers worry that they are not ready for international competition. Strict rules have stymied growth while other firms around the world have been able to develop into global organisations. Indian firms are not allowed to have more than 20 partners, cannot advertise their services via websites, and cannot even give someone a business card unless it has been specifically requested. The big global firms, with their vast resources and long experience of international transactions, make fearsome opponents.

"Outside India, legal services are a business," says Rajiv Luthra, founder and managing partner of Luthra & Luthra, one of India's biggest law firms. "Here it is a profession—we still have archaic rules." He understands the argument for opening up, he says, "but I can't compete with a Clifford Chance. I don't have 6,000 lawyers." For their part, British firms think it is unfair that Indian lawyers are allowed to set up in Britain—and, with the assistance of their parent firms back home, can

then offer services to companies doing business in India that British firms cannot match.

India's business lawyers will be most directly affected by any steps towards liberalisation because the international firms will focus their attention on corporate deals. Litigators, who make up the majority of lawyers in India, are concerned for other reasons. They occupy an important position in Indian society as the guardians of democracy and are associated with independence from the old British Empire. Tampering with that role is seen as a threat to India's sovereignty. "What they don't want is another East India Company," says Alex Pease, head of the Indian practice at Allen & Overy, a British law firm.

With the drawbridge to India's legal market raised, foreigners have had to dig tunnels beneath the moat. Many British and American firms have set up "virtual" Indian practices based in London, Dubai, Hong Kong or Singapore, or forged "best friends" alliances with leading domestic firms to refer work in and out of India.

Most lawyers agree that it is a question of when, rather than if, the Indian market will be liberalised. But change will happen slowly. Even if the foreign firms win their court case, the Indian lawyers are likely to appeal. And although there is political support for the legal market to be opened up to international competition, there is an election looming. Doug Peel of White & Case's India practice, based in Singapore, says political will is "wavering" as a result.

The consensus among Indian lawyers in favour of liberalisation is that the market should be opened gradually, to give Indian firms more chance to compete against the foreigners. For this to happen, the strict rules regulating domestic firms would need to be relaxed, perhaps over five years. "We'll learn a lot from the international profession, and maybe we'll teach them a bit too, but before we open we must correct all these ills," says Mr Luthra.

International firms will have to sit tight for the time being, like expectant children waiting for Disney World to open. Meanwhile their clients will have to keep racking up the air miles to India.

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