

## India-related Legal Services at Our Office ( 1 )

### Teaming up with an Indian Law Firm

January 1, 2018

#### I . Introduction

We have agreed to commence an operational alliance with Banthia & Co Advocates (hereinafter referred to as Banthia) beginning January 1st this year. Banthia is known as being among the best 10 law firms in India.

As you know, India is a very attractive market. However, in many cases there are a number of barriers to join.

In order for you to overcome such barriers and smoothly participate in the Indian market, we would like to offer as much legal support as possible together with Banthia.

#### I I . Profile of Banthia

Banthia is a law firm founded in 1953 by the great-grandfather of its current executive partner, Neelesh Banthia, and has one of the longest histories among Indian law firms.

Later, the firm was much developed by Shri B. S. Banthia, who was the father of Neelesh Banthia and a lawyer qualified to partake in oral proceedings at the Indian Supreme Court. Now, the firm is one of the leading Indian law firms with 16 offices all over the country and 350 experts at its service.

Through the operational alliance with Banthia, we are now ready to develop our India-related legal services exponentially.

From now, we'd like to briefly explain the attractiveness of India,

difficulties regarding the country, and the significance of the alliance with Banthia, in this order.

## India-related Legal Services at Our Office (2)

### Attractiveness of India

#### I . Introduction

According to Sir Hiroshi Hirabayashi, the former Japanese ambassador to India, India's attractive points are shown in the following list<sup>1</sup>:

- ① India is one of the most pro-Japan countries in the world.
- ② India is the world's largest democracy and shares fundamental values with Japan.
- ③ Being prominent among the developing countries, India has a very good relationship with the U.S.A., an ally of Japan.
- ④ India is important geopolitically and strategically.
- ⑤ India has a great economic potential and has been increasing its importance to Japanese economy.

#### I I . Pro-Japan India

According to Sir Hirabayashi, India being pro-Japan should be attributed not only to the historical and spiritual tie through Buddhism, but also to the Japanese support and contribution to the independence of India from the U.K.

#### I I I . Japan sees India as the most promising

Japan Bank for International Cooperation (JBIC) has been executing a survey every year on Japanese makers as to which country is most promising, and India ranked as the number one in the last three years. In

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<sup>1</sup> Sir Hiroshi Hirabayashi, *India, the last super-power — all that the former ambassador witnessed in the pro-Japan country*, Nikkei BP Co., Ltd., 2017. (original title) 平林 博 「最後の超大国インド 元大使が見た親日国のすべて」日経BP社 2017年

the 2016 survey, 230 companies (47.6%) out of 483 respondents chose, as the most promising, India, which was followed by China as the second and Indonesia as the third. Also, in a questionnaire survey for the readers of the electronic version of Nihon Keizai Shimbun newspaper, one of the questions went: Which country do you think will experience the greatest development in the coming years? As a result, 56.1% of the respondents answered India, putting the country in the top position with a large margin.

#### I V. Size and Economy of India

India is a large country and is currently going through a qualitative development.

The total area of India is 328.7km<sup>2</sup>, the 7<sup>th</sup> largest in the world after Russia, Canada, the U.S.A., China, Brazil, and Australia. This is about the same size as the whole EC area and approximately 9 times as large as Japan. India consists of 29 states and the areas of direct federal governance such as Delhi.

The population was estimated to be 1.21 billion in the official statistics record (the year of 2011) of the national census, which is executed once every 10 years, while by now some say the number has reached even 1.33 billion. This is the world's second largest and predicted to overtake China by 2025.

China is in the process of social aging, while India is witnessing the growth of a younger population. Which means that plenty of labor is available. This situation is a positive sign for economic development (this is called population bonus.).

Increasing by 20 million people every year in India is the middle-class whose annual income is around 3.5 million yen.

The gross domestic product (GDP) of India was 2.2563 trillion US dollars in 2016. This was the 7<sup>th</sup> in the world after the U.S.A., China, Japan, Germany, the U.K. and France.

## V The World's Largest Democracy

India is the world's largest democracy.

India has the world's largest number of voters: 814 million people (at the time of the general election for the lower house in 2014).

The constitutional assembly, held in December 1946 and consisting of 308 members, included not only leading figures such as Nehru from Brahman, the highest class of the caste, but also respective representatives from all the classes of the caste including the lowest class, and leaders of Christianity, Islam, Sikhism, Buddhism, etc. As such, the assembly reflected the diversity of India.

Regarding the procedural aspects of Indian democracy, political power, both of the nation and of each state, are always executed by administrative leaders chosen through election, or assemblies.

The prime minister of India is appointed by the president after the leader of the party with the lower house majority is nominated for the post. On the state level, state prime ministers, who are chosen through direct election, take power.

### V I . Pillars of Indian Democracy

First, the voting rates are high in India.

Secondly, mass media is highly developed in India and able to criticize the government freely. Their stance is independent, free from external control, and never flattering the power, resembling that of the U.S.A. or the U.K.

In addition, the Indian legal system is, like the Japanese system, a three-tier system comprised of district courts, high courts and the Supreme

Court, and the level of judges are high. Especially the quality and integrity of the Supreme Court judges are as high as in any developed country.

Furthermore, the Indian military is completely under civilian-control. The supreme commander is the president and the military is subject to the civilians such as the prime minister and the defense minister. Since independence, no coup nor military regime has ever occurred.

#### V I I . Conclusion

As stated above, India is the world's largest democracy with its land and population great and the economy rapidly expanding. Thus, it is a very appealing place for Japanese companies to expand their businesses into.

## Difficulty about India

### I Introduction

According to Sir Hirabayashi, difficulty about India consists in its diversity.

#### I I . Ethnic diversity

Ethnic elements of India consist mainly of the indigenous first settlers, Dravidians who increased over time, Aryans who invaded from the north-west India, people of Mongoloid race in the north-east, etc. Currently, the ethnic composition is complex after generations of racial mixture.

#### I I I . Diversity in language

There are numerous languages in use in India.

The official language is Hindi, but there are 21 other languages regarded as official (sub-official language) in the Constitution of India. Dialects counted, the number of the languages soars up to 800.

People mainly speaking Hindi is the biggest in number, still they cover less than 40% of the population only. The only one language used nationwide is English of the former metropole, which is dealt with as a sub-official language, although people with good command of English belong to the middle or upper class, roughly speaking.

#### V I . Complexity regarding religion

##### 1 Introduction

Indian diversity is outstanding especially in religion.

From the ancient times to the medieval times, India gave birth to four schools of religions: Brahmanism and its successors, namely, Hinduism, Buddhism, Jainism and Sikhism. Even from 19<sup>th</sup> century on new religions such as Krishnaism and Sai'ism of Sai Baba, and religious ideology groups including Vivekananda association emerged.

As for extraneous religions, Christianity, Judaism, Islam, and Zoroastrianism (the religion of fire worship) have been accommodated.

The census showed that 79.8% of the population follow Hinduism, 14.2% Islam, 2.3% Christianity, 1.7% Buddhism, 0.7% Jainism, and over 60 thousand people Zoroastrianism.

## 2. Hinduism

Hinduism and its predecessor Brahmanism are polytheistic, like the Shintoism of Japan, in which multiple deities are worshipped.

Brahmanism was gradually replaced by Buddhism, which appeared as a reformative religion. As Buddhism became more and more prevalent from the 3<sup>rd</sup> century B.C., Brahmanism survived by mixing itself with folk beliefs. This is known as Hinduism.

## 3. Buddhism

Over time, Brahmanism lost much of its substance and discrimination based on the caste system started to be seen. Then came Buddhism and Jainism. Both of them were reformative and tried to change the bad aspects of Brahmanism that had lost much substance and had become too esoteric. They began in the place currently known as the state of Bihar in 5<sup>th</sup> century B.C. Buddhism was created based on enlightenment and propagated by Gotama Siddhartha, the prince of śākya kingdom. It was spread not only to the Indian sub-continent but also through north-west India, China, East Asia (Mahayana Buddhism) and Sri Lanka, to South East Asia (Hinayana Buddhism), becoming a world religion.



#### 4. Jainism

A thinker called Nigantha Nataputta created Jainism during the same period and in the same area as the birth of Buddhism. They have much in common, but are different in that Buddhism is a more lenient religion, while Jainism is far stricter in rules than in Buddhism and rigorous about cleanness and uncleanness. Due to the rigor, its range of propagation was restricted roughly from north India to west India, rather than becoming wide-spread.

#### 5. Islam

In 7<sup>th</sup> century A.D., Islam was born on the Arabian Peninsula and spread to the east and the west. It reached the Indian sub-continent through the land and the sea. From 7<sup>th</sup> to 10<sup>th</sup> century, Rajput tribes were in rivalry, each with its own sphere of influence. Through this conflict, Islamic forces were able to invade. In 12<sup>th</sup> century, Islamic forces penetrated the sub-continent from the north-west side, defeated Rajput tribes, and took control of Delhi and its surroundings. In 16<sup>th</sup> century, from the Central Asia came another force of Islam led by Babur, who claimed to be a descendant of Tīmūr and they established the Mogul empire in 1526. The empire maximized its territory under the reign of the 6<sup>th</sup> emperor Aurangzeb, reaching the Deccan Plateau in the central India and becoming Islamic. Once Islam became predominant, Buddhism was expelled to Himalayan region, while Hinduism survived as a folk belief.

#### 6 Sikhism

Sikhism was created in the middle of troubling situations regarding Hinduism and Islam.

Sikhism was created by Guru Nanak in Punjab region in north western India from 15<sup>th</sup> to 16<sup>th</sup> century. He criticized both Hinduism and Islam for having lost much substances and clinging to ceremonies and customs too much. Also, he denied ceremonies, iconolatry, asceticism, the caste system, superstition, etc.

Sikhism taught that there is only one deity and that different names are used for the same one. At the same time, the concept of reincarnation of Hinduism or Buddhism was absorbed into Sikhism.

## 7. Christianity

Christianity was spread to India by Portuguese who arrived during the age of exploration. Serious propagation in India was led by the Society of Jesus, which was a religious organization established by the Spanish Francis Xavier and his fellows with the permission of the Holy Father; the Portuguese king had given permission and dispatched Xavier to Goa on the western shore of India to gain a bridgehead to the East.

## 8. Independence of India and Religious separation

During the colonial era, Great Britain, the colonial power in the Indian subcontinent, divided Indian people along the lines of religions and kept them at odds with each other, so that their dissatisfaction would not explode into revolt against the Great Britain. As a result of this “Divide and Rule” policy, the religious conflicts in India deepened gravely. Consequently, the Indian secession and independence from the Great Britain in 1947 intensified the conflict between Hinduism and Islam. Muslims detested the idea of joining a united India where the majority was going to be Hindus. As a result the majority Islamic Pakistan was established, led by Jinnah, one of the independence activists. Quite a number of Muslims residing in the current Indian Territory moved to Pakistan; and many Hindus in the current Pakistani territory to India, during which a lot of them were killed in assaults by the opposing side.

Against the backdrop of such history, the independent India has been reaffirming “politico-religious separation” as the national policy. Even now, however, some Indians are Hindu Supremacists, while others are Muslim extremists; and the religious conflict in India has not come to an end.

(Below omitted)



## Points of caution on trading with and expanding business to India

### 1 . Introduction

As we have discussed so far, India is a country of inexhaustible attractiveness to Japanese companies as it is the biggest democracy in the world, which is also pro-Japan, populous, and full of young workers in the middle of economic development. However, there exists unexpected risks in trading with and expanding business to India which is diverse and complex in ethnicity, language and religion. For the purpose of succeeding in trading with and expanding business to the country by minimizing such risks, it is desirable to have expert consultants well versed in India and to keep advised by them.

Then, what type of experts should be chosen?

### 2 . Experts proficient in English

Taking the diversity in language into consideration, it is no exaggeration to say that English is essential for doing businesses in India. Due to it having been a British colony until 1947, historically speaking, quite a few Indian people received education in the style of the U.K., thus their English ability is extremely high. In addition, partially because of their unique and strong accent, trading with Indian companies or starting a business in India requires high skills in English.

Therefore, it is important to find expert consultants with good English command and to seek continuous advice from them.

### 3 . Indian legal systems are British-style

Against the backdrop of India having been the British colony until 1947, Indian laws are laws enacted on the basis of British laws, which consist

mainly of judicial precedents. As a result, the actual legal system in India is similar to that of the U.K. Also, legal education in India, especially at universities, is in principle done in English. Moreover, Indian companies are familiar with doing international businesses according to Indian laws, which are similar to British laws.

Therefore, the tip is to gain continuous advice from expert counselors rich in experiences of European-American international trades.

#### 4. Geological diversity in India

“India” is just one word, but the country is huge and has 29 states, which have different regulations from one another. This is why continuous advices by experts who can duly respond to such different regulations really matters.

#### 5. Strength of Haraguchi International Law Office

Haraguchi International Law Office was founded by Kaoru Haraguchi, who is a lawyer qualified in practicing legal services in Japan, U.S.A. (N.Y.), and Mongolia, and as a result is very experienced, having practiced professional services for approximately 30 years, including 5 and a half years abroad.

Therefore, he is high in English ability, knowledgeable about Western business practices, and adept at Anglo-American laws. On top of that, the alliance that began on January 1st this year with Banthia, a top-class law firm in India, which has 16 offices in various regions there and one of the longest histories in that country, is another example of the combined expertise held at his firm.

Without exaggeration, Haraguchi International Law Office is the most suited for supporting your company in a continuous manner among all Japanese law firms.