

SCTCMG 2019
**International Scientific Conference «Social and Cultural
Transformations in the Context of Modern Globalism»**

**ECONOMIC DISPUTES BETWEEN COMPANIES IN RUSSIA AND
INDIA**

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Abstract

This study focuses on the economic disputes emergence and on the procedure for their resolution by commercial organizations in the Russian Federation and the Republic of India. In different historical periods of states development, various institutions were involved in resolving disputes between business entities. Today in most countries, including Russia and India, these issues are dealt with by special courts. In both countries, there are entire subsystems of courts resolving commercial disputes. In Russia, the system of courts for resolving economic disputes consists of the Supreme Court of the Russian Federation, circuit arbitration courts, arbitration appeal courts, first instance arbitration courts, a specialized arbitration court represented by the Court of Intellectual Property Rights. Until August 2014, there was a separate judicial subsystem of arbitration courts in Russia. Formally and realistically, arbitration courts, having at their head the highest judicial body, the Supreme Arbitration Court of the Russian Federation, had a high degree of independence and autonomy. They were distinguished by modernity, progressiveness and a higher level of professionalism in comparison with the general jurisdiction courts main part. In India, there are quite significant differences, manifested in a less clear judiciary structure. The reason lies in the fact that the commercial courts establishment forms at the discretion and by the decision of the states' authorities, in differently estimate this issue. In the Russian and Indian judicial systems, one can find their positive aspects and weak features, which the authors reveal in the present work.

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Keywords: Russian companies, Indian, economic disputes, commercial.



1. Introduction

Economic and legal systems tend to evolve permanently. Legal entities, mainly commercial organizations or, as they are also called, companies, are one of the development drivers of the country and the main economic entities.

Commercial organizations, while in constant quest for profit, are also looking for new sales markets for their products and services. Increasingly, their attention is attracted to emerging markets. One of those is Indian. In recent decades, India has become one of the fastest growing countries in the world. Every year a growing number of foreign companies try to enter the country's domestic market. Russia is also taking steps in this direction. VTB Bank (PJSC), PJSC Sberbank, PJSC MTS, PJSC KAMAZ and others have already been represented at this market. Russian economy also finds investment from abroad. The BRICS countries (Lenchuk, 2015), especially China, are of a particular interest to Russia and India (Konishcheva, 2018). Business in foreign markets is more difficult for organizations and hides a large number of possible problem areas. However, not only companies operating abroad are facing contract default. Much frequently this happens when working in national markets.

2. Problem Statement

Today, the violation of certain contractual obligations is a common practice in any country in the world. The reason lies in the very nature of entrepreneurial activity based on risk and making a lot of decisions in a short time, not always on the basis of comprehensive and reliable information. All this leads to the fact that one of the parties cannot fulfill the obligations undertaken, partly or, sometimes, totally.

When one of the parties fails the obligations fulfillment, other party is forced to contact a third party to receive compensation from the failure of the contract. In most cases legal entities apply to the judiciary. The choice of courts as arbitrators is due to their high official status and the availability of legal tools to compel their execution.

Despite the high relevance of the economic disputes between companies issue, it has not been studied well in the scientific literature. This study aims to eliminate the existing research gap. Disputes between commercial organizations will be examined on the example of two large states – the Russian Federation and the Republic of India. These countries have a range of similarities in the state structure and legal system. In this regard, the Indian experience, both positive and negative for Russia, and the Russian for India would be extremely useful.

3. Research Questions

The following questions need to be solved in order to outline the obtained results of the research on the stated topic

First of all, it is necessary to determine what is attributed to economic disputes, considering the context of this study. Clear regulatory consolidation in Russia and India in this category is missing. From the current practice, the economic disputes between companies can be attributed to the differences that have arisen between economic actors in the process of such. Contradictions can occur between two or more counterparties.

The greatest risks of uncertainty connect with companies with state participation, there are about 4 thousand of these companies in Russia. The reason lies in a more complicated management mechanism and in a large number of civil servants, involved in the decision-making process in state legal entities. One of the main reasons is the presence of the so-called public or government procurement institution (Smotrinskaya & Shuvalov, 2017), which necessitate the abidance of complex, well-regulated procedures when signing contracts with contractors for the purchase of works, services and goods (Smotrinskaya, Anchishkina, & Chernykh, 2017).

Periodic exacerbations of systemic issues in the sphere of public (Yakovlev, 2012), municipal and corporate governance in Russia and India have a significant impact on the likelihood of a situation occurring with the contractor's failure to comply with the terms of contracts.

No less important for this study is an analysis of the regulatory legal acts governing the topic of our research. In Russia and India there are separate laws on the courts for the economic disputes consideration. There are a significant number of judicial bodies in Russia (Grebnev, 2016), which operate independently of other branches of government (Sangadzhiev, 2010), arbitration is one of the most developed judicial subsystems among them.

Examining commercial disputes between companies, it is important to remember that the speed and objectivity of disputes consideration and has a significant impact on the country's economy in general (Lenchuk, 2016) and its individual elements. Economic growth is extremely difficult for a state with non-transparent and inefficient institutions.

4. Purpose of the Study

The purpose of the study is to analyze the economic disputes between Indian and Russian companies. To achieve this goal, a comparison of the jurisdiction over commercial disputes in the two countries under study is proposed.

5. Research Methods

The methodological basis of the work is the formal-logical and dialectical methods of cognition, historical and integrated approaches, and methods of systemic and comparative legal analysis, synthesis, induction and deduction.

The study's regulatory framework is based on the laws of Russia and India.

The theoretical basis of the study was constituted by the fundamental concepts contained in the scientific works of leading Russian and Indian economists and lawyers.

Such a method as applied research is also used in the study. Among the methods of theoretical and empirical scientific knowledge should be highlighted: analogy, historical and logical methods.

6. Findings

The Russian and Indian judicial systems had passed through a series of stages in their development went. They also evolved within the subsystem for resolving economic disputes framework.

Both states in the twentieth century went through fundamental state transformational changes – Russia dealt with three revolutions and transitions from capitalism to socialism and vice versa, India from a British colony turned into a sovereign state.

In ancient times, the principle of dharma, or natural justice, was at the judicature core. In the Middle Ages, judicial decisions were based on the Islam canons and were pronounced by the ruler or his designated person. Colonialism brought with it the dismantling of old institutions and the creation of a centralized judicial system, the basis of which was taken by the British, whose development continued after India gained independence.

If not setting the detailed fragmentation of history into stages as a goal then the main stages will be: pre-revolutionary, Soviet and post-Soviet (modern) periods. The latter is characterized by the most developed institutions for the commercial disputes settlement.

Consideration of economic (commercial) disputes in India is carried out in accordance with the laws of the country's "commercial courts". However, the judicial authorities engaged in resolving economic disputes in the South Asian state include both specially established courts and high courts, and district (states') courts dealing with civil disputes. This statement may seem somewhat strange, especially to domestic lawyers, due to attempts to construct an Indian system to resolve commercial disputes by analogy with the Russian one. In the Russian Federation, arbitration courts relating to federal courts are involved in resolving economic disputes. Today, the Russian system of arbitration courts consists of: district arbitration courts (arbitration cassation courts), arbitration appeal courts, first-instance arbitration courts (arbitration courts of the Russian Federation subjects), and specialized arbitration courts (RF Government, 1995). Currently there is only one specialized judicial body - the Court of Intellectual Property Rights.

In the Republic of India, a regulatory legal act controlling the commercial courts activities appeared quite recently, in 2015, in the form of the Law on Commercial Courts, commercial boards and commercial appeals boards of high courts. Even the Russian Federation has got its regulatory legal act controlling the commercial courts activities earlier than the South Asian country.

Commercial courts jurisdiction includes the consideration of disputes involving:

- common commercial, banking, financial and trade transactions associated with commercial obligations, including the enforcement and interpretation of such documents;
- export or import of goods or services;
- issues related to the admiralty and sea-law;
- operations involving aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
- carriage of goods;
- construction and infrastructure contracts, including tenders;
- agreements relating to real estate used exclusively in commercial circulation or trade;
- franchise agreements;
- distribution and licensing agreements;
- management and consulting agreements;
- agreements on joint activities;
- shareholder agreements;

- subscription and investment agreements relating to the services sector, including outsourcing and financial services;
- commercial and trading activities;
- partnership agreements;
- technology development agreements;
- intellectual property rights relating to registered and unregistered trademarks, copyright, patents, design, domain names, geographical names, and semiconductor integrated circuits;
- agreements on the sale of goods or the provision of services;
- exploitation of oil and gas reserves or other natural resources, including the electromagnetic spectrum;
- insurance and reinsurance;
- contractual obligations relating to any of the above clauses;
- other commercial disputes attributed to such central government (PRSIndia, 2015).

The establishment of a commercial court or courts and their number occurs at the discretion and by decision of the states' governments after consultation with the relevant high courts. In other words, a commercial court may function in some state, in another state – several, and in a third one there can be no such institution at all. In reality, such a picture takes place. To date, such states as Gujarat, Himachal Pradesh, Maharashtra and the national capital of Delhi have preferred to have separate judicial bodies with the jurisdiction indicated above. These are densely populated provinces with high economic activity. In states and union territories where no commercial courts are formed, economic disputes are resolved, as it was before, by civil courts.

According to their status and role in the judicial system, they are equated to district (regional) courts. In addition to commercial courts themselves, a commercial board of a high court may be involved in resolving disputes between economic entities, consisting of one judge with experience in resolving commercial disputes. There can be one or more compositions proceeding in court. The decision on the panel necessity and the number of court-compositions is made by the chief judge of the high court. In cases of high court commercial college formation, it is necessary to create an appeal commercial college of a high court of one or several compositions proceeding in court.

It should be noted that commercial courts may consider the case, the subject of the dispute or the value of the claim which does not exceed 10 million rupees. This amount may be increased by the decision of the central government.

In India, depending on the territory, the efficiency of commercial courts can vary greatly. The reason lies in the fact that the country has states with an extremely tense socio-economic situation, where the problems in the country are most pronounced (Yakovlev, 2011).

In Russia, the arbitration courts' jurisdiction differs depending on the case consideration stage –the - the first instance, appeal, and cassation. The greatest burden falls on the arbitration courts of first instance (republican, regional, regional, etc.).

In general, in the Russian Federation, arbitration courts mainly consider cases involving organizations, being legal entities, and citizens, who have the status of an individual entrepreneur.

India and Russia in the last decades apply a lot of forces to occupy a significant place in the global economy with growing competition. These aspirations legal embodiment lies in the introduction of amendments to the Indian legislation providing for the procedure for the consideration of Indian commercial disputes by the London International Court of Arbitration of India (Rusakova, 2012).

7. Conclusion

The analysis carried out by the authors led to the following conclusions.

In Russia and India there are quite significant features in economic disputes settlements. Many features of the modern Indian judicial system make it unique not only among developing countries. One example is the fact that provincial authorities have the right to form commercial courts. Regional authorities are deprived of such rights, including in Russia.

The Russian and Indian system and practice of economic disputes between companies settlements are far from ideal, but both countries are working on their improvement.

There are some trends that are clearly positive. In particular, there is an update and modernization of Indian legislation. Law on Commercial Courts of 2015 is the example.

In addition to creating effective and transparent government institutions for settle of economic disputes, companies themselves can make a significant contribution to the development of the corporate sector, including by developing high-quality business strategies (Beregova, Shchupletsov, & Skorobogatova, 2018) and introducing innovative development tools (Dorzhiyeva, 2018).

In general, things change, their nature and evolutionary vector of these changes indicate the desire of the Indian and Russian authorities to increase the economic disputes settlement efficiency. Implementation of foreign positive experience can assist with this.

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