



The corruption epidemic

BY K P SHASHIDHARAN

Corruption is a chronically infectious disease. It not only afflicts the politico-socio-economic psyche of a nation but can also inflict anyone or any organization at any point of time or all the time depending only on conducive environment. Bringing zero corruption becomes almost impossible as is the case of consensual illicit relationship going beyond the radar of the puritan legislative framework. So is trying to achieve complete immunity from the corruption epidemic. It has been acknowledged globally that the private sector has also a dominant role for warring against corruption. It is especially true in India where the share of the private sector in the GDP has grown tremendously in recent years.

India is a member of the Business 20 (B20), a task force set up under the G20. It has identified 12 topics considered to be critical for businesses across the world which include corruption as one of the priority issues. To take India Inc to the accelerated trajectory towards economic growth, the private sector should also work in tandem with government machinery to clean up India's business environment. Business ethics is not an oxymoron but an indispensable prerequisite to do business in India and with Indians. Warring against corruption has become an inescapable necessity for sustainable business. It is inevitable to create an environment for the inflow of Foreign Direct Investment (FDI) and Foreign Institutional Investment (FII) in the Indian economy. The increasing need for the creation of a robust business ethical environment and effective corporate governance in India stems from increasing global business competition consequent to the opening of the economy, and several large scams like the Satyam and others in recent times.

PRIVATE SECTOR CORRUPTION

In India, two "anti-corruption projects" are being implemented under the United Nations Office on Drugs and Crime; one supported by the Siemens Integrity Initiative – 'Incentives to corporate integrity and cooperation in accordance with UNCAC' to

address private sector integrity issues, including private sector association with the State during public procurement. Incentives for corporate integrity are in accordance with the UNCAC to strengthen an environment where companies are more willing to self-report incidents of corruption. The second project, 'Public-Private Partnership for probity in public procurement', seeks to reduce vulnerabilities to corruption in the intersection between the private sector and the State under public-private partnership projects.

An assessment of Indian legislation vis-a-vis the UNCAC helps identification of legislative gaps and a survey of current practices and grassroots realities helps in fixing training needs on the legal framework and its practical implementation. India has no specific legislation addressing corruption in the private sector though the available legislative framework at different stages in the process for enactment is fairly compliant with the UNCAC in relation to addressing private sector corruption.

Suitable amendment is needed in the Indian Penal Code to include as an offence "bribery" within the private sector. The Companies Act, 2013 criminalizes a number of offences such as "wrongful withholding of property" of the company or applying it in a manner that has not been authorized which includes intent to deceive, to gain undue advantage from, or to injure the interests of the company or its shareholders or its creditors or any other person.

Some of the means by which fraud is done include corrupt practices such as providing false financial statements, returns, reports, certificates and intentionally giving false evidence. It also provides for a limited liability of companies wherein penalties are applicable to a company or any officer of a company for violations of any provisions of the Act. The Act contains certain requirements for audit, responsibilities of directors and company secretaries and also the investigative roles of selected organizations to look at private sector management. ■

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