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Multinational Firms in India: Conducting Ethical Business

An honors thesis submitted in partial fulfillment
of the requirements for the degree of Bachelor of Science in Business Administration

By

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Abstract

This paper seeks to understand the current business environment in India as it relates to multinational companies completing their goals in an ethical manner. The purpose of the paper is to provide these firms with an insight into the cultural mindset behind a corruption riddled economy, how this mindset pervades the current business environment in India, and a framework through which they can create effective anti-corruption measures.

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Introduction

Within India, bribery is more often than not seen as acceptable (A step towards anti-bribery and corruption, 2011). According to a Transparency International study in 2005 (as cited in “Corruption in India”, 2014), more than 62% of people in India had a firsthand experience of paying bribes or peddling influence to get a job done in public office. This paper seeks to explore the underlying issue of corruption in the Indian marketplace, including the reasons for its prevalence, environments which are most susceptible, and its pervasiveness in society with the goal of providing India-based US companies the knowledge to form effective and relevant anti-corruption measures.

There is no doubt that business is becoming increasingly global. Customers demand goods and services from all over the world and companies must find the most cost effective ways to meet these demands. As a result, the countries that the US and other developed nations source from have a higher income and are starting to demand goods from abroad themselves. In recent years, several emerging markets have become very attractive to multinational companies. India’s growing economy makes it an appealing investment opportunity for companies around the world. Due to its growing population, India is positioned to become an excellent location for companies seeking to establish manufacturing there as well as for those companies seeking new markets for goods manufactured in their home country. Manufacturing in India is attractive because of the country’s low labor costs, skilled workers, and available business and management education (Nibbe & Memani, 2014). New foreign investment opportunities have arisen due to India’s new, more open FDI requirements concerning multi-brand retailers. These retailers are being encouraged to set up shop in India (VN, 2013). Among those who have already taken steps to do so are the UK’s Tesco and France’s Carrefour (VN, 2013). Despite

having a plethora of opportunities for growth, India has issues that could make it difficult for foreign firms to do business in the country.

There are a few “standard issues” which businesses consider when investing in a foreign developing market. Most companies would expect to have difficulty with infrastructure, specifically land, roadways, and utilities. One of the first problems which must be addressed when considering developing a business in India is acquiring land. Land acquisition laws in India are a subject of much controversy. The government is often accused of essentially stealing land from farmers and selling it to businesses for a handsome profit. Recently, India passed a new land acquisition bill aimed at protecting farmers from being the victims of the government’s loose interpretation of eminent domain (Varma, 2013). The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill states that farm land must be sold for four times the current market price and the development of the land for projects must have approval from 80% of the surrounding land owners (Varma, 2013). While the law makers may have good intentions, the effects of the law on the land market may not provide the results they seek. It will lengthen the already complicated process of acquiring land and may also make the land more expensive than it is worth. Furthermore, even if the government was to “fairly” award land to a business, that business could get push back from the locals. Consider the example of Tata Motors when they were awarded land in Singur, West Bengal for its new Tata Nano plant. Locals who did not understand the positive economic implications the plant could bring lashed out and burned the beginning construction of the plant. Several other increasingly violent demonstrations ensued (“The Tata-Singur saga chronology,” 2008). If Tata, an Indian company was subject to push back on its new venture, foreign companies are definitely not an exception. Ideas on land ownership in India differ from other places in the world. A tribe

living in the village of Dinkia has prevented the entrance of POSCO, a Korean steel company, into India (“This land is whose land?” 2013). This investment could have brought \$12 billion into the country (Sahu, 2013). An additional obstacle of doing business in India is its roadways. The development of suitable roads are lacking in many areas. Although the National Highways only make up 1.7% of the roadways, they carry 40% of the total road traffic (India Infrastructure Summit, 2012). Congestion and bottlenecks occur frequently. Utilities are also an issue in that they are expensive and not stable. Shortages occur daily and any business wishing to keep a steady flow of electricity must invest heavily in backup generators. All of these issues mean that the costs of simply keeping basic necessities to accomplish day-to-day activities are very high. While these issues are very real and pose a challenge to business, they are only the physical obstacles which spring from an underlying issue: corruption.

Background information

A common definition of corruption is the abuse of public office for private gain. While this definition is straightforward, it does imply that abuse of power in the private sector is not called corruption. For a more comprehensive understanding of corruption, we look to former IMF Fiscal Affairs Director, Vito Tanzi’s definition of the word. According to Tanzi (1995), corruption is the intentional noncompliance with arm's length relationship aimed at deriving some advantage from this behavior for oneself or for their relatives. Essentially, corruption is inappropriately and unprofessionally using a relationship with the purpose of seeking one’s own or one’s relatives’ advantage without creating value. Tanzi’s definition allows us to examine the different methods of noncompliance as well as the environments in which they are more common.

A few methods of noncompliance with an arm's length relationship include bribery, embezzlement, and extortion ("Corruption," 2014). Bribery is the "improper use of positive inducement (in the form of gifts or favors) in exchange for personal gain"; it is the most common form of corruption. Embezzlement occurs when an individual with access to funds or assets illegally takes control of them. Extortion is the use of threats for corrupt aims ("Corruption," 2014). Since bribery is the most common form of corruption, learning about environments where it flourishes is important.

Environments in which there are numerous regulations or authorizations are more likely to breed corruption, especially if the regulations are non-transparent or authorizations can only be approved by a specific office (Tanzi, 1998). Taxation, specifically taxation based on unclear laws is another catalyst for corruption. When laws are unclear, they require an interpreter (tax inspector). If tax laws are written in such a way that numerous interpretations could be acceptable, the chances that the inspector will be bribed to interpret the law in a way which benefits a particular bribe-paying firm increases. This likelihood is even higher if tax inspector wages are low (Tanzi, 1998). Finally, a big factor of an environment susceptible to corruption is below-market pricing for basic goods and services (Tanzi, 1998). While providing basics like bread, rice, or utilities at below market prices for the very poor seems like the humane thing to do, this pricing strategy leads to excess demand. The goods are purchased so quickly that a rationing mechanism is required in order to provide some of the good or service to everyone. The mechanism is more often than not a public official whose job is to give out certain amounts of the good to each person or family. When this type of discretion is required, the official can be bribed to give out more than the specified amount or approve certain people's request faster than

others (Tanzi, 1998). At the end of this scenario, the very groups which the scheme was meant to protect end up being the ones who are the most hurt.

Efficient Corruption

There are arguments which advocate that corruption can be efficient. Leff's 1964 paper, (as cited in Meon & Weill, 2008) argues that corruption can fill the inefficiencies of badly functioning institutions. Additionally, Leff argues that corruption battles inefficient regulation because it impedes it. He claims that corruption (mostly bribery) is used to bypass inefficient regulations, thus making it obsolete. The argument for efficient corruption by Meon & Weill (2008) rests on the assumption that corruption and economic performance have a negative relationship in countries with effective institutional frameworks while the relationship may be positive elsewhere. Using Leff's argument, bureaucratic inefficiency could be countered in the following way: if bribes are paid, the process can be completed in a timely manner rather than being stuck in red tape. According to Ernst and Young's Bribery and Corruption survey in India (2013), more than 50% of respondents agreed that due to the extra time it takes to obtain licenses through legal channels, business people are more likely to participate in illicit activities such as bribery. Tanzi agrees that "Corruption could be efficient because it saves time for those for whom time has the greatest value". However, Tanzi provides counter arguments for the overarching ideas of the efficient corruption hypothesis. The first is that the highest bribe payers are not necessarily the most efficient. The argument for efficient corruption claims that the payment of bribes decreases institutional inefficiency but if the highest bribe payers are not the ones who create the most economic value for the right cost, the overall efficiency is actually lowered. The second is that money used to "fill inefficiencies" may actually reduce the speed of processing times. If individuals who accept bribes come to expect them, they could deliberately

slow down a process in order to leverage even more bribes(Tanzi, 1998). While it may be true that bribes can correct for an existent inefficiency in the short run, it is certainly not the best practice for the long run.

In general, the word corruption gives off the connotation of being “harmful” or “undesirable” but in order to fight it effectively, we must understand its specific consequences. According to Mauro (1995), corruption reduces investment which, by the production function, reduces the rate of growth. Following the line of thought that corruption breeds corruption, an increase in public investment is a common econometric effect; public investment is more susceptible to corruption (Tanzi and Davoodi 1997 as cited by Tanzi, 1998). Corruption also acts as a tax and reduces foreign direct investment (Tanzi, 1998). Now that we theoretically understand environments in which corruption is more prevalent and its general effects, let us take a look at the Indian economy to understand the role of corruption and how it penetrates business.

Indian Economy

One defining characteristic of a corruption riddled economy we discussed is the presence of many rules and regulations. In India, excessive red tape and lengthy processes incentivize people to obtain licenses and permits through illegal means instead of going through authorized channels (Bribery and corruption: ground reality in India, 2013). Bureaucrats, who have wide discretionary powers when it comes to awarding contracts, etc., often have the opportunity to take advantage of a system wrought with inefficiencies and accept bribes in exchange for processing requests more quickly. According to a report by the Political and Economic Risk Consultancy in Hong Kong India scored 9.21 out of 10 (“India bureaucracy ‘worst in Asia,’” 2012). Overburdening bureaucratic processes are a constant presence in the day to day lives of

Indian citizens. In an interview, Ms. Srikumari Koganti of Hyderabad, AP, India, explains the process she had to go through in order to obtain a passport. As a frame of reference, the time it takes to obtain a passport in the US is anywhere from one to four weeks. In India, once the passport application is turned in, a group of policemen are required to come to your residence to confirm you are who your documents say you are (S.Koganti, personal communication, April 6, 2014). This extra step can delay the entire process because the police whose job it is to confirm identities have exceptional power in this scenario. They can ask for a bribe amount of their choosing. Due to Ms. Koganti's religious beliefs, she did not pay the policemen any bribe. Six months later, she still had not received word on the status of her application. Realizing that she had an acquaintance who worked in the passport office, she went to see why her application had been stalled. Upon arriving, Ms. Koganti was told that there was a 12,000 rupee (about \$220) fee to check her application status. She paid it only to be told the police who were in charge of confirming her identity did not turn in the paperwork. Her friend informed her that had she paid the police, she would have already received her passport. The entire ordeal took nine months (S. Koganti, personal communication, April 6, 2014).

Along the same lines is another example quoted from Ravi Duggal, (as cited by Rajadhyaksha & Kably, 2013), "If a widow is to avail of a pension scheme, she will first have to prove on paper that she is a widow, even if the entire neighborhood bears testimony to it. This creates a mechanism for bribery." (para. 3). Bureaucracy which is of greater interest to firms also exists; one example is in the transportation industry. According to a Transparency International study (as cited in "Corruption in India", 2014), forced inspection stops on the roadways for trucks can take up to 11 hours per day because of inspectors who threaten drivers to extract extra fees. The

same study suggests that the number of truck trips could increase by 40% if the delays were avoided.

The next defining characteristic we mentioned was an unclear tax code. While low paid tax inspectors can take advantage of unclear tax laws by extracting money from unsuspecting people who require their services, many Indian citizens and companies evade taxes and are not prosecuted because of system inefficiencies (Dhara & Thomas, 2011).

One last characteristic of a corruption susceptible economy is the presence of below-market pricing. Since a large part of India's population lives in poverty, certain mechanisms exist to ensure them access to low price food staples. One subsidy program is in effect under the Food Security Bill includes a guarantee of 5 kg of grain a month per person to the poor and 35 kg per month per family in the poorest category (Parija & Mishra, 2013). As mentioned earlier, such programs may help some, but give opportunities for enforcers to be bribed into giving a larger than approved ration. The Public Distribution System (PDS) in India was created in the 60s and is the umbrella for most below-market priced goods management (Kattumuri, 2011). While much of the management responsibilities of the goods are shared between the central and state governments; the state government is specifically responsible for identifying families falling below the poverty line (about 50 cents a day), issuing cards, and distributing goods through fair price shops (Kattumuri, 2011). Food and other goods are shipped from government warehouses to states who will distribute it in fair price shops (Srivastava & MacAskill, 2012). India's grain stockpile is the largest in the world behind China's, large enough to export some of it to other countries, but one-fifth of the population is malnourished due to "corruption, mismanagement, and waste in the programs that are supposed to distribute food to the poor." (Bajaj, 2012). The subsidized supplies is often taken by officials and sold on the open market at regular prices

(Pandey, News, & Lucknow, 2011). In an example of how inefficient the system can become, Pandey, News, & Lucknow (2011) describe a woman named Gangajali and her experience with the PDS. She says that between the years of 2003 and 2005, the family, who had the card which proved they were below the poverty line (BPL), only received rations twice. She shares that there are well of people in the village with a BPL while she was denied renewal in 2005 because “her financial situation had improved”, even though she lives in a small mud and brick home with a leaky roof. Companies should have a vested interest in helping improve these issues so that India’s poor can cover their basic needs and achieve a higher standard living. Mr. Vishwanath Chaturvedi filed a petition in 2005 against those who were responsible for the illicit activities in Uttar Pradesh (Pandey, News, & Lucknow, 2011). Due to his case, authorities were forced to investigate officials involved. A new state Food commissioner was appointed who was committed to preventing leakages in the system (Pandey, News, & Lucknow, 2011). New steps include digitizing BPL card holders, weeding out fake cards, and fitting delivery trucks with GPS to track their journeys into villages. The administration also hopes to leverage biometrics to verify that supplies reach the intended families (Pandey, News, & Lucknow, 2011). Companies can leverage their own expertise to become involved in the process to alleviate poverty in India and in turn, introduce more consumers to the market.

Facilitation Payments

Up until now, we have discussed payments which require discretion on the part of someone with the power to issue a license or move forward with a business deal. For a complete approach to understanding bribery, we must discuss situations where money “must” be exchanged for non-discretionary approvals. An example could be the act of releasing goods from a foreign port for delivery in that country. While the goods may have already been approved to be released, they

could be held until a payment is given to the person responsible for the physical transfer of the goods out of the port. Such situations enter the grey world of facilitation payments.

Chêne (2013) explains:

Facilitation payments typically refer to small payments, usually made to bureaucratic officials by private citizens (individuals, company owners or business managers) to speed up administrative processes, obtain a permit, license or service such as installing a telephone line, clearing custom duties and other basic services. (p. 1)

To be qualified as facilitation payments, these transactions cannot be attached to any request requiring discretion; it is imperative that the fee only be given for a regular function (Chêne 2013). Are facilitation payments legal? Do they qualify as a bribe which can be prosecuted? The answer is different depending on numerous factors, including which two countries are doing business. Certain types of payments which are legal in some countries are illegal in others. The US FCPA allows for some facilitation payments, “made to foreign officials to expedite or secure the performance of a routine governmental action” (Chêne 2013), while Indian laws specifically prohibit these payments (Bribery and corruption: ground reality in India, 2013). To give perspective on how confusing facilitation payments can become, 31% of the respondents to EY’s Global Fraud survey were unaware that facilitation payments were illegal in India. In addition, 44% of these respondents were in favor of legalizing facilitation payments in India (Bribery and corruption: ground reality in India, 2013).

The argument for legalizing facilitation payments stems from the reasoning that decriminalizing this act will encourage citizens to report officials who engage in “serious” corruption. If a citizen feels protected, they will be more likely to report wrongdoing. However, it is difficult to prove a

payment falls under the non-discretionary category. A Transparency International report on the impact of facilitation payments contends that there are negative effects of legalizing facilitation payments which impact companies as well as citizens (Chêne 2013). Even though facilitation payments are not generally large, their volume makes them very expensive for citizens and for firms. Considering the effect facilitation payments have on the operations of a firm, Kaufman 1998 (as cited in Chêne 2013), found that a high degree of grand corruption is likely to be found when facilitation payments abound. Facilitation payments incentivize their recipients to create more regulations in order to continue receiving money (Chêne 2013). Due to the detrimental effect facilitation payments can have on an economy, legalizing them would prove to be incongruent with any anti-corruption campaign. It is important for companies doing business in India to be familiar with the legal framework which surrounds bribery and corruption laws both within India and across borders.

Anti-corruption Laws

In order to be familiar with India's legal framework, a company should be knowledgeable about past anti-corruption laws, present laws, and changes to those laws. Investing in a legal advisor who is familiar with Indian anti-corruption legislation would be a beneficial practice. The basis of many laws which penalize corruption is the 1860 Indian Penal Code ("Corruption in India," 2014) and The Prevention of Corruption Act, 1988 (Rajadhyaksha & Kably, 2013). More recently, the Right to Information Act (RTI) was passed in 2005. The Act details the specifics of Indian citizens' right to "secure access to information under the control of public authorities" (The Right to Information Act, 2005, p.1).

According to Kapur (2010), it also requires authorities to appoint Public Information Officers. These officers must respond to information requests within 30 days or the authorities will be suspended. Ordinary citizens, such as Mr. Kalayansundaram from Pondicherry, have used the Act to challenge local authorities and politicians on their corrupt behavior. One successful use of RTI led Mr. Kalayansundaram to find out that local politicians were using funds to pay for house rents for themselves and relatives. After he publicized the information, this practice has been reduced (Kapur, 2010). While corruption is still possible with RTI, it does give citizens a sense of hope and empowers them to take charge of reducing local and eventually national corruption. One of the primary limitations of RTI is that many citizens are not aware of its existence. PricewaterhouseCoopers found (as cited by Kapur 2010), that only 15% of the public knew that the law existed. Companies who are involved in India should research, support, and advertise measures which empower citizens to change the country's culture of corruption.

Another effort in the fight against corruption is the Lokpal Act. First introduced in 1968, it was not passed until December 2013. According to "Credible India" (2014), the Act created "a hybrid judicial-administrative body, known as the "Lokpal" at the federal level, with jurisdiction over corruption cases against members of the Indian Parliament, past and present prime ministers, virtually all civil servants, and management-level officeholders in state-owned corporations". While the Lokpal is not a legislative body, it does establish means to investigate as well as prosecute allegations set forth in the 1988 Prevention of Corruption Act. The Lokpal is made up of 11 officers "drawn from the judiciary and society" ("Credible India," 2014). These officers are not allowed to seek public office and must report to the public, Parliament, and the President. While India-based US companies may not have many dealings with the Lokpal, they may be more connected with the Lokayuktas, which are the state-equivalents of the Lokpal ("Credible

India,” 2014). Since the Lokpal has jurisdiction over the management level employees in state owned-corporations, companies who invest in India may have the opportunity to coordinate through the Lokpal to verify honest business practices.

Interviews

Bribery in India is as ubiquitous as tipping in the United States. Not only is it expected, but in many cases it is seen as necessary to expedite (read: make possible) a process. In order to have an understanding about how to view bribery from an Indian point of view, we will explore a few examples.

In an interview, Zechariah Kumpati from Thanamala village, Nellore District, AP, India, shares a story about his attempts to take advantage of a government program which provides financial assistance for the poor to build a simple one bedroom home. The process is as follows: A citizen puts in an application for the funds through the correct office. This office will approve the application and send a representative called the Assistant Engineer (hereafter called AE) to deliver the approval to the citizen. Other duties of the AE are to inspect the progress of the citizen who will use the government funds to hire a contractor for his home and deliver funds from the office to the citizen once each stage of the home has been inspected. For example, the citizen received funds to pour the foundation. Once he does so, the AE inspects it and then delivers funds to the citizen to build the walls (Z. Kumpati, personal communication, March 25, 2014).

Mr. Kumpati turned in his application and it was clear that he met all the qualifications for assistance. However, the AE did not deliver the approval to him. Mr. Kumpati put in a complaint with the AE’s superiors since it was clear that he should have been approved. In the interim, Mr.

Kumpati used his own funds to build four walls so he could have some shelter while waiting for superiors to resolve the matter. When they arrived to speak with him, they refused to build the house further, citing that building the walls himself meant that they could not proceed. At this time, the AE alluded to the fact that if Mr. Kumpati paid 3000 rupees (about \$50), they would approve his application. He decided to comply, first gathering 2000 and then the remaining 1000. However, this bribe only approved his application. At each stage of building, when the AE would come to deliver the appropriated funds to Mr. Kumpati, the AE would *first* require Mr. Kumpati to give him a percentage of the funds he was to receive. This put Mr. Kumpati in the position of having to find money to bribe the AE before the AE would release the government funds to Mr. Kumpati. In Mr. Kumpati's mind, absolutely nothing can be accomplished without paying a "little extra" up front (Z. Kumpati, personal communication, March 25, 2014). Mr. Kumpati's story is all too common but can be expected given the excessively regulated environment with many middle men. Even non-Indian natives have a theoretical understanding that this type of environment will lead to middle men taking advantage of the poor. However, the poor in India are not the only ones who need to pay bribes to accomplish tasks.

Now we move to a different situation, the experience of a Telugu language professor at SV Arts College in the city of Tirupiti, Chittoor District, AP, India. In a journal entry he shared, Mr. Prasad Rao detailed his experience with the local Treasury Office. In India, professors who work in public schools have the right to sell their sick days if they are not interested in using them. To do so, they must fill out an application at their local Treasury Office. Mr. Rao and three of his colleagues arrived at the office to apply and sell their sick leaves. Each of his colleagues gave the officials a 1000 rupee bribe but Mr. Rao refrained from doing so. As a result, his colleagues'

applications were processed in 2 days while Mr. Rao's took one month (P. Rao, personal communication, March 27, 2014).

In another example, also from Tirupiti, Mr. Gurripa, a layman, was arrested and was going to be taken in for questioning and a trial in the same morning. Mr. Gurripa, believing he was innocent, needed time to gather witnesses for himself. While the police were insistent that he must accompany them to the courthouse immediately, he persuaded them to allow him to postpone his court date until that evening by bribing them with 1000 rupees (R. Gurripa, personal communication, March 26, 2014).

While most of the examples mentioned are involved with the government, there is no evidence that the private sector is immune to corruption and scandal. On the contrary, "lessons" learned by the personal experiences Indians have in dealing with their local government and entitlement programs bleeds into private sector dealings with both the government and other private companies.

Company example

As the world's largest retailer, Walmart has a great deal of experience when it comes to starting operations in foreign countries. Some of these projects go relatively smoothly from the beginning while others require huge adjustments in order to function properly and be profitable. In India, due to the Indian laws on foreign multi-brand retailers at the time, Walmart entered into a 50-50 joint venture with Bharti Enterprises in 2007. The companies would together operate cash and carry stores in India under the name Best Price. The companies went on to open 20 cash and carry stores in India. However, after allegations in 2012 that Walmart bribed Bharti employees, the partnership was terminated. The questions were over a loan that Walmart had given Bharti,

which some interpreted as a bribe (“Walmart,” 2013). Bajaj (2012) states, “Walmart gave Bharti Retail an interest free loan of \$100 million that would later convert into a controlling stake in that company”. Indian authorities were investigating Walmart to determine if they violated any of India’s foreign investment rules (Bajaj 2012). While both companies still insist their innocence, this is another reason that being familiar with the legal ramifications of any action is important for companies investing in India. As a result of the allegations that Walmart was violating investment regulations by giving Bharti the loan, the partnership was dissolved (Bajaj 2012). During the same month as these allegations, Walmart expanded its internal bribery investigation from Mexico to India and two other countries (Bajaj 2012). Walmart’s actions combined with the allegations of investment rule violation, led lawmakers who were opposed to Walmart’s future plans of opening retail stores in India to call for a debate and vote to change foreign retail policy (Bajaj 2012). Even though the call was turned down, Walmart’s experience is an example of how the actions of foreign companies (especially retail), can influence perceptions.

Companies seeking to start operations in India must be aware of the many methods there are to deliver bribes, so that they will not be questioned for participating in activities which do not appear on the outset to be a bribe. One alternative method for using funds for bribes is paying certain employees higher than average salaries, with the understanding that the excess money is to be used as bribe money. Another is to periodically pay bonuses to license procurement vendors (Bribery and corruption: ground reality in India, 2013). The lesson here for businesses is to keep employee compensation levels in line with the market, have clear job descriptions which tie strongly into compensation, and also to have structured, explicit practices for raises or

bonuses. If any questions come into play, payroll or otherwise, a company can prove their innocence by producing these careful records.

Drawing from these examples, one can begin to understand how deeply bribery is ingrained in the day to day lives of Indians and use this knowledge to prepare the integration of a foreign company into the Indian scene.

Conclusion

By studying the Indian business environment and the way corruption surrounds nearly every type of transaction in India, foreign firms can be more prepared to operate in the country. Drawing from the first-hand accounts of Indian natives, it is easy to see that the general mindset of the country is that bribes are seen as a type of fee to accomplish a task and are required to complete it in a timely manner. If an India-based US firm is working with local employees or business partners who bring this personal view toward bribery into the workplace, there can only be a plethora of misunderstandings and mistakes when it comes to completing work related tasks. Using the phrase “Do this task to the best of your ability” could be taken to mean “Use whatever is necessary to complete this task, even if it means bribing an official or counterpart”. There are two extreme points between which companies will find the answer to applying corporate anti-corruption measures in India. They could take a lax, somewhat defeatist approach and decide that bribes will happen regardless of their efforts—leading them to turn a blind eye. On the other hand, they could have a zero tolerance policy and tout that they will fire any employee who is found taking or giving bribes. The company which goes the first route will most likely soon find themselves dealing with FCPA investigation. As for the second route, bribery may continue to persist but be buried underground so that the management who report to their US counterparts

will not know or will not disclose the information. This will also lead to investigations in which the US management may be caught off guard.

When it comes to a corporate anticorruption policy, it is best to be proactive and anticipate how one can work *with* their Indian employees by providing the best resources and training. Only requiring employees to sign anticorruption pledges will not suffice. First, employees must have an understanding of the effects that bribery investigations could have on the company. It is important to provide details on how the FCPA applies to the company and make it clear that a US company or subsidiary in India will be under more scrutiny than the average purely Indian corporation. Second, companies should provide relevant anti-corruption training to employees. They should be trained in what steps to take if offered a bribe or asked to give one. The steps will be unique for each company depending on whether or not it wishes to turn in an official who asks for a bribe. Regardless, there should be a person or database within the company that issues can be reported to or filed in. Employees should also know that the company will support them if they do not complete their job (ex. To obtain a building permit) due to it being impossible to complete without giving a bribe. Third, companies should have a way for employees to confidentially report any corruption issues they see internally. In addition to internal reports, a company should learn how to take advantage of programs such as the Right to Information Act. If legislation such as RTI are sound and help quell corruption, a company can support them in order to play their part in creating an ethical India.

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