

Govt nod to ^{Depy.} total ban on ^{P6} child labour

EXPRESS NEWS SERVICE
NEW DELHI, AUGUST 28

EMPLYING children below 14 years will now attract a maximum jail term of three years or a fine of up to Rs 50,000 with the Union Cabinet on Tuesday clearing a proposal by the Labour Ministry to completely ban employment of children below that age in all occupations and processes. The Child Labour (Prohibition & Regulation) Act, 1986, will be amended to incorporate the changes and will be renamed as Child & Adolescent Labour (Prohibition) Act. Giving more teeth to the Act, offences under it have been made cognizable and the punishment increased. Presently, children under the age of 14 are prohibited from employment in "hazardous occupations and processes" while their conditions of work in non-hazardous occupations and processes are merely regulated. Sources said the amendments include increasing the age of prohibition for employment of children and adolescents in hazardous occupations such as mining from 14 to 18. Employment of children below 14 years are presently prohibited in 18 occupations and 65 processes. Employment of children as domestic help and at road-side eateries, restaurants and tea stalls was banned in 2006.

Labour Ministry officials said the maximum punishment for offences under the

Act has been increased from one year to two years of imprisonment and from Rs 20,000 to Rs 50,000 fine or both. For repeated offences, it has been raised to three years of imprisonment.

According to the 2001 census, the total number of working children aged five to 14 was 1.26 crore. However, NSSO survey in 2004-05 said the number was 90.75 lakh. The NSSO survey in 2009-10 put the figure at 49.84 lakh.

The changes were necessitated after the Right to Education Act came into effect promising free and compulsory education to all children aged between six and 14. "The age of the prohibition would be linked to the age under Right to Free and Compulsory Education Act which means that the age of entry to employment would automatically increase if the age of compulsory free education increases," sources said.

According to the amended Bill, cleared by the Cabinet, there would be no bar on children "helping their families" in fields and home-based work after school hours. "Parents and guardians of children would be punishable under the Act only when they permit engagement of their children for commercial purposes," the Act said.

Sources said the responsibility for implementation of the Act will be vested with district magistrates while its monitoring would be done by state labour departments.

Decision for total ^{Murdo} ban on child labour ^{29/8} draws applause ^B

Bindu Shajan Perappadan

NEW DELHI: Social activists and organisations working in the area of child welfare have welcomed the proposal cleared by the Union Cabinet on Tuesday to amend the Child Labour (Prohibition and Regulation) Act, 1986, making employment of children below the age of 14 a cognizable offence, and imposing a ban on employment of children below 14 years in any industry -- hazardous or non-hazardous.

The proposal also includes a ban on employing children below 18 years in hazardous industries. At present children under the age of 14 years are prohibited from employment only in hazardous industry.

Bachpan Bachao Andolan's (BBA) Rakesh Senger said: "We welcome the Government's move to amend the Act. This is a remarkable success for all the civil society organisations who have been consistently fighting for the amendment. Now, along with Government, it is the responsibility of all political parties to support the proposed amendment Bill."

BBA founder Kailash Satyarthi, stating that his organisation has been fighting for a complete ban on child labour since its inception in 1980, said: "With merely making a law one cannot prevent social injustice and crime. Here the Government,

the civil society, employers, private organisations have to shoulder the responsibility and work towards the elimination of child labour."

Calling it a step in the right direction, non-government organisation Save the Children in a release issued noted: "The decision gives child rights groups a lot of encouragement in their efforts to make India a child-labour free country. The amendment is also in line with the International Labour Organisation convention on child labour that seeks to provide minimum age of employment and says that no children below the age of 14 should be employed."

Save the Children chief executive officer Thomas Chandu said: "The decision to ban all forms of child labour below 14 years will also strengthen the enforcement of the Right to Education Act, 2009, which mandates free and compulsory education of all children in the agegroup of 6-14 years." "We would like to underline that after passing of this amendment, we need to focus on the implementation of the law. We must ensure that our child protection mechanisms like the Integrated Child Protection Scheme and agencies including the National Commission for Protection of Child Rights and Child Welfare Committees are strengthened and provided full support to by the Government, he added."

Total ban on employing under-14s

TIMES NEWS NETWORK

Times View

New Delhi: India will finally leave the company of seven other countries that still legally permit some forms of child labour with the Union Cabinet on Tuesday clearing a proposal to ban all work for children under the age of 14, and restrict non-hazardous work to adolescents between the age of 14 and 18.

Employing a child under 14 for any work will be a cognizable offence punishable with imprisonment up to 2 years or a fine of up to Rs 50,000 or both, an increase from the current one-year jail or Rs 20,000 punishment. Repeat offenders can be imprisoned for up to three years.

Until now, India's Child Labour (Prohibition and Regulation) Act, 1986 permitted children under the age of 14 to work in "non-hazardous industries" including some agricultural work, in contravention of the

The fact that the amended law takes into account conventions of the International Labour Organization and our own Right to Education legislation is welcome as is the intent of getting rid of child labour. However, we would be fooling ourselves if we thought the right law is all we need. India has some of the best laws in the world accompanied by an abysmally poor implementation record. It would be tragic if this were to become just another example. Strict enforcement clearly is an important part of the job, but equally governments must recognize that the best way of eliminating child labour is to eliminate poverty. If we lose the war against poverty, we cannot win the battle against child labour.

Right to Free and Compulsory Education Act which says that all children between 6 and 14 must be in school. The Child Labour Act will now be amended to ban all work for those under 14. In addition, anyone over the age of 14 could earlier be employed for hazardous work.

Internationally, children are defined as those under the age of 18, and the International Labour Organization's Convention 182 — ratified by all except eight countries including India

and Somalia — bans the "worst forms" of child labour, including hazardous work, for all children under the age of 18. "The proposal cleared by the Cabinet to amend the Child Labour Act will ban hazardous work for anyone under the age of 18, allowing India to ratify this convention," A C Pandey, joint secretary in the ministry of labour and employment said.

Children between the age of 14 and 18 have now been termed in the amendment as

"adolescents" and can only be employed in non-hazardous industries.

Official figures for child labourers aged 5-14 stand at 49 lakh as of 2009-10 according to National Sample Survey Organization data, ministry officials said, but advocacy groups say the government grossly underestimates the real number.

In addition, the government will now have to rehabilitate adolescents engaged in hazardous work, including mining. "A task force with representatives from the ministries involved is working on this, and the National Child Labour Project will be upgraded," Pandey said. The decision was welcomed by National Commission for Protection of Child Rights chairperson Shantha Sinha. "I'm very happy that the Cabinet has given its nod to complete ban of child labour and is trying to harmonize it with the Right to Education," she said.

'India should join nations abolishing the death sentence'

Justice A P Shah, author of the verdict decriminalising homosexuality, is amongst 14 retired judges who have recently attacked certain death penalties awarded by the Supreme Court. Speaking with Manoj Mitta, the former chief justice of the Delhi high court discussed this unusual form of judicial activism, why deciding the death penalty is so difficult — and why India should join other nations abolishing this punishment:

■ **The Supreme Court usually has an aura of infallibility — what made you sign a letter telling the president it had wrongly imposed death sentences in numerous cases?**

The issue involved the imminent execution of 13 persons in seven cases, even after the Supreme Court admitted on three occasions recently that its earlier judgments sentencing these persons to death were erroneous. Two similarly situated

persons have already been executed pursuant to these flawed judgments — the Supreme Court's admission of error came too late for them.

■ **The errors occurred because two-judge benches deviated from the liberal law laid down by a five-judge bench in the 1980 Bachan Singh case. How did these benches go astray?**

The Supreme Court came up with the solution of 'rarest of rare cases' for imposing the death penalty. Bachan Singh's case gave sufficient weight to the mitigating circumstances of the crime and the criminal. In the case of Ravji, decided by two judges, the Supreme Court explicitly held that it is the gravity of the crime but not the criminal which is relevant to decide appropriate punishment. Thus, Ravji's case is in direct conflict with the Bachan Singh



ruling. The court in Bariyar's case noticed the conflict and held that seven of its judgments awarding the death sentence were rendered per incuriam, meaning out of error or ignorance.

■ **Following Bariyar's case, two more judgments condemned the illegal trend of disregarding the Bachan Singh mandate. Why has the Supreme Court not taken corrective action?**

The judgments, according to

the Supreme Court's own admission, rendered per incuriam constituted the gravest known miscarriage of justice in the history of crime and punishment in India. The Supreme Court could have reopened those cases in exercise of its discretionary power under Article 142 of the Constitution and taken corrective measures to deliver complete justice to the prisoners.

The absence of such measures forced the retired judges to send the appeal to the president.

■ **Can there be a foolproof system of ensuring the death penalty is awarded only in the rarest of rare cases?**

The criterion of rarest of rare cases hasn't resulted in any satisfactory solution. The Supreme Court's attempt to regulate capital punishment has been unsuccessful on its own terms. Courts and governments worldwide have tried and failed to lay down satisfactory and clear criteria eliminating arbitrariness, sub-

jectivity and inconsistency from the death penalty. As pointed out by Justice V R Krishna Iyer, a legal policy on life or death cannot be left to ad hoc mood or individual predilection.

■ **Do you personally believe India should join the growing number of nations abolishing the death sentence altogether?**

Yes, India should join such nations as there is enough reason to believe that the legal safeguards aimed at avoiding a miscarriage of capital punishment have failed to deliver. Public opinion in India can no longer ignore the global movement in favour of abolition of the death penalty. A total of 130 out of 192 UN member states have abolished the death penalty in law or practice — India is one of the countries that retains the death penalty but rarely executes people.

It's time we accepted that capital punishment neither has any deterrent effect, nor can it be counted as a preventive measure.

LABOUR PAINS, DELIVERY ISSUES

As marketshare dips, Maruti gets realistic, lowers target.

Sumant Banerji
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NEW DELHI: Famed for making every second car sold in India, Maruti Suzuki has lowered its sales target to just 40% share in the domestic market as recurrent labour strikes and a lack of diesel engines in its stable weaken its hold.

The revision comes barely four months after Maruti launched its first utility vehicle, Ertiga, in April. At that time it had reiterated that its aim was 50% of the marketshare.

Maruti's share in the domestic passenger vehicle segment has traditionally been around 46%, which slumped to just 38.4% in 2011-12 as demand shifted dramatically to diesel cars.

"We do intend to get 40% market share and for that we are expanding our diesel engine capacity," said RC Bhargava, chairman, Maruti Suzuki India Ltd.

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TWILIGHT ZONE: END OF ROAD FOR THE 800?



■ For the first time, Maruti has not mentioned its iconic and first product, the 800, in its annual report.

■ When asked, it said that this was a grave oversight

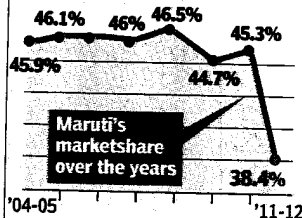
■ The 800 has been discontinued in 13 biggest cities, and is on its way out in the rest of the country. The oversight seems to be a subtle confirmation of this.

DIPPING MARKETSHARE

■ From a steady 45%, Maruti's marketshare fell to 38.4% last year

■ It has been hit by a consumer swing to diesel cars

■ Maruti does not have many diesel models, and is looking to remedy this.



Market share figures: SIAM; Text: HT Bureau

...to take steps on labour relations

HT Correspondent
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NEW DELHI: Cornered by shareholders on the issue of recurring labour unrest at its Manesar factories, domestic car market leader Maruti Suzuki India Ltd on Tuesday admitted that the management-worker relations in the company could be better, and it would take steps to remedy this situation.

Around 600 workers at the company's twin Manesar factories had gone on a rampage on

July 18, killing a senior human rights executive and injuring 96 others. The factories had to be shut for well over a month and resumed partial production only last week.

"The company needs a good industrial relations department so that the evil is nipped in the bud," said Yashpal Chopra, a shareholder, at the company's annual general meeting here. "It should not let the malaise grow and then explode. The chairman should be informed of each and every such incident

and prompt action should be taken."

The factories saw three instances of labour unrest last year as well, severely its flawless industrial relations track record.

"I completely agree that the management and workers relationship should be more cordial," said RC Bhargava, chairman, MSIL in response to Chopra's remarks. "I can assure you that steps are being taken to improve it and to avoid a repeat of what happened."

Labourer gets ₹19L damage

New Delhi: A 25-year-old labourer, who became permanently disabled after being hit by a speeding car, has been awarded a compensation of over 19 lakh by a motor accident claims tribunal (MACT) here.

The tribunal directed the New India Assurance Company Ltd, with which the offending vehicle was insured, to pay Rs 19,05,621 to Lucknow resident Amjad Ali, who was hit by a Tavera near Monastery Market in Civil Lines area in March 2011.

"In view of the un rebutted testimony of the petitioner (Ali) and documents available on record, it is prima facie proved that petitioner suffered injuries due to rash and negligent driving of respondent number 1 (car driver)," MACT presiding officer Dinesh Bhatt said.

Ali, who earned Rs 7,500 a month before the accident, could not appear in court due to his disability, his wife, who pursued his plea, told the court.

Make universal health care a reality, says President

Aarti Dhar

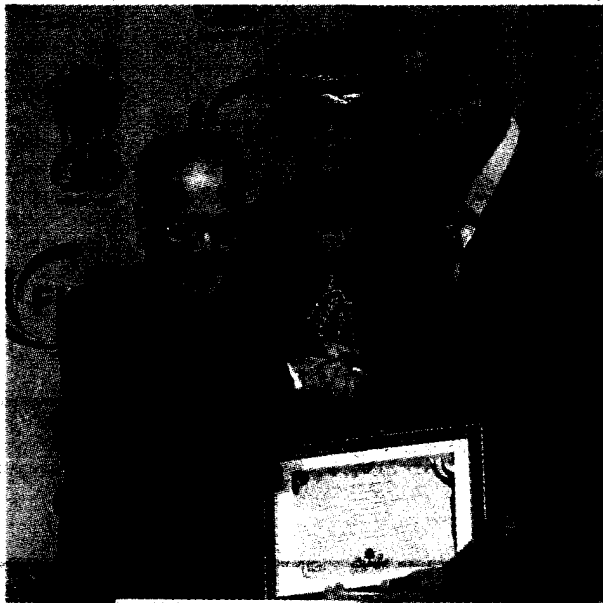
NEW DELHI: Even as President Pranab Mukherjee on Tuesday called upon all stakeholders in the health sector to make universal health care a reality, the private sector believes that the expenditure on rolling out the programme would require 5.5 to 6 per cent of the gross domestic product (GDP) and a 10-year time frame to accomplish it.

Speaking at the Heal Annual International Conference 2012, organised by the Federation of Indian Chambers of Commerce and Industry, on the theme of "Universal Healthcare: Dream or Reality?" the President said any health-care system would need to be country-specific and India would need to look at achieving universal health coverage based on its own perspective and requirements.

Human resource vital

India's medical healthcare system must be developed to cater to all sections, in rural as well as in urban areas, he said while emphasising that merely constructing hospitals was not enough. Human resource was required to make them functional and effective. There was a need to augment medical colleges, nursing institutions, and training schools for paramedical professions, he added.

On the issue of affordability,



President Pranab Mukherjee receiving the Green Certificate from FICCI president R.V. Kanoria at an international conference in New Delhi on Tuesday. - PHOTO: RAJEEV BHATT

ity, Mr. Mukherjee said technology-based initiatives including telemedicine could be employed to broaden the reach of healthcare. Ways to encourage cooperation between the public and private sectors in achieving health goals also must be identified and emphasised the need to promote preventive healthcare.

A FICCI and Ernst & Young's Knowledge Paper on "Universal health cover for

India: Demystifying financing needs," released at the conference suggests that including out-of-pocket expenditure, the estimated total spending on health would be between 5.5 per cent and 6 per cent of GDP.

China, which has embarked on a journey toward universal health care (UHC) and covered 84 per cent of its population, spends 5.1 per cent of the GDP on health, of which 2.7 per cent was spent

by the government

"The implementation of UHC is likely to increase the consumption of health care services. A sharper increase is anticipated in the short-term, when a large latent need is addressed. Hence, total expenditure on health is likely to increase. Given the scale of implementation and infrastructure constraints, it may be prudent to assume a 10-year timeframe to accomplish the UHC in totality. We, thus, estimate government health expenditure of 3.7 per cent to 4.5 per cent of GDP in 2022 to implement the UHC programme, which covers out-patient [consultation fee, drugs, diagnostic tests] and in-patient [ailments covered under the Rashtriya Swasthya BimaYojana and the Aarogyasri] services for the entire population," the paper said.

According to it, the key factors that will decide the success of the UHC programme would be focus on health outcomes by reducing disease burden through a robust and functioning primary care system, quality in-patient care and facilitating effective utilisation of the available infrastructure.

The paper also favoured an integrated approach to ensure focus on allied determinants that have a critical impact on health, mainly nutrition, sanitation and wellness.

Supreme Court to look into plea for compensation for Muslim victims

Legal Correspondent

NEW DELHI: Jamiat Ulema-e-Hind, espousing the cause of Muslims, has knocked at the doors of the Supreme Court seeking compensation for the community's youth who were incarcerated in jails for years as accused in bomb blast cases but were let off subsequently.

A Bench of Justices T. S. Thakur and Ibrahim Kalifulla, after hearing senior counsel Amarendra Saran, agreed to examine the plight of such youth who were jailed for six or seven years in some cases, on suspicion of involvement

in terrorist activities and bomb blasts in the country since 2002.

Mr. Saran said the court's intervention would go a long way in assuaging the feelings of the community, which was feeling alienated. Giving the instance of the Malegaon blasts in 2006 and 2008, he said a number of young persons were detained for years after the Maharashtra ATS conducted the investigations. They were, however, let off later as they were found innocent by the National Investigation Agency.

The PIL petition, filed by

Gulzar Ahmed Azmi of JUEH, Maharashtra, cited the States of Haryana, Gujarat, Maharashtra, Rajasthan, Andhra Pradesh, Delhi, Karnataka and Tamil Nadu as respondents.

The Bench told counsel that it would open a Pandora's box if the plea was entertained, pointing out that all those acquitted after several years of trial would claim relief.

Such victims should approach the competent courts, instead of seeking relief through the PIL plea, it said.

Mr. Saran said the victims didn't have the resources to match the government's

wherewithal. Further, these cases had national ramifications, and it would be better if the Supreme Court entertained the matter. He also cited a case in which this court ordered a compensation of Rs. 50,000 for two days of wrong confinement, and contended that the victims mentioned in the PIL petition had to undergo incarceration for years. The Bench made it clear that it was not approving of any such incident, but said: "These things took place as the country is going through a very difficult time due to problems within and from outside."

Why do we need food security Bill, ask Right to Food Campaign activists Hurdw 29/8

Press for universal public distribution system P11

Gargi Parsai

NEW DELHI: Right to Food Campaign—a conglomeration of civil society groups — on Tuesday held a day-long protest at Jantar Mantar here, raising seven questions with MPs on the proposed National Food Security Bill, particularly in relation to people going hungry when the country has surplus food stocks.

Rejecting the proposed amendments to the Bill that might reduce beneficiaries and entitlements under the Public Distribution System (PDS), they sought to know why a food security bill is needed.

They assailed the government for minding the food subsidy that will accrue from a universal distribution of cheap grains in the PDS “when the greed of politicians of all hues had made the country lose thousands of crores of rupees in

the allocation of coal blocks, 2G scam, Delhi airport scandal and corruption in the Commonwealth Games.”

Pressing the demand for a universal public distribution system, the activists questioned need for a national food security law disregarding the fact that targeting of programmes had failed. On the other hand, they said, universal or near-universal public distribution systems as in Tamil Nadu, Kerala, Chhattisgarh and the KBK districts of Odisha were functioning better with fewer leakages and benefits reaching the poor. Instead of meeting only a fraction of the requirement of the poor through the PDS, the government should — if it must target the programme — provide at least 50 kg of food grains to every eligible family every month, they said.

Rejecting outright the latest proposal to reduce the entitle-

ments of eligible families and the coverage, the activists said this meant that irrespective of their incidence of poverty and the distribution of rural and urban areas, the country would have 33 per cent of the population excluded from the PDS. Whereas, the Indian Council of Medical Research (ICMR) has shown that the nutrition requirements of a family of five, comprising two adults, two children, an elderly person/third child is 48.2 kg of cereals a month.

“The Centre’s alternative proposal has whittled down the grievance redress mechanism and removed all new food-related schemes suggested in the Bill, such as community kitchens for the urban poor, destitute feeding centres and free meals for people living in starvation,” the activists bemoaned. “Providing each household with 50 kg of grains

is possible without a national law. The country needs to produce more grains and the government needs to procure more and not only from traditional States but in a de-centralised manner from every producing State. Along with this, subsidised pulses and cooking oil should be provided.”

Justifying the additional subsidy that would accrue if the government were to distribute 50 kg a household, the campaign said “it would be mere one-fifth of the tax waiver of Rs. 5 lakh crore that the government gives to the corporate sector.”

Hundreds of people from 15 States participated in the day-long sit-in to press for a universal PDS and related measures to take care of nutrition requirements of pregnant women, elderly people, single women and people with disabilities, among others.

-67 29/18
P21

India Inc braces for stricter bribery laws

Govt Plans To Amend IPC | Pvt Sector Staff, Managements May Face Up To 7 Yrs In Prison

Lubna Kably &
Namrata Singh | TNN

Mumbai: India Inc is gearing up to face more stringent and specific anti-bribery laws with the government planning to amend the Indian Penal Code (IPC) to cover bribes given domestically by the private sector. Once this comes into force, the employee concerned and also the company's management could face imprisonment of up to seven years.

It is likely that the proposed IPC amendment would be broad based and, in addition to bribes given to public officials, will also cover bribes within the private sector (such as company A, a supplier; bribing an official in company B to bag huge orders).

"Currently, an employee of a private company could be held liable under the Prevention of Corruption Act for bribing a public official. In turn, the company's management could also be held liable, based on evidence available about their role. It will be easier to take action against private players if the IPC is amended and provisions are made clearer," said Vivek Kathpalia, partner, Nishith Desai Associates, international legal counsellors.

According to a recent PricewaterhouseCoopers (PwC) Global CEO survey, 92% of the CEOs surveyed in India were "extremely concerned" or "somewhat concerned" about bribery and corruption and considered it to be a major threat to business growth. Till recently, most Indian companies did not have specific anti-bribery policies and got by with just a clause in their code of conduct or a brief mention in their ethics policy.

The scene is changing. "We have been engaged to assist Indian businesses set up a robust compliance framework which entails drafting compliance policies, having discussions

with the business heads, assistance in regular monitoring of transactions and hand holding the company in transitioning the compliance function to a compliance officer," said Vidya Rajaro, leader (forensic services), PwC India.

The issue gains importance in the wake of media reports alleging the involvement of Cadbury India officials in bribing certain government officials to get excise exemptions on its Baddi facility. The matter is now under investigation. "A compli-

building or resolution of a petty issue with the electricity board, our top management walks shoulder to shoulder with operating people to get things cleared, including personally attending meetings with government servants, at any level. The message is simple: persist and we will work alongside you, we will not hold it against you if a project gets into delays or we lose money; do what is right and not what is convenient. Over time, people know what is not on in this

CLEAN BUSINESS

- Changes in the IPC likely to tackle corruption within the private sector
- A recent PwC report found that 92% of the CEOs surveyed in India were worried about bribery and corruption, and considered it to be a major threat to business growth
- Indian companies are looking to clearly incorporate anti-bribery policies in their framework



ant and ethical corporate culture, which includes adhering to laws and regulations in the countries in which we operate, is integral to our success. To that end, we are fully cooperating with the authorities on this enquiry," said a Cadbury India spokesperson.

"One thing we must appreciate is that bribery and corruption in a business entity depends on the 'tone at the top'. An overwhelming majority of Indian business is promoter managed; hence, the concept of employees indulging in bribery and corruption without the management coming to know about it is not a valid premise in India," said Anil Roy, partner, Advisory services, Grant Thornton India LLP.

MindTree, for one, is very clear on such matters. "We ask our operating people to persist and prevail than take shortcuts. Whenever they get stuck, however small the matter may be, like a fire clearance for a

company and the social memory becomes many times more effective than just a bunch of policies," said Subroto Bagchi, chairman, MindTree.

Many Indian companies such as the Tata Group or Infosys Technologies spell out their internal code of conduct publicly by posting it on their website. Aditya Birla Group employees are clear on the group's position both domestically and internationally, said group HR head, Santrupt Misra.

Roy of Grant Thornton sees more Indian corporates incorporating an anti-bribery framework in their processes. From the initial stage of setting down clear anti-bribery policies, to employee trainings, periodical risk assessments, due diligence of business partners, proper monitoring and reporting processes and a process for investigation and taking action should any lapses occur, India Inc is gearing up for a more transparent tomorrow.