Corruption in India's Defence Deals: A Case Study on Business and Government Ethics

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Abstract
The purpose of the present paper is to delve deep into the dynamics of defence deals in India and examine the corrupt practices involved therein from an ethical point of view. The present study was taken up as corruption and defence deals have become synonymous in India, which can especially be fatal for a country whose bulk of the defence weaponry is obtained from private corporations abroad. To that end, information was obtained from various sources and a thorough analysis was done with the help of various ethical tools to arrive at a satisfactory solution to the problem which is plaguing the country like no other. The study has not only proved the corrupt practices of bribes and extortion involved in India’s defence deals to be unethical to the core, but has also found the government and the corporations to be at an equal footing in terms of responsibility to fight this issue. Besides, the present study has not only plugged the gap in research relating to corruption in defence deals in the Indian subcontinent, but can also be considered to be all the more crucial considering the high probability of domestic private corporations of the country playing a much greater part in these defence deals in the years to come. The issues raised and the recommendations provided in the paper will be equally relevant even then.

Keywords: defence in India; defence procurement; military acquisition; Ministry of Defence; armed forces; military ethics; kickback; bribery; extortion

Introduction
Many ethical issues in defence have come to the fore in recent times all over the world which include espionage, subjugation of women military personnel, fragging, DADT (“A History of ‘Don't Ask, Don't Tell’,” 2010) and others. But out of all these, corruption in defence deals has been made the focus of this study as it offers an outstanding instance of the fusion of government and business. While on one side is India’s Ministry of Defence (MoD)(https://mod.nic.in), on the other side are the numerous defence armament suppliers who are in fierce competition to sell arms and ammunition to India. India’s defence deals have forever been encapsulated in a blanket of corruption and mismanagement. Apart from the possible lax attitude of the government, the severity of the issue has been all the more since most of the defence enterprises involved are foreign. But with the imminent change in India’s defence procurement process and the possibility of greater involvement of the domestic corporations in future deals, such malpractices could recur in the domestic sphere as well. And the startling fact is that a majority of the corruption involves kickbacks which originate from the corporations who want to gain the extra edge in the cut throat competition surrounding defence deals. Hence, needless to say, the issue of corruption in defence deals needs to be analysed at a much deeper level.

Review of literature
In spite of being one of the most highly debated topics which is given excessive coverage in the media, research on corruption in defence deals is few and far between. While the internet and print media is filled with expert comments and analysis of the financial impact and legal repercussions of these billion dollar deals, very little research is available on the ethical aspects of it. Corruption has been defined as “the abuse of entrusted power for private gain” by Crane and Matten(2010, p. 509-511). They further went on to portray corruption as having one of the highest
degree of business influence on government. No wonder, in the realm of defence deals, where the financial stakes can go up to billions of dollars, corruption has been rampant. Especially in India, which unlike the developed nations of the world depends primarily on foreign procurement of defence weapons, corruption has raised its ugly head time and again.

The corruption discussed in the present case being that involving bribes and extortion, a deeper analysis was done to weigh the opinion of other leading authors regarding the ethicality of such activity. Velasquez (2002), although being silent on the issue of bribes/extortion in the field of government-business dealings, has dwelt a lot in this regard in the realm of employee-organization relationship. Bribe/extortion has been identified by him as one of the most widespread forms of conflict of interest.

Coming to bribes/extortion in defence deals, the research on this domain has mainly been restricted to the defence ministries of some of the developed nations. In the ‘Ethics matters’ handbook issued by the Defence Fraud Control Policy and Ethics Directorate (DFCPED, 2002) of the Govt. of Australia, various corrupt practices observed in the arms procurement process have been discussed along with their ethical ramifications. It is here that the defence’s four unbreakable rules have been mentioned as ‘never mislead’, ‘never abuse authority’, ‘never leak information’ and ‘never condone poor performance’. The handbook also dwells briefly on possible conflicts of interest that may arise during the course of work of a defence official and certain guidelines to handle the same. But the handbook strangely just touches briefly on the ethical aspects of bribes and extortion, and fails to give any concrete ways of solving such issues.

Coming back to India, although research on the Indian military and government policies abound, literature on the vital aspect of defence acquisitions seems to be non-existent. Although Parmer (2003) has dealt with the Indian military system and the ethics in terms of soldiering, but her discourse is more of the nature of a commentary which will hardly suffice when it comes to the complicated world of India’s defence deals.

The current paper was thus an attempt at bridging the research gap in the study of India’s defence deals and also an attempt at analysing the corrupt practices in the light of business and government ethics. The aforementioned literature acted as a starting point and provided a sound basis for this paper.

Objective
The objective of the present study is three-fold.

i) To identify the practice of bribe and extortion in India’s defence deals as an ethical issue.

ii) To analyse the issue with the help of an ethical framework.

iii) To recommend possible steps to curb the issue from the viewpoint of both the government and private corporations.

Methodology
The present case development was based on secondary data collected from various sources which included amongst others: books, newspapers, web sources, articles, various defence reports and directorate handbooks.

After an in-depth study of the mechanism of defence deals, information relevant to the issue of corruption in India’s defence deals was collected from the aforementioned sources. The information was then analysed from an ethical viewpoint culminating in the generation of certain viable recommendations to deal with the issue.

The issue of corruption in India’s defence deals
India’s military system: a brief overview
India is one of the eight countries belonging to the elite ‘nuclear club’ and has the third largest armed force in the world (behind China and the US)(“List of Countries by Number of Military and Paramilitary personnel,” 2014). Although much ambiguity exists as to the actual classification and nomenclature, still the Indian military can basically be demarcated into the following forces (Oberoi, 2011):
1. Indian Armed Forces consisting of the Army, Navy and Air Force.
2. Paramilitary forces consisting of the Assam Rifles, Special Frontier Force and Indian Coast Guard.
4. State Armed Police Forces consisting of the police forces of the various states of India.

While the first two major categories are under the control of the ‘MoD’, the third comes under the ‘Ministry of Home Affairs (MoH)’, while the forces that fall under the last category are under the control of the respective state governments. Since the mega defence deals revolve around the acquisition of aircraft, submarine, howitzers and various other heavy armaments which are mainly used by the Indian Armed Forces, and to a lesser extent by the Paramilitary forces, only the MoD will be taken into account in this case.

In terms of defence expenditure, India stands 7th in the world (Stockholm International Peace Research Institute [SIPRI], 2012) and its defence expenditure was hiked by more than 17% in the 2012 union budget (“Union Budget 2012-2013,” n.d.), and a further 5% in the 2013 budget to a whopping ₹ 203,672 crores (“Union Budget 2013: India hikes defence spending to Rs.203.672crore,” 2013). Besides, India has emerged as the second largest arms importer in the world between 2004 and 2011 with a gross defence import expenditure of $46.6 billion (Grimmett& Kerr, 2012). This is the play field of the mega defence deals which come mainly under the purview of the MoD as mentioned earlier.

The structure of defence deals
The block diagram shown in Fig. 1 adequately explains the vital players in India’s defence deals which include actors from both within and outside the country.

![Block diagram showing parties involved in India’s defence deals](image)

‘Defence Research and Development Organisation (DRDO)’ has not been included in the diagram since it is just a research organization which develops indigenous military technology, the production of which is then taken up by any of the Defence Public Sector Undertakings (DPSUs) or ordnance factories. Hence it is not a direct party to the defence deals.

A special scenario in India’s defence procurement is the over-dependence on imports. The reason for this is twofold.
1. Failure of DRDO and the DPSUs in developing cutting edge military weapons
While DRDO has been fairly successful in developing highly developed missile systems, it has been unable to replicate the same success story in case of the other types of military weapons like aircrafts,
unmanned surveillance systems, heavy-duty artillery etc. The case of *Arjun* ("Arjun", n.d.) tank is an example of the inefficiency of DRDO.

2. Minimal presence of the private sector in defence technology and production

The defence avenue was opened up to the private sector only in 2001 and that too while placing a 26% FDI cap on defence production. As a result, at present, private corporations in India play a miniscule role in the production of military weaponry and mainly act as suppliers to the public players in India, mainly the ordnance factories.

Hence, the present case paper will majorly dwell upon the defence deals between the MoD, India and the foreign players. Here too, defence deals can be categorized into two types. The nomenclature followed here is the one strictly used in the USA, but deals on similar lines may be found in other foreign countries as well.

**Foreign Military Sales (FMS).** This is a defence deal between governments. Without getting into the intricacies of such deals which is beyond the purview of the present paper, it is suffice to state that the customer i.e. the foreign government (here, India) buying the defence articles, has no direct link with the private corporation manufacturing the defence articles. *Fig. 2* shows a highly simplistic depiction of FMS.

![A simplistic depiction of FMS](image)

**Direct Commercial Sales (DCS).** This is a defence deal where the foreign government (here, India) directly buys the defence articles from the private manufacturer without any significant mediation of the US defence ministry. Like in the previous case, a highly simplistic depiction of such a deal has been shown in *Fig. 3*.

![A simplistic depiction of DCS](image)

**Ethical issues in India’s defence deals**

Various ethical issues may be observed in India’s defence deals on close inspection which include whistleblowing, political manipulation of defence trials etc. But the one issue around which the present case will revolve is that of corruption, the reason being that it is the one single issue which has been consistently present in almost all of India’s multi-million dollar defence deals right from the ‘Jeep scandal’ of 1948 (Paul, 2011) to the ‘VVIP chopper scandal’ of 2013 ("2013 Indian helicopter..."
The extent of corruption in India can be gauged from the fact that India was ranked as the most corrupt country in Asia in 2013 as per the survey conducted by Political and Economic Risk Consultancy Ltd. (PERC, 2014). The rampant corruption can further be categorized into bribe and extortion as discussed below.

**Bribe or ‘Kickback’**. A bribe or kickback is a consideration given by one party (private defence corporation) to another party (ministers/officials of MoD and officers of the armed forces) with the understanding that, when the receiving party makes transactions with the giving party, it will deal favourably with it. Thus, in the present case, kickbacks flow from the foreign private defence corporations to the ministers/officials of the MoD, and in certain cases, even to the top officers of the armed forces through middlemen known as kickback brokers.

**Extortion**. Its flow is the reverse of that of kickbacks. It is nothing but a consideration demanded by one party (ministers/officials of MoD and officers of the armed forces) from the other party (private corporations) as a condition for dealing favourably with that party in future transactions.

While the FDD scandals have involved only kickbacks and kickback brokers (middlemen); the DDD scandals, although few, have revolved around extortion. The reason for this is two-fold.

- The government is the dominant player in the national context (Westphalian setting) and hence the ministers and officials can use their muscle power to extort money from the private corporations who bid for the supply of various defence articles.
- The private defence corporations are the dominant players in the global arena (post-Westphalian setting) and hence they can initiate the kickbacks through the middlemen in FDDs.

**Ethical framework applied**

The descriptive ethical framework used in this paper to analyse the ethicality of India’s defence deals is the one developed by Jones (1991, but slightly modified to include the influencing factors on ethical decision-making as given by Ford and Richardson (1994). A diagrammatic description of this model can be found in Crane and Matten (2010, p. 145). The reasons for choosing the aforementioned model are as follows.

1. The Jones model has been described as the “most comprehensive synthesis model of ethical decision making”. (Loe, Ferrell, & Mansfield, 2000)
2. It not only gives a model for the ethical decision making process, but also states the possible factors that may affect the decision making process.
3. It not only includes the recognition of ethical issues (“A Framework for Thinking Ethically,” n.d.) but also provides scope for the application of the normative ethical theories in taking a well-informed moral judgement.

**Recognition of ethical issue**

Corruption in the form of bribes or kickbacks, and extortion is an ethical issue since it satisfies three vital conditions as given below.

**Condition 1: The issue is likely to have significant effect on others**

Bribery/extortion in defence deals has a significant effect on the other corporations taking part in the deal since they lose the contract for no fault of theirs. Besides, the security of the citizens of the country is also at stake as most often, through bribes/extortion, manufacturers of substandard equipment, or equipment based on obsolete technology may be given the contract.

**Condition 2: The issue is likely to be characterized by choice, in that alternative courses of action are open**

Needless to say, first and foremost, the ministers/officials/officers can strictly refuse to accept bribe or refrain from demanding extortion and can award the contract to the most deserving party based solely on merit. Similarly, the corporations can have a strict ‘no-bribe’ policy.

**Condition 3: The issue is considered as ethically relevant by one or more parties**
Apparently, the aforementioned parties, viz. competitors and citizens, who are negatively affected by bribes/extortion will consider the issue as ethically relevant.

**Cases of corruption in defence deals**

**Cases related to FDD.** Many instances of corruption can be found in FDDs in India since the time of its independence which include amongst others, the Jeep scandal, HDW\(^7\) scandal (Joseph, n.d.), Bofors scandal (“What the Bofors Scandal is all About,” 2012), Denel scandal (“The Denel charge,” 2005; Pandey, 2012), Barrack missile scandal (Chauhan, 2014), Scorpene deal scam (Kaul, 2008), VVIP chopper scandal(Bhatnagar, 2014; Mahapatra, 2014) and Tatra-BEML scam\(^8\) (Gokhale, 2012; “CBI examines Antony, Nair in Tatra probe”, 2014).

### Table 1(a)

**Instances of corruption in FDDs in India (Details of deal)**

<table>
<thead>
<tr>
<th>Known as</th>
<th>Year</th>
<th>Defence article</th>
<th>Deal amount (original year figures)</th>
<th>Kickback amount (original year figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeep scandal</td>
<td>1948</td>
<td>Army jeep</td>
<td>₹ 80 lakhs</td>
<td>Not available</td>
</tr>
<tr>
<td>HDW scandal</td>
<td>1981</td>
<td>Submarine</td>
<td>$330 million (approx.)</td>
<td>$23 million</td>
</tr>
<tr>
<td>Bofors scandal</td>
<td>1986</td>
<td>155 mm field howitzer</td>
<td>$ 285 million</td>
<td>$12 million</td>
</tr>
<tr>
<td>Denel scandal</td>
<td>1999</td>
<td>Anti-material rifle</td>
<td>$ 386 million</td>
<td>$ 49.2 million</td>
</tr>
<tr>
<td>Barack missile scandal</td>
<td>2000</td>
<td>Barak Missile Systems</td>
<td>₹ 1150 crores</td>
<td>₹ 175 crores</td>
</tr>
<tr>
<td>Scorpene deal scam</td>
<td>2005</td>
<td>Submarine</td>
<td>₹ 18,798 crores</td>
<td>₹ 500 crores</td>
</tr>
<tr>
<td>VVIP chopper scandal</td>
<td>2010</td>
<td>Helicopter</td>
<td>₹ 3,600 crores</td>
<td>₹ 362 crores</td>
</tr>
<tr>
<td>Tatra-BEML scam</td>
<td>2012</td>
<td>Trucks</td>
<td>₹ 3,000 crores</td>
<td>Under investigation</td>
</tr>
</tbody>
</table>

### Table 1(b)

**Instances of corruption in FDDs in India (Details of parties involved)**

<table>
<thead>
<tr>
<th>Known as</th>
<th>Corporation</th>
<th>Middlemen</th>
<th>Prime personnel involved (Ministers/Officials/Officers)</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeep scandal</td>
<td>Jeep, UK</td>
<td>None</td>
<td>V.K. Krishna Menon-Indian High Commissioner to Britain</td>
<td>Case closed under govt. pressure.</td>
</tr>
<tr>
<td>HDW scandal</td>
<td>HDW, Germany</td>
<td>Name not released</td>
<td>S.M. Nanda-Admiral</td>
<td>Case closed as investigation by CBI stalled when govt. changed.</td>
</tr>
<tr>
<td>Bofors scandal</td>
<td>Bofors AB, Sweden</td>
<td>OttavioQuattrocchi; Win Chaddha</td>
<td>Rajiv Gandhi-PM; S.K. Bhatnagar-defence secretary</td>
<td>Case still going on. All prosecuted are</td>
</tr>
<tr>
<td>Scandal</td>
<td>Country/Company 1</td>
<td>Company 2</td>
<td>Company 3</td>
<td>Party Role 1</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-------------------------------------------</td>
<td>--------------------</td>
<td>--------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Denel Scandal</td>
<td>Denel, South Africa</td>
<td>Varas Associates, Isle of Man</td>
<td>George Fernandes-defence minister</td>
<td>dead.</td>
</tr>
<tr>
<td>Barack Missile Scandal</td>
<td>Israel Aircraft Industries Ltd. (IAI) 1, Israel; RAFAEL Armament Development Authority Ltd. 2, Israel</td>
<td>Suresh Nanda</td>
<td>R.K. Jain-Samata party treasurer; Jaya Jaitley-Samata party president; George Fernandes-defence minister; Sushil Kumar-Admiral</td>
<td>Case closed by CBI as allegations couldn't be substantiated</td>
</tr>
<tr>
<td>Scorpene Deal Scandal</td>
<td>Thales, France</td>
<td>Abhishek Verma; Ravi Shankaran</td>
<td>No minister chargesheeted</td>
<td>Case closed by CBI due to lack of evidence against suspects</td>
</tr>
<tr>
<td>VVIP Chopper Scandal</td>
<td>Finmeccanica, Italy; AgustaWestland, U.K.</td>
<td>Guido Ralph Haschke; Carlo Gerosa; Christian Michel; IDS Tunisia; IDS Mauritius; IDS, Chandigarh; and AeromatrixInfoTech Solution, India</td>
<td>S.P. Tyagi-Air Chief Marshal</td>
<td>CBI investigation underway</td>
</tr>
<tr>
<td>Tatra-BEML Scam</td>
<td>Tatraa.s., Czech Republic; TatraSipox, UK; Vectra Group, UK (which owns Global Vectra Helicorp Ltd., India); Venus Projects Ltd., Hong Kong 3</td>
<td>Lt. General (retd.) Tejinder Singh</td>
<td>V.R.S Natarajan-Chairman and Managing Director, Bharat Earth Movers Ltd. (BEML); Other officials of BEML, defence ministry and army</td>
<td>Natarajan suspended and eventually retired. CBI investigation still going on.</td>
</tr>
</tbody>
</table>

**Note:**  
1 Name changed to Israel Aerospace Industries Ltd. in 2006  
2 Name changed to Rafael Advanced Defense Systems Ltd. in 2007  
3 Ravi K. Rishi was the main accused, being at the helm of most of these companies.

**Cases related to DDD.** As mentioned earlier, unlike FDD, here the corruption involves extortion. Only one such major scandal that has come to the fore is the ‘Sudipto Ghosh Scandal’. (“Ex-DG of ordnance factory arrested on graft charges,” 2009; “Defence Ministry blacklists 6 arms' companies over bribery scandal,” 2012).

**Table 2(a)**  
_Instances of corruption in DDDs in India (Details of deal)_

<table>
<thead>
<tr>
<th>Known as</th>
<th>Year</th>
<th>Defence Article</th>
<th>Deal amount (original year figures)</th>
<th>Extortion amount (original year figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sudipto Ghosh Scandal</td>
<td>2009</td>
<td>Various defence equipments</td>
<td>₹ 500 crores (approx.)</td>
<td>Under investigation</td>
</tr>
</tbody>
</table>
Table 2(b)
Instances of corruption in DDDs in India (Details of parties involved)

<table>
<thead>
<tr>
<th>Known as</th>
<th>Corporation</th>
<th>Middlemen</th>
<th>Ministers/Officials/Officers</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sudipto Ghosh Scandal</td>
<td>6 corporations including 2 private Indian firms – T S Kisan &amp; Co. Pvt. Ltd.; and R K Machine Tools Ltd.</td>
<td>Ramesh Nambiar; Ashish Bose; Kanhai Lal Das; Pradeep Rana, Mohinder Singh Sahni</td>
<td>Sudipto Ghosh-former Director General of Ordnance Factories</td>
<td>Companies blacklisted. Case against Sudipto Ghosh going on</td>
</tr>
</tbody>
</table>

Although defence deals involving Indian corporations have been very few and far between till date which explains the less number of scams as compared to FDDs, that seems all set to change as the previous United Progressive Alliance (UPA) government was trying for a large scale overhaul of its defence procurement process following the ‘VVIP chopper scandal’ of last year. The Defence Procurement Procedure (DPP) - 2013 which was released by the MoD in June 01, 2013 laid stress on indigenization and clearly stated that domestic companies, both public and private, would be given priority over foreign corporations in all future defence procurements (Kar, 2013). Even the then defence minister A.K. Antony stated in the foreword to DPP-2013:

We hope that the defence industry as well as the procurement agencies will find the Defence Procurement Procedure 2013 to be a progressive step aimed at giving impetus to indigenisation, creating level playing field between the Private and the Public Sector and expediting the procurement process as a whole.

Further, with the coming to power of the Bharatiya Janata Party (BJP) led National Democratic Alliance (NDA) government, and a new prime minister at the helm, the domestic players may have a larger role to play in India’s defence sector in the future. The Tactical Communication System (TCS) (Institute of Defence Studies and Analyses [IDSA], 2012), Battlefield Management System (BMS) (Kanwal, 2014) and the Futuristic Infantry Combat Vehicle (FICV) ‘Abhay’ (“Abhay,” 2013) could also get a new boost.

Hence, the issues raised in this paper regarding the FDDs could be very much relevant in the DDDs as well in the near future with the Indian corporations gradually taking over the role of the foreign defence corporations. The formation of Ashok Leyland Defence Systems (ALDS)(http://www.ashokleylanddefencesystems.com/) by the Hinduja Group could indicate a step in that direction.
Making a moral judgement

Parties involved.

Receive kickbacks/Extort money

Work for betterment

Defence corporations

Government of India

Citizens of India

Award deals

Gain votes and continuous support

Figure 4. Conflict of interest resulting from corruption

*Fig. 4* shows how corruption in defence deals in the form of kickbacks/extortion creates a conflict of interest for the government officials/ministers or the top officers of the armed forces involved. On one hand, they have taken an oath to protect the interests and work for the development of the citizens of the country while on the other hand, bribes/extortion offers a golden opportunity to them to serve their own personal interests.

There is a conflict of interest here as it satisfies the three conditions below (Velasquez, 2012).

1. The minister/official/officer is engaged in carrying out a certain task for the government i.e. to complete the defence deal and allocate the contract to the corporation.
2. He/she has an interest in the outcome of the task i.e. the contract will have to be awarded to the corporation who paid the kickback or extortion amount.
3. He/she is obligated to exercise independent judgement on behalf of the government in performing the task i.e. the contract should be awarded based solely on merit.

Theories to be applied. Three normative theories (Crane & Matten, 2010; Velasquez, 2012) will be applied to gauze the ethicality of corruption in defence deals.

1. Utilitarianism
2. Kant’s deontological ethics
3. Ethics of justice and fairness

Why three different theories? This is in accordance with the concept of ‘prism’ of ethical theories (Crane & Matten, 2010) which encourages to base the moral judgement on a spectrum of views given by the various theories in order to fully grasp the issue at hand and explore possible ethical actions.

Why these three theories in particular? First and foremost, while utilitarianism is a consequentialist theory, Kant’s deontological ethics, and the ethics of justice and fairness are non-consequentialist theories. Hence, both the outcome and the motive behind the action will be given adequate importance while making a moral judgement.
Secondly, the combination of utilitarianism and Kant’s deontological ethics has been preferred in the past by researchers like Wotruba (1990) who said “a blend of these two perspectives is often seen as the best.”

Last but not the least, in case of business deals, it is often the outcome on the basis of which the success of the deal is judged. But in case of defence deals, both the private corporation and the government involved have certain duties towards their respective stakeholders which should also be considered. Besides, elements of distributive and procedural justice (Törnblom & Vermunt, 2007, p. 1-10) are equally vital in the process.

**Application of utilitarianism.** The two possible courses of action here are

- Action 1: Take part in bribing/extortion
- Action 2: Refrain from bribing/extortion

A cost-benefit analysis (CBA) of the above two actions can be seen in the tables 3 and 4 below.

**Table 3**

*CBA for taking part in bribing/extortion*

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Benefit</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government ministers/officers/officials</td>
<td>Huge financial gains</td>
<td>Chance of being caught and the probability of prosecution and loss of reputation that would follow.</td>
</tr>
<tr>
<td>Govt. of India</td>
<td>Nil</td>
<td>Loss of trust amongst foreign corporations and citizens</td>
</tr>
<tr>
<td>Defence corporation</td>
<td>Secure the deal</td>
<td>Kickbacks/extortion amount paid</td>
</tr>
<tr>
<td>Kickback broker</td>
<td>Huge commission</td>
<td>Chance of being caught and the probability of prosecution after that.</td>
</tr>
<tr>
<td>Citizens</td>
<td>Nil</td>
<td>Security threat and wastage of taxpayer’s money in substandard/outdated equipment</td>
</tr>
<tr>
<td>Competitors</td>
<td>Nil</td>
<td>Loss of contract in spite of lower bids/better products</td>
</tr>
<tr>
<td>Other stakeholders of corporation</td>
<td>Nil</td>
<td>Burden of being associated with an unethical company</td>
</tr>
</tbody>
</table>

**Table 4**

*CBA for refraining from bribing/extortion*

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Benefit</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government ministers/officers/officials</td>
<td>Besides being seen as a dutiful servant of the state, can also live without any worries of being caught</td>
<td>Lost opportunity of making some personal profit</td>
</tr>
<tr>
<td>Govt. of India</td>
<td>Gain in Corruption Perception Index (CPI)’ ranking and be seen as an efficient and ethical government.</td>
<td>Nil</td>
</tr>
<tr>
<td>Defence corporation</td>
<td>Savings in terms of unpaid commission, and growth of efficiency and R&amp;D as it solely competes on merit</td>
<td>Probability of losing out on some deals</td>
</tr>
<tr>
<td>Kickback broker</td>
<td>Bagging of future mediator roles and lack of worries about possibility of being caught</td>
<td>Lost opportunity to pocketing commission</td>
</tr>
<tr>
<td>-----------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Citizens</td>
<td>High levels of national security and a corruption-free government</td>
<td>Nil</td>
</tr>
<tr>
<td>Competitors</td>
<td>Level playing ground where quality comes first</td>
<td>Nil</td>
</tr>
<tr>
<td>Other stakeholders of corporation</td>
<td>Pride in being associated with a trustworthy corporation known for its ethics</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Note: Of all the countries featured in the index, India has consistently been ranked far down in the nineties for the past couple of years. For the CPI results down the years, see Overview: Corruptions Perception Index. (n.d.). Transparency International. Retrieved June 2, 2014, from http://www.transparency.org/research/cpi/overview

It is crystal clear from the CBA that the net benefits are far greater in case of action 2 than in case of action 1. Hence, bribe/extortion fails the utilitarian test.

**Application of Kant’s deontological ethics.** Since the citizens of a country have the ‘right to security’ (United Nations, n.d.), it is the duty of the government to protect this right and award the defence contracts to the most deserving corporation. Besides, the government is accountable to its citizens and should be transparent in its dealings in order to uphold the citizens’ ‘right to information’.

The corporations, on the other hand, have a duty to protect the ‘right to fair play’ that their competitors have and abstain from any dirty tricks. For instance, Crane and Matten (2010, p. 392) state that “…a competitor also has some form of moral claims on an organization which go beyond those codified in law—for example, some form of right to privacy, or a right to ‘fair play’.”

Besides, they are also accountable to their other stakeholders.

The **first formulation** of the categorical imperative of Kant can be applied here.

- **Universalizability:** If buying of government functionaries became commonplace and all governments and defence corporations were involved in bribe/extortion, then the concept of bidding and awarding contracts would become meaningless and no economy could function normally again.

  - **Reversibility:** The corporation executives should ask themselves how they would react if their competitor won a bid by such means. Surely they wouldn’t be thrilled.

So, the practice of bribes/extortion fails Kant’s deontological test as well.

**Application of ethics of justice and fairness.** Distributive justice requires that the society’s benefits and burdens are distributed fairly. But in the case of corruption in defence deals, while the benefits are reaped by a few parties namely the corrupt government officials, the middlemen and the private corporations involved; the burdens have to borne by the citizens who have no part whatsoever to play in the deals, and also to a smaller extent, by the competitors of the corporations involved since they lose the multi-million dollar deal which may be very bad news for their business.

Procedural justice requires that a fair process is followed in the distribution of rewards, but in the case of bribes/extortion in defence deals, the contract is awarded to the corporation paying the bribes/extortion by the ministers/officials of the MoD which is apparently unfair to the other corporations competing for the defence contract.

So, the practice of bribes/extortion in defence deals fails the justice and fairness test as well.
Thus, no matter in what way we look at it and what theory we use, we will always arrive at one and only one conclusion, that being: corruption in defence deals in the form of bribes/kickbacks is unethical.

**Probable individual influences**

No individual factor, as given by Ford and Richardson (1990) and mentioned earlier, seems to provide sufficient explanation for the practice of bribes/extortion in India’s defence deals.

1. **Age and sex**: The persons involved in the various cases mentioned before were from a wide spectrum of age groups. Besides, the reason that no woman has been linked to these choppy defence deals this far could be due to the simple reasons that the relevant positions were never occupied by them. For instance, India never had a woman defence minister or a woman army chief.

2. **Nationality**: The middlemen as well as the corporation managers in the aforementioned cases have been from all parts of the world. Hence national and cultural characteristics can’t be a factor either. Similarly, making any comments on the other possible personal attributes, education and employment background or personality/beliefs/values of the personas involved in corruption would be nothing but mere speculation.

**Probable situational influences**

In stark contrast to the individual factors, situational factors (Ford & Richardson, 1990; Crane & Matten, 2010) seem to be a strong factor in the case of bribes/extortion in defence deals the most vital of which are discussed below.

1. **Moral intensity**: The high level of corruption and other unethical practices in awarding defence contract could be because of the low moral intensity of the issue to the government and corporations. For instance, the government servants don’t seem to feel any ‘proximity’ with the citizens and it also fails the ‘temporal immediacy’ test as the defence articles are delivered after years.

2. **Moral framing**: The very fact of using the word ‘kickback’ instead of plain and simple ‘bribe’ is evidence of framing the matter as innocently as possible.

3. **Rewards**: The financial rewards are high whereas punishments seldom seem to come as the cases of FDDs and DDDs mentioned earlier prove.

4. **Bureaucracy**: Could be a big factor as one of the parties to the defence deals is the Indian government which has a notoriety for being highly bureaucratic. For instance, in a survey conducted by PERC (“Indian bureaucrats worst in Asia, says PERC study,” 2012), the Indian bureaucracy was ranked the worst in Asia having scored 9.21 on a scale of 10 as compared to 2.25 scored by Singapore which was ranked as the best.

5. **Sectorial context**: Kickbacks and extortion seem to plague the entire defence sector transcending national boundaries as is evident from the cases cited earlier in the paper.

**Establishing intent to act on judgement**

Now that it has been established that corruption in the form of kickbacks/extortion in defence deals is ethically wrong, the next step is to ensure that these corrupt practices are done away with from all future defence deals. Hence in this section, certain recommendations are put forth on how to tackle the issue of corruption in defence deals and ultimately obliterate it completely.

**Recommendations for the MoD.**

1. **Transparency in defence deals**

   * **Theory obtained from**: Kant’s deontological ethics
   * **Logic**: The right which needs to be protected here is the ‘right to information’ of the citizens.
   * **Description**: One of the most important reasons for the shoddy defence deals is that very little information is made public about the deals in the name of national security except say, the number of defence articles bought, the corporation selling it to India and the total monetary value of the deal. But very little information, if any, is made public as to the bidding system or the process and criteria of allocation of contracts. The government should make the disclosure of such information compulsory. It may also be brought under the ‘RTI Act, 2005’ to ensure that the government remains accountable to the citizens.

2. **Preference to ‘Buy and Make’ category of defence deals**

   * **Theory obtained from**: Utilitarianism
art will go a long way in reducing corruption which can be done in the following ways.

1. Protection of whistle blowers
   **Theory obtained from:** Kant’s deontological ethics
   **Logic:** The right protected here is the ‘right to freedom of conscience’ (Velasquez, 2012, p. 377) of the individuals involved.
   **Description:** Many of the defence scams were unearthed by virtue of whistle blowers, be it the case of Sten Lindstrom (“The Bofors whistle-blower speaks out,” 2012), the former chief of Swedish police who leaked about 350 documents relating to the Bofors scam to an Indian journalist, or that of Borgogni Lorenzo, the whistle blower in the VVIP chopper scandal. But unlike in other countries of the world, whistle blower protection is a novel concept in India and the Whistleblower’s Protection Act of 2011 (2014) which received the assent of the President only on 9th May, 2014 hasn’t come into force yet. Besides, the act also doesn’t apply to the armed forces which might act as a huge deterrent to officers with possible insider information on the illegalities involving the defence deals, to come forward.

2. Encourage more participation of Indian private companies
   **Theory obtained from:** Ethics of justice and fairness
   **Logic:** The Indian private corporations should get equal opportunity as their foreign counterparts as well as the Indian PSUs since the present discrimination is hugely unfair to them.
   **Description:** Defence production was opened to the private sector only in 2001. And although the Kelkar Committee was constituted in 2004 which submitted its report on defence acquisition in 2005 (“Kelkar Committee submits report on defence acquisition,” 2005); and the Standing Committee on Defence also placed a report in the houses of the parliament in 2008 on the subject ‘Indigenisation of Defence Production-PublicPrivate Partnership’ (Standing Committee on Defence, 2008), little actually happened in the years that followed. Involvement of domestic private companies will reduce corruption as it will provide the government with more control over the entire defence procurement process in the national setting.

   **Recommendations for the private corporations.** The private defence corporations have a great role to play in reducing corruption in the defence deals since not only do the kickbacks arise from them, the government ministers/officials/officers can extort money from them only because they give in to these unethical demands. Self-regulation is the key here as a tougher stand on their part will go a long way in reducing corruption which can be done in the following ways.

   1. Introduce rules to forbid bribes/extortion
      **Theory obtained from:** Ethics of justice and fairness
      **Logic:** Awarding deals based on bribes/extortion is unfair to the other deserving corporations.
      **Description:** If British Petroleum could introduce rules forbidding any kind of political donations (Crane & Matten, 2010, p. 507), the same concept can be extended to bribes/extortion as well by the private defence corporations. Corporate code of ethics of these companies should explicitly forbid such practices and steps should be taken for strict implementation of the codes e.g. through compliance officer, ethics committee, strict punishment for detractors etc. For instance, Lockheed Martin’s ‘Code of ethics and business conduct’ (Lockheed Martin, 2011) dwells deeply on issues like doing business ethically abroad, preventing conflicts of interest, properly engaging any third party etc.

   2. Disclosure of information
      **Theory obtained from:** Kant’s deontological ethics
Logic: The right protected here is the ‘right to information’ of the stakeholders of the corporation.

Description: Even in countries where mandatory disclosure laws are not present or not implemented properly, the defence corporations should voluntarily disclose any signs of wrongdoing in the defence deals. Besides, the corporations should adopt social accounting, which amongst others, will make the findings of the ethics audit public. For instance, the ‘Federal Acquisition Regulation (FAR) Mandatory Disclosure Rule’ (Miller, 2012) which came into force in 2008 in the US, has been highly successful in curbing corruption in defence deals.

3. Industry code of ethics

Theory obtained from: Kant’s deontological ethics

Logic: The right protected here is the ‘right to fair play’ of the corporations taking part in the defence deals as well the ‘right to security’ of the citizens across the globe.

Description: Such a code of ethics can exist at the national level or can be extended to the international level as well. But as the cases mentioned before indicate, the private corporations involved in the corruption scandals are from all parts of the world. Hence, a global industry code of ethics for the defence industry is crucial at this juncture. Although the 10th principle of the ‘UN Global Compact’ (United Nations Global Compact, n.d.) prods businesses to refrain from corruption in all forms including bribery and extortion, it is very generic, and for a sector like defence where corruption is widespread, a detailed code is required specifically dedicated to it.

4. Industry-wide association of corporations

Theory obtained from: Utilitarianism

Logic: The net benefits will be maximised for all the parties involved. For instance, the corporations will create a favourable ethical impression amongst their stakeholders, the managers will receive relevant ethical training and it will also re-establish the citizen’s trust on the military acquisition process.

Description: These associations can ensure self-regulation of the defence corporations involved in the defence production. In fact, the few such associations present in the world have been very much successful in dealing with the corruption in defence deals e.g. ‘Defence Industry Initiative on Business Ethics and Conduct (DII)’ is such a non-profit association in the US with more than 90 members which, apart from monitoring the various defence deals, also conducts regular training programs and publishes periodic reports (Defence Industry Initiative on Business Ethics and Conduct [DIIBEC], 2010) relating to ethics in the industry.

Act according to intentions

All the recommendations provided in the previous section will be meaningless if not implemented properly. Engaging in moral behaviour is as much important as establishing moral intent or simply laying down certain rules and guidelines. Two important steps in that respect are:

Ethics education and training. Compliance training and ethics training should be provided to all the individuals involved in the defence deals. While the government can arrange for training of its ministers/officers/officials, the corporation can do the same for its managers. Even the defence associations mentioned earlier are known to conduct such trainings.

Modifying the situational influences. 1. Moral intensity: The issue of corruption in defence deals can be made morally intense by modifying its various contributing factors. For instance, by becoming signatories in the industry-wide associations and taking part in its regular seminars, the executives of the corporations will feel a much greater level of ‘proximity’ to their competitors.

2. Moral framing: A bribe is a bribe no matter what you call it. Hence, the onus is on the company executives to refrain from framing the issue of corruption in a more innocent light.

3. Rewards: While the government can refrain from interfering in the judiciary process to free the ministers/officials/officers charged with corruption and immediately sack the individual(s) involved, the corporations can do the same with their executives. e.g. Finmeccanica CEO and Chairman Giuseppe Orsi (“Finmeccanica chairman resigns after arrest in corruption scandal,” 2013) was under intense pressure following the AgustaWestland scandal and had to resign after he was arrested.
4. **Bureaucracy:** Bureaucracy in the government can never be completely wiped out but it can be sufficiently reduced. For instance, a *centralised procurement mechanism* for defence equipment bypassing any intermediaries can substantially reduce the effects of bureaucracy, case in point being the ‘Defence Science and Technology Agency (DSTA)’ of Singapore (http://www.dsta.gov.sg/).

5. **Sectorial context:** The recommendations given for the private corporations can help deal with this situational factor when applied at the industry level, and not just at the corporation level. A uniform forum can be created for the defence corporations and regular seminars cum training programs can be held to bring out the various issues and corrupt practices, and solve them.

**Conclusion**

Corruption in the form of kickbacks and extortion has, now and again, come to the fore in most of India’s defence deals. While the MoD under the Govt. of India has faced the ire more often than not, with the middlemen involved taking a part of the heat; the role of the defence corporations has so far been undermined in the process. The present discourse was an analysis of the ethical aspects of the corrupt practice of bribe and extortion and the analysis has not only proved such corrupt practice to be highly unethical, but has also shown that both the government and the businesses have an equal part to play in curbing these corrupt practices marring the defence deals. The implementation of adequate business ethics management practices in the defence corporations and changes in certain policies of the Indian government can go a long way in solving the issue of kickbacks and extortion in India’s defence deals.

**References**


2013-india-hikes-defence-spending/1/252039.html

Footnotes

1 Acronym for ‘don’t ask, don’t tell’.
2 As opposed to bribes which are extorted by the government officials, in case of kickbacks,
there is a collusion between the two parties (government and corporations), and there are
middlemen involved to facilitate the transaction.
3 An improved version of Arjun tank has been developed named Arjun Mk.2 but there have
still been complaints from the Indian army as to its shortcomings with respect to its foreign
counterparts.
4 For an in-depth case-based comparative analysis of FMS and DCS, see Brown, L.L.
5 Whistleblowing has also led to unveiling of corruption in India’s defence deals, the most
recent case being that of Lorenzo Borgogni of Finmeccanica in the Choppergate scandal of 2013.
6 Also known as ‘Choppergate’, the most high profile Indian defence scandal to come to
light in recent times, the ₹ 36 billion deal to acquire 12 AgustaWestland AW101 choppers by the
Indian government was recently scrapped owing to the supposed receipt of kickbacks by a number
of top-ranking defence personnel and diplomats from India.
7 HDW is the acronym for Howaldtswerke-Deutsche Werft, a German shipbuilding
company founded in 1838
8 The scam caught the media glare when the former chief of the Indian army, General V.K.
Singh revealed that he had been offered a bribe of ₹ 14 crores to provide clearance for purchase of
1600 Tatra trucks.
9 As provided by Article 3 (‘right to life, liberty and security of person’) of the Universal
Declaration of Human Rights (UDHR) adopted by the UN General Assembly in 1948.
10 As provided by Article 19 (‘right to receive and impart information,’) of UDHR, and the
Right to Information Act (RTI) which was enacted in 2005 in India. See http://rti.gov.in/ for details.
11 Although a major change was brought forth in DPP-2013 by the MoD, Govt. of India
where the ‘Buy (Global)’ category was made the least preferred category, it remains to be seen how
this policy change is actually implemented given the over-dependence on foreign procurement till
now.