

5th July, 2022

ARE INDIAN GENERAL COUNSELS FUTURE READY

The Coronavirus pandemic that struck us in 2020 has changed the world in more than one way. For in-house counsel, the pandemic indeed burdened them with departmental challenges, but in a way accelerated the transformation trends that were underway. The in-house legal department of corporates played a very critical role in helping their company sail through the challenges of the pandemic. The work of general counsel thus became infinitely expandable. General Counsel became an integral part of making critical decisions at the highest levels of their organizations. It would not be wrong to say that they played a role of both legal as well as the strategic advisor. This led to in-house counsels expanding their team's competencies and deepening their knowledge of the business. They resorted to technology to increase their impact on the company. Also, the corporate work culture that went a drastic change pushed companies to realise the importance of investing in digital technology.

Role during Pandemic

A General Counsel is both legal conscious as well as legal compass of the company. It is their responsibility to steer the company to the safe shore in a crisis. The Coronavirus pandemic paralysed many businesses and their ability to undertake changes to survive the crisis have been dependant on team's ability to do comprehensive assessment and therefore take the decisive role. The role of in-house counsel in managing legal compliance, risk mitigation, enabling alternative growth opportunities etc., has been vital. They provided continuity to the businesses and ensured company's solvency and management of commercial contracts particularly force majeure clauses. With this increasing role of general counsel, the trend of engaging in-house counsel has become a common practice not just by the big corporations but by the small and medium entities as well. Corporates are now investing more and more in their in-house legal team.

In the past two years, government has been taking steps towards opening various sectors for private players which were earlier reserved for state entities. This will further make the relationship between private and gov-

ernment sector more complex and general counsel can play a crucial role to bridge the trust deficit. They can also provide inputs to the government in formulations of regulations relating to various sectors such as telecom, power etc.

Upcoming Challenges and Way Forward

In spite of their expanding role, there are still many challenges which need to be taken care of. The issues relating to communication and transparency in the work from home and hybrid model, struggle in adoption of emerging legal technology, obligation under data safety and intellectual property are of serious concern. In addition to this, the general counsel teams are grossly understaffed and require more attention of the top management. The spending on legal technology needs to be hiked. During the pandemic, the legal sector witnessed a rapid increase in interest in technology. There has been change in delivery of service, compliance regulation, documentation etc. The entire legal system of the country made progression to digital technology in form of virtual courts, e-filing, automated processes like auto-updates on cases etc. Corporates therefore must continue the trend. Digital transformation should not be a one-time activity, but a continuing process.

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In addition, the general counsel must also be given role to play in top management board that would in turn increase both efficiency and accountability. The General Counsels must be seen as business enabler along with an advisory role on the board.

