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India's Proposed "Jan Lokpal" (Citizen's Ombudsman) Law Increases Complexity for European Companies

European companies already in India, or proposing to enter, may now face a spike in exposure to bribery/corruption risks in India

Companies already face stringent standards of responsibility for the conduct of their Indian partners, agents and employees. Despite this, senior management suffer a yawning disconnect between planning at European headquarters and ground realities.

*Judicial and
Citizen Activism is
on the increase*

*Public contracts
and tendering
will face real
scrutiny*

*Jan Lokpal
initiation against
local Partners,
Agents or
Employees may
also trigger
European Anti-
Bribery Laws*

*"Media trial" risk
for the
un-authorized
actions of local
associates*

Various mega scandals discovered in 2010-2011 have again exposed India's substantial legal framework as ineffective in fighting corrupt politicians and bureaucrats. Judicial and Citizen activism through Public Interest Litigation has been the main instrument of exposure. Coupled with a "trial by media" leaning of the local Press.

Now, the Jan Lokpal Bill proposes to establish an independent (of politicians and bureaucrats) body, called "Lokpal", to investigate cases of corruption within a year and to ensure a speedy prosecution within two years. The Lokpal will have financial independence and powers to receive corruption complaints against politicians, bureaucrats, public officials and even judges.

The proposed Jan Lokpal is a powerful unprecedented challenge to the establishment. Corrupt politicians, bureaucrats and other public officials face increased exposure and media trial. Government and PSU contracts and tendering will face real scrutiny of dealings with companies.

Most significantly, the de-facto power of Politicians and Bureaucrats to manipulate and control the legal framework and the investigative agencies is under threat. Thus colluding companies and businessmen face being left out in the cold.

The imminent advent of the Jan Lokpal also means action being more likely to be triggered under European and International Bribery Laws by the unauthorized actions of local partners, agents and key employees – if these remain unmonitored and uncontrolled.

RESPONSE:

Increased independent *soft* review and assessment of: (1) existing and proposed deals in India (2) existing and proposed partners and agents (3) existing or proposed entry strategy and business plans; (4) project/sector specific local culture, political and regulatory soft environment; and (5) an effective way to consistently monitor "soft risk" events as these arise.