

Importance of Whistleblowing in a Democracy

Why in News?

Recently, WikiLeaks founder Julian Assange on arrived in his home country Australia a free man after pleading guilty to conspiracy in a US court in a deal that ended his years in long battle.

What is whistleblowing?

- **Whistleblowing** - It is the **lawful disclosure of information** a discloser reasonably believes evidences wrongdoing to an authorized recipient.
- **Whistleblower** - There are no limitations or qualifications on who can be a whistleblower.
- Any person with knowledge of a breach or wrongdoing may report it and qualify as a whistleblower.
- Corruption, fraud, bullying, health and safety violation, cover-ups and discrimination are common activities highlighted by whistle blowers.
- **In India** - According to **Whistle Blower Protection Act 2014**, a whistleblower is referred to as a "complainant" and it is defined as any person who makes a complaint relating to:
 - The committing of or an attempt to commit an offence by a public servant under the Prevention of Corruption Act 1988
 - Wilful misuse of power by which demonstrable loss is caused to the government or demonstrable wrongful gain accrues to the public servant or any third party or
 - The committing of or an attempt to commit a criminal offence by a public servant.
- The **Companies Act does not define** whistleblower.

What is role of whistleblowing in a democracy?

- **Need** - Whistleblowers are very important for society and need to be encouraged to control wrongdoing in the system.



- **Check power tyranny and ensure accountability** - In a functioning democracy, it is absolutely crucial for power to be held to account for which there need to be whistleblowing of corruption or misuse of power.
- **Prevent corruption** - Democracy is strengthened by courageous whistleblowers speaking up for justice.
- While state secrets need to be protected for national security but this can't be a blanket cover to hide corruption and criminal wrongs.
- **Promote awareness of potential issues**

Whistle blowing Cases About	
Shanmugam Manjunath case	<ul style="list-style-type: none"> • An Indian Oil Corporation Officer who was murdered after he <u>exposed adulterated fuel</u>.
Lalit Mehta case	<ul style="list-style-type: none"> • An activist who exposed <u>corruption in the National Rural Employment Guarantee Act (NREGA) scheme</u>.
IPS Narendra Kumar Singh case-	<ul style="list-style-type: none"> • An Indian Police Service Officer who was killed after he exposed <u>illegal mining in Madhya Pradesh</u>.
Vyapam Scam	<ul style="list-style-type: none"> • It was one of the most notorious episodes in India's <u>educational and recruitment narrative</u> exposed by Anand rai in Madhya Pradesh.

- **Prevent misappropriation of assets** - It exposes unethical and improper practices relating to financial and accounting matters and saves taxpayers millions of dollars each year
- **Ensures good governance** - It is the mechanism to get the right information to the right people to counter wrongdoing and promote proper, effective, and efficient functioning of the government or company.
- **Protects human rights** - Every citizen should have a basic right to keep their own affairs private.

- In 2019 and 2021, Opposition party leaders, journalists, and activists targeted the then Indian government for using Pegasus spyware to surveil them.
- **Uphold public interest** - It serves the public interest by ensuring that the Government remains an ethical and safe workplace.

What are the measures taken by India to protect whistleblowers?

- Protecting and enabling this “insider” class of whistleblowers is essential in defending democracy because they are the first witnesses to wrongdoing within governments or corporations.
- *Only a few states* in India have such policies.
- **Law Commission of India** - In 2001, the Law Commission of India, recommended a law to protect whistleblowers.
- LCI its 289th Report in 2024 recommends for a special legislation for protection of Trade Secrets, with exceptions pertaining to whistleblower protection, compulsory licensing and government use, and public interest.
- In the same report, it has proposed a separate legislation for Economic Espionage as well.
- **Supreme Court** - In 2004, the Supreme Court directed the Central government to make interim measures for handling whistleblower complaints until a formal law was enacted.
- This led to ‘Public Interest Disclosure and Protection of Informers Resolution’, granting the Central Vigilance Commission permission to deal with whistleblower complaints.
- **2nd ARC** - In 2007, the Second Administrative Reforms Commission also stressed the need for a dedicated whistleblower protection law.
- **Following international convention** - India committed to the UN Convention against Corruption since 2005 called for encouraging corruption reporting and protecting witnesses.
- **Statutory measures** - The Whistleblowers Protection Bill was proposed in 2011 which become a law as Whistleblowers Protection Act in 2014.
- **Right to information Act 2005** to secure information under control of public authorities, in order to promote transparency and accountability in the working of every public authority.
- **In corporate world** - Today, the Companies Act, 2013, and Securities and Exchange Board of India (SEBI) regulations mandate companies to address whistleblower complaints.

What are current challenges in India?

In India, Satyendra Dubey was known as the country's first whistleblower who was murdered over 20 years ago upon exposing corruption involved in the construction of India's largest highway project at the time.

- **Lack of a strong legal framework** - There is no standard framework for receiving whistleblower reports, protecting whistleblowers, and bringing about corrective

actions based on whistleblower reports.

- **Non-implementation of legal measures** - The Whistle Blowers Protection Act passed through parliament in 2014 and got as far as the president's assent, but did not come into force yet.
- **Inefficiencies with WPA, 2014** - It fails to protect whistleblowers' identities and establishes a flawed reporting and investigative framework.
- Complainants providing false identities or anonymous complaints are not recognised.
- There is *no functional enforcement mechanism* and it *doesn't cover armed forces* and is *not applicable to the private sector*.
- **Political reluctance** - The *Whistle Blowers Protection (Amendment) Bill 2015* tried to revive the effort and sought to prohibit the reporting of corruption-related disclosures under 10 categories, but it *got subsequently lapsed*.
- **Non-inclusive measures** - The Companies Act 2013 (Companies Act), which mandates the incorporation of a whistleblower policy, but primarily *only by listed companies*.
- To date, there are *no specific laws* dealing with the protection of whistleblowers applicable *to private, unlisted companies or unincorporated entities* and their employees.
- **Discretion for private establishments** - *Employers are free to formulate* and adopt a whistleblower policy.
- **Shaming whistleblowers** - Environmental activists have been called "*urban Naxals*," a name which suggests they are *anti-national* and are detrimental to India's economic growth.
- Some have even been arrested for *sedition*.

According to Reporters Without Borders, nearly half of the journalists killed in India since 2014 were working on stories linked to the environment.

What lies ahead?

- A robust democracy needs protective laws encouraging citizens to step forward to expose malpractices in the government or in private enterprises.
- **Expanding the definition of a whistleblower** - It should include those who are exposing and fighting against the arbitrary use of power like
 - The conventional whistleblowers, or "insiders,"
 - Right to Information users
 - Human rights defenders and journalists
 - *Environmental defenders*
 - *Social audit participants*.
- **Checking the accountability** - The law must provide clear accountability for the person defined to provide the protection.
- There should be mandate swift investigation and *penalizing authorities who fail to protect a whistleblower's identity* or provide adequate protection to victimized whistleblowers.
- **Protect RTI users** - Protection through executive orders and under the information commission.

- **Fast-tracking investigations** - Granting oversight to independent regulatory agencies in cases related to persecution of RTI users.
- **Following best practices** - Establishing *clear reporting channels* and developing a non-retaliation policy.
- Setting up an *impartial committee to investigate* reports.
- Protecting the confidentiality of whistleblowers.
- **Capacity building** - *Training employees and management* on whistleblowing and how to handle reports.

References

1. [The New Indian Express| Release of Julian Assange](#)
2. [The Hindu Business Line| Strengthening Whistleblowers](#)

