Whistleblower on Trump-Ukraine Contacts

Why in news?

- A U.S. intelligence official filed a whistleblower complaint to the intelligence community's inspector general.
- The US Congress is in a serious standoff with the Trump administration over its refusal to share the whistleblower complaint with lawmakers.

What is the complaint?

- A whistleblower is someone inside an organisation who sees a problem that is going uncorrected and tries to bring it to light.
- The recent complaint is said to be at least in part about President Donald Trump’s communications with Ukraine.
- The leaked out details suggest that it may center on efforts by Trump to use his official powers to coerce Ukraine into opening a criminal investigation into former Vice President Joe Biden.
- Joe Biden is now the front-runner for the 2020 Democratic presidential nomination in the U.S.
- In other words, the whistleblower alleges that Donald Trump sought Ukraine meddling in 2020 elections.

What is Trump’s stance?

- The identity of the whistleblower and details of the allegations remained hidden.
- But, Trump has attacked the whistleblower as partisan.
- He has also defended his conversations with foreign leaders as appropriate.
- The standoff over the issue is putting pressure on the legal rules for whistleblower complaints filed by members of the intelligence community.

Why a whistleblower law?

- As an incentive for raising concerns in the way the government prefers, the law provides safeguards to whistleblowers who obey the rules.
- The government tries to maintain control of information by defining a whistleblower, for legal purposes.
- It mandates certain procedures that channel a complaint to its internal

oversight mechanisms.

What are the rules for intelligence whistleblowers?

- Whistleblowing within the intelligence community presents a special set of tensions.
- This is because -
    i. the government wants to keep classified information secret
    ii. parties concerned have tried to maintain control over decisions about disclosing internal information to lawmakers
- The U.S. Congress, however, generally disagrees with the executive branch's liberal theory of presidential control over information.
- The two branches worked out a compromise that Congress passed as the Intelligence Community Whistleblower Protection Act in 1998.
- These were amended in 2010 and 2014.

What is the procedure now?

- The law sets up a special process that allows intelligence employees or contractors to provide information to Congress.
- This will be in exchange for protecting them from retaliation or the threat of reprisal.
- Under that procedure, they submit the complaint for lawmakers to the intelligence community's inspector general.
- The inspector general must decide within 14 days whether the information is credible or not.
- The inspector general must also determine whether the allegations amount to an "urgent concern".
- If the complaint meets the standard, the inspector general is supposed to forward it to the director of national intelligence.
- Within 7 days of receiving the complaint, the director, in turn, shall forward the material to the House and Senate intelligence oversight committees.

What is the contention now?

- The inspector general for the intelligence community, Michael Atkinson, had determined that the complaint was credible and qualified as an "urgent concern".
- But, the acting director of national intelligence, Joseph Maguire has refused to transmit it to the Congress.
- The chairman of the House Intelligence Committee, Adam Schiff has accused Maguire.
- He is said to be violating the law by refusing to reveal the information to his

panel, which conducts oversight of the intelligence community.

- However, it is said by Maguire's top lawyer, Jason Klitenic, that it was lawful for Maguire to withhold the complaint from Congress.
- This is also upheld by the Justice Department which says that Maguire could lawfully keep it secret.
- Klitenic disputed Atkinson's determination that the complaint meets the legal standard of an "urgent concern".

Can the whistleblower do anything more?

- If the inspector general rejects a complaint as not credible or not presenting an urgent concern, the official who filed it may still then provide the information to Congress.
- The Intelligence Community Whistleblower Protection Act provides for this.
- But, to be legally protected from reprisal, s/he must obey directions from the director of national intelligence on how to approach lawmakers in a way that secures classified information.
- This raises another loophole; the whistleblower first must obtain specific directions from the director of national intelligence before s/he can obey them.
- Here, Maguire is apparently refusing to provide any, according to a House Intelligence Committee official.

What is the contention over executive privilege?

- The complaint pertained to "confidential and potentially privileged matters relating to the interests of other stakeholders within the executive branch."
- Klitenic asserts that there is a constitutional right for presidents to control the disclosure of information to Congress related to their constitutional duties.
- Lawyers for Congress and lawyers for the executive branch have long disagreed over where to draw the line between lawmakers' power to obtain information and the president's power to keep information secret.
- There is little Supreme Court precedent in this case, because the two branches have generally resolved prior disputes through negotiation and accommodation.

Source: Indian Express



SHANKAR
IAS PARLIAMENT
Information is Empowering