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Q15

If amendment bill to the Whistleblowers Protection Act 2011 tabled in the Parliament is passed, there maybe no on left to protect. Critically Evaluate.

UPSC Civil Services Mains 2015 · GS II · 12 marks · Parliament and State Legislatures

Parliament and State legislatures - structure, functioning, conduct of business, powers and privileges and issues arising out of these.

Core demand of the question

- If amendment bill to the **Whistleblowers Protection Act 2011** tabled in the Parliament is passed, there maybe no on left to protect. Critically Evaluate

Revision summary

The **Whistle Blowers Protection Act, 2011** aimed to shield people who report public-servant corruption.

The 2015 amendment bill sought RTI-like and **Official Secrets Act** exclusions at the threshold.

Those exclusions hit defence, intelligence and Cabinet-related graft, where insiders are most at risk.

The original Act was already narrow and not fully in force, so the slogan is a warning, not a full history.

A harm test and independent inquiry beat a blanket security veto.

Introduction

The **Whistle Blowers Protection Act, 2011** (passed in 2014) was meant to protect a person who discloses corruption or wilful misuse of power against a public servant, and to set up a competent authority to inquire. In 2015 the Union tabled an amendment bill that would keep many disclosures out of the Act if they touched national security, intelligence, Cabinet papers, foreign relations, or matters under the **Official Secrets Act**. The charge in the question is sharp: if almost every sensitive wrong is excluded, the whistle-blower has a statute without a shield. That charge is partly fair, but the original Act was already a narrow and unimplemented law, not a full public-interest disclosure code.

Body**What the 2011 Act actually promised**

- A public servant or any other person could make a disclosure of corruption, wilful misuse of power, or a crime by a public servant, to a competent authority (often the Central or **State Vigilance Commission** or other named bodies).
- Identity of the complainant was to be protected. Victimisation could be inquired into, with restoration and, in some drafts, criminal penalty for revealing identity.

- The Act did not cover the private corporate sector. It was a public-servant statute, coming after the 2003 murder of NHA engineer **Satyendra Dubey** and long NAC and **Law Commission** discussion.
- Even before the 2015 bill, the Act had not been fully brought into force with rules. Protection on paper had already lagged.

What the 2015 amendment bill sought to do

- It proposed to bar disclosures that fell in a list modelled on the exemptions in the Right to Information Act - security, strategic, scientific and economic interests of the State, Cabinet secrets, commercial confidence, and information that would prejudice an investigation.
- It sought to bring the **Official Secrets Act** into the whistle-blower path, so that a disclosure could be denied or punished if it was an "official secret", even when the underlying fact was corruption.
- **The competent authority's hands would be tied at the threshold:** if the matter was labelled sensitive, there might be no inquiry and therefore no protection.
- The government argued that a whistle-blower law cannot become a licence to leak intelligence files and that RTI-style exemptions are a constitutional balance under **Article 19**.

Critical evaluation of "no one left to protect"

- The slogan is right as a warning. Corruption in defence deals, intelligence procurement, atomic energy contracts and diplomatic spending is exactly where a brave insider is most needed and most exposed. A blanket national-security carve-out recreates the wall that **Satyendra Dubey** faced.
- **Official Secrets Act** overlap is the most dangerous piece. OSA is a colonial catch-all. Using it as a filter lets the accused department decide that the leak, not the graft, is the crime.
- RTI exemptions were written for a citizen's request for files, with a public-interest override in **section 8(2)** of RTI. Dumping those exemptions into whistle-blowing without a strong public-interest override inverts the purpose of the 2011 Act.
- The slogan is too total if it implies that the unamended Act already protected everyone. Police, vigilance and service rules still punish "unauthorised communication". Anonymity is hard in a small office. Private-sector bribery was outside the Act. So "someone left to protect" was already a small set: public-servant insiders on non-secret files.
- **A democratic design would keep security genuine:** harm test, independent competent authority, in-camera inquiry, and protection even when the disclosure is made to that authority rather than to the press. Exclusion of whole ministries is the wrong tool.
- Parliament's job is to evaluate, not to pass a bill that makes CVC a postbox for harmless petty cases while big files stay under OSA.

Flow diagram

WBP Act 2011 -> Protect disclosure of public servant graft
 2015 Amendment Bill -> Security Cabinet OSA carve-outs
 Security Cabinet OSA carve-outs -> Threshold bar on inquiry
 Threshold bar on inquiry -> Weak shield for high-risk insiders
 Protect disclosure of public servant graft -> Needs rules and public interest override

Conclusion

If the 2015 amendment bill had passed in the form feared, the Act would have protected mainly low-sensitivity complainants and left the most threatened whistle-blowers outside the tent. That is close to "no one left to protect" in the areas that matter most. The original 2011 Act still needed rules, a public-interest override, and coverage that does not collapse into OSA. Security can be balanced by a harm test and a strong independent authority, not by emptying the statute.

Facts & figures

Whistle Blowers Protection Act, 2011

Passed by Parliament in 2014; provides for disclosure to a competent authority and protection against victimisation of the complainant.

Amendment Bill, 2015

Sought to exclude disclosures affecting sovereignty, security, Cabinet papers, commercial confidence and matters hit by the [Official Secrets Act](#).

Satyendra Dubey (2003)

NHAI engineer murdered after reporting corruption on a highway project; a political origin of the demand for a whistle-blower law.

RTI Act section 8

Lists exemptions from disclosure; the 2015 bill borrowed that list without a clear, strong public-interest override for whistle-blowing.

Official Secrets Act, 1923

Colonial statute punishing unauthorised communication of official information; a poor filter for a modern anti-corruption disclosure law.