

NCPRI's POSITION ON PROPOSED AMENDMENTS TO WHISTLEBLOWERS' PROTECTION ACT, 2011

The NCPRI is deeply disturbed by recent reports indicating the Central Government's efforts to amend the Whistleblower's Protection Act, 2011 (WBPA) which has not been operationalised despite its enactment more than seven months ago. In a reply to a question raised in Parliament, the Government indicated that it is examining amendment proposals to limit the scope of the Act on grounds of protecting national security. The NCPRI is concerned that the amendments may end up preventing the effective investigation of complaints of corruption, willful misuse of power and abuse of discretion or offences committed by public servants on the pretext of protecting state security interests.

The WBPA was passed by Parliament in February 2014. It received Presidential assent on the 9th of May 2014 and was notified in the Gazette of India on the 12th. However, the Central Government has not notified the Rules required to operationalise the WBPA. This inaction occurs in the wake of reports of increased victimization of whistleblowers across India.

The Central Government has not disclosed details of the amendments it is considering, despite its promise of transparent government. RTI applications filed by NCPRI members demanding disclosure of the amendment proposals have drawn vague responses from the Ministry of Personnel, Public Grievances and Pensions – the nodal Ministry for implementing this law in the Central Government.

In August 2013, the previous government gave notice to the Rajya Sabha about its intention to table a slew of amendments to amend the whistle blowers protection law. These amendments were never tabled although these proposals were placed in the public domain in the ordinary course of business of the Rajya Sabha. The WBPA was approved by the Rajya Sabha in February 2014 without any changes to the text passed by the Lok Sabha in December 2011.

The NCPRI believes that legitimate national security interests deserve protection and the current version of the WBPA adequately takes care of these concerns. The NCPRI opposes any attempt to dilute the WBPA under the pretext of increasing protection for national security-related matters.

Providing a whistleblower a safe alternative to silence is the foundational principle of every whistleblower protection law. If retrograde amendments are allowed to be inserted into the WBPA, this law is likely to remain a deadletter as no person, let alone a public servant, will come forward to blow the whistle on corruption or other wrongful actions in Government for fear of inviting prosecution under the Official Secrets Act. Further, the excuse of 'national security' may be used by any public authority to scuttle any investigation into a whistleblower complaint.

That such amendments are being considered without any experience of the functioning of the WBPA in the form passed by the Parliament and in complete absence of public consultation only casts a long shadow on the intention of the Central Government to bring in more accountability in the working of public authorities and its functionaries.

The NCPRI therefore urges the Central Government to operationalize the WBPA in its present form by framing appropriate Rules and Regulations without any further delay.

The NCPRI will continue to demand transparency in the manner of implementation of the WBPA in order to protect genuine whistleblowers.