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*The Whistleblower Protection Act of 1989: Foundation for the Modern Law of  
Employment Dissent*

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Abstract by Christine Parsadaian

This article examines how the 1989 Whistleblower Act (Act) created necessary rights for whistleblowers. More forcefully, however, the author suggests the Whistleblower Act remains insufficient in protecting the rights of employees in the workplace despite its 1994 Amendments. To convey the struggles employees regularly faced prior to 1989, the article provides a brief historical evolution of whistleblower rights beginning with a provision in the Civil Service Reform Act of 1978. Before 1989 less than a handful of employees won their whistleblower cases. The author argues that this phenomenon was largely due to a superficially supportive government that, in reality, was more concerned with protecting employers. Therefore, though the idea to defend workers existed on paper, it hardly translated into any real employee protection.

In dissecting the 1989 Act, the author suggests that its provisions augmented whistleblower safeguards to a level not previously seen. For example, the Act expanded both personal and subject matter jurisdiction to give whistleblowers a greater likelihood of having their case heard. Further, the Act eliminated the Office of Special Counsel's (OSC) discretion to abuse by giving the complainant almost complete control over what information the OSC could release regarding the case. The author notes that the significance of this provision is that previously the OSC had hampered cases by improperly releasing information to incriminate the complainant or weaken their credibility. However, the article argues that these changes only created defensive rights for complainants. The article looks at the 1994 Amendments that further expanded the 1989 rights and argues that even the Amendments do not do enough to protect employee rights. The author concludes by making recommendations for change and suggests that until the system significantly broadens the scope of the Act, employees are better off seeking justice outside the civil service system.