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WHISTLEBLOWER UNPROTECTED: THE MINISTRY OF EXTERNAL AFFAIRS SCANDAL EXPOSING INDIA'S WEAK LAWS

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In recent years, it is an open secret in India that politics and corruption are two sides of the same coin. Whether it be the Ministry of Finance and its Coal Block Allocation Scam (2012-2014) or the Health Ministry and its Uttar Pradesh NRHM Scam (2010-2012), just to name a few. Yet, when thinking of corrupt practices, the Ministry of External Affairs rarely comes to mind for an average Indian citizen. It is a common perception that the MEA cannot afford to engage in corrupt practices, as its primary role is to represent India to other nations, hence it strives to uphold India's image to other nations. But alas, the mask of a dedicated and patriotic organization working for the betterment of a nation can be easily removed behind closed doors. The same can be said about the Indian Consulate in SãoPaulo, Brazil, where employees faced a hostile environment under the Consul General, and when an employee finally spoke up, he faced retaliation, which set of a chain of events and brought deeper issues to light. The employee in question is Rohan Mehta, and this study aims to assess the allegations of corruption within the Ministry of External Affairs and critically examine whether India's whistleblower protection laws provide adequate safeguards for those who speak out.

What Rohan did by revealing the unethical practices in the Ministry of External Affairs can be characterized as "whistleblowing"-the activity of a person, often an employee, revealing information about activities within a private or public organization that are deemed illegal, immoral, illicit, unsafe, unethical, or fraudulent. While morally it can be seen as the right thing to do, it comes with its fair share of dangers, including retaliations such as harassment, threats, or even outright assassinations of the whistleblowers to ensure their silence. Hence, laws are put in place to protect whistleblowers in most democratic nations. An example is the

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Whistleblower Protection Act of 1989[2] from the USA. The Whistleblower Protection Act of 1989 is a law that protects federal government employees in the United States from retaliatory action for voluntarily disclosing information about dishonest or illegal activities occurring within a government organization. According to this law, a federal employee can report misconduct to the Office of the Special Counsel (OSC) and, if the said employee is subjected to retaliatory actions, can report the suspected acts of reprisal to the OSC, which would further investigate the charges.If we look at our country, India also has Whistleblower Protection Act, 2014 and Central Vigilance Commission (CVC) which can be considered the equivalent of OSC as both are the mechanisms of whistle-blower protection. While the CVC is advisory in nature as it only supervises and recommends action, Central Bureau of Investigation (CBI) on the other hand is the body which conducts probes and prosecutes. But the first problem begins here. While the Central Vigilance Commission (CVC) is an independent body, the Central Bureau of Investigation (CBI) works under the Ministry of Personnel, Public Grievances and Pensions, which renders the point of investigating corruption as moot since the CBI is supposed to investigate their superiors, with permission.

In Rohan's case, despite the existence of a formal whistleblower protection act, whistleblowers face many precarious situations for their actions. The first and foremost example can be from his time working in the Indian Consulate of Sao Paulo. For background information, Rohan worked as a Software engineer in private sector before quitting his job and started working for the Ministry of External Affairs through the CGL exam. The Combined Graduate Level (CGL) Exam is conducted by the Staff Selection Commission (SSC) to recruit candidates for various Group B and Group C posts in the Indian government which includes various ministries, including Ministry of External Affairs. While higher posts from Group A like Ambassadors, High Commissioners or senior officials in the Indian Foreign Services (IFS) are recruited via the UPSC (Union Public Service Commission) Exam, the other posts from Group B and C can be recruited from the CGL exam.Unlike officers in the Indian Foreign Service (IFS) recruited through the Union Public Service Commission (UPSC) examination, Rohan served as an Assistant Section Officer (ASO), first at the Indian Embassy in Moscow and later at the Consulate of India in São Paulo.

[2]Pratt, Mary K., and Ben Cole. "What Is Whistleblower Protection Act?: Definition from TechTarget." *Search CIO*. TechTarget, 3 Oct. 2023. Web. 22 June 2025.

It was at this time when Rohan became involved in a conflict with his superiors. It started when the Head Consul General of Sao Paulo, Manisha Swami began harassing employees by yelling and creating a hostile work environment. She also misused public resources and neglected her duties. Also, another employee named Adarsh Kumar Mishra, sexually harassed Brazilian women and made inappropriate comments. At this point, Rohan faced continuous harassment from Swami and was also issued unwarranted memos of sexual harassment from another employee named Gayatri Ghosain, under Swami's instructions.The allegations were refuted by Rohan through evidence.[3] Rohan finally filed a formal complaint on 5th January 2024 and that's when the retaliation against him began. Three days later, on 8th January 2024, he was immediately informed of the order to return to India. His return to India was rushed as he didn't have a Yellow Fever Vaccine yet, which was mandatory for all Indian nationals returning from Brazil. An employee named Harish Bakla provided him with an exemption certificate[4] which itself is a violation of the guideline by Ministry of Health and Family Welfare, Advisory on Yellow Fever Vaccination Requirements for International travellers[5]. The harassment did not stop even after Rohan returned to India. Despite having evidence and filing complaints, no action was taken against Swami, Ghosain and Mishra, while the efforts to suppress Rohan with false complaints and harassment intensified. One example is that the ministry deliberately interfered in his personal life by delaying his marriage application to his Brazilian fiancée, which he claims is a straightforward process otherwise. Another example can be the letter sent to Rohan by the Head of Vigilance, Punit Agarwal. It ambiguously stated that Rohan "managed access" for his fiancée and her car in the condominium he was living. The term "managed access" was simply a criminalized and manipulative choice of words for Rohan's fiancée, who was simply visiting him in his condominium. Rohan emphasizes that the Ministry framed the practice of allowing and accommodating a guest in your house as a criminal activity.These actions suggest a broader institutional failure to uphold protections for whistleblowers, despite formal statutory assurances.

[3]Mehta, Rohan. *Documents of Fake Sexual Harassment Case*. Consulate General of India, Sao Paulo, 2023. Web. 22 June 2025.

[4]Baxla, Harish. *Exemption Certificate*. 2024. Web. 22 June 2025.

[5]*GUIDELINES FOR ASSISTANCE TO PREVENT ENTRY OF PASSENGERS WITHOUT YELLOW FEVER VACCINATION CERTIFICATE FROM 42 YF ENDEMIC COUNTRIES/ COUNTRIES AT RISK OF YELLOW FEVER TRANSMISSION THROUGH, MEA*. Ministry of External Affairs, 2025. Web. 22 June 2025.

As the situation stands, Rohan has yet to be formally charged with any of the "harassment cases" by Manisha Swami or Gayatri Ghosain, yet this witch hunt against Rohan continues from the most "organized ministry" of India. Rohan's travelling allowance claim is pending, his salary from 1st to 8th January was paid after a whole year. However, the biggest act of retaliation against Rohan is his salary being halved while at the same time he is not being allowed to take any other employment. These punitive measures raise a critical question:If the Whistle Blowers Protection Act, 2014 is meant to safeguard individuals like Rohan, why is such retaliation possible?

The answer is not that simple. The Act has not been fully operationalized since its enactment. It doesn't have a dedicated authority or a mechanism to ensure a timely investigation and protection of whistleblowers. Even more so, complaints submitted by anonymous complainants are not covered, which ends up discouraging whistleblowers who fear retaliation or attempts to silence them,from coming forward[6].However, the biggest reason for this Act being useless is the fact that the penalty for false or frivolous complaints is stricter than those for retaliating against whistleblowers, which discourages genuine disclosures[7]. This Act also does not mandate strict timelines for investigating complaints or resolving cases, leading to delays and prolonged vulnerability for the whistleblowers.These structural shortcomings significantly undermine the effectiveness of the Act. Unlike in India, where there are weaker penalties for retaliators, the USA takes such matters seriously. In America's Whistleblower Protection Act of 1989, there are strong penalties for retaliators. While the Indian W.P.A, undefined terms like "victimization" make it difficult to classify and address specific forms of retaliation, such as harassment or career sabotage, the American WPA specifically identifies specific actions as retaliatory, which serve as the functional equivalent of "victimization".Compared to models like the U.S. Office of Special Counsel, India's system appears have been designed not to protect whistleblowers from systemic retaliation but rather has been enacted to hunt down whistleblowers. And if such laws are not reformed then the word democracy has lost its meaning in this nation if the common man is punished for raising his voice while the "Babus" are protected using the system.

[6]India. The Whistle Blowers Protection Act, 2014, No. 17 of 2014, § 4(6), enacted May 9, 2014. The Gazette of India.
[7]India. The Whistle Blowers Protection Act, 2014, No. 17 of 2014, § 17, enacted May 9, 2014. The Gazette of India.

Rohan's case shows a stark contrast between what is promised by the Whistle-blower Protection Act, 2014 and what the current reality is. Even with this Act present the system doesn't have a timeline for an investigation, nor the system for independent investigation. The Act also focuses on punishing false complaints rather than the ones retaliating against the whistleblowers. Rohan's case is no exception here. It is the result of a system which wasn't changed since the days of the British Era. That time the legal system was made to oppress, not protect the citizens of India and this continues to this day, while the only difference is that now the oppressors are our fellow Indians. This is the contrary to the Whistleblower Protection Act, 1989 of the USA which provides proper protection to the whistleblowers through well-defined sanctions and specialized enforcement bodies. Even as we speak, Rohan's struggle against his corrupt superiors in the Ministry of External Affairs continues. If we want India to prosper, we must have the freedom to raise questions and hold the leaders accountable. For that provisions like the Whistle-blower Protection Act must be strengthened. Otherwise, I fear our nation is starting to resemble nations like North Korea, where the leaders live in luxury while the citizens suffer.