**What not to do: (In)justice enactment in handling sexual harassment complaints**

**Keywords:** Sexual harassment, Organizational (in)justice, Human Resource Professionals, Complaint handling, Well-being

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**Abstract**

The aim of this paper is to explore and identify how Human Resource Professionals (HRPs) act unfairly and unjustly in handling sexual harassment complaints, by applying the theory of organisational justice. Employing qualitative research methodology, 35 HRPs from 30 companies were interviewed to gather information. The findings indicated the numerous ways procedural, distributive and interactional injustices take place in handling sexual harassment complaints. It is expected that the identification of such unfair and unjust practices will point towards the pitfalls that HRPs knowingly or unknowingly encounter, helping them to avoid them and thereby handle sexual harassment complaints fairly. This will lead to better well-being of organisations and its stakeholders.

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**Introduction**

In the last few years with the ‘#me too’ movement sexual harassment has gained more attention and publicity invigorating discussion, debate and research around the issue. While there exist a plethora of research on handling sexual harassment (e.g. Buchanan, Settles, Hall, and O'Connor, 2014) and well-laid out procedures specifying the process to follow when complaints of sexual harassment are received, injustice in handling complaints persist in organisations with many negative consequences (McDonald, Charlesworth, and Graham, 2015). Handling sexual harassment complaints is identified as one of the most difficult and daunting tasks of Human Resource Professionals (Dorfman, Cobb, and Cox, 2000). On the one hand, Human Resource Professionals (HRPs) will have to handle the complexities, sensitivities and emotions surrounding a sexual harassment complaint. On the other hand, HRPs will have to ensure that legal requirements are met as well as that they adhere to organisational policies and procedures. At the same time, HRPs will also have to be ethical in handling the complaints and overcome various ethical dilemmas that arise during the handling process. Despite the difficulties in adhering to these arduous and sometimes competing demands in resolving a complaint, it is indisputable that HRPs in organisations – as a main party holding the responsibility and power in addressing sexual harassment in organisations – should act fairly and justly (these two terms are used together as well as interchangeably in this article) in resolving sexual harassment complaints. Yet, persistent injustice in resolving sexual harassment complaints are increasingly reported (McDonald et al., 2015), despite the existence of numerous guidelines (Becton, Gilstrap, and Forsyth, 2017), frameworks (Pierce, Broberg, McClure, and Aguinis, 2004), procedures (Chan and Kleiner, 2010), research (Buchanan et al., 2014), and good practices (Dorfman et al., 2000) on how HRPs should fairly and justly resolve complaints. However, there lacks in-depth understanding of actual practices of human resource professionals (HRP) in handling complaints and the actions of HRPs that makes a complaint handling fair or unfair. Further, while research indicate that unfair handling of sexual harassment complaints lead to many negative consequences such as reluctance of victims to complain (Butler and Chung-Yan, 2011; Hogler, Frame, and Thornton, 2002), how injustice takes place and the tenacity of injustice in handling sexual harassment complaints have been overlooked in the burgeoning sexual harassment research.

Research indicates that HRPs act unfairly and unjustly due to various reasons. As Dorfman et al. (2000) state, since HRPs generally do not get sufficient training on resolving sexual harassment complaints, “most managers rely on intuition and/or look for advice in articles and books that give ‘guidelines’ on proper investigatory techniques” (p. 33), leading to unfair and unjust resolving of complaints. At the same time, the fact that organisations pay more attention and effort in following strict processes and protecting themselves against any legal action (Charlesworth, 2002), rather than protecting the victims and the other parties also lead to unfair handling of complaints. Hence, in order to identify how HRPs should resolve complaints justly, we first need to fully understand where and how HRPs act unjustly.

In order to obtain a better understanding of why injustices persist in resolving sexual harassment complaints and to identify pitfalls that HRPs should avoid to ensure justice and fairness, as well as to rectify unjust actions of HRPs, it is important to first understand where and how injustice occurs. Within this backdrop, the aim of this paper is to explicate how HRPs act unfairly and unjustly when handling sexual harassment complaints, using the theory of organisational justice. Although organisational justice theories are increasingly used to understand different aspects of sexual harassment, they have mainly focused on the employee’s perception of justice and had largely omitted the decision maker’s (agent’s) role in (in)justice (Graso, Camps, Strah, and Brebels, 2020) even though they are the ones who enact justice in organisations. Moreover, prior research has also not explored how injustice takes place when handling sexual harassment complaints. Hence, the present study will address these theoretical and empirical gaps by identifying how injustice takes place in resolving sexual harassment complaints. This research is also significant in the context of social sustainability. Through this research we emphasise that organisations should not merely look at justice from organisation’s perspective but also from the perspective of victim, perpetrator and witness. We believe (in)justices in handling sexual harassment complaints affect the well-being of organisations and its related stakeholders. Therefore, HRPs and organisations need to pay attention to how sexual harassment complaints are handled.

**Organisational justice enactment**

Organisational justice describes how people perceive fairness in organisations. Organisational justice enactment refers to “the extent to which organisational agents” - who have the power and authority to treat others fairly, such as, decision makers, supervisors, managers and HRPs – “adhere to or violate justice rules” (Graso et al., 2020, p. 1). Organisational research has delved into various aspects of justice such as the different dimensions of justice (e.g. procedural, distributive and interactional which explore the different perceptions of justice) and what reasons motivate people to act justly (e.g., deontological, relational, and instrumental theories).

Organisational justice theories have been used in sexual harassment literature as well as in HRM literature. In HRM research, organisational justice has been discussed in relation to areas such as recruitment and selection, performance appraisals, wage negotiations and conflict resolution. In sexual harassment research, organisational justice has been used to examine areas such as how organisational justice perceptions impact the prevalence of sexual harassment and how it impacts the victim complaint intentions. For example, Krings and Facchin (2009) had documented how sexual harassment likelihood may increase as a response to perceived injustice. Adams‐Roy and Barling (1998) had reported how managing justice climate effectively helps to deter sexual harassment. There are also numerous studies which have explored what justice means to victims of sexual harassment and violence and identified different criteria and justice needs of victims when they make formal complaints to authorities (Heydon and Powell, 2018). For example, in a study of victim-survivors of sexual violence, Clark (2015) found that acknowledgement and validation of victims’ experience, accountability and responsibility of perpetrators, retribution or a ‘righting of wrongs’, and assurance that harm will not happen again to the victim or to others are criteria of justice victims look for when formal complaints are made. However, organisational justice theories have not been used to understand how injustice takes place in handling sexual harassment complaints.

Hence, in understanding how HRPs act unjustly and unfairly, in the present study we use the different dimensions of justice; distributive, procedural, and interactional justice (Bies and Moag, 1986; Greenberg, 1987) as the theoretical base, as justice will be enhanced if agents adhere to the principles of different justice dimensions (Cropanzano et al., 2007). Accordingly, distributive justice discusses the fairness of an outcome and the need for consistence between the outcome distribution through equity or equality (Leventhal, 1980). Procedural justice explores how a decision is made and whether fair procedure is followed by ensuring criteria such as consistency, lack of bias, correctability, representation, accuracy, and ethicality, as well as whether decision is based on evidence (Leventhal, 1980). Interactional justice (which is further divided into two dimensions by certain scholars as interpersonal justice and informational justice) explores how people are treated (interpersonal treatment) as procedures are enacted (Bies and Moag, 1986). When decision makers treat people with respect and sensitivity and provide sufficient explanations and rationale for the decisions taken it is said that interactional justice is attained (Colquitt, 2001). Taking these dimensions, we explore how injustice takes place in handling sexual harassment complaints.

**Methodology**

The data is part of a larger study that was conducted to understand how sexual harassment is prevented and handled in organisations. Employing qualitative research, we conducted in-depth interviews with 35 HRPs from 30 companies. The respondents shared their experiences of handling complaints, not only about their current company, but also about their previous companies as well. The respondents were selected through personal contacts. The positions of the HRPs ranged from very senior to middle level management, with 20 of them being females. The companies, all private organisations, were from different industries such as manufacturing, information technology, retail, service, finance and education.

The interviews were semi-structured conducted separately by us using the same interview guide. The interviews recorded with permission were transcribed verbatim. Coding and categorising were done using theoretical thematic analysis (Braun and Clarke, 2006) by focusing on how the HRPs have envisaged and thought about the complaints they received.

**Findings**

How the 35 HRPs had handled sexual harassment complaints indicated many instances where they have not adhered to procedural, distributive and/or interactional justice. Hence, in this section, we present the findings on (in)justices under the three dimensions of organisational justice.

**Procedural (in)justice**

Almost all of the HRPs had followed different strict procedures in their organisations such as sexual harassment or harassment handling procedures, grievance handling procedures, discipline management procedures – most of which were developed to ensure justice. Yet, many HRPs have still acted unjustly in certain instances while following the steps of these procedures. They have mostly been concerned on ensuring that they take decisions based on evidence (accuracy rule – Leventhal, 1980) but have mostly not been consistent in the manner that they have handled the complaint or in the decisions taken related to the complaints. Further, in ensuring that they take decisions based on evidence, some HRPs have overlooked the interactional justice. There had also been some personal biases/interests that had entered the complaint resolving process.

Taking value laden and judgmental decisions about incidents /complaints of sexual harassment

An act of injustice that was most commonly seen among many of the HRPs was how they have taken judgmental and biased actions and decisions, breaching the *bias suppression rule* (Leventhal, 1980). The biasness is based on the complainants’ and/or the perpetrators’ prior behaviour, personal relationships as well as HRP’s unawareness and insensitivity about the issue of sexual harassment. In explaining how he handled a particular sexual harassment complaint, HRP25 had this to say about the complainant:

*The girl was also very playful. So, the girl was inviting, I mean. Like she was touching their* [colleagues] *tummies and you know. Touching and feeling the boys. Then later she has made a complaint that someone touched her bottom when she was in the cold room.*

He went on to explain how the process was carried out;

*The inquiry of course was a HR inquiry. With the complainant and all the HOD and everybody was present. And I conducted the inquiry. Then there was no evidence to prove. And this girl also had a track record. A bit of a cracko. Goes and plays with everyone, you know. When she goes and plays with everyone then somebody would also try to play with her, no?*

While HRP25 appears to have followed the normal company procedure in handling sexual harassment, it was evident that his perceptions about the complainant based on her prior behaviour affected his actions and decisions, especially when he conducted the inquiry. Further, he did not indicate any efforts by him to collect evidence and had carried out the inquiry on his own. This too shows how his judgments have led to unfair handling of the complaint. The fact that the complainant had resigned soon after this incident additionally indicate how the act of the HRP would have been seen as unfair by the complainant too.

Many HRPs were noticeably unaware about the real nature of sexual harassment and appeared to hold many misperceptions and myths about sexual harassment and therefore had tended to take unfair decisions based these misperceptions and myths. For example, HRP17, similar to few other HRPs, was of the opinion that women should say no to harassment at the first instance or make a complaint. If a complainant has not complained immediately of sexual harassment, these HRPs perceive ulterior motives of the complainant. They clearly have not understood how traumatic sexual harassment can be for an individual and how many factors can refrain a victim from acting assertively (saying no or complain) – one of which can be the very actions of the HRP.

*I think if you are not in a position to say ‘no’ to that person directly, don’t wait until it gets worse. Because when she gave evidence, she spoke about three or four instances* [of harassment]*. So why wait until then?*

HRP20, who is a female herself, was of the misperception that females have a responsibility to prevent sexual harassment.

*I feel that maybe as females, if we behave in a such a way, you know,* [we experience sexual harassment] *like maybe if we don’t tolerate something* [we can avoid sexual harassment] *… this is only based in my experience, I have worked in one, two, three, this is my fourth company, I haven’t faced that kind of a situation* [sexual harassment] *even as a junior person. So, I feel, as females we have a kind of a huge responsibility, if we don’t want, if we don’t tolerate, I don’t think that, that* [sexual harassment] *can happen.*

In handling a complaint from a female executive of being sexually harassed by a colleague, how HRP4’s perception about her based on his prior dealings with her, affected his judgments is evident is the following statement he made.

*Then when I factored in that this lady is also quite social and she had danced with me you know at parties, I can recall many a times where I would have hugged her and she would have hugged me so there was a possibility where she also would have socially engaged with this guy. Now in that context there was a possibility that he was misled to do this.*

Inconsistency in handling complaints

A labourer-level female employee had complained to HRP24 about harassment that she was facing from a manager in the company. Later, the manager also came and complained to the HRP about insubordination by the female. The issue was then finally traced back to a sexual harassment faced by the female from the manager at her home (when the manager had visited her home on some matter). However, HRP24 did not consider the sexual harassment incident that took place as it did not occur at the workplace and took action for insubordination. According to HRP24,

*Then only* [when the manager made the complaint] *the girl said ‘sir, this is not the real story, the real story is this* [sexual harassment]*. That is why I scolded* [the manager]*.’ But the problem was I couldn’t record this as it* [sexual harassment] *was not something that happened in the company. So, what we would normally do is if insubordination occurred, we would take harsher punishment. But in this case, I didn’t do that considering what had happened to her, I transferred her to another premises*

Yet, in another instance when a female executive was sexually harassed (verbal harassment) by two labourer-level men, HRP24 had taken immediate action, by asking the two men to immediately apologise to the complainant.

*Once there was a new HR executive, a girl, when she was going home two of the labourers have said something bad to her and she came and told me. Then I summoned the two labourers and asked them what happened. And they said that they said something to her but without knowing that she was an executive working in the company. And then I shouted at them ‘will you say these things if it was your sister or your mother? You wouldn’t’ and then they apologised. I asked them to apologise to her.*

HRP’s action clearly indicates the inconsistency in how he had handled the two instances. This HRP appears to be taking the upper level employee’s side (perpetrator’s side in one instance and the complainant’s side in the other). At the same time, the fact that the HRP did not take action against the manager for sexual harassment stating that the incident occurred outside the workplace can be due to his unawareness of the complexity of the issue of sexual harassment or his attempt to rationalise his inaction.

Similarly, HRP5 stated how she would take extra care in handling a case involving a senior person indicates her biasness and inconsistency in handling complaints.

*I would be cautious* [in handling a case related to a senior] *because of that person’s reputation. For whatever reason, that will need to be managed. So, I would exercise all precaution.*

Evidence related

Finding evidence related to sexual harassment complaints is indisputably a daunting task. Unlike in other misconducts such as theft and dishonesty, finding evidence can be difficult in sexual harassment incidents, as sexual harassment generally happens in isolation and secrecy. Many HRPs do not seem to have understood this complexity and distinctiveness in handling sexual harassment complaints and act unjustly and unfairly because of it.

*Give the responsibility of finding evidence to the complainant*

There were many HRPs who had not taken the initiative or the effort to collect the evidence and find information to carry out a proper investigation. They mainly appear to depend on the complainant to bring all the evidence to prove the case and when the complainant has not, the HRPs have not taken any action to resolve the complaints (set aside the complaints due to lack of evidence). However, expecting the complainant to bring all the evidence to prove the case is unfair, as for one, these incidents happen in isolation and secrecy and it will be difficult for the complainant to bring evidence. It is the responsibility of the HRP to find the relevant information and evidence through an effective investigation. Otherwise, the victims who do not have hard evidence to prove sexual harassment, would not approach the HRPs with their complaints.

*Dismissing complaints due to lack of evidence and overreliance on evidence*

There were also HRPs such as HRP25 (explained earlier) who had set aside the complaint due to lack of evidence either at the initial stage of the complaint or after the investigation. Even though it would be in line with certain aspects of procedural justice such as *accuracy rule* (Leventhal, 1980) where it is stated that procedures followed should be based on valid information, setting aside a complaint due to lack of evidence would be unfair as in many instances findings evidence for sexual harassment is difficult due to its very nature as also discussed above. As HRP5 stated,

*So, what happened was the inquiry ended by saying there was no evidence...So, the basic investigations were over and we communicated to the victim that there is no strict evidence on this. She was not happy… but she also later accepted ‘ok if there is no evidence what do I do?’.*

Again, the unique nature of sexual harassment and how it takes place needs to be identified by the HRPs and should find alternatives to resolving complaints rather than setting them aside for lack of evidence.

Delaying taking action

Delaying taking action is also an unfair act the HRPs engage in which can discourage other victims coming forward as well as which can lead to the complainant being unhappy about the handling of the complaint. This can lead to many other consequences such as lower performance, disengagement and even resignation. Other employees would also perceive HRP as inefficient and they would lose trust in the system. HRP30 had delayed the process of handling sexual harassment because she could not find sufficient evidence, which had led to unrest among the employees.

*But…there was a mechanic who had touched a girl’s hand when she went to get some oil from the maintenance room. But here, even though a complaint was made there were no evidence. No cameras. So, when we delayed handling this a little, the workers demanded why the person was not terminated.*

Not giving fair opportunity for both parties to present their cases

In a sexual harassment investigation, both victim and alleged harasser must be given the opportunity to present their case and be treated fairly during the investigation (Dorfman et al., 2000). However, sometimes it was seen that the HRP had believed one party (either the complainant or the accused) and had not given the other party fair opportunity to present their case or have not given sufficient consideration to the one party’s case/explanation.

Work purely on intuition

Unlike with other forms of misconduct, intuition can help HRPs to make decisions in handling sexual harassment cases when there is no clear evidence. However, working purely on intuition can lead to unfair decisions and be seen as unfair by others.

Conducting domestic inquiries

While almost all HRPs mentioned having domestic inquiries in resolving sexual harassment complaints after a formal investigation, we see this as an unfair action when considering the fact that it is not legally mandated and can be an unnecessary step in the process. If a proper investigation is carried out and accused has been given the opportunity to provide his/her explanations, there is no need to conduct domestic inquiry.

HRPs resort to domestic inquiries mainly as they treat sexual harassment as any other misconduct and a domestic inquiry is a step in the disciplinary process in many organisations. While holding a domestic inquiry might be useful if the matter proceeds to a court of law, there is no guarantee that it will benefit the organisation. When you look at how domestic inquiries are carried out in Sri Lankan organisations, it is clear that there are many occasions that biases and inequities can occur.

First, a domestic inquiry is being held similar to a court hearing in organisations, where relevant parties (complainant, accused, witnesses and the HR/investigators) will provide statements, questioned and cross examined. This process can be very stressful for the parties. It can be an emotional roller-coaster as well as a time consuming, negative endeavour. Second, a domestic inquiry will have a prosecuting officer, a defendant and a judge (inquiring officer) who can be an internal officer or an external party. In the private sector in Sri Lanka, generally the defendant will not be allowed to be represented by another party (such as a lawyer or a trade union) while the organisation will be represented by a lawyer or an expert. Mostly, if the defendant (accused) is a member of a trade union, a member of a trade union might be allowed to participate in the hearing as an observer, but would not be able to act on behalf of the accused. Not allowing the accused to be represented by another party, while the company would have expert representation, is a clear breach of representativeness rule (all groups affected by the procedure and decision-making process must be fairly represented - Leventhal, 1980) under procedural justice. Further, as Greenberg (1987) states, parties to the complaint and observers will be more satisfied (perceived justice) when then the parties have control over the process (such as selecting their own representatives and inquiring officers).

Third, HRPs also stated how the domestic inquiring officers (judge) are appointed by the company or the HRP. While the inquiring officer might be an outsider – and according to the HRPs this is to ensure fairness and to be unbiased – the parties to the complaints clearly have had no say in the selection of the inquiring officer, questioning the fairness or the perceived fairness of the selection. There were also instances where the HRPs have acted as the inquiring officers, which can clearly be seen as unfair or where actual biases based on the relationships the parties and the HRP has and the HRPs prior knowledge of the parties (e.g. HRP25 – incident explained earlier).

In sum, while it is the general practice of Sri Lankan organisations when handling disciplinary incident, indicating due process and principles of natural justice, we see it as an undue step in the process which can be unfair to the parties in different ways. This is especially not useful when an effective investigation is carried out with statements being taken from all the relevant parties and ‘show cause’ letter issued and explanations from the accused obtained.

No opportunity for appeal

Another criterion in procedural justice that the HRPs breached was the correctability of the procedure by allowing for the correction of unjust or poor decisions (Leventhal, 1980). There were only few companies with an appeal process and in many companies the decision of the committee, HRP or the top management was the final without any avenue for the parties to appeal the decision. Hence, if the parties perceive the decision of the organisation to be unfair, the avenues available to them would be legal such as Labour tribunal or complain to the Commissioner of Labour.

Consider the complaint as personal and hence do not take action

There are HRPs who see sexual harassment as a personal matter and do not get involved in it unless it comes as a complaint. As HRP2 said,

*Now sometimes people they have personal issues. Personal reasons also there. So, if it comes as a complaint to HR only we will you know start the investigations or the inquiries otherwise it’s their personal matters to solve their personal stuff. So, we don’t want to involve unless otherwise it’s not come as a complaint, we are not involving for anything.*

Requirement of initial written complaint

There were other actions of HRPs that were fair according to the procedural justice rules, but appear to be unfair from the complainant’s point of view such as asking for written complaints and asking to report the incident within a certain time period of the incident happening. While these rules in the procedure would ensure justice from one point of view, it can make a victim reluctant to complain (if only written complaints are taken up) or discourage a victim from complaining as the incident had taken place beyond the time period given. These rules in a process can be due to unawareness of the HRPs or the parties who developed the policies and procedures. They have not understood the sensitive nature of sexual harassment and how victims would be reluctant to come forward with written complaint due to various reasons and would be more comfortable first verbally forwarding the complaints. Also, only hearing a complaint which have taken place during a certain time period would not be fair, especially when the time period is very short. For example, company 12 and company 27 had specified in their sexual harassment policy that the victim should report the incident within 5 days of its occurrence. There would be many instances where a victim would not make a decision to make a formal complaint – which is a serious decision – immediately, due to many reasons such as attempting to solve the issue informally, thinking that the behaviour will eventually stop, and not being aware of the organisational avenues available. Hence, not taking up a complaint to be solved because the complaint was not given in writing or because the time period had lapsed would be unfair acts of HRPs, which would not help in combating the issue from workplaces.

**Distributive (in)justice**

It will be difficult to maintain distributive justice in handling complaints, as an outcome that is fair (or seen as fair) by one party (victim or the accused) will inevitably be seen as unfair from the point of the view of the other party (accused or the victim) in many instances (Dorfman et al., 2000). Yet, by exploring the existence of criteria such as consistency, lack of bias, correctability, representation, accuracy, and ethicality, as well as whether decision is based on evidence (Leventhal, 1980), we can resolve to understand what actions of the HRPs are unfair and unjust in terms of the outcomes of a process. Within this context, similar to procedural (in)justice, there were many instances that the distributive justice was also breached by the HRPs by not taking any action against the perpetrators, taking unfair, unethical and biased action or action which are not consistent with the severity of the sexually harassing behaviour.

Outcomes not consistent with the severity of the act

Whether an outcome is fair or not depends on many factors. According to Jensen and Kleiner (1999), severity, frequency, employee performance, past action, victim’s interest, harasser’s interest and company’s interest should be considered in determining proper corrective action. However, in many instances the HRPs did not appear to have considered these factors in taking actions related to the complaints making the outcomes unfair (and seen as unfair).

There were instances where the HRPs have not considered the severity of the act when taking action, and hence the action had not been consistent. While the outcome of certain complaints which were serious has been a verbal or a written warning, in certain other complaints the outcome was to ask the accused to leave the organisation even when the complaints was not very serious. For example, HRP27 has only given a warning letter to an accused of a sexual harassment incident involving physical groping (severe form of sexual harassment) and HRP30 had terminated an accused for an unwanted comment made. Further, even though HRPs appeared to have considered the perpetrator’s performance in deciding the outcome, they have not considered other factors such as the past behaviour of the accused in deciding the outcome.

There have also been instances where HRPs do not take serious action or not take any action at all if the perpetrator is senior member of the organisation. The position of the parties to the complaints have also led to HRPs to act unfairly in handling sexual harassment complaints.

Asking to resign and providing referrals

It was also seen that many of the HRPs have requested the accused to resign from the company, upon being proved of their wrong doing, rather than terminating their services. This is done to protect the company from future litigations of unfair termination, as according to the legal provisions in the country an employee can seek relief for unfair termination from Labour Tribunal whilst employees who resign from job in their own volition cannot (Industrial Disputes Act). Hence, HRPs almost in all instances had requested the accused to resign from the organisation. Whether this is a fair act or not is questionable. However, an act that is not only unfair but also unethical is the fact that some HRPs have given recommendations and employment referrals to these employees who are sexual harassers when they resigned from the organisations. In such a context, they will be recruited by other organisations without knowing their history which can place the employees at the new company at a risk of sexual harassment. Further, the HRPs have clearly looked at protecting them from sexual harassment and future litigation and had avoided to consider their responsibility towards protecting another company or employees from sexual harassment.

Action against the complainant

An act that was unmistakably unfair was that some HRPs have taken action against the complainants too in the pretext of protecting them or resolving the situation. The action HRP35 had taken when one of her outsourced employees was sexually harassed by an office assistant in the permanent carder of the organisation clearly appears to be unfair. Although the perpetrator’s services had been terminated, the HRP asked the outsourced company to transfer the victim to another company.

*So that was basically what the MD* [Managing Director] *wanted. Because we couldn’t see the exact thing happening, let’s decide on this and we didn’t ask the girl to resign but later it was actually… even the chairman was also saying don’t keep the girl as well. It wouldn’t have happened in a similar way if it was an employee of the company. But since it was an outsourced employee, it happened.*

It was seen that the HRP had gone along with the decision of the MD without attempting to take the fair decision. This action is evidently unfair as the victim too had been transferred from the workplace without any fault of hers.

Similarly, HRP2 had received a complaint of a female employee slapping a male employee at work. The HRP had called the two parties separately and had an inquiry where their statements were obtained. The company lawyer too had been involved. Then referring to the history of both parties and their behaviour they were both asked to resign. The reason behind the female slapping the male had been a sexual harassment incident.

*They each had a very bad you know history because now when it comes to the girl’s side, she had a lot of affairs you know and this is not her first boyfriend and while she is having the affair with this boy, she had another affair. Likewise, it was a huge mess-up and you know there was a huge problem comes when even we do the investigation. They you know thrash out some handbags, umbrellas here to there and you know it’s a big problem. So, then we decided they are not professional people to keep in our company so that’s the decision.*

Not protecting the confidentiality

Few HRPs have also not been concerned about confidentiality or about the importance of protecting the confidentiality of the parties involved. HRPs have compromised confidentiality by sharing information about the complaint with parties who do not need to know about the incident. For example, HRP21 stated how she would inform the manager of the accused and the complainant when a complaint is received. Unless such communication is needed and would help solve the issue, it is not needed for the HRPs to inform these personnel about the complaint as it would jeopardise the discretion. Also, when parties not related to the incident get to know about the complaint, they can also exert undue pressure on the HRP or the parties involved such as the complainant, perpetrator or the witnesses. Not carefully protecting the confidentiality of a complaint can make other victims afraid to come forward due to their need to keep the matter confidential, can discourage witnesses from giving evidence due to pressure from different parties, can impact the professional and personal life of the accused and victims. For example, in a complaint where an employee had sexually harassed several women, the complaint was revealed to several top managers in the company, including the perpetrator’s manager, by HRP35 in handling the complaint. The others in the company too had gotten to know about the incident, which had led to the accused being made fun of, even without anything being proved against him. Also, the manager of the accused had intervened in the process in several ways.

*I believe it* [the investigation process] *got dragged because of the perpetrator’s HOD. He had power in the company and he is also considered as a womaniser. Within the system he has that reputation, but it has happened way back. I think he* [manager of the accused] *was embarrassed that it happened in his team. He wanted to somehow push it* [under the carpet] *like not let it to surface… I was new to the company at that time, and ‘this new HR person coming into the picture and like…accusing one of his employees’, that really threatened him* [manager]*. And later I believe that there was also other feedback from top people, that later on the manager was also sure that this guy would have done this. And it seems like in this guy’s departure the HOD too played a role… Because he* [perpetrator] *was made fun of and all of that, and his work would have gotten affected and then the manager must have been like pushing him ‘you have this and that, this problem and that’. He was basically happy to send the guy off. If that inquiry took place and the verdict was to send the guy off, he* [manager] *wouldn’t have liked it. But if he himself had decided to send him off, that would have been ok for him. ‘Like I send him off’.*

**Interactional (in)justice**

It has been constantly highlighted that the grievance procedures and harassment policies give priority to protecting the employer from any liability arising out of a sexual harassment or harassment complaint, rather than protecting the victim or assisting the victim (Charlesworth, 2002). This was clearly evident in the conducts of the HRPs in handling complaints and thus had led to interactional (in)justice. There were many instances where HRPs have not treated the parties to the complaint with care and respect, whether it is the complainant, accused or witnesses. Further, they also had not always provided open, comprehensive and truthful explanations (Colquitt, 2001) to the parties about how the company is handling the complaints, what is being done and with what reasons, for them to more fully understand the actions and decisions of the HRPs.

How the employees were treated – interpersonal (in)justice

In handling complaints, some HRPs had treated the complainant with distrust and had not demonstrated respect and sensitivity to the issues of the complainant. Other than a few HRPs, others did not indicate sensitivity towards the difficulties the complainant would face in repeating the incident to different parties at different instances throughout the complaint handling process. This can be very tedious to the complainant and can be emotionally traumatic and exhausting. Having not understood this strain on the complainant, HRPs follow the processes where the complainant would be asked to repeat the incident many times (e.g. at the time of initial complaint, then when the complaint is formally noted down, during the preliminary investigation, and during the domestic inquiry) to different people (such as to committee member or a specially appointed personnel – internal or external – at the initial complaint stage, and then to HRP when the complaint is forwarded to the HRP to take forward, then to investigator/s who are assigned to carry out the preliminary investigation and then to inquiring officers and lawyers at the domestic inquiry. There would also be company lawyers and compliance officers to whom the incident will have to be told).

Further, in getting information and statements, sometimes HRPs have resorted to a cross-examination type of interviews rather than a fact-finding discussion. Such cross-examination can make the parties feel distrusted and disrespected. For example, HRP13 stated how when a female came and complained about sexual harassment, he ‘cross-examined’ the complainant and found out that some of the information that was said does not collaborate.

*My cross-examination proved that she was lying. So, then I had a credibility issue whether she was telling the truth on these incidents. So, I told the lady “look now what do you need? Do you need me to record this as a harassment and send it to the committee? I can do that. So that means if you can prove what you are saying or whatever or are you asking me for a career advice? Or what exactly do you want done tell me.”*

Cross-examination as well as the manner in which the HRP13 had communicated with the complainant indicate how disrespectful and distrustful the HRP had been during the discussion.

Not provide sufficient information – Informational (in)justice

As prior research indicate, explanations of final decisions should be conveyed clearly and effectively without the use of inappropriate or unprofessional language (Colquitt, 2001). However, very rarely have the HRPs provided comprehensive information to the parties involved. For example, as HRP21 stated,

*we call her* [complainant] *back in and say this is what’s going to happen, we will take certain actions, we don’t go into detail. I mean if it’s a termination, she can see that* [the accused is terminated], *but we say that necessary action has been taken, we have addressed it formally with the person and then basically the employee is requested to close the grievances being ok.*

This statement of the HRP evidently indicate how incomplete the information given to the complainant is and how a lot of the reasons are kept for interpretation. Similarly, HRP5 stated,

*We have told what is necessary to be told, what is required to be shared we have shared because otherwise you know certain things when you try to tell this, that and everything it’s not right, because I believe if you hear hundred words, fifty may be not true. So, most of the situations, we have made a summary and I shared that summary, we read out that this is what has happened and you know what is your view or what is your opinion.*

**Discussion**

It is clear that even though HRPs followed a formal procedure and indicated legal protection at the exterior, there were numerous unfair acts and decisions that question the fairness and justice of the behaviour of the HRP as well as the organisational processes and practices. There were also many instances where the HRPs have not followed the company procedure in handling sexual harassment complaints (i.e., procedural injustice). Although not following a procedure can lead to procedural injustice, in many other instances such as general misconduct, the very nature of sexual harassment and the complainant’s request can lead to HRPs not following a formal procedure and handling the complaint informally. Hence, merely not following the formal procedure cannot be considered as unfair. It is important to understand why the HRPs have not followed the procedure and what actions the HRPs have taken to resolve the complaint/incident, to decide whether the action of the HRP is fair or not. However, there would be different negative consequences by not following a formal procedure. First, others (e.g. observers, witnesses and trade unions) might perceive the HRP as being biased, unfair and unjust for not following the procedure, especially if they do not know the informal action the HRPs had taken to resolve the issue (i.e., interpersonal injustice). Second, HRPs will not be able to maintain consistency in how they act and make decisions as a formal set procedure is not followed (i.e., distributive injustice).

**Conclusion**

In this paper we explored and identified how Human Resource Professionals (HRPs) acted unfairly and unjustly in handling sexual harassment complaints, by applying the theory of organisational justice. We found the numerous ways and means by which injustices are manifested in organisations by HRPs when handling sexual harassment complaints. That is, this research highlights how distributive, procedural and interactional injustices take place in organisations during the handling of sexual harassment complaints. Hence, HRPs should be careful to avoid acting unfair in order to avoid the numerous negative consequences of such practices. We emphasise the difficulty as well as the need for HRPs to be fair while being legally defensible. In the context of social sustainability, we believe (in)justices in handling sexual harassment complaints affect the well-being of organisations and its related stakeholders such as employees and society. Thus, through this research we emphasise that organisations should not merely look at justice from organisation’s perspective but also from the perspective of victim, perpetrator and witness.

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