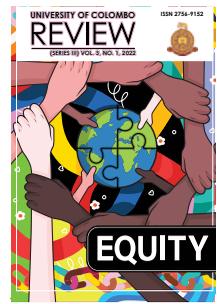


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What not to do: (In)justice enactment in handling complaints of sexual harassment

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ABSTRACT

This article aims to explore and identify how Human Resource Professionals (HRPs) act unfairly/unjustly in handling complaints of sexual harassment by applying the principles of organizational justice theory. Following qualitative research methodology, 35 HRPs from 30 companies in Sri Lanka were interviewed. The findings indicated the numerous ways that procedural, distributive, and interactional injustices take place in handling complaints of sexual harassment. Under procedural injustice, it was found that HRPs sometimes took judgmental and biased actions and decisions, dismissed complaints due to lack of evidence, over relied on evidence, gave the responsibility of finding evidence to the complainant, and mandated an initial written complaint to proceed with the handling of the complaint. Under distributive injustice, the HRPs sometimes have not taken any action against the perpetrators, taken unfair, unethical, and biased actions that were not consistent with the severity of the sexually harassing behavior, had asked the perpetrators to resign rather than terminate their services and taken action against the complainant in the pretext of protecting them or resolving the situation. Breaching the interactional justice, HRPs, at times, appear to have not treated employees with respect and care and had not provided sufficient information to the parties of the complaints. These unfair/unjust practices point towards the pitfalls that HRPs knowingly or unknowingly encounter, which will help HRPs to avoid them and thereby handle sexual harassment complaints fairly.

KEYWORDS:

Sexual harassment, Organisational (in)justice, Human Resource Professionals, Complaint handling, Training, Fairness

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Introduction

Handling complaints of sexual harassment fairly or justly¹ is identified as one of the most challenging tasks for Human Resource Professionals (HRPs) (Dorfman et al., 2000). There are numerous guidelines (Becton et al., 2017), frameworks (Pierce et al., 2004), procedures (Chan & Kleiner, 2010), and good practices (Catley et al., 2017) that document how complaints of sexual harassment should be justly handled. Similar to these guidelines and procedures, organizational justice and justice enactment research has also established principles such as procedural, distributive, and interactional justice criteria that decision-makers (such as HRPs) ought to adhere to, not only in maintaining justice in organizations but also to be perceived as fair (Bies & Moag, 1986; Leventhal, 1980). Despite these numerous principles, criteria, guidelines and frameworks, and extended practitioner-oriented and academic inquiry into the issue, there are persistent reports of complaints of sexual harassment being resolved unjustly (McDonald et al., 2015) or where no action has been taken. Unjust handling of complaints of sexual harassment will inevitably lead to employee dissatisfaction, lower morale, higher employee turnover, lower complaints (which will, in turn, lead to an increase in sexual harassment incidents) and legal action being taken against the company (by the complainant, alleged perpetrator, or trade unions). Yet, scholars have not delved sufficiently into injustice and justice rule violations (Colquitt et al., 2015) in handling sexual harassment complaints.

To better understand why injustices continue in handling complaints of sexual harassment, we believe it is important to reflect on how and in what circumstances HRPs act unjustly. As research indicates, what garners the attention of individuals and influence their attitudes and behaviors are the injustices that take place rather than justice (Colquitt et al., 2015; Cropanzano et al., 2011). Yet, how injustice occurs, how HRPs act unjustly, and the tenacity of injustice in handling sexual harassment complaints have not been sufficiently explored in research on sexual harassment at workplaces. This also remains an area that is said to need further exploration in the well developed arena of organizational justice research, with researchers highlighting the lack of attention being paid to the role of decision-makers (such as HRPs) and why and when decision-makers act fairly or unfairly (Colquitt et al., 2015; Cropanzano et al., 2011; Graso et al., 2020). According to Colquitt et al. (2015), scholarly attention has mainly been paid to adherence to the rule of justice, overlooking violations of justice rules.

Without fully understanding the nuances of how injustice takes place, in what instances HRPs violate justice principles, how HRPs act unjustly and in what specific stage of complaint handling HRPs act so, we will not be able to make the HRPs accountable for their actions, make recommendations or implement prior guidelines and principles on handling complaints justly, take corrective action nor effectively mitigate the tenacity of justice violations by HRPs. Further, to obtain a better understanding of why injustices persist in handling complaints of sexual harassment and to identify pitfalls that HRPs should avoid to ensure justice and fairness, and to rectify unjust actions of HRPs, it is important to first understand where and how injustice occurs. Against this backdrop, this article aims to explain how and in what instances HRPs act unfairly when handling complaints of sexual harassment complaints.

In finding answers to our research problem, we ground our analysis on the theory of organizational justice and justice enactment. By understanding the nuances of how injustice occurs, in what instances HRPs violate justice principles, how HRPs act unjustly and in what specific stage of complaint handling HRPs act unjustly, together with best practices, HRPs will be able to design more effective content for their training on handling complaints of sexual harassment. Such designed training can better illustrate to HRPs why injustices persist in handling complaints of sexual harassment in organizations and the pitfalls that HRPs should avoid to ensure fairness. Besides, this understanding of how HRPs act unjustly can also make them accountable for their actions, make recommendations or implement guidelines and principles on handling complaints justly, take corrective action and effectively mitigate the tenacity of justice violations by HRPs. The understanding gained through this study can be incorporated into training programs on fair handling of complaints of sexual harassment, not only to highlight the pitfalls but to also present HRPs (trainees) with practical examples of incidents of what not to do for more substantial training impact.

Organizational justice and justice enactment

While organizational justice describes how people perceive fairness in organizations (Greenberg, 2011), organizational 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). Organizational justice theories have been used in sexual harassment literature mainly to examine areas such as how organizational justice perceptions impact the prevalence of sexual harassment and how it impacts the victim’s complaint intentions. For example, Krings and Facchin (2009) documented how sexual harassment likelihood may increase due to perceived injustice. Adams-Roy and Barling (1998) reported how managing the justice climate effectively helps deter sexual harassment. Numerous studies have explored what justice means to victims of sexual harassment and violence. These studies have identified different criteria and justice needs of victims when they make formal complaints to authorities (Heydon & Powell, 2018). For example, in a study of victims-survivors of sexual violence, Clark (2015) found that acknowledgement and validation of victims' experience, accountability and responsibility of perpetrators, retribution or 'righting of wrongs', and assurance that harm will not happen again to the victim or others are criteria of justice that victims look for when formal complaints are made. However, we could not find studies that had employed organizational justice theories to understand the (in)actions of HRPs in handling complaints of sexual harassment or used them concerning training on sexual harassment. Hence, how injustice takes place in handling complaints of sexual harassment and how trainings for HRPs can focus specifically on handling complaints of sexual harassment more fairly in a way that redresses injustices appear to be an area of study that lacks detailed inquiry/understanding.

Perception of fairness depends on the perceiver and the person's social comparison to arrive at such perception (Greenberg, 2011). However, in this article, we are not taking any

stakeholder's perspective in arriving at injustice. Rather we use the organizational justice theory perspective regarding the procedure and outcomes of handling complaints. That is, in this study, to understand how HRPs act unfairly, we use the different principles of justice; distributive, procedural, and interactional justice (Greenberg, 1987), as the theoretical base, as justice will be ensured or enhanced if agents adhere to these principles of justice (Cropanzano et al., 2007). Accordingly, distributive justice discusses the fairness of an outcome and the need for consistency between the outcome distribution through equity or equality (Leventhal, 1980). Procedural justice explores how a decision is made and whether a fair procedure is followed by ensuring criteria such as consistency, bias suppression, correctability, representation, accuracy, and ethicality, and whether a decision is based on evidence (Leventhal, 1980). Interactional justice (which is further divided into interpersonal justice and informational justice) explores how people are treated (interpersonal treatment) as procedures are enacted (Bies & 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 justice principles as the basis, we explore how injustice occurs by identifying how the HRPs have failed to enact these justice principles.

Methodology

The data is part of a larger study that we conducted to understand how sexual harassment is prevented and handled in organisations. We conducted in-depth interviews using a semi-structured interview guide with 35 HRPs from 30 companies employing qualitative research. The respondents shared their experiences of handling complaints, not only about their current company but also about their previous companies. In addition, we asked them to describe complaint handling procedures in their companies, actual complaints, the challenges encountered, and the fairness of the outcomes. The respondents were selected through personal contacts. The positions of the HRPs ranged from senior to junior-level management, with 15 of them being males. The companies, all private, located in the business district of Colombo, were from different industries such as manufacturing, information technology, retail, service, finance, and education (see Table 1).

The interviews were conducted separately by us using the same interview guide. Interviews lasted, on average, an hour. The interviews recorded with permission were transcribed verbatim. Coding and categorising were done using thematic analysis (Braun & Clarke, 2012) by focusing on how the HRPs have envisaged, thought about, and handled the complaints they received, keeping the justice criteria as the basis. The codes and categories identified were collated into ten main themes under the three principles of justice, representing how HRPs act unjustly. The proceeding sections elucidate these ten themes. We did not find themes under all the criteria of Leventhal (1980). As the interviews were transcribed verbatim, the interview excerpts reflect that English was a second language for the interviewees and the prevalence of "Sri Lankan English". The "ers," "uhs," pauses etc were omitted from the interview excerpts.

Table 1. Company and respondent description

Company	HRP	Company	Position of the interviewee	Sex
1	1	Airlines	Compliance Manager	Female
2	2	Global IT firm	Head of Administration	Male
	3		HR executive	Female
3	4	MNC (manufacturing)	Former HR manager	Male
4	5	MNC (manufacturing)	Head of HR	Female
		Global IT firm		
		Global IT firm		
		Local Bank		
5	6	MNC (manufacturing)	Head of Employee Relations	Female
6	7	Bank and on MNC bank	Vice President HR	Male
7	8	MNC manufacturing	HR director	Female
8	9	Conglomerate	President Group HR	Female
9	10	Global IT consultancy company	Assistant HR manager	Female
10	11	Sri Lankan bank	Group Learning Officer	Male
	12		Chief Manager HR	Female
11	13	Conglomerate	Director - Group HR	Male
12	14	Conglomerate	Group Head of HR	Female
	15		GM Group HR	Male
13	16	Telecom	Head of HR	Male
14	17	MNC manufacturing	Operations HR Business Partner	Female
15	18	MNC Insurance	Senior Manager – Performance and Rewards	Female
16	19	Garment manufacturing	HRD Senior Executive	Male
17	20	Manufacturing	Director HR	Female
18	21	MNC Bank	HR adviser/business partner	Female
19	22	Financial consultancy	HR manager	Female
20	23	Fabric mill – Fabric manufacturer	HR executive	Male
21	24	Manufacturing	Manager - HR	Male
22	25	Hotel	Head of HR	Male

Company	HRP	Company	Position of the interviewee	Sex
23	26	Hotel	HR executive	Male
24	27	Multinational	HR business partner	Female
25	28	Multinational	Head of HR	Male
26	29	Educational institute	Manager Education	Female
27	30	Garment manufacturer	Senior executive - ER	Female
28	31	Retail – supermarket	Assistant manager – Industrial Relations	Female
29	32	Group of companies	Chief people’s officer	Male
	33		Senior Manager – HR	Male
	34		Training and development manager	Female
30	35	IT firm	Manager – HR	Female

Findings

How the 35 HRPs had handled complaints of sexual harassment indicated many instances where they have not adhered to procedural, distributive, and/or interactional justice. We attempt to move beyond the breaches of sexual harassment guidelines commonly discussed in the research, such as breach of confidentiality and delayed action, and highlight some distinctive instances of injustices engaged by the HRPs. We present the findings on (in)justices under the three principles of organizational justice.

Procedural (in)justice

According to Leventhal (1980), procedural justice means adhering to criteria/rules such as consistency, bias suppression, correctability, representation, accuracy, and ethicality. Interviews with the HRPs indicated that they have almost always followed company procedures, such as sexual harassment/harassment handling procedures, grievance handling procedures, or discipline management procedures, in handling complaints of sexual harassment. These organizational procedures have been developed to ensure the many criteria of organizational justice by mandating actions such as investigation (accuracy), giving opportunity for the parties to present their side of the story (representation), and decision making based on evidence (bias suppression). However, many instances where the HRPs have either not followed these procedures of organizations (wittingly or unwittingly), have given different interpretations to the procedures, or have been unjust even when following the procedures. We explain these instances where the HRPs have not adhered to procedural justice and acted unjustly next.

Biases: Taking value-laden and judgmental decisions

An act of injustice most commonly seen among many HRPs was how they had taken judgmental and biased actions and decisions, breaching the bias suppression rule of the procedural justice principle (Leventhal, 1980). Some HRPs have not acted reasonably, objectively, and factually in handling complaints of sexual harassment and have taken decisions regarding the complaint based on the complainants' and/or the perpetrators' prior behavior, personal relationships, personal opinion, or personal self-interest. 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....Touching and feeling the boys. Then later she...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...was an HR inquiry. With the complainant and all the HOD and everybody [were] present. And I conducted the inquiry. Then there was no evidence to prove. And this girl also had a track record....Goes and plays with everyone. When she goes and plays with everyone then somebody would also try to play with her, no?”

While HRP25 appears to have followed the standard company procedure in handling sexual harassment complaints (i.e., carrying out an inquiry), it was evident that his perceptions about the complainant based on her prior behavior affected his actions and decisions, especially when he conducted the inquiry. Further, he did not indicate any efforts by him to collect evidence and to carry out the inquiry on his own. The fact that the complainant had resigned soon after this incident indicates how the act of the HRP was unfair and would have been seen as unfair by the complainant. This could open up the likelihood of future litigations by the complainant against the company. As prior research has aptly established, when complainants perceive the action of decision-makers as unfair and unjust, they are more likely to seek legal redress (Elkins & Velez-Castrillon, 2008).

Many HRPs were noticeably unaware of the nature of sexual harassment and appeared to hold many misperceptions and myths about sexual harassment. For example, HRP17 believed that women should say no to harassment at the first instance or make a complaint as soon as an incident occurs. Hence, if a complainant has not complained immediately of sexual harassment, these HRPs appear to perceive ulterior motives of the complainant, questioning the complainant's actions (such as ‘why did she delay in making a complaint rather than file a complaint immediately’). 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 making a complaint). HRP20, a female herself, was of the misperception that females are responsible for preventing sexual harassment.

“I feel that maybe as females if we behave in a such a way...like maybe if we don't tolerate...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.”

Based on these misperceptions, HRPs have not justly handled the complaints and had either set aside the complaints or had not made a genuine effort to resolve the complaints following the proper procedure.

HRPs also seemed to be biased towards certain individuals of the organizations, which led to another procedural justice rule – consistency - being breached. While a few HRPs have been biased towards the senior officials (whether as the complainant or the alleged perpetrator), some other HRPs have been biased towards good performers. Few HRPs were also biased towards the party most known to them or those with whom they had closer working relationships. For example, a blue-collar female employee had complained to HRP24 about harassment that she was facing from a manager in the company. Later, the manager also complained to the HRP about this female employee's insubordination. The issue was then finally traced back to sexual harassment faced by this female from the manager at her home (when the manager had visited her home for some matter). However, HRP24 took action against the female employee for insubordination without considering the sexual harassment incident, as it did not occur at the workplace. Even though he dismissed this incident of sexual harassment, in another instance, when a female executive was sexually harassed verbally by two blue-collar men, HRP24 took immediate action by asking the two men to apologise to the complainant immediately.

“Once there was a new HR executive, a girl, when she was going home two of the laborers have said something bad to her, and she came and told me. Then I summoned the two laborers 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...I asked them to apologize to her.”

This HRP’s actions indicate how his biases have led to inconsistency in handling the two complaints. This HRP appears to be taking the management-level employee's side (the perpetrator in one instance and the complainant in the other). This bias of HRPs towards senior employees was identified as a common act of injustice among the HRPs, with several of them openly stating that they are more careful and sensitive when a senior person is involved in a case, leading to inconsistencies in how the complaints are handled.

HRP6 stated how another HRP in her company had set aside a complaint because the alleged perpetrator was personally known to the HRP and a good performer.

“There had been a complaint, and then the respective HR person was a good friend of this person [alleged perpetrator], and therefore she had not taken any action, and so when it was brought to my notice, [I was told] by the bosses and the regional bosses...that ‘he is a very good guy, he’s a good manager, we don’t want to lose him, we want to keep him and if you go into an inquiry you know he will leave’.”

HRPs being biased led to inconsistencies, thus breaching two important procedural justice criteria: bias suppression and consistency.

Dismissing complaints due to lack of evidence and overreliance on evidence

Some HRPs, such as HRP25, had set aside complaints of sexual harassment due to lack of evidence either at the initial stage of the complaint or after the investigation. According to procedural justice, evidence plays a crucial role in upholding accuracy by making an objective and fair decision (Leventhal, 1980). However, due to the nature of sexual harassment, it is not always possible to find evidence. As researchers have highlighted, sexual harassment is a very personal experience (Clair, 1993) surrounded by secrecy (Clair, 1993; Fitzgerald & Ormerod, 1993) and cloaked in privacy (Elkins et al., 2008). These inevitably make it always challenging to find evidence. However, some HRPs did not appear to have understood this difficulty in finding evidence in sexual harassment incidents and had decided to set aside a complaint solely due to lack of evidence. Yet, given the nature of sexual harassment, this would be an act of injustice, especially from the complainant's view. As HRP5 stated,

“What happened was the inquiry ended by saying there was no evidence...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?’.”

There were also instances where the HRPs set aside complaints or did not act upon the complaints as they believed that the evidence was insufficient. While the amount of evidence needed to ensure accuracy is a judgemental call, this is seen to be (mis)used by the HRPs to set aside the complaint. The various reasons were biases towards the alleged perpetrator, prejudgements and stereotypes, pressure from other parties, particular self-interest (such as unwillingness to get involved in a cumbersome and complex process), or taking the easy way out. For example, HRP6 stated:

“We didn’t have very, very strong evidence to terminate him. I tried my best to find evidence, [but] we didn’t have [any] because other than this lady’s evidence and the two security persons’ evidence and a few telephone calls this lady had recorded there was nothing much to say that you know he actually [sexually harassed] so that’s why if we had very strong evidence we could [have taken action].”

While several items of evidence were available, HRP6 had decided they were not sufficient. This decision of HRP6 is questionable.

HRP5 stated how she would give the benefit of doubt to the accused in the absence of evidence and hence would not take up the complaint, sympathizing with the accused and his career and life, but overlooking the devastating impact sexual harassment would have on the complainant’s career and life.

“You have to purely go by the evidence that these people [the complainant] have come up with which can be very emotional and very vague. So, if there is absolute proof you can go down the path of maybe domestic inquiries [and] all of that. But unless there is absolute proof, you can’t also take action because it’s damaging somebody’s career and life after that because even if children or families get to know, there is a huge impact.”

HRP5 took the accused's side in the absence of “absolute” evidence due to gender biases and unawareness of sexual harassment and its impact on the victims. This indicates how biases can influence the justice enactment and how specific criteria (such as accuracy – the need for evidence) can be misused in the pretext of justice.

Merely setting aside a complaint without considering the quality of the evidence available, other possible means of collecting or corroborating evidence, is a clear act of injustice. How much evidence is enough and what types of evidence should be considered should be decisions HRP's make without any biases with adequate understanding of the nuances of sexual harassment.

Giving the responsibility of finding evidence to the complainant

Some HRP's had not taken the initiative to collect evidence and find information to conduct a proper investigation. They mainly appear to depend on the complainant to bring all the evidence to prove the case. HRP6 said how they went straight into disciplinary action (termination) without even an inquiry because all the evidence was provided by the complainant.

“In this [a particular complaint] there was no inquiry at all because this case was filed with all the evidence, with all the photographs, the E-mail evidence, very clearly giving the dates, times, the instances.”

When the complainant had not provided (enough) evidence, the HRP's have not taken any action to resolve the complaints. This is reflected by the following statement of HRP14,

“One challenge would be the fact of evidence...which is also crucial because evidence needs to be conclusive...If we are to take the word of that person [complainant], again it's a tough call because there can be reasons for somebody to [make] ...a false complaint as well.”

However, such an expectation is unfair. First, as these incidents happen in isolation and secrecy, it will be difficult for the complainant to bring evidence. Second, as complainants are not trained in gathering/keeping evidence of their experiences, they would struggle to provide the relevant evidence, even if evidence was available. Hence, it is the responsibility of the HRP to carry out a fair investigation and find out the evidence without placing that burden on the complainant. Placing the burden of collecting information on the complainant will lead to the HRP's being seen as inactive and procedurally unfair. If the victims do not have hard evidence to prove sexual harassment, they will not approach the HRP's with their complaints.

Mandating an initial written complaint

There were other actions of HRP's that can be seen as fair according to the procedural justice rules but appeared to be unfair from the complainant's point of view, such as asking for written complaints and asking to report the incident within a specific time of the incident happening. For example, HRP10 said,

“First, they need to inform us in writing. Not even verbal. In writing we need everything because this will be filed and, in their personnel files, and then determine the nature of the offence.”

HRP25 said,

“Anybody can complain verbally, but you got to take it in writing. Because later on they can say no. Then I mean, you should have records, no. So, I wanted that person [the victim] to give it in writing.”

While these rules in the procedure would ensure justice from a certain 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 given.

Mandating a written complaint within a specific time can be due to HRP’s unawareness or that of 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 complaints due to various reasons and would be more comfortable first verbally forwarding the complaints. Because sexual harassment is a very distressing emotional issue surrounded by many cultural norms and stereotypes, a complainant would want confidentiality and privacy, fearing social condemnation and retaliation from the accused. As such, they would be reluctant to provide a written complaint, especially at the initial stage of the complaint process, fearing revelation. Mandating a written complaint would inevitably discourage victims from complaining in such a background.

Also, only hearing/taking into consideration complaints of incidents that have taken place during a specific period would not be fair, especially when the period is very short. For example, Companies 12 and 27 had specified in their sexual harassment policy that the victim should report the incident within five days of its occurrence. There would be many instances where a victim would not immediately decide to make a formal complaint – which is a serious decision. This could be due to many reasons, such as attempting to solve the issue informally, thinking that the behavior will eventually stop, and not being aware of the organizational avenues available. Hence, not taking up a complaint to be solved because the complaint was not given in writing or because the period had lapsed are unfair acts of HRPs, which would not help combat the workplace issue.

Distributive (in)justice

In many instances, it will be challenging to maintain distributive justice in handling complaints. A fair outcome (or seen as fair) by one party (victim or the accused) will inevitably be seen as unfair from the point of view of the other party (accused or the victim) (Dorfman et al., 2000). Nevertheless, as research indicates, the unfairness of outcome distribution and inconsistency between the outcome and the act’s severity is unjustified (Leventhal, 1980). There were few instances where the HRPs had breached distributive justice. For example, not taking any action against the perpetrators, taking unfair, unethical, and biased action that is not consistent with the severity of the sexually harassing behavior.

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, past actions, victim's interest, harasser's interest, and the company's interest should be considered in determining proper corrective action. However, in many instances, the HRP's did not consider these factors in taking actions related to the complaints making the outcomes unfair and/or seen as unfair.

There were instances where the HRP's had not considered the severity of the act when taking action. Hence, the outcome had not been consistent with the action's severity. While for some serious complaints, the outcome was a verbal or a written warning, and for certain other ones that were not serious, the outcome was to ask the accused to leave the organisation. For example, HRP27 has only issued a warning letter to an accused of a sexual harassment incident involving physical groping (a severe form of sexual harassment), and HRP30 had terminated an accused for making an unwanted comment.

There have also been instances where HRP's had not taken serious action or not taken any action at all if the perpetrator was in a senior position relative to the victim or if the perpetrator is a senior member of the organisation or is a good performer. For example, HRP24 described an incident in his factory where an assistant manager sexually harassed a casual employee. In a complex web of events, the HRP has ultimately transferred the alleged victim to another factory to ensure that they do not interact with each other in the future and to avoid interpersonal conflicts. The alleged perpetrator was not even questioned about the matter.

“So, because the lady had the problem, we transferred the girl to another factory. She was a casual employee. We transferred her, keeping the assistant manager in the factory. We had no other option.”

These acts of distributive injustice can lead to future litigation by the parties.

Asking the perpetrator to resign and providing referrals

Some HRP's (e.g., HRP's 2, 4, 9, 11, 13, 16, and 19) had requested the accused to resign from the company upon proving their wrongdoing rather than terminating their services. Whether this is a fair act or not is questionable. This is done to protect the company from future litigation on grounds of unfair termination, as according to the legal provisions in the country, an employee may seek relief for unfair termination from the Labour Tribunal (Industrial Disputes Act 43 of 1950 of Sri Lanka) whilst employees who resign from jobs in their own volition cannot.

However, some HRP's had given employment referrals to these employees who were sexual harassers when they resigned from the organizations. This is unfair and unethical. For example, HRP19 said,

“We feel we are right [and had taken the] correct decision, but we have an agreement with the harasser and our team... ‘we are not communicating your [perpetrator's] past records to another company and also, we are providing a service letter, normal service letter without mentioning your bad behavior in the organization’.”

In such a context, other organizations will recruit them without knowing their history, placing the employees at the new company at risk of sexual harassment. Further, the HRPs have looked at protecting themselves from sexual harassment and future litigation but had avoided considering their responsibility towards protecting another company or employees from sexual harassment.

Taking action against the complainant

Some HRPs had taken action against the complainants under the pretext of protecting them or resolving the situation. This was unfair on the part of the organization. For instance, it was reported by HRP22 that one of her outsourced employee was sexually harassed by an office assistant who was a permanent employee. The course of action that followed appears to be unfair. Although the perpetrator's services had been terminated, the HRP has also asked the outsourcing company to transfer the victim to another company even though she was not at fault.

“So that was basically what the MD [Managing Director] wanted. Because we couldn't see the exact thing happening...even the Chairman was...saying don't keep the girl. 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.”

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

“They each had a very bad...history because now when it comes to the girl's side, she had a lot of affairs...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... There was a huge problem...even [when] we do the investigation. They...thrash out some handbags, umbrellas here to there and...it's a big problem [for the company]. So, then we decided they are not professional people to keep in our company.”

Interactional (in)justice

It has been highlighted continuously that the grievance procedures and harassment policies prioritise protecting the employer from any liability arising from a sexual harassment or harassment complaint rather than protecting the victim or assisting the victim (Charlesworth, 2002). This was evident in the conduct of the HRPs in handling complaints. Thus, it led to interactional injustice. There were many instances where HRPs have not treated the parties to the complaint with care and respect, regardless of whether it was the complainant, accused, or witnesses. Further, they had not always provided open, comprehensive, and truthful explanations (Colquitt, 2001) to the parties about how the company handled the complaints, what is being done, and the reasons for those decisions. Providing such explanations would have allowed all parties to fully understand the actions and decisions of the HRPs.

Not treating employees with respect and care – interpersonal (in)justice

Some HRPs had treated the complainant with distrust in handling complaints and had not demonstrated respect and sensitivity to the complainant's issues. Apart from a few, HRPs did not indicate sensitivity towards the complainant's difficulties in repeating the incident to different parties at different instances throughout the complaint handling process. Recalling the incident of sexual harassment 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 the initial complaint, then when the complaint is formally noted down, during the preliminary investigation, and the domestic inquiry) to different parties in the process.

Further, sometimes HRPs have resorted to a cross-examination type of interviews than a fact-finding discussion in getting information and statements. Such cross-examination can make the parties feel distrusted and disrespected. For example, HRP13 described an incident where a female had complained about sexual harassment to him and he then “cross-examined” the complainant and found out that some of the said information did not corroborate.

“My cross-examination proved that she was lying. So, then I had a credibility issue [about] whether she was telling the truth [about] these incidents. So, I told the lady ‘look now what do you need? Do you need me to record this as 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 career advice? Or what exactly do you want [to be] done? Tell me’.”

Cross-examination and how the HRP13 had communicated with the complainant indicate the extent to which the HRP had been disrespectful and distrustful during the discussion.

Not providing sufficient information – Informational (in)justice

As prior research indicates, explanations of final decisions should be conveyed clearly and effectively without using inappropriate or unprofessional language (Colquitt, 2001). Further, it is important to practice full transparency of the process and the decisions, keep the parties informed of the complaint's status, and why certain management decisions were taken or not taken. However, very rarely have the HRPs provided comprehensive information to the parties involved. For example, as HRP21 stated,

“We call her [the 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.”

This HRP’s statement indicates the incomplete nature of information given to the complainant. It further reveals that reasons for the decisions are withheld. Similarly, HRP6 stated,

“We have told [the victim] what is necessary, what needs to be told, we have shared what is required to be shared because otherwise...when you try to tell this, that and everything, it's not right....So, [in] 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.”

Not sharing complete information with the parties to the complaint can make the parties, who are already anxious due to the complaint process, even more apprehensive. Most importantly, the parties will come to their own interpretations and conclusions about the process, the decisions, and the reasons for those decisions in the absence of complete information. This can result in perceptions of unfairness.

Discussion

While the findings are not an exhaustive list of injustices, they indicate some common instances where HRPs act in an unjust manner. These acts of injustice can lead to many negative consequences for organizations, such as legal action against the company by the parties to the complaint, reduction in future complaints, increase in sexual harassment incidents, dissatisfaction of employees, distrust towards the management, and reduced employee performance (Colquitt, 2001; Greenberg, 2011).

Constant criticisms that the decision-makers face are their overreliance and concern with the legal compliance and risk management (Charlesworth, 2002; Hogler et al., 2002) and protecting the employers from future litigation and liability rather than protecting or supporting the parties involved (Dobbin & Kelly, 2007). Many of the injustices of the HRPs we identified can be linked to such concerns for legal compliance and protection of the employers. Therefore, their role as an employee champion and their broader responsibility toward the greater good of the employees and the company becomes questionable. However, it was found that merely or strictly following a formal procedure and adhering to justice criteria will not necessarily lead to legal protection. Certain acts of the HRPs, while strictly in line with due process, had still led to unfairness, questioning the fairness of the behavior of the HRPs and the effectiveness of organisational procedures and practices. For example, not proceeding with a complaint or setting aside a complaint because of lack of evidence is in line with the procedural justice criteria and, thus, acts of justice. However, given the nature of sexual harassment, finding evidence related to complaints of sexual harassment is indisputably a daunting task. Unlike other forms of misconduct such as theft and dishonesty, evidence can be lacking in sexual harassment incidents, as sexual harassment generally happens in isolation and secrecy (Fitzgerald & Ormerod, 1993) cloaked in privacy (Elkins et al., 2008). Hence, setting aside a complaint or inaction by HRPs due to lack of evidence is unfair. Many HRPs do not seem to have understood this complexity and distinctiveness and act unjustly because of it. This is a double-bind for the HRPs. While they have to be concerned about the legal protection and procedural justice criterion of accuracy, they also need to understand the nature and nuances of sexual harassment and enact justice to the complainant without simply dismissing the complaint due to lack of evidence. Hence,

rather than merely following procedures and interpreting the justice criteria in isolation, HRPs need to find legally defensible resolutions. It was further seen how HRPs have been opportunistic by (mis)using this need for accuracy and evidence, placing the burden of presenting the evidence on the complainant, achieving their interests, or protecting the accused.

The great concern for legal compliance and other factors such as personal interests led to many injustices. HRPs' unawareness and insensitivity about sexual harassment and unawareness of how to handle complaints and investigations effectively and ethically could be the reasons why HRPs have acted unjustly. Many HRPs have handled complaints of sexual harassment with various misperceptions leading to value-laden and judgemental decisions. They appear to have not understood the unique nature of the issue. Gender biases, gender stereotypes, sexual harassment stereotypes, and misperceptions have played critical roles in the HRP's decisions in following the process, taking action, and in handling the parties to the complaint. The unawareness of the uniqueness of sexual harassment, various misperceptions, together with the concern for legal compliance and the need to protect the company from any future litigation, have led to many injustices such as setting aside a complaint due to lack of evidence, mandating a written complaint, as well as asking perpetrators to resign (without terminating their services), and not providing sufficient information to the parties.

Limitations

As with any study, our study is not without limitations. We have relied solely on the perceptions of HRPs, which can weaken the study's trustworthiness to some extent. The perceptions of victims, witnesses and perpetrators have not been taken into account in this article. Triangulating and comparing this information with different stakeholders can increase the trustworthiness of the study. Further, as the information shared by the HRPs were retrospective accounts of their experiences in handling complaints of sexual harassment, subsequent events and incidents might have affected their recollections. While these are common limitations in qualitative research, they would inevitably affect our understanding and explanations of the justice enactment of HRPs.

Implications for HR development

The findings of this article add to our knowledge of effective policies, procedures, and training related to sexual harassment (Gutworth & Howard, 2019; Roehling & Huang, 2018; Walsh & Magley, 2019). The findings can specifically be used to design anti-sexual harassment policies and procedures. Many existing policies concentrate more on the legal aspects overlooking the human aspects and the sensitive, unique, and complex nature of sexual harassment. Hence, the policies need to be specifically designed to ensure justice while being mindful of the issue's unique, complex and sensitive nature. Further, unnecessary steps such as mandating a written complaint at the initial stage of making a complaint can be eliminated to make the procedure more effective and friendly.

Further, findings can be used in designing and conducting training programs on handling cases of sexual harassment. The findings are particularly useful to illustrate how justice would not be ensured, and the pitfalls complaint handlers would encounter in handling complaints fairly. These would illustrate to the complaint handlers what they should and should not do in handling complaints.

More specifically, the training of HRP's and complaint handlers should include training programs on unconscious biases to make them aware of the different myths, biases, and stereotypes that they harbor about sexual harassment and gender and how these can affect fair decision-making. Such training will help complaint handlers to overcome their biases and avoid value-laden and judgmental decisions. Besides, the findings also indicate how HRP's generally over-rely on complying with legal aspects (Charlesworth, 2002; Hogler et al., 2002) at the expense of assisting the parties involved (Dobbin & Kelly, 2007) and its related consequences on preventing sexual harassment and the just handling of complaints of sexual harassment.

Conclusion

A critical aspect of preventing and effective handling of complaints of sexual harassment is that they would create an environment where employees would be encouraged to come forward and make formal or informal complaints. One aspect that discourages victims from complaining is the unfair practices of HRP's in handling complaints of sexual harassment. Undeniably, after complaints are received, HRP's should handle the complaints justly to encourage victims to continue to complain if they experience sexual harassment. Organizations need to do justice and ought to be perceived as such, for victims to come forward to complain about sexual harassment. However, we found that HRP's are responsible for causing procedural, distributive, and interactional injustices when handling complaints of sexual harassment. These problems highlight the need for various training (example, justice, gender sensitization, possible pitfalls) that are required in organizations concerning handling complaints of sexual harassment. Handling complaints of sexual harassment fairly will lead to the improved well-being of employees, organizations, and their stakeholders.

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1. Fairness and justice and their derivatives are used interchangeably in this article, similar to literature (Greenberg, 2011).

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