

Dr. S.S. Khanka\*

## Ethics in Human Resource Management (HRM)

### Introduction

Human resources, i.e. employees, used as interchangeably, are one of the stakeholders of a business corporation and experience suggests that management of human resources assumes a great significance in running a corporation successfully. However, evidences reveal that ethical issues are involved in all aspects of human resources management (HRM) i.e., recruitment, selection, promotion, compensation, discrimination, sexual harassment, employee privacy, etc. The present paper is devoted to delineate and discuss the ethical issues relating to some of the major aspects of HRM.

### An Overview of HRM

The success or failure, to a large extent, of an organization depends on its human resources. It is mainly human resources that make difference across the organizations. L. F. Urwick has remarked, as quoted by Gupta (2002: 13), "Business houses are made or broken in the long-run not by markets or capital, patents, or equipments, but by men." N. R. Narayana Murthy, one of the most successful India's businessmen, holds a firm belief that people are the most important assets to an organization. He says,

### Abstract

*Employees, used as interchangeably, are one of the stakeholders of a business corporation and experience suggests that management of human resources assumes a great significance in running a corporation successfully. Ethical issues are involved in all aspects of human resources management (HRM) i.e., recruitment, selection, promotion, compensation, discrimination, sexual harassment, employee privacy, etc. The success or failure, to a large extent, of an organization depends on its human resources. It is mainly human resources that make difference across the organizations. In this article author has narrated above ethical issues in respect of Human Resource.*

\* Director- Corporate and Public Relations Professor Management Studies, Acharya Institute of Management and Sciences I Cross, I Stage, Peenya, Bangalore – 560058

"When our key assets (i. e. employees) walk out every evening, our networth comes to zero. Our challenge is to ensure that they come back the next day rejuvenated, refreshed and energetic (Chary 2002:77)."

According to Flippo (1984: 5), "Personnel management, or say, human resource management is the planning, organizing, directing and controlling of the procurement, development, compensation, integration, maintenance, and separation of human resources to the end that individual, organizational and social objectives are accomplished".

The National Institute of Personnel Management (NIPM: 1973: 29-30) of India had defined human resource/personnel management as "that part of management which is concerned with people at work and with their relationship within an enterprise. Its aim is to bring together and develop into an effective organization of the men and women who make up an enterprise and having regard for the well-bring of the individuals and of working groups, to enable them to make their best contribution to its success".

In short, HRM is an art of managing people at work in such a manner that they give their best to the organization for achieving its set goals.

### Ethics in HRM

The ethics in HRM covers those ethical issues arising around the employer-employee relationship, such as the rights and duties owed between employer and employee. These may include issues relating to the fairness of the employment contract and the balance of power between employer and employee, i.e. slavery, indentured servitude, and employment law (Hare 1979: 103-121); discrimination issues on the basis of age, gender, race, religion, disabilities, weight and attractiveness, i.e. affirmative action and sexual harassment; issues affecting the privacy of employee, i.e. workplace surveillance and drug testing; issues affecting the privacy of employer, i.e. whistle-blowing; and issues relating to occupational

safety and health. The major aspects of ethical consideration in HRM are discussed hereunder.

### Recruitment and Selection

Recruitment and selection being the starting stages involved in HR procurement involve ethical considerations with far reaching consequences. Just as there is scope for using both good or bad quality materials in constructing a new house, so also is possibility for using both ethical and unethical practices in procuring (i.e. recruitment and selection) of human resources in an organization. Evidences reveal that unethical practices used in recruitment may relate to a wide range of manipulations right from the contents of recruitment notice / message to its source to last date of submission of application to serve one's vested interest. Similarly, manipulation of one type or other may also be involved in selection process to meet one's purpose. Nonetheless, as seen in the opening case, use of convenient methods of selection including unjust selection procedures, constitution of inappropriate selection panel, asking humiliating and discouraging questions, and biased evaluation of the candidates are the commonly used manipulations in selection process. Needless to mention, unethical practices in recruitment and selection bear impending costs with far reaching consequences for the organizations.

### Promotion

The common examples of promotional practices of ethical consideration include promotion by choice not by competence, by person not by performance, by favour not by merit, and by discrimination not by qualification, and so on. Unjust or unethical practices relating to promotion based on one pretext or other are common in organizations. One popular case of unethical practices involved in promotion is of Ann Hopkins who was denied promotion to partnership status based on sex discrimination (Tavris 1992).

Ann Hopkins working as a senior manager in the Price Waterhouse Ltd Office in the United States having the best performance record among her competitors was denied promotion

to partnership status. Ann Hopkins was conveyed her denial to partnership in these words: "Walk more femalely, dress more femalely, wear make up, have her hair styled, and wear jewelry." What Price Waterhouse Ltd. did evaluate Ann Hopkins as a woman trying to become a partner, instead of evaluating her simply as a partnership candidate? Ann Hopkins filed a sex discrimination suit in federal court. The Supreme Court found for Hopkins. In 1990, on remand, Hopkins was awarded her partnership and \$ 3, 50,000 in damages (Tavris 1992).

### Job Discrimination

Job discrimination is an act by employer that deprives employees of some benefits and / or opportunities entitled as per the terms and conditions of employment agreed between the two. Accordingly, job discrimination generally arises from the employer's decisions about procurement, promotion, compensation, benefits, and other terms and conditions of employment that directly affect the economic interest of employees. Here it is important to mention that nothing is unjust and wrong about such decisions so long these are made for reasons that are reasonably job-related. Yes, making such decisions just to single out some employee because of certain prejudices is, of course, an act of discrimination and, hence, unethical. Thus, discrimination means any form of unequal treatment of employees relating to job matters on the basis of individual characteristics like race, religion or sex (Gross 1978: 6-28). Here, it is also worth mentioning that although discrimination is unequal treatment, but all unequal treatments are not discrimination. For example, an employer who shows his/her favoritism in promoting all employees eligible for promotion is certainly violation of the employment rules, but not necessarily of doing discrimination against them. The fact is that there are two basic elements involved in employment discrimination. **One**, discrimination involves job-related decisions that directly affect the employment status of individuals such as hiring and firing, pay, promotion, fringe benefits, and the like. **Two**, the unequal treatment results from prejudice

or some unjust attitude against members of the group to which an individual belongs.

### Sexual Harassment

In simple words, sexual harassment implies misconduct or unwelcome behaviour towards persons at work causing them humiliation and insulted. The survey of definition of sex harassment reveals that the basic definition of sexual harassment comes from the United States Equal Employment Opportunity Commission ((EEOC 1980) as follows:

*"Unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission or to rejection of such conduct by an individual is used as the basis for employment decision affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."*

The Supreme Court has defined 'sexual harassment' as any unwelcome sexually determined behaviour, whether directly or by implication, which includes the following:

1. Physical contact and advances
2. A demand or request for sexual favours
3. Sexually coloured remarks
4. Showing pornography
5. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

As a further elaboration, sexual harassment can take place if a person is involved in the following unwelcome sexual behaviours (Wliza and Blodgett 1981: 76-95):

- ◆ Subjects another person (more especially women) to an unwelcome act of physical intimacy, like grabbing, brushing, and touching, etc.

- ◆ Makes an unwelcome demand or request (whether directly or by implication) for sexual favours from person, and further makes it a condition for employment / payment or wages / increment / promotion, etc.
- ◆ Makes an unwelcome remark with sexual connotations, like sexually explicit compliments / cracking with sexual connotations / making sexist remarks, etc.
- ◆ Shows a person any sexually explicit visual materials, in the form of pictures / cartoons / pin-ups / caller saver on computers / any offensive written material / pornographic e-mails, etc.
- ◆ Engages in any other unwelcome conduct of sexual nature, which could be verbal or even non-verbal staring to make the other person uncomfortable, making offensive gestures, kissing sounds, etc.

As an example, it is sexual harassment if a manager or superior requests sexual favours from a junior or subordinate in return for promotional benefits or threatens to sack for non-cooperation. It is also sexual harassment for a senior to make inquiries into the private lives of employees, or persistently ask them out. Instances of sexual harassment of one type or other are galore in all walks of life. To quote, in August 1996, Mr. K. P. S. Gill, former Director General of Police of Punjab was sentenced under Sections 294 and 509 of the Indian Penal Code (IPC) to three months of rigorous imprisonment, two months of simple imprisonment and fine of Rs. 2,5 lacs for sexually harassing Rupan Deol Bajaj, an Indian Administrative Service (IAS) officer of the Punjab cadre. She filed a complaint after Gill molested her at a party in July 1988 (Baxi 2001).

It is important to mention that sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- ◆ The victim as well as harasser may be a woman or man. The victim does not necessarily have to belong to opposite sex.
- ◆ The harasser can be the victim's supervisor, employer, co-worker, or a non-employee.
- ◆ The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- ◆ Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- ◆ The harasser's conduct must be unwelcome.

There are two legally recognized types of sexual harassment at workplace:

#### **Quid Pro Quo Sexual Harassment:**

*Quid pro quo* sexual harassment occurs when a superior who is usually a man, uses his power to grant or deny employment benefits to exact sexual favours from a subordinate, who is usually a woman. Thus, *quid pro quo* sexual harassment exists where a supervisor offers an employment benefit in exchange for sexual activity or where a supervisor refuses to give an employee deserved benefits unless she or he engages in sexual activity.

#### **Hostile Environment Sexual Harassment:**

What constitutes hostile environment or causes discomfort for employees? The Supreme Court, through a host of cases, has defined it in such a way as to make it a hybrid of a subjective and objective test. Accordingly, the Court explains that a hostile environment exists where a work environment is severely or pervasively altered such that a reasonable person would find it offensive or abusive. The plaintiff must show that the environment would be considered offensive to a reasonable person (i.e. objective analysis); then the plaintiff must also show that she or he individually, was offended by the situation (i.e. subjective analysis. Nonetheless, it is difficult to define conclusively whether any given work environment / circumstance might be considered to be sexual harassment. The reason is that we are given some parameters like severe or pervasive to consider an environment as hostile. For example, a onetime event or incident would not constitute sexual harassment unless it is severe; and a relatively benign event might become sexual harassment

where it is pervasive. This kind of sexual harassment occurs when the sexual nature of conduct of co-workers and others causes a woman or a man to be very uncomfortable. In one judgment, the Judge ruled that the display of pinup calendars and pornographic pictures constitutes an unrelenting "visual assault on the sensibilities of female workers" and that such a situation constitutes sexual harassment under the "hostile working environment" provision (Boatright 2003: 223). In other words, hostile environment sexual harassment occurs when unwelcome sexual conduct unreasonably interferes with an individual's job performance or creates a hostile, intimidating or offensive work environment. Such environment may not result in tangible or economic job consequences, or say, the harassed person may not lose his/her pay or promotion.

### Impact of Sexual Harassment on Women

Harassment, in general, and sexual harassment, in particular, adversely affect person both physically and mentally. The reason is not difficult to seek. Sexual harassment is not with desire, but with power. Considering the evil effects of sexual harassment, rape and sexual harassment are considered the two sides of the same coin. How? Because both showcase the power of man to dominate woman. In both cases, the victim is one – woman. Both are barbaric in nature. Nonetheless, some people extenuate sexual harassment to rape because the victims are not physically harmed. Both have the same object- to undermine the integrity of victim, physically as well as mentally.

As regards the impact of sexual harassment, it can be best put as: "While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of the helpless female."

The observation made by Justice Krishna Iyer in Rafique's case ((Cr. LJ1344 SC: 1980) seems worth citing: "When a woman is ravished, what is inflicted is not mere physical injury but the deep sense of some deathless shame.. judicial response to Human Rights cannot be blunted by legal bigotry."

The common forms of sexual harassment bearing impending impact on victim (woman) are molestation and rape. The menace of molestation and rape has been on increase in our country. According to the official statistics of 1991, one woman is molested every 26 minutes. This refers to the reported cases. As a matter of fact, if the unreported cases (which are likely to be much more than reported ones) are to be included, it would be a matter of seconds- rather than minutes. Most of cases of molestation and rape are not reported because of various reasons such as family pressures, the fear of police, the unreasonable long and unjust process and application of law, and the resulting consequences thereon. As seen earlier, it took almost ten years to award punishment to the harasser, i.e. Mr. K. P. S. Gill, the former Director General of Police, Punjab, for his alleged sexual harassment to Rupan Deol Bajaj, an IAS officer. The ultimate consequence of sexual harassment (molestation and rape) is physical and mental torture and even death of the victim.

The most heinous form of sexual harassment is rape which is continuously on increase in our country. What is rape? The Section 375 of the Indian Penal Code (IPC), 1860 has held a man committing the offence of rape with a woman under the following six circumstances:

1. Sexual intercourse against the victim's will,
2. Without the victim's consent,
3. With her consent, when her consent has been obtained by putting her or any person to be interested in fear of death or hurt,
4. With her consent, when the man knows that he is not her husband,
5. With her consent, when at the time of giving such consent she was intoxicated, ir is suffering from unsoundness of mind and does not understand the nature and consequences of that to who gives consent,
6. With or without her consent when she is under sixteen years of age.

### Prevention of Sexual Harassment

The problem is how to prevent sexual harassment. Acts and legislations for the



purpose are already in force, yet the sexual harassment offences are on increase in the country. Like other problems, there could be two approaches to deal with the problem of sexual harassment: (i) Reactive Approach, and (ii) Proactive Approach.

### **Reactive Approach:**

This implies awarding punishment to the harasser for committing offence of sexual harassment making him/her realize not to commit such offence in future. However, the acts and laws in this regard need to be enforced strictly in letter and spirit to ensure that sexual harassment is not committed by the person in future. Unfortunately, there are instances available to quote that the harassers at times on one justification or other are let scot free from punishment ((Kapur and Khanna 1996). This, in turn, sustains the offensive feeling of harassers to commit offences like sexual harassment.

### **Proactive Approach:**

A proactive approach should include three types of steps to combat sexual harassment at workplace:

1. *Steps Taken by the Government:* The Government should adopt a comprehensive sexual harassment policy and must enforce it strictly. The policy may include the conducts of sexual harassment, penalties to be imposed on the employees found guilty of the unwelcome conduct, the grievance procedure the employees should follow, and an express commitment to eradicate and prevent sexual harassment at workplace.
2. *Steps Taken by the Employers:* Employers should ensure a work environment free from sexual harassment. Make employees aware of the impending effects of sexual harassment on both employee (victim) and the organization. Convince the employees not to commit the offence of sexual harassment by organizing awareness camps, orientation sessions, and forming complaint committees to keep vigil on employees' conduct leading to sexual harassment.

3. *Steps Taken by Employees:* In fact, most women themselves fail to recognize sexual harassment and treat it as trivial and routine. Such has been the internal coping mechanism. Ignoring offensive behaviour or denying its existence is the most common ways women deal with sexual harassment. Nonetheless, employees also need to think over how to confront and stop sexual harassment and harasser. Employees can take various measures, including but not limited to the following:

1. Employees must freely and openly speak about sexual harassment.
2. Speak up at the time, i.e. say "NO" clearly, firmly and without smiling.
3. Set your own boundaries and say emphatically "NO" when you are asked to go some place, respond to questions.
4. Be aware of situations and people who may harass or harm you.
5. Trust your own instincts about possible danger.
6. Tell someone about the incident because being quiet or stoic about sexual harassment lets it continue.
7. Create a witness to the offensive behaviour.
8. Report the sexual harassment to the appropriate officer in the organization.
9. Get a medical check-up in case of rape or physical assault.
10. If you are the member of a labour union, talk about sexual harassment to your union representative.

### **Employee Privacy**

The constitution on India grants its citizens, among other things, the freedom of expression, right of equality, and right of ownership (including right of privacy). In simple words, ownership or privacy implies something personal or private not shared by others. But, evidences are available to mention that employers sometimes invade the privacy of their employees. In the recent times, collection,

dissemination, and invasion of data about employees through information technology have become on a scale unprecedented in the history of the human race. Unlawful access to employees' personnel records can lead to their identity being used by thieves for fraudulent reasons. This illegal activity, known as *identity theft*, occurs when someone uses another person's name, address, social security number, or other identifying information without the person's knowledge with the intent to commit fraud or other crimes. Here we are concerned about employee privacy only.

There are differences of opinion whether employees should have right to privacy or not. While some support it, others object it. In view of this, it becomes pertinent to examine the employee privacy in its various aspects such as its meaning, justifications, and types. Let us begin with understanding the meaning of privacy and / or employee privacy.

The definition of employee privacy has proven to be elusive. Nonetheless, employee privacy means an employee's right what not be known about him/her to others. Cranford (1998:1805-1815) has defined privacy as "the fundamental right that consists of an individual's right to control information about oneself, and to control situations where such information could be gleaned." (Employee) privacy is defined in different senses as follows:

**One**, *privacy is the right to be left alone.*

This meaning of privacy is driven from the first sustained discussion of it by two young attorneys Warren and Brandeis (1890:193-220) where they wrote that the right of privacy is "the right to be let alone – the most comprehensive of rights and the right most valued by civilized men.

**Second**, *privacy is expressed in terms of control over information about oneself* (Fried 1970:141). In other words, privacy is the claim made by individuals to decide themselves when, how and to what extent information about them is and should be communicated to others.

**Third**, a more adequate definition of privacy maintains that *an individual enjoys the state of privacy when certain facts about that individual are not known by others.* Parent (1983: 269-288) defines privacy in the similar vein as "the condition of not having undocumented personal knowledge about one possessed by others." Here, it is important to mention that the phrase "personal knowledge" does not mean all information about us but only those facts which most individuals in a given society at any given time do not want widely known for their own reasons.

### Types of Privacy

Research studies (Simms 1994:37-50) report four basic types of privacy people want to protect. These are:

#### Physical Privacy:

Physical privacy is privacy with respect to a person's physical activities that are culturally recognized as private. In other words, it refers to one's physical inaccessibility to others and the right to one's own space. Physical privacy is valued because our inner lives are revealed by their physical activities and expressions. As a matter of fact, our certain physical activities are considered "private" and are not accessible to others. For example, in our culture, people do not want to perform biological or sexual functions in public.

#### Psychological Privacy:

Psychological privacy is privacy with respect of a person's inner life, i.e., one's values, beliefs, feelings, emotions, thoughts, and desires. Since these inner (psychological) aspects are so intimately engrossed and connected with the person, one does not like these to be shared and invaded by others.

#### Social Privacy:

This refers to one's freedom to interact with other people (call, society) in the manner and way one chooses. However, employers may violate the right to social privacy of employees by compelling them to behave and interact in a legal and moral way during their social lives.

## Informational Privacy:

Informational privacy is determination by employees about, what, when, and how private information about them is released or made available to others. This privacy is breached when employers ask private security firms to make investigations about employees without due cause.

## Why Employee Privacy?

Having understood the meaning of privacy and its different types, an obvious question arises is why employees value privacy or what benefits privacy offers to the employees. These questions can best be answered, according to Velasquez (2002:365-66) by mentioning the key functions performed by privacy. Privacy performs the following functions that benefit employees:

**First**, privacy ensures that others do not know the information about us which, if known to others, would put us in an embarrassment, shame, and cause harm to us.

**Second**, privacy does not allow others to interfere in our private matters which might be viewed with distaste by others in the society we live in.

**Third**, privacy also ensures that our private matters are not revealed to others because, if revealed, might hurt those whom we care and love.

**Fourth** and the last but no means the least function privacy performs is that it protects people from being led to incriminate themselves.

As per human psychology, employees for their own reasons want that others should not know about certain aspects of their lives. On the other hand, employers want to know about certain information of the employees to ensure that the hiring decision is right. Thus, this creates a conflicting situation for the employees to decide whether to disclose their personal information to others like employers or not or even if yes, what and how much information to disclose. The solution to overcome this conflicting situation is employers should collect information about employees only to the extent it affects

job performance. Asking and knowing beyond this is just invasion of employee privacy by the employer. Also the methods for employee data collection should not be invasive ones or the least invasive. Generally, honesty tests, background checks, credit reports drug tests, and medical exams are among the selection methods that applicants consider highly invasive. Therefore, these methods should be used only when they can be proved to be job related and no other less-invasive alternative is available. For example, if a drug test of a candidate is needed, collecting a hair or saliva sample from a candidate is likely to be perceived as less invasive than collecting a urine or blood sample. Nonetheless, if invasive methods are bound to be used, well-defined policies should be in place to ensure that candidates are treated fairly. The rationale behind the tests should be well established and explained to the candidates. The tests should be consistently administered across all candidates being considered for the same job.

That knowing about employees' personal information which has no relation with job performance is invasive of employee's privacy is illustrated by John R. Boatright (2003: 155) with the following example:

An employer asks his employees to answer the following questions as True or False:

I feel sure there is only one true religion.

My soul sometimes leaves my body.

I believe in the second coming of Christ.

I wish I were not bothered by thoughts about sex.

I am very strongly attracted by members of my own sex.

I have never indulged in any unusual sex practices.

Although it is impossible for an organization to guarantee that there will be no invasion of employee's privacy, certain safeguards can help minimize the chances of privacy invasion. Following are such safeguards that organizations should take to ensure that their HRIS is relatively secure and is used only for its intended purposes:



### Safeguarding Privacy in an HRIS

- ❖ Review information –gathering practices to determine best way to collect data.
- ❖ Limit the information you collect to what's relevant to a specific business decision.
- ❖ Inform employees about the types of information kept on file and how that information is used.
- ❖ Let employees inspect and, if necessary, correct the information maintained on them.
- ❖ Keep sensitive information separate from other records.
- ❖ Limit the internal use of personal information to those activities where it is necessary.
- ❖ Disclose personal information about an employee to outsiders only after the employee consents.

Adapted from: Robert Stambaugh: Protecting Employee Data privacy, *Computers in HR Management*, February 1990, pp. 12-20.

### Affirmative Action

The term "affirmative action" was first used in Executive Order 11246 issued by President Lyndon B. Johnson. The order called on federal government contractors to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, order, color, or national origin (Basu 2009)." President Johnson expanded the Executive Order in 1967 to protect women from discrimination as well. What is affirmative action? In simple words, it is a positive action taken to redress the imbalances that are the result of previous discriminatory employment practices. The heart of affirmative action programme is a detailed study (a utilization analysis) of all the major job classifications in the organization. It is based on the notion that progress cannot be achieved in islands. Therefore, underprivileged and downtrodden also need to be given equal opportunity of employment and growth so that the society develops in a balanced manner. This is a widely held notion across countries including India. The absence of it creates inequalities in the society which is not good for the society as a whole. Thus, the heart of affirmative action

and equal opportunity policies is to make employment decisions blind with respect to sex and race. The programme of affirmative action and equal opportunity involves ensuring the representation of all sections of society in employment in relation to their population in the area from which the organization recruits. With an objective to provide equal opportunity and due representation in employment to all sections of the society, the Governments have enacted specific Acts and Laws for fulfilling the purpose. The Reservation Policy of the Government of India initially for ten years, is a historical example of affirmative action and equal opportunity to give due representation to sections of society so far suffered from discrimination in employment and education.

There have been two major arguments advanced in favour of affirmative action: the compensation arguments and equality argument also called instrument for achieving social goals. According to Sher (1979: 81-87), compensation arguments for affirmative action are backward looking insofar as they focus on the wrongness of past acts, whereas the equality arguments are forward looking insofar as they focus on the goodness of a future state and the wrongness of what happened in the past is irrelevant. We shall

begin with examining the compensation arguments and then shall turn to the equality arguments.

### The Compensation Argument

The compensation argument is based on the concept of compensatory justice. That is people have an obligation to compensate those whom they have wronged whether intentionally or unjustly. This argument is essentially derived from Aristotle's discussion in Book V of *Nicomachean Ethics*, in which distinction has been made between justice to one who is unjustly inflicted or harmed by another person (called 'corrective justice') and justice in the distribution of goods (called 'distributive justice'). The first case refers to compensatory obligation to former by latter. In other words, justice implies that the wrong be corrected by providing compensation. Let it be exemplified by an example. If Arvind, while driving carelessly, crashes into Balbir's new car, Arvind suffers a loss due to Balbir's fault. Arvind has a right not to be caused loss by Balbir. Therefore, Balbir has an obligation to pay compensation to Arvind for the loss caused to him by Balbir's careless driving.

The justice in such case is guided by the dictum "No right without a remedy," which means that a person cannot be said to have a right unless there is also some means of correcting a violation of that right. The same concept of compensation applies in employment situation also. For example, if an employer intentionally discriminates against some employee by bypassing him/her in promotion, the employer has to compensate the employee for the loss caused to him/her due to such unjustly discrimination. This is because when the employee has a right not to be discriminated against, then the court has a remedy to provide when that right is violated by the employer. By analogy, in case of the compensation argument, only the person who wrongfully inflicts other is to make reparation

of some sort to the specific individual against whom he wronged.

### The Equality Argument

According to Aristotle, as we have noted earlier, justice is a kind of equality (Kelsen 1957). With regard to affirmative action, two different concepts of equality are relevant to be mentioned here. These are: 'equality of opportunity' and 'equality of treatment.'

Equality of opportunity means that everyone has an equal opportunity to succeed in life and that no one to be held back by discrimination and unjust manners. However, efforts also need to be made in some ways to neutralize the discrimination or unjust already done in the past. The principle of equality of opportunity can be better understood by going through the following excerpt of the President Lyndon B. Johnson's speech delivered in 1965 arguing for every employer to be an 'equal opportunity employer':

*"Imagine a hundred yard dash in which one of the two runners has his legs shackled together. He has progressed 10 yards, while the unshackled runner has gone 50 yards. How do they rectify the situation? Do they merely remove the shackles and allow the race to proceed? Then they could say that 'equal opportunity' now prevailed. But one of the runners would still be 40 yards ahead of the other. Would it not be the better part of justice to allow the previously shackled runner to make up the 40 yard gap; or to start the race all over again? That would be affirmative action towards equality (Quoted by Boatright 2003: 207-208)."*

Some defenders of affirmative action have argued that the right thing ought to be not equal opportunity, but equal treatment. But, the notion of equal treatment is also ambiguous in two senses: *the right to equal treatment* and *the right to treatment as equal*.

For example, the right to equal treatment is the right to an equal distribution of some opportunity, such as the right that each person's vote shall count equally. As regards the right to treat equal, it is the right not to receive the equal share of some distribution, but to be treated with the same respect and concern as anyone else (Dworkin 1978: 223-239).

Having given the theoretical overview of affirmative action, it seems pertinent to give an overview of the same in practice in India.

### Affirmative Action in India

Let us begin with the justification for affirmative action in India as viewed by Rabindranath Tagore: "If our political progress was to be real, the underdogs of our society must be helped to become men." Historically, the affirmative action in India has started perhaps by Vice-Roy Curzon in 1905 by banning the employment of Hindu Bengalis in the government offices. In so doing, the government argument was that they were too advanced and taking away job opportunity from others particularly the Muslims. Later, reservation in government jobs were introduced in 1918 in Mysore in favour of a number of castes and communities that had little share in the administration. After Independence in 1947, the Government of India initiated affirmative action in the form of reservation whereby a percentage of seats are reserved in the government and public sector units for the socially and educationally backward classes of citizens nomenclatured as scheduled castes (SC), scheduled tribes (ST), and other backward classes (OBC). By now reservation in educational institutions has reached up to 50% of seats. Founded on noble intension of equality, reservation as an intervention of affirmative action in India has, of late, seemed to grow ever more rancorous, divisive, and debatable. The failure of reservation policy in India in attaining equality suggests

that it must not be caste based for political benefits, but must be based on poverty and backwardness amongst castes and communities. India needs to take lessons from the Soviet Union that mass free education in a gigantic scale can remove social and economic backwardness within a few years. Even in Asia, the experiences of Japan, Korea, Taiwan, and Vietnam also demonstrate that what India could not achieve in 60 years can be achievable within ten years if the policy framework is designed to remove inequality of opportunity.

The root of reservation policy and, for that matter, affirmative action in India lies in the shortage of the availability of jobs in relation to the supply of job seekers. This is commonly known as unemployment. This is a characteristic of almost all capitalist unplanned economies world over. History is witness that all developed countries have suffered from unemployment problem, sometimes crippling unemployment problem. But, they, with proper interventions, rectified the situation by striking a balance between supply of jobs and demands for jobs. If a balance is not established between the two, it only creates conflict and resentment among the job seekers, i.e. unemployed. Obviously, the only solution lies in a proper manpower planning as a part of a comprehensive economic planning for the nation. Unfortunately, the same has so far not been carried on in India. Time has come now not to procrastinate the same in the interest of all in the society. Here, the apt views expressed by Albert Einstein, as quoted by Basu (2009) seem worth citing:

"Unlimited competition leads to a huge waste of labour, and to that crippling of the social consciousness of individuals. A planned economy, which adjusts production to the needs of the community, would distribute the work to be done among all those able to work and would guarantee a livelihood to every man, woman, and child."

## Concluding Remarks

Wherever human act is involved, ethics is also involved. Therefore, the element of ethics is pervasive in all aspects of HRM. Corporate history is replete with evidences that unethical practices in HRM, like in other areas of human activities, ultimately benefits none, but directly or indirectly harms all stakeholders of the organization at least in the long-run. Hence, the unethical practices in HRM need to be discouraged. There could be multi-pronged measures applied by both employer and employees to discourage and keep the unethical practices in HRM at bay. The corrective measures to be applied by the employer may include development of a sound ethical code of conduct for all working in the organization, communicating the code of ethics to all especially new employees, orientation courses on the need for and advantages of ethical conduct of the employees, provision for appreciation and punishment for exhibiting ethical and unethical behaviour respectively. Employees themselves should realize that only ethical conduct will benefit them and organization.

## References

- Basu, Dipak (2009): The Failed Affirmative Action in India, <http://www.ivarta.com> dated 28-4-2009
- Baxi, Pratiksha (2001): Sexual Harassment, <http://www.india-seminar.com>
- Boatright, John R. (2003): **Ethics and Conduct of Business**, Delhi: Pearson Education.
- Chary, S. N. (2002): **Business Gurus Speak**, New Delhi: Macmillan India Ltd.
- Cranford, M. (1998): Drug Testing and Right to Privacy: Arguing the Ethics of Workplace Drug Testing, **Journal of Business Ethics**, Vol. 17.
- Dworkin, Ronald (1978): **Taking Rights Seriously**, Cambridge, MA: Harvard University Press.
- EEOC (1980): **Sexual Harassment**, Equal Employment Opportunity Commission, Title 29 Code of Federal Regulations, Section 1604.11.
- Flippo, Edwin B. (1984): **Personnel Management**, New York: McGraw-Hill.
- Fried, Charles F. (1970): **An Anatomy of Values**, Cambridge MA: Harvard University Press.
- Ghosal, Sumantra (1999): Competing on Human Capital, **The Economic Times**, June 11 (Supplement).
- Gross, Barry R. (1978): **Discrimination in Reverse**, New York: New York University Press.
- Gupta, C. B. (2002): **Human Resource Management**, New Delhi: Sultan Chan & Sons.
- Hare, R. M. (1979): What Is Wrong with Slavery?, **Philosophy and Public Affairs**, Vol. 8.
- Kapur, Ratna and Shomona Khanna (1996): **Memorandum on the Reform of Laws Relating to Sexual Offences**, Delhi: Centre for Legal Research.
- Kelsen, Hans (1957): Aristotle's Doctrine of Justice, In: Kelsen, Hans (Ed.): **What Is Justice?** Berkeley and Los Angeles: University of California Press.
- NIPM (1973): **Personnel Management in India**, Bombay: Asia Publishing House.
- Parent, W.A. (1983): Privacy, Morality, and the Law, **Philosophy and Public Affairs**, Vol. 12.
- Sher, George (1979): Reverse Discrimination, the Future, and the Past, **Ethics**, Volume 90.
- Simms, M. (1994): Defining Privacy in Employee Health Screening Cases: Long Hours as a Career Barrier and the Impact on the Working Lives of Women Managers, **British Journal of Management**, Vol. 9, Special Issue.
- Tavris, C. (1992): **The Mismeasure of Women**, New York: Touchstone.
- Velasquez, G. Manuel (2002): **Business Ethics: Concepts and Cases**, New Delhi: Printice Hall of India Private Limited.
- Warren, Samuel and Louis D. Brandeis (1890): The Right to Privacy, **Harvard Law Review**, Volume 4.

\*\*\*\*\*