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EQUAL EMPLOYMENT PRACTICES

By **Jawad Naqvi Syed**
Sep 29 - Oct 05, 2003

In this article, the author has discussed that in Pakistan, EEO is rather an issue of education than legislation or implementation. "HR in Pakistan" series will interest the readers who want to study the evolution of HR in a developing third world country.

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Equal Employment Opportunity (EEO) prohibits discrimination against anyone on any pretext. EEO speaks of the equality of every human being (irrespective of gender, religion, caste, ethnicity, color, age, physical disability etc) while considering a candidate before, during and after employment. EEO anti-discrimination protections apply to all of the terms and conditions of employment, including, but not limited to recruitment and selection, promotions, testing, training and development opportunities, hiring, transfers, work assignments, discipline, compensation, discharge, performance evaluation, working environment and other conditions of service. Affirmative action (AA) is an effort to undo the unfair practices of the past in the organizations. AA is a means to level the playing field for females, individuals with disabilities, underprivileged classes and minorities as a logical step towards equal employment. Pakistani law makes it obligatory for employers to follow EEO principles. Affirmative Action, however, is expected to be implemented as a voluntary component of EEO Policy. EEO does not, in any circumstance, mean that the managers should hire unqualified candidates in breach of merit. This is only a mechanism to avoid unfair practices and biases during employment process.

SOME IMPORTANT DEFINITIONS

A person with a disability is defined to be an individual who has a physical, mental or sensory deficiency which obstructs him or her in obtaining and maintaining permanent employment and promotional opportunities, and whose deficiencies are material (not minor), static, and permanent, as they are rarely fully cured by medical replacement, treatment, or surgery. In Pakistan, such persons are called 'special citizens' to show care and respect for them in the society.

Minority is defined as a group which is smaller in number than the rest of the population of a state, whose members have ethnic, religious or linguistic features different from those of the rest of the population, and are guided, if only implicitly, by the will to safeguard their culture, traditions, religion or language. It will be a matter of individual choice to belong to a minority.

Underprivileged class is the one lacking opportunities or advantages enjoyed by other members of a community. They generally experience a pattern of disadvantage or inequality or may have an ascribed status at birth.

IN LAW

Pakistan constitution puts a ban on discrimination on the basis of sex in appointment in "the service in Pakistan", provided that the performance and functions of the job can be carried out by, and is deemed suitable for, both sexes (Art. 27). It also provides that "steps shall be taken to ensure full participation of women in all spheres of national life" (Art. 34). The constitution commits the State to secure the well-being of the people, irrespective of, inter-alia, their sex by (Art. 38 (a)) raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants.

Pakistan is a signatory of the following international instruments:

- *ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratified on 24/1/1961)
- *ILO Equal Remuneration Convention, 1951 (No. 100) (ratified on 11/10/2001)
- *UN Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (ratified on 12/3/1996)
- *ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratified on 25/10/1994)

- *ILO Underground Work (Women) Convention, 1935 (No. 45) (ratified on 25/3/1938) On 30 April 2000, the federal government announced its Labor Welfare Package for Workers making it obligatory for the organizations to offer gender equality and affirmative action. In summary, it warrants:
 - *Equal remuneration for men and women for work of equal value through appropriate legislation.
 - *Enhancement of maternity benefits for female mine workers.
 - *Safeguards against sexual harassment through appropriate actions.
 - *Recruitment of female labor inspectors for enforcement of labor laws on female workers.
 - *Increase in percentage of reserved seats for workers and peasants at Union Councils, Tehsil Councils and District Councils in the Devolution of Power Plan.
 - *Extension of coverage of laws to agriculture and other informal sectors of economy.

The Federal Government introduced new labor policy in 2002 empowering labor courts to order re-instatement of illegally dismissed workers or award reasonable compensation in lieu of re-instatement. This policy also calls for extension and upgradation of vocational and industrial training programs to meet the changes of globalization and avoidance of redundancies. If implemented in true spirit, this is expected to be a right step towards affirmative action and equal employment opportunity. A significant characteristic of new labor policy is strengthening bilateralism with least legislative and state intervention. This is expected to result in good employer-employee relationship through the strategy of interdependence by employers and employees and their mutual trust. New laws also promise protection of contractual labor by redefining temporary jobs in accordance with international standards. The policy pledges equal opportunities for all and categorically bans child and bonded labor, and discrimination on the basis of gender, sex, race etc.

There are other recent steps taken by the Pakistan Government that have improved the recruitment environment in Pakistan, like: National Policy and Plan of Action for Elimination of Child Labor (2000); National Policy and Plan of Action for the Abolition of Bonded Labor (2001); and endorsement of ILO Conventions 100 and 182. Federal and provincial governments have also made legislations about the provision of 2% quota for special (disabled) people in the employment in all departments. This was enacted by the Disabled Persons (Employment and Rehabilitation) Ordinance 1981.

IN PRACTICE

Contrary to the federal laws, Pakistani organizations in practice do not offer equal employment opportunities to the candidates and there are instances of discrimination against candidates on the basis of gender, religion, ethnic origin etc. Since the literacy rate in females is less than males, there is only a limited female presence in the organizations and it is not deemed viable or safe for a female to be employed in a predominantly male set-up. This situation is nonetheless on the change in the organizations in the big cities where females can work in general better than males, for example in the education sector, textile designing and interior decorations industry.

Even if the EO principles are observed in an organization, the so-called jargons of 'circumstances' and 'acceptability' are used as a cover for inappropriate discrimination. This unfairness is practiced during shortlisting of applications as well as in interviews. The shortlisting prejudices have also been observed in the federal and provincial government jobs to be filled through Public Service Commission.

EO in Pakistan is not a mere implementation issue, but is also faced with the challenge of better understanding and education at the institutional level. The decision makers need to be educated that EO is just not a human rights issue, and the relationship between organization procedures and the individual cognitive is bilateral. Current EO crisis in the country has its implication both for the employers and the recruits and at a wider scale the whole economic level. With financial and productivity targets as the top most priority, a typical Pakistani employer fails to understand that EO implementation can be to his own advantage as it will improve the quality of recruitment and selection in his organization that will contribute to cost effective decision making.

The management's refusal to follow EO principles is incurring extensive cost, as it is also rendering organizations inadequate to compete in an increasingly global market. This has resulted in the absence of a proactive response to the need for a quality staff that will promise competitiveness through quality production. HR is a complex field and ambiguity and ambivalence persist at each stage of evolution and progress towards an equitable and effective management of human resources. Our study of HR evolution in Pakistani organizations suggest that, ironically and precariously, the promotion of objective recruitment and selection on merit is resorting, for credibility, to being implemented within the traditional recruiter's agenda of conceptualization. This is more like eyewash than a sincere effort to practice EO.

The whole system of performance management or appraisal is missing in the majority of organizations. Even in the public sector where it is a legal requirement, superior officers try to avoid or delay writing ACRs (Annual Confidential

Reports) of their subordinates as far as possible. This deprives the eligible employees to be considered for promotion or increment and leaves decisions on discretion instead of systems thus causing a violation of EEO principles.

In some organizations, workers are not allowed to complete their consecutive three months in service, and are replaced with the new workers; or they are re-employed after a break of a few days or weeks. This is done in order to avert legally automatic confirmation of a worker in service after three months of continuous employment. Job security is a far cry for employees at the lower echelons. The legal mechanism has not proven effective for the individual pleas in the past and more than 95% of the cases of violation of employees' rights by the employers are not reported in a court of law. Apart from being unable to afford the court and lawyer fee and to sacrifice one's breadwinning time, this is also due to lack of general awareness in the recruits about their rights and privileges under law. This is a practical dilemma that HR in Pakistan faces in the absence of a merit based recruitment policy, and the recruitment made on gut and objectivity based discretion.

DISCRETION IN SELECTION

Merit, unfortunately, does not come at the top while considering a candidate for employment. Most of the jobs are filled through personal connections of the candidates within the organization (Sifarish) thus compromising the quality of recruitment. Pakistan is a high context society and tribal and ethnic fraternities among people are influential enough to weaken the system of merit in recruitment. Another interesting factor to secure a job is the Alumni network of certain institutes. For example, in Karachi, an informal but very influential network of graduates of IBA (Institute of Business Administration) is in operation that tends to prioritize graduates of this institute for employment. Similarly alumni networks of LUMS and the Punjab University are operating in Lahore.

There is a tendency in the line managers requesting for an employee is to use a mix of gut and objectivity to select a suitable employee. Interestingly both of these terms are self-contradictory. Conventionally the line managers are not ready to accept the idea that a systematic and scientific procedure is more reliable to help them find a suitable staff member. They normally act in order to judge a candidate by evaluating his fitness in the so-called organizational culture and the corporate strategy. They term the formal and standard HR selection and recruitment practices as bureaucratic, clerical and a waste of paper and time. Subsequently EO is not one of their priorities. Line managers tend to outsource or recruit people with the informal sources of recruitment; for example: word of mouth, or through direct contact and 'bargaining' with the recruit working somewhere else. This results in autonomy and unaccountability of their choice over a more eligible candidate. Ironically these line managers are apple of the chief executive's eyes because of their core production services for the organization. Their opinion is prioritized by the decision makers to that of the 'welfare-oriented human resource department'. This relegates the HR advisors and staff to a peripheral position in the organization and their role is contained to little or no authority. This would not be out of place to mention here (as has been the experience in some major organizations in the West) if the line managers assume the responsibility of equal employment principles in letter and spirit, then the devolution of hiring authority from HR to the line departments can be acceptable. But this is not the current situation in Pakistan where even the staff working in Personnel or HR is not suitably educated or trained about EEO issues, and to expect this from line managers would be unrealistic.

Another major EEO issue in Pakistan is the recruitment of a huge workforce on political basis in violation of merit. Instead of creating jobs, successive governments have been acting as employment exchanges to provide jobs to their political activists and supporters. We would like to cite a few examples in this regard. In 2002, the provincial government in Punjab announced to put five thousand posts in education and health sectors at the disposal of the members of provincial assemblies to be filled on their recommendations. This decision was termed as the last nail in the coffin of recruitment through merit. This has been feared that such practice will ratify political recruitment as a norm rather than an exception. Another challenge is the need to provide a better compensation packages to public sector employees in the form of fixed package and not discretionary funds or privileges that are often misused.

In January 2002, a case of taking bribes in the recruitment of police constables in Bannun and Lakki Marwat districts was reported in the national press. This and other similar incidents are not unusual in Pakistan. In March 2002, a complaint regarding appointment of four junior secretarial assistants in the Civil Aviation Authority (CAA) against the merit policy was reported. According to this report, two of the four appointees were stated to have close family relations with some high-ups at the CAA headquarters in Karachi while qualified candidates were ignored in the interview. One of the affected candidates said that the brother and the nephew of the section officer to director administration, headquarters, and the nephew of a former deputy director general of CAA were selected.

We would like to quote excerpts from a letter by an ordinary Pakistani written to the editor of an English daily in 2001, commenting on the recruitment practice in the country:

"..... The lopsided nature of the services and the flawed system of recruitment and influence padding has played havoc with the discipline, efficiency and output of the services.

The number of recruitment systems, which are used for employment, would also be a record and so many systems would not have been used in any other country! Except a few regular Central and Provincial Services, where recruitment is made through competitive examinations, various other methods are used. There are no set rules or procedure or scale of pay for hiring of the so-called experts, advisors and others who are employed on contract or on the regular basis. If the present government wants to ameliorate the condition of salaried class with limited and fixed income, it should take immediate steps to make basic changes in the recruitment policy, which should be one for all employees."

ISLAMIC PERSPECTIVE OF EQUALITY

According to the Quran, dignity of the children of Adam is a heavenly conferral that is to be protected by all means, including the law and the state, and is to be safeguarded by all forces:

"We have conferred dignity on the children of Adam, and borne them over land and sea, and provided for them sustenance out of the good things of life, and favored them far above most of our Creations." (17:70)

A tyrant is against human rights and the God as well:

"Pharaoh turned into a tyrant on earth, and discriminated against some people. He persecuted a helpless group of them, slaughtering their sons, while sparing their daughters. He was indeed wicked." (28:4)

Bias on the basis of gender or any other pretext is not allowed in society as the Quran speaks of human equality in the following terms:

"O mankind! We created you from a single soul, male and female, and made you into peoples and tribes, so that you may come to know one another. Truly, the most honored of you in God's sight is the greatest of you in piety. God is All-Knowing, All-Aware." (49:13)

GENDER BIAS

Islam is the state religion and it is obligatory to regard certain religious practices. For example shaking hands and publicly intermixing with the opposite sex, and wearing of 'inadequate' dress is not appreciated or accepted in general. This should not be perceived as gender inequality but is an expression of special respect for women in a Muslim society. The strictness or leniency of religious values varies from one group of people to the other. This speaks of regional instead of religious attitudes on the basis of gender. Pushtuns in the North West Frontier Province and Balochistan have comparatively rigid ideas about religion, however people in modern cities like Lahore, Karachi and Islamabad are more liberal and open-minded. Pakistani society in general is tolerant, with the exception of a marginal presence of hard-core fundamentalists who believe in their own interpretation of religion.

In the year 2000, female adult literacy rate was 27.9% for the girls aged 15 and above. The same rate was 57.5% for males of the same age group. Male estimated income (PPP) in US\$ was 2,884 as compared to only 916 for females. Female representation in lawyers, legislators, senior officials and managers was 9% of total as compared to 26% representation in professional and technical workers. Gender inequality in education spoke of a 27.9% female adult literacy rate as compared to 48% rate for adult males. Female youth literacy rate was 41.9%.

Female economic activity rate (age 15 and above) was 35.3%. Female employment in agriculture (as a %age of female labor) was 66%, whereas male employment in agriculture was 41% of male labor force. Female employment in industry was 11% of female labor force whereas the same figure for males was 20%. Female employment in the services sector was 23% of female labor force whereas for males, this figure was 39%. Female contributing family workers were 39% of total, whereas males contributing family workers were 61% of total between 1995-2000.

There are reports that women in Pakistan are kept from key decision-making jobs in the public and private sectors. According to a gender and governance study undertaken by the National Commission on the Status of Women in collaboration with the Asian Development Bank conducted in Sindh Province in 2001, none of the women government employees, despite seniority and proficiency, could be assigned postings equivalent to basic pay scales 21 and 22 in any of the provincial government departments or institutions.

The survey found that no woman employee in BPS 20 or above was currently posted at the Services and General Administration Department, followed by 2.8 per cent each in grade 19 and grade 18. 3.6 per cent held posts equivalent to BPS 17, 1.1 per cent women employees could be categorized under grade 16 and 1.7 per cent under grade 15. Even in the Education Department, where women are generally believed to be in the highest number, a majority of them were confined to junior grades.

Hackneyed discernments that women are less suitable than men for many jobs; do not stay in jobs after marriage; remain absent from work more often than men; are not mobile etc., were also cited as factors hampering women placement and promotions. With reference to working conditions, it was found that women in Pakistan work under unspoken social norms and networks. There existed a unity between men and systematic subordination or estrangement of the women. Women also reported hostility or harassment by their male colleagues, low standard of office facilities, a sense of discomfort in the seating arrangements and absence of separate rest rooms. There is a need for a wide-ranging responsiveness to gender sensitivity. While hypothetically EEO is available, in almost all organizations and professions, there have been instances where women are consciously ignored during the process of employment apart from being marginalized during promotion and placement decisions.

SPECIAL CITIZENS (DISABLED)

In August 2002, the ministry of social welfare and special education requested the cabinet division to ensure recruitment of the disabled at 2 per cent quota in all ministries. However, in practice the disabled are not being granted even 1 per cent employment in several organizations and industries as required by the Disabled Persons (Employment and Rehabilitation) Ordinance 1981. Instead many employers prefer to pay the penalty of Rs. 1,000 per month for each vacancy for the disabled to the Disabled Persons Rehabilitation Fund. In fact, by 2002, the National Council for the Rehabilitation of Disabled Persons had collected more than Rs. 30 million on this head alone that indicates that thousands of disabled persons being left out of the job market. There is also the need for a law to make public buildings accessible to the disabled. In this respect, a bill for the elimination of environmental barriers to enable full participation of the disabled was presented in the National Assembly in June 1991 and in February 1994. On both times, it lapsed due to postponement.

POVERTY FACTOR

The World Bank in its 2000 draft report, "Poverty in Pakistan: Vulnerabilities, Social Gaps and Rural Dynamics" points out certain social groupings such as caste, kinship and 'Biradari' (fraternities) that influence the performance of the labor markets and associate this with susceptibility and poverty. The report urges the government to work out policy options to cure such problems (breach of merit and equal opportunity for example), through a cultural change secured by suitable legislation. The report also identifies two possible reasons for discrimination during employment. Firstly, it is costly and in some cases cumbersome to obtain information about an individual applicant. Thus the employers may use their own prejudices or informal feedback readily available (stereotyped) about the particular group the individual comes from. Secondly, the employers have a tendency to hire workers with a social collateral i.e. networking or fraternity relationship. In Pakistan this is known as 'Sifarish' (personal recommendation) or 'Biradri' (fraternity). This culture prevails due to a fragile value system and a weaker rule of law in the country. The effect is the most regressive and unfavorable for the poor.

CONCLUSION

In Pakistan, major challenge for EEO is not legislation, but implementation. Implementation necessitates a broad-scale education and appreciation of EEO philosophy for the competitiveness and very existence of an organization on micro and macro levels. Government as well as organizations must initiate an EEO program starting with the education of the policy makers, and the employees in general so that they can understand the rationale of this program and wholeheartedly support it. This will start with informatory session(s) for the employees about the objective and rationale of the EEO program. They can also be apprised about the results of an initial EEO assessment of the organization. Next stage will be to confer responsibility for the development and implementation of the EEO program (including a continuous review) on a committee having sufficient authority to develop and implement the equal employment opportunity program. EEO committee should comprise the representatives of the management, women, minorities, disabled persons and other designated groups. EEO committee will collect and record statistics and related information concerning employment matters in the authority, including the number, classification and types of jobs of employees of either sex and designated groups. Also the existing policies and practices of the authority in relation to employment should be reviewed to remove discrimination. There should be an analysis of the quantitative and other indicators against which the effectiveness of the EEO program will be assessed; and the implementation of the EEO program should be monitored to assess the achievement of the objectives by comparing relevant data. This is to ensure that all employees are being used efficiently and effectively; and have been provided with effective education and training to improve organizational and individual performance. This will also guarantee that all employees are protected against arbitrary action, personal favoritism and coercion; and all necessary steps have been taken to maintain proper standards of employees' uprightness, conduct and concern for the public interest.

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