Human Resources: A case study of must-have HR Policies, Hypothetical cases, Employment Legal Cases and their Worst-Case Analysis

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Abstract- For decades Human Resource Management has been considered to be a cost centre, an overhead that does not contribute to the revenue growth or the overall strategy of the organization. However, there have been drastic changes in perception in the recent past with the management realizing the importance of Human Resource Management and the role it plays in contributing to the overall strategy of the organization. Today, the senior management of many organizations consider HRM to be a profit centre. The Human Resource department is expected to perform more than just the traditional HR activities and be more strategic in their approach. [1]Kaplan and Hurd (2002) define that strategic human resource management is a collection of tasks and processes shared jointly by line managers and human resources to solve business issues based on people. Michie and Sheehan (2005) define that strategic human resource management is the pattern of scheduled HR tasks and deployment intended to enhance an organization to gain its aims.

HR Policies form the fundamental base of strategic Human resource management in any organization irrespective of its size. They define the guidelines for employee behavioural conduct and the organization's approach towards handling legal situations. This research paper provides a brief of the important HR Policies that every organization must have to ensure a harmonious work culture, Hypothetical Case Studies with critical questions that every organization has to address in their policies and Actual Case Studies that give a glimpse of real-world Employment Law Cases and their respective Worst-Case Analysis. This research paper is based out of secondary data with data for the research collated from previous research papers, journals and various other secondary sources.

Index Terms- Strategic Human Resource Management (SHRM), HR Policies, Employment Legal Cases, HR Policies worst-case analysis, hypothetical case study

I. INTRODUCTION

Human Resource Management (HRM)[2] is defined as the process of acquiring, training, appraising, and compensating employees, and of attending to their labour relations, health and safety and fairness concerns. Human Resource Management deals with people and how to effectively bring out the potential in them to utilize it for the revenue growth of the organization. On the other hand, Strategic Human Resource Management(SHRM)[3] deals with formulating and executing human resource policies and practices that produce employee competencies and behaviours the company needs to achieve its strategic aims.
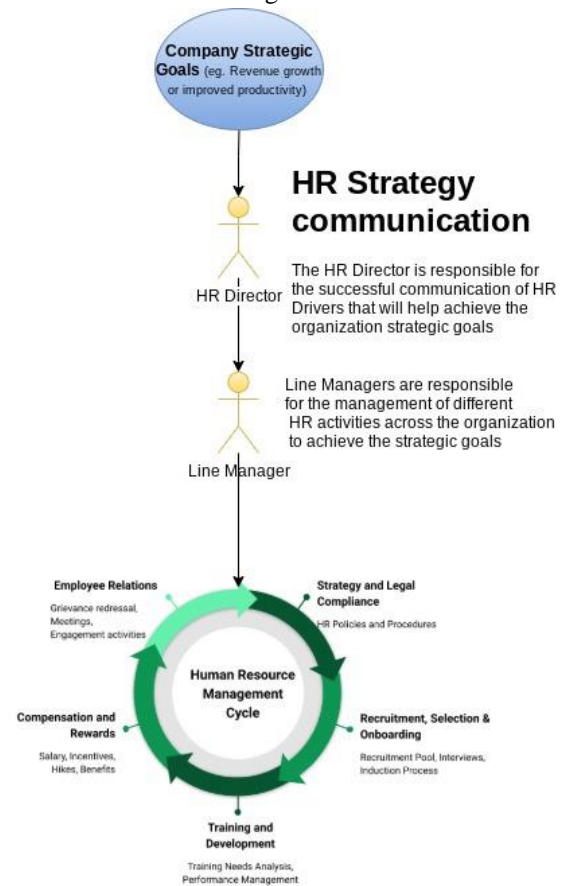

Figure 1: Human Resource Management Cycle

Figure 1: "Human Resource Management Cycle" is the pictorial representation of the top-down approach of typical Human resource management activities to achieve the company's strategic aims. In this cycle, the strategic goals of the organization are communicated from the senior management (HR Director) to the line managers who are responsible for handling different HR activities. The number of Line managers can vary depending on

the size of the organization and the emphasis laid on different HR activities. Typically HR activities are made up of the following elements:

1. Strategy and Legal Compliance
2. Recruitment, Selection and Onboarding
3. Training and Development
4. Compensation and Rewards
5. Employee Relations

Just like the constitution defines a set of guidelines to run the country and laws in place ensure harmony in the society, every organization requires a set of guidelines called the HR policies and procedures which guide employee behaviour and approach towards achieving the overall strategic plans of the organization. However, an often misunderstood concept is the distinction between an HR Policy and a procedure. In definition,[4] Human Resource Policies are continuing guidelines on the approach of which an organization intends to adopt in managing its people. They represent specific guidelines to hr managers on various matters concerning employment and state the intent of the organization on different aspects of Human Resource management such as recruitment, promotion, compensation, selections etc.[5] While a procedure spells out precisely what action should be taken in line with the policies.[6]

Well defined HR policies and procedures of an organization, define the guidelines for its employees to adhere to against unscrupulous behaviour, are in line with various State/Country Labor laws and, act as legal protection in case of Labor related incidents. Organizations with low emphasis on the importance of well-defined HR policies often face legal action when such incidents occur.

Objective: The objective of this research paper is,

1. To briefly list the HR Policies must for any organization
2. Emphasize the importance of HR policies through a study of various Employment Legal cases and hypothetical scenarios.
3. A Worst-Case Analysis to identify the point of failure in the Employment Legal cases under discussion to emphasize the need for granularity in framing HR Policies

II. LITERATURE REVIEW

HR Policies and Procedures are often regarded as the backbone of any organization. They are included as part of an Employee Handbook that details other personnel requirements such as leave, rewards and compensation etc shared with the employee on the day of onboarding. HR Policies are often very specific to an organization based on its strength, the Mission, the Vision and the Internal Processes. Despite such variables, there are select few HR Policies that every organization must have to ensure a harmonious

relationship between the employee and the employer and also to support those behavioural traits of an employee that achieve the organization strategies in an ethical manner.

Research Methodology: This paper lists the 10 HR Policies that every organization must have as collated from various research papers, journals and books. Briefly defines the policies and the need for having these policies and lays emphasis on the importance of the policies through hypothetical case studies that give rise to possible worst-case scenarios and actual legal Employment cases.

Research Elaborations: As collated from various journals and research papers[7][8][9][10][11] following list the 10 HR Policies every organization must have,

1. At-Will Employment Policy
2. Code of Conduct and Ethics Policy
3. Anti-harassment and Non-discrimination Policy
4. Employment Classification Policy
5. Health and Safety Policy
6. Data Security Policy
7. Leave, Time-Off benefits and Attendance Policy
8. Privacy Policy
9. Computer equipment and Internet Usage Policy
10. Whistleblower Policy

What is *At-Will Employment Policy*?

The At-Will Employment Policy states that an employer may dismiss an employee at any point of time for any reason as long as the reason is legal and valid (eg: he or she cannot be fired on grounds of religion, caste, sex, origin etc) without prior notice. The Policy also is applicable to the employee leaving his employment with his or her employer for any reason without prior notice. In other words, this policy allows an employer and an employee to end their relationship at any time during the employment tenure. By definition,[12] Labor Code section 2922 establishes the presumption that an employer may terminate its employees at will, for any or no reason. A fortiori, the employer may act peremptorily, arbitrarily, or inconsistently, without providing specific protections such as prior warning, fair procedures, objective evaluation, or preferential reassignment.

The at-will Employment Policy enables the employer and the employee to have a harmonious relationship void of any long term commitments thus ensuring the organization to run efficiently without much cause for performance issues.

Hypothetical Case Study: As an HR manager, you are dealing with a diverse group of employees on a day-to-day basis. One of your employees has been consistently having a low performance on all his deliverables. Despite the additional support, training and the Manager intervention there has been no improvement and this is costing your firm dearly. The management has decided to fire the employee. How to legally let go of the employee on short notice?

What are the rights of the employee whose employment has been terminated? What are the legal protections against lawsuits filed by employees whose employment was terminated? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *Swindol v. Aurora Flight Sciences Corp*., is a case of No-guns Policy violation by the organization challenged by the state law of Mississippi. [13] Robert Swindol parked his truck in Aurora's employee parking lot with his firearm locked inside. Aurora's management learned of the firearm and fired Swindol for violating company policy prohibiting firearms on its property. However, the state law of Mississippi prohibits employers from barring their employees from storing firearms in a locked vehicle in any parking space or garage. Hence, Swindol alleged that his termination was in violation of the Mississippi state law. While the no-guns policy of the organization might have been valid, the At-Will Employment Policy should have taken into account the state law of Mississippi. This emphasizes the importance of a well defined At-Will Employment Policy.
Worst Case Analysis: The At-will Employment Policy failed to take into account the state laws that barred an employer from prohibiting employees to store guns in parked trucks.

What is the *Code of Conduct and Ethics Policy*?
The Code of Conduct and Ethics policy is a set of guidelines that define the ethical standards of behaviour and conduct in an organization that the employees have to adhere to professionally. It aligns the behaviours of the employees in line with the organization's Vision, Mission and Core values. By definition,[14] A code of conduct is a set of rules outlining the norms, rules, and responsibilities or proper practices of an individual party or an organisation.
The Code of Conduct and Ethics Policy is unique to every organization. A typical Code of Conduct and Ethics Policy captures the following elements[11][15]: The Company Vision, Mission and Values, Company Confidentiality, Conduct of professional behaviour, resolution of Conflict of Interest, Workplace safety, Dress code, Pet Policy, Smoking, Drug and Alcohol use, Business Opportunities, Family and Friends Visitors Policy, Business Courtesies and gift acceptance etc. Also, sanctions against the organization employees in case of violation of the Code of Conduct policy helps to create a moral work environment in the organization.

Hypothetical Case Study: As a Regional Sales Manager in a Cloud Service Provider firm you are responsible to bring in sales prospects for your firm from a wide range of clients. What if a client of your firm offers you a business proposal with a better offer? Do you get into an agreement with the client? Does your employment with the current firm get terminated? Are there policies that impede your employment with a client/competitor for

a specified period of time post-termination? Are you allowed to meet the client while still in the employment of the office hours? What is the protocol to be followed if you are approached by your client/competitor? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *Bellman v Northampton Recruitment Ltd*,[16][17] An appeal against a finding that the Respondent company was not vicariously liable for the conduct of its managing director. One of the Managing directors of Northampton Recruitment Ltd attacked one of the employees of the organization. The incident took place outside the company premises while the employees were partying. Was the company responsible for the actions of its MD conducted outside the company premises on one of its employees? The court in 2016 said that it was not. The employee appealed. The court allowed the appeal. The investigation proved that there was enough evidence to link the MD's actions were in line with company work. Lord Justice Irwin in his own words: "This case arose because of the way in which [the MD] chose to exert his authority, indeed his dominance as the only real decision-maker, in the company." The following case study explores the scope of the Code of Conduct and Ethics policy beyond the premises of the organization.
Worst Case Analysis: The Code of Conduct and Ethics Policy failed to address the behavioural conduct of its employees beyond the premises of the organization.

Achbita and another v G4S Secure Solutions (ECJ), [18][19] The Belgian case Achbita and accompanying French case Bougnaoui are cases of Dress Code controversies. The case involves a Muslim woman who was dismissed on the ground of not complying with the company order to remove the burka (religious headscarf) when confronted. The European Court of Justice (ECJ) held that [18]"a ban on a religious dress that prevents a Muslim woman from wearing an Islamic headscarf when in contact with clients cannot be directly discriminatory, but is potentially indirectly discriminatory. Such discrimination may be justified in order to enforce a policy of religious and ideological neutrality pursued by the employer in the company concerned, in so far as the principle of proportionality is observed in that regard."
 The following case study explores the scope of dress code in a code of Conduct and Ethics Policy and emphasizes the importance of exceptional cases with legal implications.
Worst Case Analysis: The Code of Conduct and Ethics Policy failed to emphasize the importance of religious freedom on the basis of dress code which led to indirect discrimination of an employee.

What is the *Anti-Harassment and Non-Discrimination Policy*?
An Anti-Harassment and Non-Discrimination Policy is a set of guidelines which prohibits discrimination, bullying or harassment

of employees/employer/client or any personnel on the grounds of caste, creed, religion, sex, origin, nationality, language, colour, ethnicity, education background competencies etc. to ensure a harmonious working environment in the organization. By definition, [20]To "discriminate" against someone means to treat that person differently, or less favourably, for some reason. Sexual harassment is defined as "unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature ... when ... submission to or rejection of such conduct is used as the basis for employment decisions ... or such conduct has the purpose or effect of ... creating an intimidating, hostile or offensive working environment."

The Anti-Harassment and Non-Discrimination Policy ensure equal employment opportunities to all the employees irrespective of their diversities. It also defines the procedures to be followed in cases of discrimination and harassment and non-retaliation agreements that ensure justice.

Hypothetical Case Study: As an HR Manager in your firm you've received an email from one of your female colleagues raising a discrimination issue from her superior. What are the steps you'd take to handle this scenario? Has the Internal Complaints committee been informed? Is there an investigation procedure that needs to be put in place before coming to conclusions? If yes, what are the steps to be followed while investigating? Will the employee continue to report to the superior while the issue is resolved? Does your company policy have a strong statement against discrimination? Are your employees trained to avoid prejudice based on religion, sex, colour, ethnicity or other diversities? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *Chief Constable of Norfolk v Coffey, 2019*[21] is a case study of perceived discrimination of an employee or in this case a female police officer who was rejected her request for transfer on the grounds that her superior perceived on the assumption that the officer's hearing problem could turn into a disability at a later point of time. The appealed court of the law passed its judgement that "it may be unlawful disability discrimination to refuse individual employment on the basis that there is a risk that they may be unable to work in a particular role in future."

This case study emphasizes the need for Non-Discrimination Policy that ensures the prevention of discrimination, even those based on assumption and perceptions.

Worst Case Analysis: The Non-Discrimination Policy, in this case, failed to take into account the protocol that needs to be followed when a disability is only perceived assumption to be an impediment to work in a particular future role.

What is the *Employment Classification Policy*?

An Employment Classification Policy defines the status of an employee's employment with the organization and the norms of each category. Employment Classification includes the following elements: Full-time Employees, Part-time Employees, Temporary Employees, Independent Contractors, Freelancers, consultants and interns. The Employment Classification Policy underlines the number of working hours, a benefits package, salary package, probationary period, termination procedure for each of the following categories. By definition,[23]Employee classification policy outlines the different categories of employment in a company. It states the different types and statuses that an employee may acquire once they are hired by the company. This is rendered important for the administration of benefits and the application of policies as well as disciplinary procedures.

Hypothetical Case Study: As a Marketing Manager in an apparel store you've hired an intern for a tenure of 3 months. Given the performance of the intern, Do you terminate the internship citing low performance? Do you extend the probation for another 3 months for further monitoring? If the benefits package continues? Will there be a change in the working hours? Based out of good performance you've decided to extend the job offer. Does the employment status change to a permanent employee? If so, is there a different probationary period that applies to permanent employees? Are the termination procedures different from that of an intern and a permanent employee? What are the additional benefits of a permanent employee? Will a notice period before resignation apply to an intern or only to a permanent employee? Does file access permissions vary with employment categories? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *Aslam and others v Uber BV and others,*[24][25] is one of the high-profile cases that deal with Employment Classification controversies. The following case dealt with 2 Uber drivers Mr Yaseen Aslam and Mr James Farrar appealed to the court that they ought to be paid the minimum wages and annual pay benefits as workers/employees of Uber. However, Uber BV argued that drivers were self-employed independent contractors termed as partners with Uber in agreement and the agreement stated: "nothing shall create an employment relationship between Uber and the partner". On the contrary, Mr Yaseen Aslam and Mr James Farrar contended this in the court on the grounds that a "worker" is anyone who either has an Employment contract with the employer or anyone who personally performs work but not for a client or customer. Judgement: The Employment Tribunal or ET unanimously held that Mr Yaseen Aslam and Mr James Farrar were "workers" and were fully entitled to the Annual Pay benefits and minimum salaries.

The following case study emphasizes the need for an Employment Classification Policy and the ethics in framing it.

Worst Case Analysis: The Employment Classification Policy failed to address the complete scope of Employment Classification of "worker" and "partner" and the perks of each classification which ultimately led the appeal for the policy to be addressed as a scam in the court of law.

What is the *Health and Safety Policy*?
The Health and Safety Policy is a set of guidelines that ensure a safe and healthy work environment for all the employees of the organization. People are the most important resource of any organization and protection of people takes precedence over all other policies. A Health and Safety Policy is responsible for creating adequate awareness about health and safety and acts as a reference to the precautionary measures that employees need to follow when dealing with hazardous equipment or dangerous work environments. By definition,[26]An organization's safety policy is a recognized, written statement of its commitment to protecting the health and safety of the employees, as well as the surrounding community. The safety policy also details the measures the company takes and will take to protect the life, limb, and health of their employees, often surpassing the requirements set out by the laws or by the standard practices of the industry.
A Health and Safety Policy typically consists of the following elements: Emergency Drill protocols, Risk assessments, Security Consultations, Periodic Safety checks, Health and Safety Awareness sessions etc. The unprecedented and unpredictable COVID-19 situation that grips the world today emphasizes the need for a Health and Safety Policy in every organization.

Hypothetical Case Study: Imagine you are running a Metal Manufacturing factory, is there a protocol to be followed if there is a machine breakdown? What is the reporting mechanism? What are the precautions taken to prevent explosions where flammable gases are produced? What are the safety measures for workers handling press breaks to avoid amputation accidents? Is the Personal Protection Equipment(PPE) used of standard quality? How often are the quality checks for machines and PPEs conducted? Are all workers employed in Wind blade fabrication using PPEs effectively to avoid skin injuries as a result of epoxy resin? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: [27]Visakhapatnam LG Polymer Gas leak incident took place on the 7th of May 2020. LG Polymers is a manufacturer of Polystyrene and its Copolymers. On May 7th,2020, a neuro-toxic styrene chemical leaked from the storage unit of a plastics-manufacturing plant in Visakhapatnam. As of 12.May.2020 12 people have been reported dead and thousands hospitalised. The LG Polymer had expanded its production at the Visakhapatnam plant beyond the regulated environmental limit

without any clearance. With lives at stake, a health and safety policy should be framed with utmost caution and thought.

Worst Case Analysis: "Identify hazards and evaluate for risk and communicate to the concerned for immediate rectification" is the first safety protocol of LG Polymers India Pvt Ltd. However, the company failed to follow its own safety protocols which led to a toxic gas leak and cost lives. Despite the policy framed, the Health and Safety Policy failed in its implementation stage.

What is the *Data Security Policy*?
A Data Security Policy is a set of guidelines responsible for safeguarding the organization from potential safety breaches either internal or external. Data in today's world is the most important resource an organization houses whether it be customer data or employee personnel information. A Data Security Policy ensures the protection of data preventing a breach of confidentiality or privacy in the form of data leaks. By definition,[28]Data protection policy is a type of security policy that aims to design, implement, guide, monitor and manage security over an organization's data. It primarily aims at securing and protecting logical data stored, consumed, and managed by an organization. This data can be stored within the organization core infrastructure, offsite location or at an online / cloud service.
Data leaks are often damaging to a company in terms of reputation and can cost the company dearly following expensive lawsuits. Data Security Policies should be framed to comply with data protection laws such as General Data Protection Regulation (GDPR) and protect the rights of its employees and customers, but also ensure there is enough flexibility to access the required data efficiently without affecting the overall performance.

Hypothetical Case Study: As a design engineer in an Android app development firm you are designing a new application which has high potential on the market. What are the data protection policies you have to ensure the application is safe from a data breach? Are your team members working on the project allowed to bring their own device as part of BYOD policy? Are the Pendrive slots for laptops disabled to prevent confidential data transfer? What policies are in place to protect customer data stored on the application you've developed? What are policies governing the share of customer data with a third party? What is the protocol to be followed in case of a data leak? Is there a protocol that is followed in case of a data leak that is internal? What is the investigation policy for data leaks? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *WM Morrison Supermarkets plc v Various claimants*,[29][17] is a classic case of a disgruntled employee of an organization leaking confidential data to the public causing a data breach. The following case involves a Mr Skelton who, at the time

of the data breach was a senior internal IT auditor at Morrisons. He had become disgruntled by an internal disciplinary action relating to his use of Morrisons' post room for a side-business. Following which, Mr Skelton uploaded personal data (including names, addresses, dates of birth, home and mobile phone numbers, national insurance numbers, and details of bank accounts and salaries) of nearly 100,000 Morrisons' employees without authority misusing his role as an auditor at the company. While Morrisons remedied the breach on the very first notice and Mr Skelton was arrested, the court held WM Morrison Supermarkets plc liable for the data breach.

Points of note from the Court of Appeal's decision[29]: "implement "appropriate organisational and technical measures" to ensure that personal data in their possession is appropriately secured, and carefully monitor the implementation of those measures, and update them in a timely manner in line with relevant guidance and technical developments, and ensure that they have appropriate insurance coverage."

Data breaches cost companies dearly, following a report by Juniper, Data suggests that cybercrime cost businesses over $2 trillion in total in 2019. This case study emphasizes the need for stringent data protection policies in organizations.

Worst Case Analysis: WM Morrison Supermarkets plc failed to have stringent measures in data protection policy to avoid confidential data leaks. The policy failed to address key technical protocols that need to be in place while employees are handling confidential data, ultimately leading to a data breach of more than 100,000 employees.

What is the *Leave, Time-Off benefits and Attendance Policy*?
A leave and Time-Off Benefits Policy is a set of guidelines that provides clarity on various aspects of leaves and Time-Off benefits that employees of the organization are entitled to and the attendance regulations and expectations the employees of the organization should adhere to. By definition,[30] A Leave Policy is a set of rules, procedures and guidelines established by organizations in accordance with applicable federal and local laws, which govern the process, timeframes and reporting procedures for the time taken off work. Leave or time off policies determine the type and amount of time that can be taken off work, how much time will be reported and paid, and the process for requesting time off.

A Leave, Time-Off Benefits and attendance Policy typically have the following elements: holidays, vacations, sick leaves, earned leaves, leave without pay, absenteeism, bereavement leaves, work from homes etc.

The Leave, Time-off Benefits and Attendance Policy is important to ensure employees have complete clarity in terms of leaves and holidays they are entitled to, also, that the absenteeism of employees does not affect the productivity of others or the organization.

Hypothetical Case Study: As a lead Manager for a Cyber Security project you are working with a team of 6 members. All members are critical to the project. One of your team members has a family emergency and has to take time off. What policy in place allows an employee to take time off for family emergencies? How will you ensure the productivity of the team won't reduce in the team member's absence? How is the work distributed across the team? Is there a benefits package that the team member can opt to provide monetary support to his family? If the team member is willing to work from home, is there a policy in place with guidelines for "Work from Home"? Are the number of work from homes specified in the policy? How many hours should an employee log when working from home? Who will authorize the "Work from Home"? What is the disciplinary action in case of policy violation? etc.

Actual Case Study: *O'Brien v Bolton St Catherine's Academy* case, [31][19]is a case of discriminatory dismissal of a teacher by her school while she was on a long sick leave. The claimant, a teacher, was assaulted by one of the students of the school, following which she went on a sick leave diagnosed with anxiety, depression and post-traumatic stress disorder. Eventually, after the teacher had been off work for over a year, she was dismissed on grounds of medical incapacity. Following which, the teacher appealed to the court stating that dismissal was "disproportionate and unreasonable". Initially, though the case sided with the employer with the court stating that employers were not expected to wait forever for an employee to recover from illness, and dismissal is a valid possibility, ultimately the employer lost the case as the school had failed to take into account a fitness letter that the teacher had submitted between the day she took her sick leave and the day of her termination.

This case study emphasizes the need for a clear understanding of long term leaves and how they need to be framed. The factors that need to be taken into consideration before the termination of an employee such as, whether the employee off work is affecting the overall productivity of the business if there can be an extension or a workaround for the employee away from work etc.

Worst Case Analysis: The Leave, Time-Off Benefits and Attendance Policy failed to take account of the Fitness Letter that was submitted at an intermittent point post the time-off began. Policies have to be clearly framed for such scenarios and the criteria for termination of an employee in case of long breaks.

What is *Privacy File Policy*?
A Privacy Policy is a set of regulations governing the way in which an organization collects the data, stores the data and grants access

permissions to access the data. The policy is responsible to protect the confidentiality of the data collected. The data can be either that of a customer or the organization employees. Data collected varies from one organization to the other. Typically a privacy policy ensures the protection of data collected which includes and is not limited to Name, Age, sex, marital status, contact information, blood group, Proof of education qualification, ID proof such as Aadhar / SSN, employment history etc. By definition,[32] A privacy policy is a statement or a legal document (in privacy law) that discloses some or all of the ways a party gathers, uses, discloses, and manages a customer or client's data.

A Privacy Law is important for the organizations to assure its employees and customers the confidentiality of data collected. No information collected is to be disclosed without written authorization.

Hypothetical Case Study: You are the CEO of a Social Media App company. You are approached by a Digital Marketing Agency who'd like you to share your customer data with them for the sake of advertising. What would be your call on sharing data with a third party? Is there an agreement between your company and the customers that prohibits information sharing without written consent from the customer? Under what circumstances is there an exception to the contract agreement for data sharing? In case the data request comes from a country's national security, what are the protocols to be followed for sharing the requested information? What amount of customer data can be used from Machine Learning and Data Science to predict customer sentiments? etc.

Actual Case Study: *The Facebook–Cambridge Analytica data scandal 2018* case,[33][34][35] sparked one of the biggest data scandal cases with a breach of the privacy policy and customer confidentiality. Millions of Facebook users' data was collected without consent by an academic, Aleksandr Kogan, who used it to build psychological profiles of people by creating an application which ultimately was used as analytics for political advertising in campaigns of Ted Cruz and President Donald Trump. In 2018, the data breach was exposed by Mr Christopher Wylie, a former employee of Cambridge Analytica. As a consequence, Facebook lost 119 Billion $ in market capitalization following the scandal and also led to #DeleteFacebook trend on the internet damaging the company reputation. Mark Zuckerberg publicly apologized for the data breach when he testified before congress.

This case study emphasises the importance of ensuring the stringent regulations of a Privacy Policy and adhering to it, and also, the consequences that follow in violation of the Privacy Policy.

Worst Case Analysis: Despite having a Privacy Policy, facebook breached its own policy and shared data of customers without proper consent. While Mark Zuckerberg, the CEO of Facebook

testified before Congress, there were several aspects of the data breach and the company policies that he wasn't aware of. This analysis concludes that as important as it may be to have a Privacy Policy in place, it is necessary to ensure its implementation is as stringent as the policy framed.

What is *Computer equipment and Internet Usage Policy*?

A Computer Equipment and Internet Usage Policy is a set of guidelines that govern the way in which computer equipment such as a desktop, laptop, printer, scanner and the Internet are used when connected over the organization's Network Infrastructure. The policy includes and is not limited to the prohibition of access to Social network sites such as Facebook, Instagram etc., porn sites etc, limit digital equipment usage such as phones during office hours to ensure work productivity, prohibit downloading or sharing of organization's confidential data across the internet or via digital equipment etc. By definition, [36]An internet usage policy provides employees with rules and guidelines about the appropriate use of company equipment, network and Internet access which helps to protect both the business and the employee leading to fewer security risks for the business as a result of employee negligence.

Hypothetical Case Study: As an HR Manager of a service-based company you've received a complaint from the accounts team citing the overutilization of company network resources costing the company more than the standard price. You've also recently come across a few of the employees using their phones connected to the company network for personal use during office hours. Is there an Internet Usage Policy in place to prohibit network resources used for a personal cause? Are tabs maintained on the number of hours employees spend on social media sites for unofficial work? Is the company productivity affected by internet usage by employees? Does the policy prohibit employees from accessing obscene or illegal websites? Is a flag raised when an Employee has made an unauthorized download? What are the regulations and precautions taken against unauthorized downloads? Is the company printer and scanner being used by employees for personal unofficial work? In the case of computer equipment damage, what are the circumstances under which the employee is held liable? What is the disciplinary action in case of policy violation? Etc.

Actual Case Study: *Doe v. XYC Corp. 2005* case, [37][38] is a case of misuse of the Internet for inappropriate content by an employee of the organization. An employee of XYC Corp. had taken pornographic videos and photos of his stepdaughter "Jill" and was transmitting the images over the Internet from his workplace computer. The access to pornographic websites was first noticed by a network IT Engineer, who confronted the employee to stop the usage over the workplace network. However, the Network IT

Engineer never reported the incident to senior management. Over a year later this was again noticed by a Senior employee who reported the activity to the Director of Network and PC Services. However, the director chose not to act as the company policy prevented the employer from monitoring internet activities. At a later point of time, the employee was arrested by the police over child pornography charges, which however happened without the company's intervention. During the investigation conducted by the police, it came to light that the employee was using the company network to upload pornographic images and videos. Also, the employee had stored pornographic content on the workplace computer. The XYC Corp. was sued by the wife of the employer on charges of workplace network and computer being used for illicit activities which caused damage to her stepdaughter "Jill".

Worst Case Analysis: Despite the Internet Usage Policy XYC Corp. had in a place wherein employees of the organization were allowed to [38]"access sites which are of a business nature only," that an "employee who discovers a violation of this policy shall notify [Human Resources]," and that an "employee who violates this policy or uses the [company's] electronic mail or Internet systems for improper purposes shall be subject to discipline, up to and including discharge." the company turned a blind eye on the illicit activity at the workplace. A proactive and immediate remedial action in the wake of an illicit activity would have saved damages caused both to the organization and the victim of the illicit activity.

What is the *Whistleblower Policy*?
A Whistleblower Policy is a set of guidelines that defines the framework for reporting wrongdoings in an organization and puts an end to it. The policy outlines the reporting mechanism for reporting illicit activities as well as ensures adequate protection of the whistleblower both in terms of employment and anonymity. A Whistleblower, by definition,[39] is a person who exposes secretive information or activity within a private or public organization that is deemed illegal, unethical, or not correct.[40] The information of alleged wrongdoing can be classified in many ways: violation of company policy/rules, law, regulation, or threat to public interest/national security, as well as fraud, and corruption.
A Whistleblower Policy is a way of assuring the stakeholders in the organization that the operations are both transparent and ethical.

Hypothetical Case Study: You are working as an accountant in one of the reputed Service Sector Firms. The firm has recently gone public with an Initial Public Offering (IPO) and is registered with both SEBI and SEC. You've noticed from the records that one of the employees is using insider data to trade in the market. Is there a whistleblower policy that allows you to report an incident of insider trading? If so, does the policy protect the anonymity of the whistleblower? What is the scope of the whistleblower once a report has been made? What is the investigation process followed by the organization? How are the SEBI and SEC involved as part of the investigation of the whistleblower accusation? Are the consequences of false accusations clearly defined in the policy? Does the policy address the suspension or dismissal of an employee during the investigation to avoid evidence tampering? Etc.

Actual Case Study: Royal Mail Group Ltd v Jhuti [2019],[41][22] is a case of unfair dismissal claimed by the claimant, an employee of Royal Mail Group Ltd. "Jhuti", a Media Specialist in the MarketReach unit of Royal Mail Group Ltd. blew the whistle alleging that the employees of the organization made irregular discount offers in respect of "Tailor-Made Incentives" ("TMIs") to customers and thus violating the company's own policies. However, she was soon pressurized by her Line Manager into withdrawing her allegations. Soon after which she was dismissed on grounds of low performance by the Head of Operations who happened to be coaxed by the Line Manager into believing that the employee was a consistent low performer and had not followed the recommended training schedules. The claimant appealed to the court. The Supreme Court held that a claimant can succeed in a whistleblowing unfair dismissal claim even when the decision-maker is unaware of the protected disclosure at the time of the decision to dismiss and was manipulated by someone else which in this case would be the Head of Operations manipulated by the Line Manager into dismissing the employee for low performance.

Worst Case Analysis: The Whistleblower Policy of Royal Mail Group Ltd. failed to provide adequate protection to the whistleblower. While the company had the policy in place, the failed attempt at preventing the pressure that the whistleblower succumbed to under the line manager which ultimately resulted in her indirect dismissal for low performance emphasizes the need for policy monitoring and adequate training to employees to stand up to themselves without giving in to pressure from the senior management.

III. CONCLUSION

HR Policies and Procedures are the fundamental pillars on which the culture of an organization is built. They act as a beacon of light, a point of reference that guides employers and employees towards an ethical work culture in the corporate world. HR Policies vary from one organization to the other. Often, the policies reflect a company's culture and values. Google, Coca-cola, FedEx, AMX, Helcorp. Etc are a few companies with exceptional HR Policies. This research paper not only emphasizes the need for framing HR Policies but also lays sufficient emphasis on the details that go into

them, as the adage goes " The devil is in the details". The *Hypothetical Case Studies* outline the critical possibilities that may arise in an organization that lays prominence to the need for HR Policies. It is important to take note here that the Hypothetical Case Studies address only a select few possibilities and is open to a great deal of scrutiny. The *Actual Case Studies* focus on the need to frame HR Policies with utmost caution to ensure that the gaps in the policies framed do not end up as a liability to the organization. Also, it takes a glimpse at the real world Employment Law Cases. The *Worst-Case Analysis* analyses the point of failure in the HR Policy of the Employment Legal Case, thus laying emphasis on both the need to frame HR Policies and to ensure it is ironclad. HR Policies can either be framed flexible or rigid, however, care should be taken to ensure that the HR Policies are in compliance with the appropriate State / Federal / Country laws.

Recommendations: This research provides conclusive evidence for the need for well-defined and well-framed HR Policies and Procedures in every organization. HR Policies should be open to legal scrutiny. Legal Consulting of HR Policies or Policies framed with legal assistance can help avoid if not all, but at least a few gaps in the HR Policies. Well-framed HR Policies with a strong emphasis on implementation can save the company a great deal of damage both in terms of expensive lawsuits and company reputation, as the adage goes "Prevention is better than Cure".

REFERENCES

[1] Jena, Abhinash, *"Strategic human resource management",* Project Guru, retrieved 12.May.2020, https://www.projectguru.in/definition-of-strategic-human-resource-management/

[2] Dessler, Gary, (2017), Human Resource Management, Fifteenth Edition, Pearson Education, Inc. p. 3. ISBN 9780134235455

[3] Dessler, Gary, (2017), Human Resource Management, Fifteenth Edition, Pearson Education, Inc.p. 71. ISBN 9780134235455

[4] Michael, Armstrong (2001). A Handbook of Human Resource Management Practice. London: Kogan Page. p. 289. ISBN 0749433930.

[5] Pravin, Durai (2010). Human Resource Management. India: Dorling Kindersley (India) Pvt. p. 133. ISBN 9788131724842.

[6] Michael, Armstrong (2001). *A Handbook of Human Resource Management Practice*. London: Kogan Page. p. 289. ISBN 0749433930.

[7] Kapur, Radhika. (2020). Human Resources Policies and Procedures.

[8] Avishikta, R. (n.d.). HR Policies. Retrieved March 05, 2020, from yourarticlelibrary.com HR Policies and Procedures Manual and Employee Handbook. (2019). Retrieved March 05, 2020, from managementstudyguide.com

[9] 15 Must-Have HR Policies and Forms. (2015). Retrieved March 05, 2020, from sbshrs.adpinfo.com

[10] Policies and Procedures in the Workplace: The Ultimate Guide. (2019). Retrieved March 04, 2020, from i-sight.com

[11] Lawsikho, *Legal Handbook for HR Managers,* p. 94 - p. 143.

[12] *Guz v. Bechtel National, Inc.*, 24 Cal. 4th 317, 8 P.3d 1089, 100 Cal. Rptr. 2d 352 (2000).

[13] Swindol v. Aurora Flight Scis. Corp., 805 F.3d 516, 519 (5th Cir. 2015)

[14] Wikipedia, "Code of Conduct", https://en.wikipedia.org/wiki/Code_of_conduct, retrieved 11.May.2020

[15] Alphabet, *"Google Code of Conduct"*, Alphabet Investor Relations, https://abc.xyz/investor/other/google-code-of-conduct/, retrieved 11.May.2020

[16] *Bellman v Northampton Recruitment Ltd [2018] EWCA Civ 2214*

[17] Simpson, Stephen, "The 10 most important employment law cases in 2018", 2011 - 2020 DVV Media International Limited, https://www.personneltoday.com/hr/the-10-most-important-employment-law-cases-in-2018/

[18] *Samira Achbita & Anor v G4S Secure Solutions NV [2016], EUECJ C-157/15*

[19] Simpson, Stephen, "The 10 most important employment law cases in 2017", 2011 - 2020 DVV Media International Limited, https://www.personneltoday.com/hr/10-important-employment-law-cases-2017/

[20] U.S.Equal Employment Opportunity Commission, "What is Employment Discrimination?",EEOC, https://www.eeoc.gov/youth/what-employment-discrimination

[21] *Norfolk v Coffey [2019], EWCA Civ 1061*

[22] Simpson, Stephen, "The 10 most important employment law cases in 2019", 2011 - 2020 DVV Media International Limited, https://www.personneltoday.com/hr/10-most-important-employment-law-cases-2019/

[23] "Employee classification policy", Workable Technology Limited 2012-2020, retrieved 12.May.2020, https://resources.workable.com/employee-classification-company-policy

[24] *Uber BV v Aslam [2018]*, EWCA Civ 2748

[25] Simpson, Stephen, *"The 10 most important employment law cases in 2016"*, 2011 - 2020 DVV Media International Limited, https://www.personneltoday.com/hr/the-10-most-important-employment-law-cases-in-2016/

[26] Safeopedia, "Safety Policy", Safeopedia Inc, Retrieved 12.May.2020, https://www.safeopedia.com/definition/450/safety-policy

[27] Aryan. Aashish, Mukul. Pranav, "Vizag gas leak: Don't have green nod, the company told the state last May", TheIndianExpress, retrieved 12.May.2020, https://indianexpress.com/article/india/vizag-gas-leak-lg-polymers-india-green-nod-6399440/lite/

[28] techopedia, *"Data Protection Policy",* Techopedia Inc., retrieved 12.May.2020, https://www.techopedia.com/definition/30183/data-protection-policy

[29] *WM Morrison Supermarkets Plc ("Morrisons") v Various Claimants [2018]*, EWCA Civ 2339

[30] uplandPSA, *"Leave Policy",* Upland Software, Inc., retrieved 12.May.2020, https://uplandsoftware.com/psa/resources/glossary/leave-policy/

[31] O'Brien v Bolton St Catherine's Academy [2017] EWCA Civ 145

[32] McCormick, Michelle. "New Privacy Legislation." Beyond Numbers 427 (2003): 10-. ProQuest. Web. 27 Oct. 2011

[33] Chan, Rosalie. "The Cambridge Analytica whistleblower explains how the firm used Facebook data to sway elections". Business Insider. Retrieved 12.May.2020.

[34] Confessore, Nicholas (April 4, 2018). "Cambridge Analytica and Facebook: The Scandal and the Fallout So Far". The New York Times. ISSN 0362-4331. Retrieved 12.May.2020

[35] Meredith, Sam (April 10, 2018). "Facebook-Cambridge Analytica: A timeline of the data hijacking scandal". CNBC. Retrieved 12.May.2020

[36] GFI Software, *"Sample internet usage policy"*, retrieved 12.May.2020, https://www.gfi.com/pages/sample-internet-usage-policy

[37] Doe v. XYC Corp., 887 A.2d 1156 (N.J. Super. Ct. App. Div. 2005)

[38] Reibstein . J. Richard, Adler. E. Russell, Corporate Counsel Business
       Journal (CCBJ), "Unlawful Employee Internet Use: Is It Your
       Company's Problem?", 2020 Law Business Media
[39] Vandekerckhove, Wim (2006). Whistleblowing and Organizational
       Social Responsibility: A Global Assessment. Ashgate.
[40] Near, Janet P.; Miceli, Marcia P. (1985). "Organizational dissidence:
       The case of whistle-blowing". Journal of Business Ethics. 4: 1–16.
       DOI:10.1007/BF00382668
[41] *Royal Mail Group Ltd (Respondent) v Jhuti (Appellant)* [2017],
       EWCA Civ 1632

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