

Ethical and Legal Issues in Human Resource Development

**Evolving Roles and
Emerging Trends**



Claretha Hughes



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FOREWORD

There are a number of reasons why I was very pleased to be asked to write this foreword. I will come to the reasons to do with the book and its author shortly. First though, I will explain some background and personal reasons.

I had the pleasure of writing the first soapbox article in the first issue of the journal *Human Resource Development International*. The title of the article was “The Ethics of HRD.” That was back in 1998, now over 20 years ago. So, I have a personal and long-standing interest in the topic. I concluded that article by expressing the hope that others would contribute to understanding of the topic in the pages of that journal, as well as elsewhere. I am glad to say that has been the case in the intervening years. I have also continued to make my own contributions, for example with chapter contributions (Stewart, 2003) and in research with colleagues on the related subjects of Critical HRD (Callahan, Stewart, Rigg, Sambrook, & Trehan, 2015; Rigg, Stewart, & Trehan, 2007) and corporate social responsibility and governance (Sun, Stewart, & Pollard, 2011a, 2011b).

Along with researching and writing on the ethics of HRD, I have also been active in professional activities associated with the topic. I was the only UK-based member of the Academy of HRD Task Force which recently revised and updated the Academy’s Standards on Ethics and Integrity. In the UK, I am cochair of the Chartered Institute of Personnel and Development’s (CIPD) Ethics Panel. The CIPD is the UK professional body for HR and HRD professionals. These professional activities are indicative of my personal commitment to ethical HRD practice in addition to my academic interest. In summary, for those two reasons, I

was both honored and delighted to receive the request from Professor Hughes to write this endorsement of her important book.

Turning to the book itself, and as stated earlier, there has been much work on the ethics of HRD since 1998. Most, if not all, of that work has been reviewed for and included in this book. However, apart from the seminal text by Hatcher in 2002, there has been and remains a dearth of books, let alone textbooks, on the topic. So, a book such as this has been needed for a very long time. Professor Hughes has done the HRD profession, including all its many branches such as academics, students, and practitioners, a very significant service in writing the book.

The book itself meets the need for a close and detailed examination of the topic in an excellent fashion. I particularly like three elements. First, the book addresses three essentials of the topic, which are the nature of ethics and ethical behavior, legal aspects and compliance, and the role of values. While each of these receives independent treatment and examination, Professor Hughes recognizes the important ways in which they connect, influence, and shape each other. Thus, the impact of each, and more importantly their connections, on decision-making in organizations and by HRD professionals are common themes throughout the book. The second element is that the book encompasses three separate, though again interconnected, aspects of application: first, the ethics of HRD practice, whatever the substance and focus of that practice; second, the training and development of managers and other employees in ethical behavior; and third, the wider contribution of HRD in building, developing, and facilitating organizational cultures which support ethical and legally compliant behavior. The study of ethics can be theoretical and of little practical value. This book avoids that temptation and is unashamedly practical in orientation. This second element is therefore a major strength of the book. The practical orientation is also a feature of the third element that I like very much. This is the inclusion of chapters and content that directly addresses specific areas of practice that present the most common, and often the most complex, ethical dilemmas in professional practice. Some examples of this element are diversity, recruitment and selection, and whistleblowing. I commend Professor Hughes for tackling such areas of practice. Her writing on them will prove of practical value to HRD professionals. In summary, this book is badly needed and will make a significant contribution to the education of HRD professionals in all contexts of practice.

I now turn to the author. Professor Hughes is a well-known researcher and writer on HRD and has a well-deserved reputation for producing

valuable book for HRD professionals. Her previous books have been honored with nominations, prizes, and awards, and a new book from her is always warmly welcomed by the HRD community. Therefore, I was delighted to receive her invitation. I am also very glad to say that in my judgment Professor Hughes has done her usual excellent authoring job in her clear and educative style in this book. Her communicative writing and easy to follow structuring of the content ensures that the book will be valuable reading for both novice and expert HRD professionals.

As already indicated, this book has long been needed. It is particularly timely for reasons that are probably obvious but which are still worth stating. Most of us will be able to recount examples of corporate malpractice in recent years. Business malpractice however has not ceased, to the extent that, for example, the UK government felt a need to pass a law in 2015 named the Modern Slavery Act. The law is intended to combat human trafficking and exploitation in many established industries such as agriculture, domestic services, and some areas of hospitality. What is perhaps new is the increased level of malpractice in other areas of civic life, including politics. An example, again from the UK, is the now clearly demonstrated dishonest and deliberately misleading “leave” campaign in the 2016 Brexit vote. From my limited awareness of the USA, similar concerns seem to be expressed by some about the trustworthiness of the current government with its notions of “alternative facts,” its criticisms of the so-called “fake news,” and the investigation into possible conspiracy between the campaign of the current president and foreign nationals to influence the previous presidential election, which would be contrary to US law. Therefore, the broader societal context as well as continuing malpractice in business intensify the need for a book such as this and reinforce the value it will bring to the HRD profession.

I am personally very grateful that Professor Hughes has spent the time and effort to produce this book. I commend it to all those working or aspiring to work in the HRD profession. Your investment of time and effort in reading and studying the contents will be returned tenfold by what you will learn, by your improved ethical practice, and by your enabled personal and professional contribution to the moral health of your organization, community, and society.

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PREFACE

The field of HRD is constantly evolving as innovative ideas and changing demographics are emerging within the workplace. There are endless training and development, career development, and organization development decisions that must be made concerning employees. Many of these decisions are related to ethical and legal issues. Being unaware of legal issues and incognizant of making ethical decisions is inexcusable for HRD scholars and professionals. They are the educators and trainers of many students, and practically every employee, who depend on their knowledge sharing for improvement and behavioral changes. Having a resource readily available to assist them in their ethical and legal efforts is a goal of this project.

Ethical and Legal Issues in Human Resource Development: Evolving Roles and Emerging Trends examines ethical and legal issues facing HRD scholars and professionals. It provides empirical and practical ideas about ethical and legal issues related to the field of HRD. A book like this one is needed in the field, given the lack of such a text within HRD. Books in the management literature are relevant to HRD (Gilbert, 2016; Hoffman, Frederick, & Schwartz, 2014) but are not specific enough for the many demanding roles and topics addressed by HRD scholars and professionals.

Many professional organizations and employer entities have code of ethics and so does AHRD; however, the purpose of this book is not to focus on AHRD but on the entire field of HRD. The field of HRD encompasses other organizations—such as the Association for Talent Development (ATD), International Society for Performance Improvement (ISPI), Society for Human Resource Management (SHRM), and Academy of

Management (AOM)—and the roles of HRD scholars and professionals who are members of various other professional organizations and work within business and industry, government agencies, and other hiring organizations. This book solves the problem of the lack of a textbook that addresses ethical and legal issues related to HRD scholars and professionals. This book can serve as a practical resource for HRD students as they enter the workforce after becoming HRD professionals. As they seek to make moral and ethical choices in the workplace, HRD students must have resources to support their efforts. Continuous issues including fraud, dishonesty, collusion, and the privacy rights of workers and citizens remain a challenge (Klimoski, 2006).

Sometimes it seems that HRD scholars and professionals become confused regarding their role in resolving ethical and legal issues in the workplace. They are not only required to design and develop materials and methods to train and teach others how to make ethical decisions and comply with legal requirements, but they must also exemplify those characteristics when interacting with others. They can reveal their ethical character by helping to develop good governance, organizational sustainability, and corporate social responsibility (Aguilera & Crespi-Cladera, 2016; Ardichvili, 2013; Clardy, 2014; De Lange, Busch, & Delgado-Ceballos, 2012; Eccles, Ioannou, & Serafeim, 2014; Fenwick & Bierema, 2008; Gilbert, 2016; Hoffman, Frederick, & Schwartz, 2014; Kim, Park, & Kolb, 2014; Krishna, 2014; Russ-Eft, 2014).

There are philosophical approaches to ethics that have been covered by Hatcher (2002) and are important to HRD and will be referred to in this text; however, this text's focus will be on application of ethical behavior and legal requirements. Understanding the philosophical background of ethics is not more important than applying ethics to benefit employees in the workplace and citizens within society. Employees and students need to be able to recognize an ethical HRD scholar and professional as well as ethical supervisors, peers, and other leaders in the workplace.

The ability to be misled by those in power is prevalent within today's workplace and society (Dean, Beggs, & Keane, 2010), and HRD scholars and professionals are in unique positions to offset this trend. They typically interact with students who are being prepared to enter the workplace to train and develop others. HRD professionals in the workplace interact with all employees through the various training and development, career development, and organization development strategies that they develop and deploy.

This book is written for HRD and human resource management (HRM) academicians, their students, scholar-practitioners, and practitioners, and it clearly lends itself to international appeal. Its international appeal exists because ethical and moral character is required of all human beings to address problems in workplaces and is not limited to sweatshops, bribery, corruption, child labor, and slavery which are problems throughout the world. Relevant case studies to assist HRD scholars and professionals will be included in the book.

There are few scholarly works on ethical and legal issues in the field of HRD. This book attempts to inspire more empirical research related to this topic. This work is intended to stimulate ideas so that HRD authors can use it to develop further research and educate students about the topic as it specifically relates to HRD. The main academic audience for this book is made up of HRD and HRM instructors and researchers whose focus is to help improve organizational HRD and HRM research and practice. The subject areas/fields most directly connected with this work are strategic human resource development, HRD, organizational behavior, and behavioral operations management.

Instructors in HRD and workforce development will also be able to use this book as a resource for modules on ethical communication, leadership, and learning, among other core issues relating to ethical and legal issues in modern organizations. Executive Masters of Business Administration (EMBA) instructors will be able to use this book as a resource for high-level courses addressing strategic human capital utilization. The book will also serve as a resource for practicing managers as it provides a set of directly, actionable levers to develop and manage individual employees and work teams.

Chapter 1 (*Introduction: Examining Ethical and Legal Issues in Human Resource Development*) discusses that even though the theory of HRD is within an ethical frame, there is not much empirical research, from HRD scholars and professionals, which supports ethics as a foundational framework of HRD. HRD scholars and professionals have a unique opportunity to educate and train students and employees in ethical and legal issues in the workplace. This chapter identifies the role of HRD scholars and professionals in helping HRD leaders to recognize how they can contribute to ethical and legal standards development and to implementation strategies in the workplace. HRD scholars and professionals must have transdisciplinary skills and ethical and legal education and/or training to be an effective resource to others in the workplace. HRD scholars and

professionals can help create a workplace environment where their knowledge, skills, and abilities related to ethical and legal issues are valued and appreciated by both the organization leaders and employees.

In Chap. 2 (*Toward a More Specific and Collaborative Understanding of Ethical and Legal Issues in HRD*), HRD scholars and professionals are provided statutes and regulations that affect HRD scholarship and practice. The most important skills and competencies for HRD scholars and professionals to manage legal regulations and standards effectively are administration, treatment of participants, business skills, global mindset, industry knowledge, interpersonal skills, integrated talent management, and change management. These skills and competencies directly influence how HRD professionals interact and collaborate with others to improve employee behavior on the job. Technology skills may supplement these skills and competencies, but people-to-people interactions are essential for improved legal and ethical decision-making. HRD professionals must possess these skills and competencies to develop effective ethical and legal training programs and resources to ensure the economic success of organizations. HRD professionals can help to reduce problems and liability risks for their organization by helping all employees understand how important it is to treat each other fairly on the job. HRD scholars and professionals can design education and training using proven strategies to increase employee effectiveness in making ethical decisions and understanding legal statutes. HRD professionals must also understand economics and its role in the success of the organization. Exploring how to help organizations integrate Gig economy workers into the workforce is also a role of HRD professionals and scholars.

Chapter 3 (*Values and Decision-Making*) explores the importance of organizational values established through norms and how those values influence ethical or unethical decision-making in the workplace. Leader behavior is the number one influencer of employee behavior in the workplace. Ethics can be developed through education and training. HRD scholars and professionals must provide the appropriate ethics education and training needed by workplace leaders. Historical views, principles, and theories of ethics are also discussed. The establishment of codes of ethics and communicating their importance to all employees are reviewed. Understanding the importance of holding employees accountable for their ethical or unethical behavior is also examined. HRD scholars and professionals must show that they are credible providers of ethical education and training by behaving ethically in the workplace.

Chapter 4 (*Connecting Ethics and Diversity Using Diversity Intelligence*) discusses how connecting ethics and diversity using diversity intelligence (DQ) will allow HRD scholars and professionals to improve the success of diversity initiatives within organizations. The ethics of employees ultimately determine the implementation success of organizational policies. Employees must have the ethical wherewithal to promote and support diversity efforts in the workplace. Diversity intelligent decisions are sometimes both legal and ethical decisions. DQ can help leaders make ethical decisions. One unethical or illegal decision can be one too many for an organization. HRD scholars and professionals can help leaders build DQ and facilitate the integration of ethics and diversity through their education and training programs. The importance of management buy-in and the top ten challenges facing HRD professionals in the workplace are discussed. HRD professionals must focus on the root causes of diversity problems in the workplace and stop expecting the protected class members to be strong in the face of repeated discrimination at work. Eliminating these problems for all employees may allow all employees to reach their full potential. HRD scholars and professionals must help promote the development of an ethical culture in the workplace that values diversity.

Chapter 5 (*Workplace Hiring and Retention*) focuses on HRD professionals that assist with hiring and retention of employees in specific ways including new hire orientation training and career development. Ensuring that leaders and employees understand employee rights in the workplace is an essential training responsibility of HRD professionals. Employees and employers must be able to differentiate between employee security and employer rights. Employees want job security and they want to be safe while at work, and employers have the same goals. Understanding the legal and ethical implications for both the employer and the employee is very important. This chapter also explores noncompete clauses and their impact on worker loyalty and company success. Employees do not want their knowledge exploited by their employers and employers want a fair day's work for a fair day's pay. Downsizing in the workplace is also an area where HRD professionals must ensure that employees are treated fairly and ethically and are not displaced because they are in a protected class.

Chapter 6 (*Laws, Ethics, and Policies*) focuses on the many laws, ethics, and policy concerns in the workplace—specifically the ones that effect HRD professionals the most, such as electronic monitoring of employees in the workplace, whistleblowing policies, and intellectual property rights. HRD professionals can help develop communication materials and strate-

gies to ensure all employees are aware of and understand electronic monitoring policies. They can also help facilitate understanding of whistleblowing policies and try to alleviate the need for such policies by providing ethics and legal training to ensure that all employees understand that wrongdoing will not be tolerated. HRD scholars and professionals must develop ways to have a voice in the development of laws and policies that affect employee rights in the workplace so that both the employees and the employers benefit. The power struggle that exists between employees and employers has to be lessened so that productivity is the focus and not laws, ethics, and policy issues.

Chapter 7 (*Research Ethics, Governance, and the Future*) discusses how HRD scholars and professionals must follow research ethics, assist with governance within their organizations, and prepare for the future. Understanding Institutional Review Board (IRB) policies and Freedom of Information Act (FOIA) requirements and exhibiting research ethics are vital to the career success of HRD scholars and professionals. They must practice and teach appropriate research ethics. Governance is an area where HRD scholars and professionals have growth potential. HRD scholars and practitioners must continuously examine interventions that could reduce the negative effects of unethical behavior in the workplace and accentuate the positive effects of HRD related interventions. They must provide readily available solutions as leaders and employees continuously face ethical dilemmas in the workplace. As future trends continue with artificial intelligence and robotics in the workplace, HRD scholars and professionals must assist organization leaders as they develop ethical and legal policies to address these changes.

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