# ETHICS AND HUMAN RESOURCE MANAGEMENT

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objectives

After reading this chapter, you should be able to:

1 Identify factors in the emergence of the debate on ethical issues in HRM.

2 Describe and discuss basic ethical theories and principles.

3 Understand issues involved in the consideration of rights and responsibilities in the employment relationship.

4 Understand issues involved in the consideration of fairness and justice in the employment relationship.

5 Identify challenges to the ethicality of HRM.
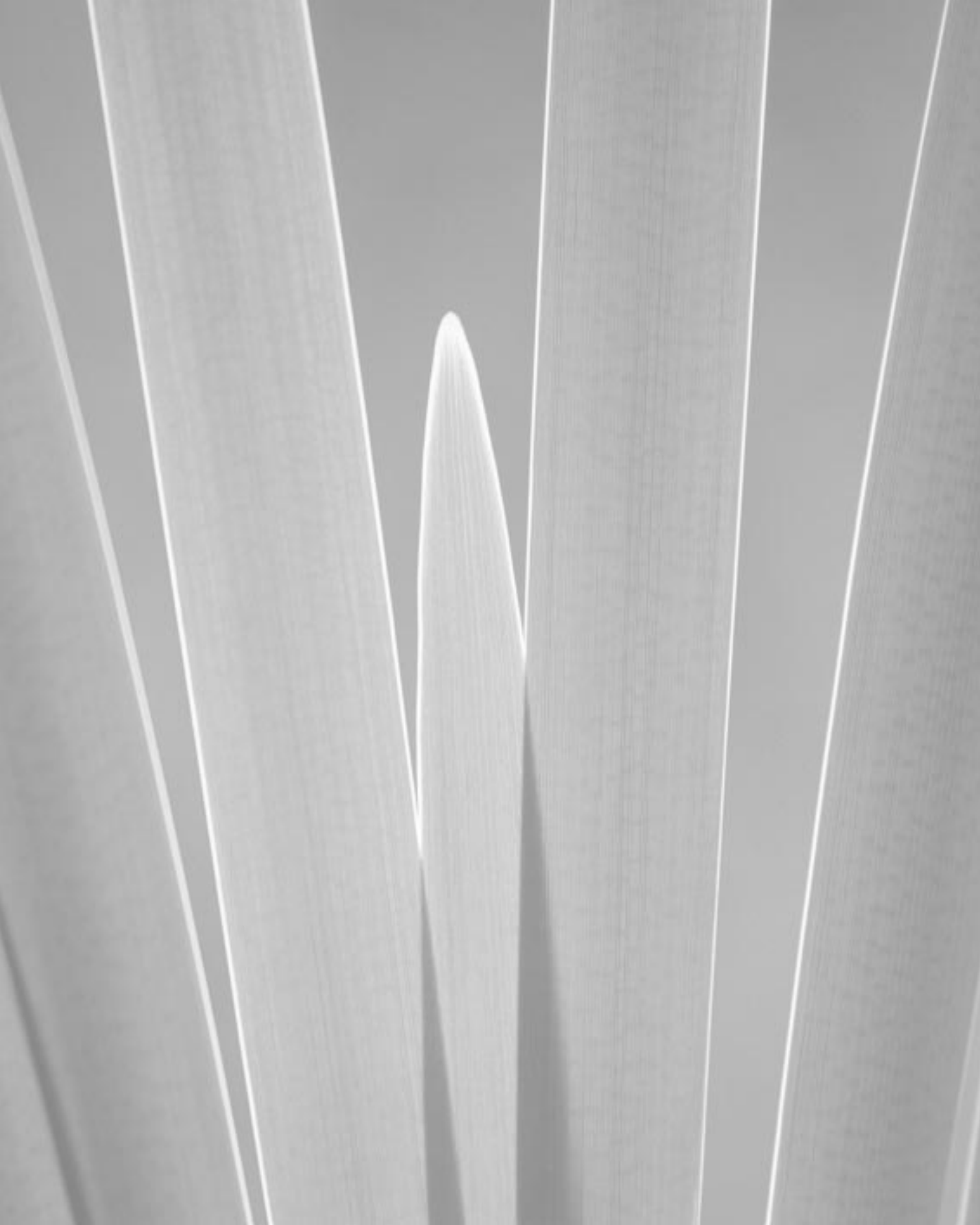
New rules for romance

British companies are increasingly drawing up formal codes of conduct for employees whose work interests spill over into a sexual relationship.

A survey of leading employers reveals that the proportion of firms who have written guidelines for office romances has more than doubled in the last two years. The study found 10 per cent of companies now expect enamoured coworkers to declare their relationship if their private and professional lives could lead to a 'real or perceived' conflict of interest.

Britain's long work hours culture means an estimated 30 per cent of people will meet their life partner at work. The consequent growth in office romances has led to human resource managers now trying to formalise flirting, in a bid to minimise reprisals against employers if a relationship ends.

According to the survey of forty-three companies and institutions—including BT, the Foreign Office, five National Health Service trusts and four finance houses—some 28 per cent of employers are considering bringing in formal guidelines.

The study, carried out for a specialist journal, *IRS Employment Review*, said: 'If dealt with appropriately and conducted sensibly, workplace romances should not present any problem to employers. But get it wrong, and the consequences can be far reaching—potential claims for sexual harassment, charges of favouritism, decreased productivity and fear of reprisal or retaliation'.

The result is increasing boardroom twitchiness about how to balance the privacy of workers and an employer's need to ensure a sexual relationship does not lead to unfair pay rises or promotions. While most companies (40 per cent) still prefer to solve any potential difficulties by an 'informal chat' with the people involved, 10 per cent said they would seek to generate a workplace culture which would make office romances unacceptable.

None had introduced so-called 'love contracts', a device now commonplace in America under which an office couple undertake not to sue their employer for sexual harassment should the relationship end. But at least one United Kingdom company in the survey made it clear that all office relationships were to be declared, saying: 'Any employee who is working with a person with whom they have a personal relationship should inform the personnel manager'.

Other employers believed office romances can only be disruptive. Speaking anonymously, one said: 'We have a large number of workplace relationships, and I believe they often undermine core issues such as productivity, teamwork and motivation'. Experts said that far from causing disruption, relationships between people sharing the same work experiences could help to combat stress and provide support.

A spokesman for Liberty, the human rights group, said: 'Companies have a right to protect themselves against extreme behaviour such as people getting pay rises for sexual favours. But it is wrong to impose these sort of reporting requirements on people just because they work for the same company. Any healthy, normal office will have a reasonable proportion of office romances'.

Professor Cary Cooper, an occupational psychologist at the University of Manchester Institute of Science and Technology, said when a relationship developed between a boss and a subordinate it was fair for companies to move one of the couple to a different department. But he said employers had to be careful. 'I think UK employers would be wise to draw a line beyond which they do not pry into their employees' private lives.'

Why ethics are important in HRM

The study of ethics in the HRM context is important because of dynamic and interrelated shifts in the organisation of work: changes in international economies; changes at the national level in policy and institutional structures; and changes at the enterprise level in the policies, systems and practices of employment. **Ethics** is a general term commonly used to refer to both moral beliefs and ethical theory.[1] **Ethical theory**, in contrast, suggests more specific reflections on the nature and justification of right actions in a manner that introduces clarity, substance and precision of argument.[2]

HRM activities do not take place in isolation of other organisational activities. Within each organisation, HRM decisions and practices influence other organisational decisions and practices, which in turn influence HRM. These organisational activities also interact with the external environment in which the organisation operates. Hence, external environmental issues like globalisation and the increasing power of corporations are of relevance to HRM practices in organisations. The significance of ethical theory for critically evaluating management practices can thus be linked to a number of issues. Underpinning these issues is current predominance of **economic rationalist frameworks** and the resulting change in the way organisations are viewed, both internally and within society at large.

Given these circumstances, it is important that there is critical reflection on the way organisations are managed. There is significant debate about the moral role that business organisations have in society.[3] Business ethics is a field of study based on this debate. It has been argued that an essential foundation of business ethics is the idea that the organisation must be seen as a moral entity.[4] This chapter discusses basic ethical theories and principles relevant to HRM, identifies ethical issues related to HRM and identifies challenges to the ethicality of HRM.

Internationalisation of economies

The dominance of **neo–classical (or neo–liberal)** economic systems within Western society has been noted by theorists across disciplines.[5] A neo–classical paradigm is described by Etzioni as a 'utilitarian, rationalist and individualist paradigm' in which individuals seek to 'maximise their utility, rationally choosing the best means to serve their goals'.[6] Wilcox and Lowry have observed that it is common for human activity in organisations to be seen as economic activity.[7] The classical argument that pursuit of economic self–interest is in the interest of the common good has found a return to favour. According to Kamoche, we can expect businesses to make decisions based on a 'putative rational assessment of the most efficient utilisation of available resources to generate "added value"'. Thus, the question of utilising humans as resources to generate and retain this value needs to be addressed by HRM.[8]

The increasingly global economy has significant implications for the functioning of corporations. Multinational corporations (MNCs) are the 'dominant actors on the global stage'.[9] In many cases, MNCs own the media that promote their products, invest in the companies that provide them with services and pay much of the taxes that keep the governments running. Many MNCs are economically more powerful than many governments; for example, the turnover of General Motors is about the same as the gross domestic product of Denmark.[10] Despite their increase in power, these corporations have not necessarily increased their level of responsibility towards society. Unfortunately, there are numerous examples of where the actions of MNCs have led to decline and devastation of the economic, social and environmental conditions in third world nations.[11]

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ethics
general term commonly used to refer to both moral beliefs and ethical theory

ethical theory
specific reflections on the nature and justification of right actions in a manner that introduces clarity, substance and precision of argument

economic rationalist frameworks
general term for neo-liberal or neo-classical economic systems within Western society

neo-classical (or neo-liberal) paradigm
the view, often in economics, that human behaviour is driven by the relationship between scarce means and alternative ends such that individuals act in a rational self-serving manner to maximise their own utility

The implications of globalisation for the Australian workplace are profound (also see Chapter 16, Managing a global workforce). For example, the reduction of trade protection tariffs has resulted in many jobs moving offshore, particularly in the manufacturing sector. This loss of jobs has only been partly compensated by increases in service-sector employment. However, most of the newly created jobs are temporary in nature and thus insecure and without career development.[12] There has been a dramatic increase in the number of part-time and casual jobs, and the amount of work being performed outside traditional working hours. Increasingly there is a mismatch between the demands on labour and the desires of the workers, with many full-time workers wanting to work less and many casual workers and many under-employed workers wanting to work more.[13]

Changing employment relations

In response to global demands, successive governments since the 1990s have made significant changes to the industrial system in Australia. There has been deregulation of the labour market, reform of workplace legislation and a lessening of the role of industrial relations institutions such as the Industrial Relations Commission and trade unions (also see Chapter 7, Industrial relations). Legislative reform has removed many of the independent or third party involvement in the employment relationship (for example, the Australian Federal Government's *Workplace Reform Act 1998*). In many cases, employment contracts have become **transactional** rather than **relational** (also see Chapter 11, Employee development and career management, for a discussion of psychological contracts) and are of limited duration.[14] Together with increasing responsibility for industrial relations, these changes have led to increasingly complex employment relationships at the enterprise level. These momentous shifts are of great significance to HRM. Removal of the previous checks and balances has resulted in very different assumptions about social and employment relationships and, as such, dramatic changes in the role of managers and management prerogative.

HRM as the locus of employment ethics

Human resource management activities are particularly open to ethical critique.[15] HRM policies and practices are frequently designed to elicit employees' commitment and loyalty to the company while at the same time expecting organisational members to accept 'increased uncertainty and insecurity'.[16] It has been noted that the primary activities of human resource practitioners 'have a direct impact on society' and have the potential to help or harm people, affecting the quality of life of employees and their families.[17]

Human resource professionals have more discretionary power over employment matters than in the past. This is as a result of employment relations becoming more enterprise-focused, less institutionalisation and standardisation of employment matters, and a decline in union representation. One outcome of this is that HR professionals now face an increased responsibility for dealing with ethical issues in the workplace. Writers now refer to the 'centrality of ethics in HRM'.[18] In many ways they are now expected to act as ethical stewards[19], or the 'conscience' of organisations[20]. Some have stressed the role of HRM in raising awareness about ethical issues, promoting ethical behaviour and disseminating ethical practices. According to the Australian Human Resource Institute (AHRI): 'Together with line management, it is HR's responsibility to communicate and ensure that sound ethical practice underpins and is intrinsic to the culture of the organisation'.[21]

Ethical principles and their application

Business ethicists have argued that any attempts to understand ethical issues in business need to be based on a framework of theories for assessing whether something is right or wrong;

transactional psychological contracts
expectations between employers and employees that are focused on a specific economic exchange with little flexibility and narrowly defined terms

relational psychological contracts
expectations between employers and employees that tend to focus on open-ended relationships with emotional involvement as well as economic exchange

worthy or unworthy.[22] There are a number of possible approaches within the field of ethics that can make up this framework. Ethical theories assist in the understanding of decision making, and in the development of analytical and reasoning skills. They can provide a common language to debate and evaluate ethical issues, and to reflect critically on the way organisations are managed.

In determining whether a course of action is right or wrong, people engage in some sort of moral reasoning, whether or not they are aware of their doing so. This reasoning typically draws on one or more ethical frameworks or theories. The following section will look briefly at five types of ethical theories: deontological theory, which is principle based; teleological theory, which is outcome based; and virtue ethics, justice ethics and ethical relativism, which are contingency based. Further, the notion of ethical pluralism, that moral reasoning in applied situations is often based on a number of ethical principles, is considered. As an example of applied ethical pluralism, the stakeholder theory of the firm, provides a framework for discussion of the organisation–employee relationship.

Deontology

deontological theory
an ethical theory based on the specific principle that actions have inherent rightness or wrongness dependent on whether they correspond to a duty but independent of their consequences

Deontological ethical views (from the Greek *deon*, meaning 'duty') are based on the concept of the inherent rightness or wrongness of actions, independent of their consequences. Deontological approaches are based on principles of duties and obligations. The ethical theories of the philosopher Immanuel Kant (1724–1804) are the most well-known examples of deontological ethics. Kantianism or Kantian ethics is based on several principles, including his categorical imperative—that we should only act in the manner in which we would want others to act. Another important deontological rule or imperative is that we should treat others with dignity and respect. Kant argued that persons should be treated as ends in themselves, and never only as means to ends. Respect for human beings is essential because human beings possess an intrinsic moral dignity, and therefore cannot be treated merely in an instrumental manner.

Deontological constraints or rules are typically framed in ways that direct individual behaviour. As such, if a person does something bad (for example, harming someone), it is seen far more harshly than if a person fails to do something good (for example, not preventing someone from coming to harm). Individuals are seen as responsible for the things they intend rather than for the consequences of their actions. Most religious approaches to ethics are deontological in nature, including Judaism, Islam, Christianity and Confucianism.[23]

There are two major criticisms of deontology.[24] First, how do we know what sorts of things are wrong and why they are wrong? We do not know exactly what the principles by which we should live are and from where these principles come. Responses to this criticism include: that the constraints are based on common moral intuition 'seasoned with a bit of tradition'[25] (in the main from Judeo-Christian teachings); that the constraints are derived from fundamental principles such as the Kantian imperatives; that the constraints can be understood from the wrong action itself (if murder is wrong, why is it so?). Second, there is the problem of what to do if the principles conflict with each other. The controversial issue of drug testing in the workplace is often posed as a conflict between an employee's right to privacy and another employee's right to a safe work environment. If conflicting principles are not negotiable, then it is impossible to not do wrong. However, deontologists believe that these are exceptional conditions and that they do not undermine an otherwise credible moral theory.

Consequentialism

teleological theory
an outcome-based ethical theory that considers the rightness or wrongness of our acts to be determined by a comparative assessment of their consequences

Teleological ethical views (from the Greek *telos*, meaning 'good') differ from deontological views in that they do not hold that there are special kinds of acts that are right or wrong. For teleologists (sometimes called consequentialists) the rightness or wrongness of our acts is determined by a comparative assessment of their consequences.[26] Fundamentally,

consequentialism maintains that morality is decided solely by the consequences of actions. As such, the good is defined independently from the right.

The best-known form of consequentialism is **utilitarianism**. Utilitarianism defines an action as right if it maximises the common or collective good—for example, the greatest good for the greatest number.[27] Utilitarianism is based on the writings of Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873). Utilitarianism is based on the maximisation of good and the minimisation of harm and evil[28], and as such resembles a cost-benefit analysis[29]. Teleological approaches are particularly relevant to HR practices such as promotion and remuneration, where the parties involved are concerned with fair and equitable outcomes.

Consequentialist approaches have also been subject to critique. The most significant concern is that it is possible to argue, using a utilitarian analysis, that certain actions are morally right, even if they violate human rights. Supporters of consequentialism suggest that this is acceptable as it occurs only in exceptional circumstances. Nevertheless, it is argued that such a view allows the general habit of contemplating such deeds, thus making nothing 'unthinkable'.[30] In the employment context, retrenchment of loyal workers or plant closures that affect entire communities are often justified by utilitarian claims despite the impact of such actions on the rights of individual employees. In addition, there is the problem that it is difficult to evaluate the good or harm involved in particular actions, or the worth of, for example, a human life or a natural environment.

Virtue ethics

Unlike the focus of deontology on the principles of action, or the focus of utilitarianism on the outcomes of an action, the focus of **virtue ethics** is not on the action but on the person who performs the action. More specifically, virtue ethics is concerned with the character or character traits of the actor as expressed in his or her actions. A moderate form of the theory suggests that virtue ethics is a necessary complement to deontological and consequentialist theories. A radical form of the theory undermines those other theories and suggests that they are morally bankrupt.[31]

Virtues that make human activity possible and human society harmonious tend to be valued by all societies, across all time periods. The shared needs of society, namely to cooperate and live together, supply members with the necessities of life, protect against intruders and natural disasters, and communicate, require universal virtues such as courage, honesty, generosity and congeniality. What is considered virtuous, however, does seem to differ from one society or situation to another. In addition, virtues can become outmoded. For example, with the shift to a more conciliatory and cooperative industrial relations environment, the virtues valued in human resource managers may have shifted correspondingly. Thus there does appear to be some non-universal or relative aspects of what is considered virtuous (see the following section on ethical relativism). Generally, however, business societies consider the virtues of cooperation, honesty and trustworthiness as essential.

Justice ethics

What a person deserves or is entitled to is often decided by specific rules and laws. These rules are commonly subject to evaluation and revision against principles such as equality, non-discrimination, fairness and retribution. Employment laws and practices are heavily reliant on such rules. The word **justice** is used broadly to cover both these principles and the specific rules derived from these principles.[32]

John Rawls' theory of justice[33] holds that all economic goods and services should be distributed equally except when an unequal distribution will work to everyone's advantage. In direct contrast to utilitarianism, this notion rejects the greater good that allows for some

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utilitarianism
an ethical theory that defines an action as right if it maximises the common or collective good

virtue ethics
focuses on the person who performs the action rather than the principles or the outcome of an action. Virtue ethics is concerned with the character or character traits of the actor as expressed in his or her actions

justice ethics
based on the duty to treat all parties fairly and to distribute risks and benefits equitably. 'Justice' is used broadly to cover both these principles and the specific rules derived from these principles

veil of ignorance
a conceptual device that requires each person to put him or herself in the *original position*, that is, to imagine he or she is ignorant of his of her particular characteristics such as race, gender, intelligence and family background

ethical relativism
the concept that there is not a single ethical truth but that ethical beliefs are contingency based (some forms hold that whatever a culture thinks is right or wrong is really right or wrong for the members of that culture)

universalism (or absolutism)
the belief that there is a single truth. In ethics, universalism implies a single perspective as to what is right and wrong and is in contrast to relativism

subjectivism
the view that individuals are the sole authority over their ethical principles

emic (also see etic)
culture-specific aspects of concepts or behaviour

etic (also see emic)
culture-common aspects of concepts or behaviour

ethical pluralism
the idea that moral reasoning in applied situations is often based on a variety of ethical principles accepting a pluralistic approach to ethical decision making. Supporters suggest that moral insight is more important than adherence to ethical dogma

pluralism
an approach that sees society as comprising a diversity of pressure groups with divergent social interests and, as such, accepts conflict between employer and employee as normal

moral insight
the capacity of an individual to determine whether a person or action is moral in terms of being right, good, virtuous and/or just

to be disadvantaged. Rawls' position requires that the worst–off in society be advantaged by just distribution and demands that we use a conceptual device called the **veil of ignorance** to uphold a 'Kantian conception of equality'. Each person should imagine they are ignorant of his of her particular characteristics such as their race, gender, intelligence, family background; that is, put him or herself in the *original position*. In doing so, people would adopt principles based on fairness and would not favour their particular condition. Rawls' theory is primarily focused on distributive justice.

Ethical relativism

Ethical relativism is at the other end of the spectrum to the **universalistic** approaches of most ethical theories such as deontology and consequentialism. As we look around us, it is apparent that moral standards appear to vary from place to place, and that different cultures hold different views of the morality of particular acts. The theory of ethical relativism is based on the notion that whatever a culture thinks is right or wrong is really right or wrong for the members of that culture.[34] This implies that there are no independent principles or standards for determining if a practice is right or wrong, and that, therefore, no moral belief or set of beliefs is more correct than another.

There are many critiques and criticisms of ethical relativism.[35] First, by accepting the thesis of ethical relativism we are accepting the idea that a practice, no matter how morally objectionable to us, is allowable merely because others believe in it. This would mean that one belief or behaviour (for example, torture) is not more right or wrong than another (for example, respecting human dignity).

Second, conflicts between different cultures or groups would be impossible to resolve. In many cases, individuals belong to more than one group with distinct moral frameworks. For example, I could be a member of a profession; employee of an organisation; citizen of a country; and affiliated with a religion. In the case of a conflict, how would an individual decide which moral framework should take precedence?

Third, under relativist frameworks, moral reform and progress would not be possible. Without an independent set of criteria, there is no way to argue that a belief is morally defective and should be improved or replaced. Ethical relativism is at risk of deteriorating into **subjectivism** (the view that individuals are the sole authority over their ethical principles) because it can provide no principled way of choosing between moral frameworks.[36]

Finally, it is plausible that despite obvious differences, cultures often actually agree on ethical standards. In many cases cultures agree about the basic moral principles but show differences in how they enact those principles. Thus, culturally specific HR practices, such as the Japanese commitment to lifelong employment, should not be assumed to be based on distinct ethical principles but may well be a different way of implementing a shared principle, such as respect for human dignity (see Chapter 14, Managing a global workforce, for a discussion of the distinction between **emic** and **etic**).

Ethical pluralism and applied ethics

Ethical pluralism is gaining popularity in areas of applied ethics. The attraction of **pluralism** in ethical theory is easy to understand.[37] Appeal can be made to the fact that human beings are complex, multifaceted creatures. It has been shown that not one theory or set of theories presents an entirely comprehensive understanding of human behaviour.[38] Bowie notes that an advantage of pragmatic pluralism is that the pluralist does not have to address any of the inadequacies of any one ethical theory nor defend any one foundation principle.[39] Goodpaster suggests that forming the habits of **moral insight** may be more important than dogmatic adherence to a single set of principles.[40]

Ethical decisions are often a case of balancing various demands. This means accepting a pluralistic approach to ethical decision making that 'permits several basic methods or principles to be in tension or conflict with one another'.[41] The decision-making processes in organisations need to take into account the needs and desires of many parties. Ethical HRM decisions are likely to reflect fundamental human rights, issues of equity and fairness and positive outcomes for those concerned. Codes of conduct of multinational corporations commonly reflect a variety of ethical principles.

It must be emphasised that ethical pluralism in no way equates to ethical relativism. The pluralist is not suggesting that ethical norms are constructed by each actor or set of actors, but rather that each actor will use a variety of different (absolute) principles to guide their behaviour. Pluralism and relativism are not the same, either conceptually or practically.[42] Yet, as with ethical relativism, the traditionalist ethicists are highly critical of the philosophical inconsistencies of the ethical pluralism approach.

The stakeholder concept as applied ethical pluralism

The notion that the organisation has a moral relationship with a number of non-owner stakeholders was first elaborated by Freeman as a **stakeholder theory** of the firm.[43] This conception of responsibilities of the corporation draws unashamedly from Kantian ethics, the principle that 'the corporation and its managers may not violate the legitimate rights of others to determine their own future'[44], and utilitarian ethics, the principle that 'the corporation and its managers are responsible for the effects of their actions on others'[45]. In addition, there are notions of procedural justice in the suggestions that stakeholders should participate in decisions that directly affect them, and that organisations should show accountability to their stakeholders. Indeed, it has been argued that fairness provides the normative core to stakeholder theory.[46] Stakeholder theory also appeals to the ethical virtue of managers, particularly their honesty and trustworthiness. As a theory of multi-constituency relationships, stakeholder theory assists our understanding of the organisation–employee relationship. Employees are seen as unique stakeholders by virtue of their investment of physical, intellectual and emotional labour in the firm and the risks involved in making such investments. Stakeholder theory is based on the assumption that the various stakeholder groups will have different interests in the firm and that these interests will sometimes conflict. (See the Competing by meeting stakeholders' needs box on page 10.) Thus, it is in keeping with a *pluralist* industrial relations view of the firm.

> **stakeholder theory**
> a theory of the firm that holds that the organisation has a moral relationship with a number of non-owner stakeholders based on the notion that these stakeholders have a stake or claim in the firm

The rights and responsibilities of employers and employees

Rights ethics

Discussion of **human rights** has proliferated in the twentieth century. The moral protection of vulnerable persons has become a major focus of business ethics.[47] The protection of employees in the workplace from practices that violate human dignity and self-respect has translated into the promotion of employee rights for safety, non-discrimination and freedom of speech among others. According to Nozick:

> **human rights**
> the right of persons, particularly vulnerable persons, to moral protection

> *All persons have a right to be free to do as they choose. The moral obligation not to interfere with a person follows from this right. That the obligation follows from the right is a clear indication of the priority of rights over obligations; that is, in this theory the obligation is derived from the right not the other way around.*[48]

THE NIKE WAY

When Nike became a target of workers' rights activists in the mid- 1990s, it approached Maria Eitel, a Paris-based Microsoft employee who had spent three years working as special assistant for media affairs to the United States President. In 1998, she joined Nike as vice-president and senior adviser on corporate responsibility, with the role of fostering a culture of corporate citizenship. In that time, the US$18-billion-a-year sporting goods giant claims to have addressed many of the issues raised by its critics—elevating the minimum age of factory workers, eliminating many toxic solvents used to make its products and introducing independent monitoring of working conditions. Major critic, NikeWatch, says that while Nike still has a long way to go to provide true transparency on many issues, it should be recognised for the progress it has made.

Do you credit the protesters' actions for bringing these issues to Nike's attention?
Yep. I really do. I don't think Nike would have made the kind of progress that it has made if we hadn't been attacked. People should take satisfaction that they really had some impact, but if they want to take it to the next level, they have to realise it is not about one company. I'm not saying don't be critical of us. I'm saying be fair in your criticism of us. Part of the theory behind the attack was: attack Nike and the rest will follow. Well, they attacked Nike, but the rest are not following. We want our competitors to be held as accountable as we are because it is becoming a disadvantage for us: we have got dollars and staff time going into these issues and others don't have that pressure.

COMPETING BY MEETING STAKEHOLDERS' NEEDS

You talk about the 'next step'. What is it?
We are living in a post-Enron reality. I hope what will come out of that is a greater emphasis on accountability, particularly around ethics issues and reporting standards on such things as human rights, labour practices, environmental sustainability, community investment, community impact. Nike feels that global reporting standards for social issues would be a very positive step in terms of global accountability. Just like the way we now have an annual report so investors can make decisions about a company, investors should know about a company's social performance—that can affect the performance of the company. It would be like a supplement to the annual financial report.

How has the campaign damaged Nike?
People always ask me how much money we lost. The answer is: very little, directly. But where it had the most impact was on our people. People forget there is no Nike: there is only all the people who work at Nike and who are working towards some greater mission. The most damage for us was on our employees— who were not coming to work with the same enthusiasm.

Source: Excerpts from an interview with Nike's Maria Eitel; Michael Cave, 'Just change it', *Australian Financial Review Boss*, 14 June 2002, p. 10. Reproduced by permission.

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⩘ POWERWEB

The ethical theories discussed earlier, including deontology and consequentialism, are commonly understood as theories of obligation. Some theorists argue for a theory of rights that is not reducible to a theory of obligations and as such is independent of the ethical theories of obligation and virtue. In contrast, Beauchamp and Bowie claim that rights theorists have failed to show that rights are absolute moral demands rather than prima facie claims.[49] There is no doubt, however, that current theories of employee and other stakeholder rights provide valuable frameworks for debate.

Fundamental rights of employees

Traditionally, ethical considerations in the employment relationship, within the domain of business ethics, have been concerned with the upholding of the **rights and duties of employees**. Employees are seen to have rights that encompass basic human rights and take into account the particular demands of the work setting. These rights include the right to fair and safe work conditions, the right to freedom of speech and freedom of association, and the right to collective bargaining and representation (see Table A). Lists of such rights can be found in many texts[50] and have been institutionalised in several forums such as the International Labour Organization.

In many industrialised countries, employees' rights are enshrined through legal mechanisms: common law, statutes, statutory agreements and awards, and employment contracts (see Chapter 3, The legal context for human resource management). This may not be the case for employees of multinational corporations. In many cases multinational corporations based in developed countries employ (either directly or indirectly) employees in third world and in developing countries. The basic rights of these employees are unlikely to be protected by law in the multinational corporation's parent country or the host country. Despite the fact that many developed countries are signatories to international protocols on

Table A Rights and responsibilities of employees and issues related to these

Employee rights	Issues of fairness and justice
Right to freedom from discrimination	Equal opportunity
	Affirmative action
	Sexual and racial harassment
Right to privacy	Health and drug testing
	Work–life balance
	Presenteeism
	Electronic privacy and data protection
Right to due process	Selection, promotion, firing
	Disciplinary proceedings
	Grievance proceedings
Right to collective bargaining and association and the right to strike	Organisation of workers in trade unions
	Industrial action
Right to participation	Participation in company's decisions
Right to healthy and safe working conditions	Working conditions
	Occupational health and safety
Right to fair wages	Pay
	New forms of work
Right to freedom of conscience and speech	Whistleblowing
	Cultural control
Right to work	Fair treatment in recruitment and selection
	Non-discriminatory rules in recruitment and selection
Employee duties	
Duty to comply with labour contract	Acceptable level of performance (health and drug testing, industrial action)
	Work quality
	Loyalty to the firm (whistleblowing)
Duty to comply with the law	Bribery
Duty to respect the employer's property	Working time (presenteeism)
	Unauthorised use of company resources for private purposes
	Fraud, theft, embezzlement

Source: Adapted from Andrew Crane, & Dirk Matten, *Business Ethics*, Oxford University Press, Oxford, 2004.

labour rights, laws in the multinational corporation's parent country are unlikely to explicitly cover off–shore operations of corporations (exceptions being the United States' Foreign Corrupt Practices Act and the OECD's convention on bribery). The host country is unlikely to ensure labour rights, whether due to deficiencies in legislation or legislative institutions, or inability or unwillingness to enforce any such legislation.[51] This is particularly the case where multinational corporations operate in free trade zones, that is, zones within developing countries where regulations in certain areas, for example taxation, are suspended in order to encourage multinational corporations to operate in the country in question.[52]

Beyond basic rights

We are cautioned against reliance on simplistic lists of employees' rights as these can be ambiguous and, as such, open to a variety of interpretations and applications.[53] More

rights and duties of employees suggests that employees are seen to have rights and duties that not only encompass basic human rights and duties but also take into account the particular demands of the work setting

sophisticated arguments about employees' rights have been developed recently, including the *right to meaningful work*[54] and the *right to employability*[55]. According to Bowie, individuals have a right to meaningful work; that is, work that:

- is freely entered into
- allows the worker to exercise his/her autonomy and independence
- enables the worker to develop his/her rational capacities
- provides a wage sufficient for physical welfare
- supports the moral development of employees
- is not paternalistic in the sense of interfering with the worker's conception of how she/he wishes to obtain happiness.[56]

This definition of meaningful work is based on the Kantian imperative that one should always treat a person as an end and never merely as a means. Bowie argues 'that at this point in human history within the context of business the possession of meaningful work is necessary for respecting humanity as an end in itself'.[57] In addition, Bowie claims that meaningful work provisions are not utopian in that they enhance quality and productivity and as such are 'buttressed' by a practical case of economic necessity.

It has been argued that all employees have a right to employability and therefore a right to training and development.[58] Rowan suggests that it is of greater value to consider the principles underpinning these rights. According to Rowan, the moral foundations of employee rights are:[59]

- Fair pay based on concepts of equity, distributive justice, autonomy, respect;
- Safety in the workplace based on the principles of avoiding harm and respect;
- Due process in the workplace based on concepts of respect, fairness and honesty; and
- Privacy based on concepts of respect, freedom and autonomy.

The likelihood of conflicting employee rights, and therefore employer responsibilities (see the earlier discussion of conflicting deontological constraints), also presents a concern. The case of drug testing at the South Blackwater mine provides an example of such an ethical problem (see the End of chapter case on page 22).

Employee duties

whistleblowing
reporting outside an organisation on activities within an organisation that have the potential to cause serious harm to the public

Whenever an individual holds a right, there exists a corresponding duty or obligation.[60] **Whistleblowing** has often been used as the hallmark issue in the debate about employees' obligations to the firm. Traditionally, whistleblowing has been seen as a conflict between the employee's commitments of loyalty to the organisation and to their work colleagues versus the employee's duties to the public or society at large. Theorists have taken sides in the debate. On one side, Bok has argued that employees face potentially conflicting duties and, as such, must give serious consideration to which of these is the greater imperative.[61] On the other side, Duska has argued that employees owe no obligation of loyalty to the firm and therefore there is no conflict of duty.[62] More recently, Larmer has suggested that whistleblowing is not a breach of an employee's organisational loyalty but in fact an act of responsibility of an employee towards the organisation—even possibly an obligation of the employee.[63]

It is evident that less attention is given to the employers' rights than to the employees' rights in the employment ethics debate.[64] This is despite claims that the organisation–employee relationship is based on mutual obligations[65] and is a two-sided relationship[66]. Even the vexed question of whether an employee is obliged to be loyal to the firm within a whistleblowing scenario, an issue that is often cited as the litmus test of employee obligation, may be interpreted not as an employer's right to loyalty but as an employee's right to dissent.[67] It has been noted earlier that companies have become

increasingly powerful and influential, and that the position of many employees has become increasingly marginalised. Beauchamp and Bowie conclude that the moral grounds for employee loyalty have been destroyed due to the collapse of the social contract between a company and its employees.[68] In such an environment, protecting the interest of the employees becomes an even greater ethical priority.

Issues of justice and fairness in the employment relationship

The focus of ethical concern within the field of HRM has tended towards the equity and fairness implications of employment practices. Balancing employment practices with ethical concerns dates back to the advent of industrialisation, with the fair and proper treatment of employees being a controversial issue right from the beginning of the industrial revolution.[69] The questions of how employees should be treated, how they should be paid, how they should be trained, under what conditions they should be expected to work, how hard they should work, how they should be disciplined, and how their employment should be terminated, are fundamental to HRM. Responding to these questions is the crux of both the practice and the study of HRM. Issues that are widely noted to be of ethical potency include discrimination, sexual harassment, equal employment opportunity and whistle blowing (see Table A). More recently, this list has been extended to include drug testing, electronic surveillance and freedom of speech (see the End of chapter case on page 22). Hence, it is not surprising that organisational justice is a significant area of ethical concern in HRM.

Organisational justice reflects individual or group perceptions of fairness within an organisation and behavioural reactions to such perceptions.[70] Organisational justice subsumes issues of equity in the distribution of resources, or **distributive justice**; perceived fairness of decision-making processes, or **procedural justice**; and the quality of interpersonal treatment in processes, or **interactional justice.**[71] (These concepts are also discussed in Chapter 12, Managing compensation, and Chapter 15, Managing employee retention and turnover.) In essence, each aspect of justice raises a particular question in relation to ethical treatment within the employment relationship. Distributive justice focuses on employee views as to: did I get what I deserved? Procedural justice raises the question: are the rules and procedures used to reach these decisions equitable? Interactional justice asks: do those who apply these procedures listen to my views and treat me with respect?[72]

In industrialised countries, many of the practices that are vulnerable to justice concerns are regulated through legislation (see Chapter 3, The legal context for human resource management). In most cases this legislation is aimed at achieving procedural justice, for example a fair and non-discriminatory recruitment process, rather than distributive justice, for example that 50 per cent of women should be employed. While there is an increasing amount of legislation setting the rules of workplace practice, there is also an increasing amount of autonomy in the individual workplace in the interpretation and implementation of these rules. According to Winstanley and Woodall, procedural justice remains an abiding ethical concern in the areas of recruitment and remuneration.[73] Given the growth of workplace law and litigation (especially equal employment opportunity considerations), the agenda of HRM is increasingly becoming one of 'showing justice is being done'.[74]

Beyond rights and issues

The limitations of a rights approach to ethical issues in general have been noted (see the earlier section on deontology). Ciulla expresses concern at the problem-based and legalistic

organisational justice
reflects individual or group perceptions of fairness within an organisation and behavioural reactions to such perceptions

distributive justice
refers to equity in the distribution of resources

procedural justice
refers to the fairness of decision-making processes

interactional justice
refers to the quality of interpersonal treatment in processes

nature of the rights approach to work within business ethics texts.[75] There is a tendency to focus on the overt problems at the expense of the broader ethical questions related to work. Business ethics scholars should examine some of the basic assumptions about the employment relationship and how that relationship affects employees. According to Ciulla:

> *Business ethics is about more than problem solving; it is a field of critical study that should help people think in new ways about business and its responsibilities towards employees, society and other stakeholders. The present and future questions about work require a reassessment of the relationship of employees to the corporation.*[76]

The ethicality of HRM

ethicality of HRM
refers to the ethical endowment or quality of HRM, that is, the extent to which HRM possesses such qualities

Current debate on the **ethicality of HRM** identifies a number of challenges to the extent that HRM and the HR manager can be ethical. Previously, these issues have been depicted at two levels: the micro level that considers individual or 'bundles' of HR practices, and the macro level that considers HRM as a whole.[77] Extending this thinking, it is posited that the macro–level debate can be delineated further to consider the ethicality of HRM at the particular business or enterprise level, and at the ethicality of HRM at a societal level. Wilcox and Lowry have noted that the impact of human resource strategies is 'not confined solely to the level of the firm; rather, HRM strategies affect individuals within organisations and throughout society'.[78] Hence, the analysis that follows will consider the limitations on the ethicality of HRM at three levels: at the level of the HR manager and HR function, at the level of the enterprise and at the societal level.

The HR manager and management function

The moral development of managers

cognitive moral development
refers to the development of moral judgment, the formation of a system of values or moral ideas from organised patterns of thought

The ethicality of HR managers may be promoted or limited by a number of factors. In his theory of **cognitive moral development**, Kohlberg posited that some individuals are more developed in their moral capacities than others.[79] The theory suggested that there are stages of moral development that individuals move through as they reach adulthood and that individuals vary according to their progression of this developmental continuum. As individuals progress in their moral development, the principles on which they base their behaviour are internalised and become intrinsic to their being. This is irrespective of the specific nature of these principles (for example, deontological or justice based). A number of business ethics researchers have used this theory of moral reasoning to explain the moral behaviour of individuals in organisations, particularly managers. We are cautioned by Trevino, however, that in order to more fully understand ethical behaviour in an organisational context, other factors beyond cognitive moral development such as personality variables (for example, locus of control, self-monitoring, ego strength) and situational influences (for example, reward systems) must be considered.[80]

'Rules' for a moral manager

Guidance as to what makes a more decent HR manager can be interpreted directly from moral philosophers such as Kant[81] and Heller[82]. In his development of a Kantian theory of leadership, Bowie claims that leaders should enhance the autonomy of his or her followers.[83] Such leaders will insist on more participation on the part of the followers, be protective of the interests of dissenting voices and never sacrifice the humanity of one set of stakeholders, even for the sake of another set of stakeholders.[84] According to Heller, the decision to commit oneself to act decently is a fundamental choice that people make on a day to day

basis. Thus she presents a theory of morality based on the 'existential choice of decency' that is 'embedded in historical and communal shared meanings'.[85] Macklin has derived a set of principles from Heller's philosophy to guide human resource managers on how to make just judgments, deal with moral conflicts, determine whether a particular goal is morally permissible, and determine how best to pursue a moral goal.

Duality of roles or conflict of interest

It has been argued that HR managers are compromised, and face moral dissonance, by virtue of their dual role of employer representative and employee activist. This ambiguity has 'sharpened' as organisations respond to increased competitive pressures.[86] In addition, it has been suggested that HR managers are limited by their lack of competence and lack of professionalism. It has been suggested that, in order to fulfil the responsibilities of the role as an HR manager, an individual would need to be an intelligent, articulate and ethical persuader, a respected and trusted negotiator/conflict resolver, capable of inspiring people by invoking a clear vision of the best an organisation can achieve, capable of building an ethical culture and capable of monitoring the fairness of its social and environmental behaviour.[87] This is certainly a tall order for an individual who may not be specifically trained in HR, or may not have a university degree at all. Further, in Australia there are no specific guidelines in ethical conduct from their professional body.[88] Indeed, an HR professional may choose whether to affiliate with the professional body and there is no requirement for further education or professional development.[89] Indeed, in many cases HR activities are undertaken by managers working in functions other than HR.

HRM within the enterprise

Ethical leadership and culture

The ethical behaviour of an HR manager is necessarily limited by the ethicality of senior management and organisational culture. Empirical work by Wiley found that 'regardless of gender, position or company size, employment managers' ethical behaviour is influenced most by the behaviour of senior managers and their immediate supervisors'.[90] HR managers who continue to take an ethical stance in an unsupportive organisational environment are risking negative personal and professional consequences. When an ethical conflict becomes too great, it is likely to be resolved by the HR manager resigning.[91] A feature in this is the level of influence that HRM has in the organisation, the level of relevance and power attributed to the HR manager and the HR function. Foote and Robinson found that 'the extent to which HR professionals were able to influence organisational ethics was highly contingent upon the culture and structure of the organisation'.[92]

Strategic HRM or HRM as a strategic tool?

In a bid to overcome the perceived low relevance and power of HRM in many organisations, the function is increasingly being positioned as **strategic human resource management (SHRM)**, where the aim is to become a strategic aspect of the business and reinforce broader organisational goals. HR practitioners are under pressure to eschew their traditional role as employee champions in order to become accepted by their management colleagues as business partners.[93] According to Wilcox and Lowry, the reframing of HRM to become 'strategic' provides a backdrop for the acceptance of the use of individuals as a means to an economic end. Human resource strategies such as large scale downsizing that would once have been considered radical are now seen as mainstream strategic choices.[94] Similarly, the practice of contracting-out manufacturing work to plants in the so-called developing world is now widely established.[95] Wilcox and Lowry have noted that what was

strategic human resource management (SHRM)
a pattern of planned HR deployments and activities intended to enable an organisation to achieve its goals

'hard' HRM
performance-oriented HRM where employees are viewed instrumentally as a means to achieve an organisation's economic goals

once labelled **'hard' HRM** has become common HRM practice and is now framed as SHRM.[96] They note that ' "strategic" choices such as these can lead to the subordination of fundamental human rights, such as the right to a safe workplace, just remuneration [and] freedom of association'.[97]

High commitment HRM

knowledge worker
a highly-skilled employee whose work utilises theoretical and analytical knowledge, acquired via formal education

high commitment HRM
a management approach that emphasises employee engagement, participation in decision making, and systemic relationships between technical, social and other organisational elements

One approach to HRM emphasises the 'humanness' of employees; however, this approach remains available only to some employees. So-called core or **knowledge workers** are often the subject of employee-centred or **high commitment HRM**. (See the Competing in the knowledge economy box below.) These workers are distinguished from their 'periphery' or second tier counterparts by having access to job security (if they so wish), high remuneration, training and development, and extensive consultation and empowerment. They are valued because their job or organisational knowledge is seen as essential to organisational effectiveness. High commitment HR practices are designed to generate employee commitment and involvement.

High commitment practices 'empower' employees by giving them autonomy together with suitable learning and involvement in decision making. Such practices purport to encourage risk taking, develop democratic processes and open the organisation to critical scrutiny. Claydon and Doyle have observed that, from a deontological perspective, the empowerment of employees can be endorsed on the basis of employee rights to self-determination and personal growth at work. However, they go on to caution that self-

CREED IS GOOD

WorldCom, Enron, Parmalat. The corporate scandals of the twenty-first century shocked a world that thought Gordon Gekko's credo 'greed is good' was as dated as his braces.

Wall Street looks much like it did in the movie but, in more fragile economic times, employers and employees are looking for different ways to increase productivity in the workplace. Today's economy is all about building relationships with partners and employees.

In America, the power lunch has been replaced by the 'higher power lunch', which can involve meditation, a symposium on spirituality or just a little light reflection.

It's not just on Wall Street the changes have been seen. The Four Seasons hotel group has enlisted chaplains to counsel staff members who are experiencing problems. Microsoft has created an online prayer line and the World Bank is running prayer sessions at lunch time.

Naturally, there are sceptics and cynics who think spirituality is just another management fad, exploiting people's faith to make a dollar. Fr Dermot Tredget, a Benedictine monk and an associate tutor in the School of Management at Cranfield University in Britain, runs retreats for stressed-out executives. 'Hard-nosed high-flyers tend to be cynical about the whole thing', he says, adding that if it makes companies money and makes employees' working lives less stressful then the fad may be here to stay a little longer.

COMPETING
IN THE KNOWLEDGE ECONOMY

Catherine McGeachy, the managing director of Vision Consultants, a management consultancy and human resources specialist, refers to a study by the Wilson Learning Corporation of business performance on employee satisfaction and leadership, involving fourteen organisations and 25 000 employees in America. 'The study found that 69 per cent of the variability in personal satisfaction was attributable to the quality of an employee's relationship with their manager and their manager's empowerment skills.

'So, identifying and managing employees' emotional needs is a key competence for the contemporary leader looking to enhance the bottom line.'

Negativity spawns a bad working atmosphere which contributes to stress, bullying and depression, says McGeachy, whose clients include Allied Irish Banks plc, Microsoft, Coca-Cola and the Electricity Supply Board.

Depression alone costs the Irish economy an estimated €400 million each year, €215 million of which is due to days taken off sick, according to Aware.

Robert Haas, the chief executive of Levi Strauss, calls it 'doing well by doing good'. If the staff are happy, he says, they will be more productive, more creative and will enjoy a greater sense of achievement.

'Personal fulfilment and high morale are closely linked to outstanding performance and, therefore, have a direct impact on an organisation's financial success', he says.

interest, on behalf of the individual or the group, may play a large part in such HRM practices. The HRM discourse 'slides between deontology and ethical egoism (pursuit of self-interest)'.[98] The other side of a double-edged sword has been identified whereby such practices can lead to work intensification, excessive emotional labour and the shouldering of responsibilities that were previously borne by appropriately compensated managers.[99] In addition, these 'soft' forms of HRM may be insidious forms of control aiming to achieve employee compliance through the manipulation of organisational culture.[100] Ganz and Bird identified an 'empowerment paradox' where empowerment is used to disempower people through their co-option into a group that represses dissent.[101]

HRM within society

The commodification of labour

Radical industrial relations has long been concerned with the treatment of workers as objects to be exploited in order to achieve organisational goals and the corresponding lack of respect and dignity this affords them. According to Ciulla, such critique is fundamental to debate on the ethical tensions in the employer–employee relationship, particularly issues around exploitation and power[102] and, as such, its apparent demise is to be lamented. According to Wilcox and Lowry, the notion of employees constituting the '**human capital**' of an organisation attenuates Keenoy's concern that people become valued for their

human capital
refers to the knowledge skills, abilities and capacities of individuals

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So how is spirituality implemented in the working environment? It appears under many guises in the workplace, predominantly in an emphasis on the wellbeing of the employee. It focuses on the softer side of business: managing people, social skills, promoting ethical values and providing a nurturing environment for workers.

In Japan, corporations are not afraid to use spiritual and moral education. New employees are often sent to 'boot camps', to be physically, emotionally and spiritually challenged. Some companies also reward loyal or particularly hard-working employees with a place in the company tomb or sacred garden of remembrance when they die.

Manresa House, the Jesuit Centre of Spirituality in Dublin, has just announced a programme of retreats and specialised days aimed at lawyers, business people and teachers. It is open to anybody who wants 'to explore practical ways towards personal integration and harmony', according to Conall O'Cuinn SJ, who is running the course.

'Many people ring-fence their work, separating it from their personal lives', he says. 'After a number of years of each day leaving their soul at their boss's door, one day they forget to collect it, and don't even notice that their lives have become soulless both at home and at work. Something is missing.'

O'Cuinn points to recent films that explore this theme of soullessness in contemporary life, such as *American Beauty*, *About Schmidt* and *Lost in Translation*.

'We are talking about a health and safety issue here', he says. 'Our unbalanced and uncentred work-selves scream out to be integrated into our overall "pursuit of happiness" dream.'

The course explores how people feel about work, what they would like to change in their lives and how other people look at their jobs to gauge how they feel about their working lives.

'These seminars are about steps towards integrity: a state of being where all aspects of my life fit together in deep harmony', says O'Cuinn.

A stressed-out employee can gain various positives from a session. 'Building up trust and respect in workplace relationships, recognising the gifts that others bring, coping with politics at work, balancing the demands of work with our commitments to spouse, family and friend' are some of the benefits, according to O'Cuinn.

Patricia Aburdene, the coauthor of Megatrends, a bestseller that focuses on the future, has charted the rise of spirituality in the workplace. The enormous stress people are under due to the global economic and security crises of the past two years and the fact that there is a convergence of the movements of social responsibility and spirituality have led to the change. 'All this is coming together to create a transformation of capitalism', she says.

Source: Barbara McCarthy, 'The new mantra: creed is good', *The Sunday Times*, 29 February 2004.

*Search for more on **Ethics and Human Resource Management** on PowerWeb, available at the Online Learning Centre at www.mcgraw-hill.com.au/decieri. (For access to Power-Web, please refer to the front of this text.)*

POWERWEB

'resourcefulness' (and what that costs) rather than their 'humanness' (and what that might deserve).[103] This instrumental focus on using humans to maximise competitive advantage has been regarded as an acceptable price to pay for the recognition of HRM as fundamental to corporate strategy.[104]

commodification
the action of turning something or someone into, or treating something or someone as, a mere commodity

This inherent **commodification** of individuals in employment relationships has been analysed by Walsh through the application of Kantian principles.[105] According to Kant, it is an imperative that persons are ends in themselves and possess a worthiness or dignity. In addition, persons cannot be ascribed price as this 'evacuates' their intrinsic value or dignity. However, treating someone as a means is not incompatible with treating him or her as an end. What is not allowed is that they should be treated as mere means. Likewise, in order to treat someone with dignity, that is to treat them as if he or she is intrinsically valuable, they should not be treated as mere commodities. According to this analysis, the only HRM that is ethically permissible is employee-centred HRM, and this would be only when there are safeguards to ensure that it is genuinely implemented.[106] In addition, Guest and Conway provide evidence to suggest that employees generally prefer high commitment HRM practices to many of the 'harder' alternatives.[107]

The suppression of pluralism and collectivism

managerialist
looking at organisational behaviour and theory from the exclusive point of view of managers, the functional agents of an administered society

unitarism
assumes that all parties in an organisation share similar goals and interests and, as such, does not acknowledge the potential for conflict between employer and employee

collectivism
the tendency to emphasise the interests and well-being of the group over those of each individual

The **manageralist** and **unitarist** underpinnings of HRM have been clearly identified.[108] The development of HRM has coincided with changes in the management of the employment relationship not just at the enterprise level but also at the societal level. At the enterprise level, the lack of opportunity for employees to pursue their interests separate to those of the organisation, through practices such as cultural control and alternative dispute resolution, has been noted. At a societal level, there have been institutional changes in the way wages and conditions are determined, disputes are resolved and workers are represented and protected. The last decade has seen both legislative reform and the decrease of **collectivism** through unionisation (see the section on Changing employment relations on page 5). There is a trend for individuals to no longer identify as union members or see themselves as members of a collective of workers. The demise of unions has led to a demise in the voice and autonomy of employees.[109] As noted earlier, the labour market has become increasingly casual and there has been an increase in contract employment arrangements.[110] Such changes in standard employment arrangements may further promote individualisation and mitigate collective identification. The emphasis on individualisation of HRM has spread beyond particular enterprises to have an impact on the workforce in general. In the past, the lives of workers were shaped by the state and union movement, institutions in which they held a democratic vote. Now it is business that determines how employees should live.

Chapter summary

This chapter deliberates the ethical issues involved in the employment relationship in general and specifically in HRM. The chapter provides a context for ethical issues in HRM today and reasons why these issues are vital for the future. Fundamental ethical theories and the principles that arise from these theories are explained, including the pragmatic notion of ethical pluralism. The traditional view of the rights and responsibilities of employers and employees is summarised. This includes essential employee rights such as the right to fair pay, the right to a safe work environment and the right to freedom of speech and action. Corresponding issues of justice and fairness are reviewed. Attention then is turned to the ethicality of HRM. The limitations of the ethicality of HRM are considered at three levels ranging from the micro to the macro. First, ethical challenges faced by HR managers and the HRM function are examined. This includes some discussion on the role

of the professionalisation of HRM. Second, HRM within the enterprise is considered. Two emerging trends, the development of strategic HRM and the development of high commitment HRM for knowledge workers, are discussed. Third, the societal level concerns raised by HRM, the commodification of labour and the suppression of the employees' voice are noted.

Web exercises

A   Visit the Gap web site **<http://www.gapinc.com/>**, UNITE <**http://www.uniteunion.org/>** and Behind the Label **<http://www.behindthelabel.org/>**. What actions does the Gap say it has undertaken to address its critics such as the Union of Needletrades, Industrial and Textile Employees? Do you think these actions are appropriate? Are there any other actions you think the Gap should take?

B   All Australian states have some whistleblower protection legislation. The first whistleblower protection legislation was enacted in South Australia in 1993, the *Whistleblowers Protection Act*, followed in 1994 by the Queensland *Whistleblowers Protection Act*, the Australian Capital Territory's *Public Interest Disclosure Act* in 1994 and New South Wales' *Protected Disclosures Act* in 1994. Victoria enacted the *Whistleblowers Protection Act* in 2001, followed by the Tasmanian *Public Interest Disclosures Act* in 2002 and the West Australian *Public Interest Disclosure Act* in 2003. The *Whistleblowers Protection Act 2001* became law in Victoria on 1 January 2002. What organisations does this legislation cover? What are the protections provided by the Act? What are the principles behind the Act? In your opinion, should be Act be changed to include more or different types of organisations?

For further information, see the following web sites:
- Victorian Legislation and Parliamentary Documents **<http://www.dms.dpc.vic.gov.au/>**
- Office of Queensland Parliamentary Council **<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/ WhistleblowProR99_01_.pdf>**
- South Australia Consolidated Acts <**http://www.austlii.edu.au/au/legis/sa/consol_act/wpa1993322/>**
- Northern Territory **<http://www.nt.gov.au/justice/docs/lawmake/whistleblower_ legislation_disc_paper_040611.pdf>**
- Whistleblowers Australia **<http://www.whistleblowers.org.au/>.**

C   Large Australian organisations have followed the lead of multinational corporations like Nike and produced social reports as part of their annual report or as stand-alone reports. Westpac's Social Impact Report emphasises their 'commitment to take greater account of our impact on society and treat it as a business basic'. (Visit **<http://www.westpac. com.au/internet/publish.nsf/Content/WI+Social+accountability>**.)
Look at the reports provided on the web sites of some Australian companies (for example, Western Mining Corporation **<http://www.wmc.com/sustainability/ index.htm>**, British American Tobacco Australia **<http://www.bata.com.au>**). What sort of social issues do they report on? What sort of employee and HRM-related issues do they report on? How many pages is given to employee issues compared with the overall number of pages in the company report (if you are looking at a stand-alone report remember to include page totals from the other reports as well)? What style or form do the employee-related sections of the reports take and how does this compare with other sections such as the financial and environmental sections? What are you able to say, if anything, about the ethicality of the company's HRM policies and practices?

Discussion questions

1 Consider the high commitment HRM practices described in the 'Competing in the knowledge economy' box. Robert Haas, the chief executive of Levi Strauss, is quoted as saying such practices are 'doing well by doing good. If the staff are happy they will be more productive, more creative and will enjoy a greater sense of achievement'. What justifications might be made for such types of HRM practices? What ethical principles, if any, are these based on? Are there ethical concerns about such practices? Do you think these practices are ethically justifiable?

2 Presenteeism has been defined as 'the tendency to stay at work beyond the time needed for effective performance of the job'.[111] The 'long hours culture' is one of the causes of presenteeism. Employees turning up to work when they are sick, or generally being in poor health, are bad for workplace productivity. It has been suggested that employers can reduce the costs associated with presenteeism by introducing corporate fitness programs (see the Managing people case on page 21). Why might companies choose to treat poor health of their employees with corporate health programs? What sort of ethical principles underpin these reasons? From the employees' perspective, is a corporate fitness program the best way to treat presenteeism?

3 'As long as HR managers are directly employed by the company they cannot act in the best interests of employees.' Do you agree with this statement? What would you consider 'acting in the best interests of employees' to mean? What are the various ways such an objective could be achieved? Would the establishment of a code of ethics by the Australian Human Resource Institute for HR professionals assist in this?

managing people
EMPLOYEE BLUES

Absenteeism is bad enough but unhealthy staff under-perform even when they show up, writes Catherine Fox.

Those corporate fitness programs, health checks and flexible working options can do far more than qualify a business as an employer of choice.

They are probably nurturing a far more productive and creative workforce.

Longer hours at work have long been considered the only way to increase productivity in organisations, but it's unsustainable and often counterproductive.

In fact, as longer hours become the norm the evidence is showing that an unhealthy and less productive workforce is costing business a lot of money, according to a US health expert, Professor Dee Edington, director of the University of Michigan Health Management Research Center.

Backache, asthma, diabetes, stress, smoking, depression, dissatisfaction with life and the job are all factors in making employees less productive at work, Edington says. And it's crunch time for many countries as health costs escalate and the loss in productivity causes serious problems.

'The newest thing we are finding is even when you show up you are not being productive. It's not that simple, and it's very expensive for productivity', he says.

So widespread is the problem it's earned a name, presenteeism. While it's a relatively recent term, the problem has always been there, says Edington, but it is more widespread and the implications far more drastic than in the past.

Edington's work has included linking the effects of presenteeism to the bottom line to reinforce the need for businesses to recognise and deal with the impact.

Similar research will be conducted in Australia at the Health & Productivity Research Centre at the University of Wollongong, which is being opened this week through a partnership including the University of Michigan and Australian Health Management Group.

Putting the issue into terms that will hit home with business executives is part of the battle to gain recognition and address the problem in the workplace, says Dan Hook, CEO of Australian Health Management Group.

'With someone on a $50 000 a year salary with two to three risk factors (such as asthma or no exercise) it will be a 3 per cent change in productivity', Hook says. 'That is $1500 a year. So an employee who stops exercising is likely to cost the employer $1500.'

The costs associated with presenteeism don't stop there. There's also a 'huge problem' with medical costs, and time away from work. In the US the problem is enormous, says Edington.

'The US spends more money than any other country on health and outcomes … Something is going wrong in the US. The only alternative is health management.'

Getting business involved with promoting better health is one way of tackling the issue, particularly as public health messages take far too long to make an impact, he says.

The best options for organisations is through a series of combined steps, which include: promoting flexible work structures, providing health risk appraisals to promote awareness, appointing a health coach or an advocate, encouraging health and fitness activities, and measuring success.

But Edington also warns that if it is to be a serious business strategy it has to be done properly, instead of lots of rhetoric or one-off promotions.

The Australian centre is now looking at a range of related areas here and is keen to link the impact of health risks on quality of life, Hook says.

'This is a big cost. If we spend $8 billion on health costs then the cost of presenteeism is about $25 billion … we are looking at the effect on the workplace. We believe it's such an important national issue with no rigorous academic attention.'

The impact of long hours at work on health is a significant part of the problem but far more difficult to tackle, Edington says, although he admits he can fall into the trap of equating longer hours on the job with better quality employees.

'It's a huge cultural change to get rid of the long hours culture. The only measure for more productivity is to say 'here are more hours'. It doesn't have to be that way.

'You can get better productivity now and we are starting to get some better traction on the issue. People understand health. But there's still a strong feeling that people who work 60 hours are better than those who work 40 hours. Saying I can be more productive working fewer hours is not really popular.'

Yet there is mounting evidence that the effects of burnout from too much time at work is creating serious problems for organisations.

'I can see so clearly in my senior managers that the quality of their work diminishes according to how long they work', Hook says. 'If you do take one step back you can see the impact of that. They are the sorts of things we want to start quantifying.'

Many workplaces remain biased towards the full–time workers, but Edington and Hook agree the benefits of part–time options, particularly in retaining experienced employees, is beginning to emerge.

'We won't get cultural change until people take a personal responsibility for their health', Edington says.

'One of the things I think is important is having a health coach and setting personal goals around a number of issues, and stressing the responsibility is yours. Employers can do little about changing behaviour but can facilitate the environment.'

Source: Catherine Fox, 'Employee blues infect the bottom line', *Australian Financial Review* 4 May 2004, p. 59. Reproduced by permission.

Questions

1   It is suggested that the problem of 'presenteeism' is caused by particular corporate cultures. What sort of organisational cultures do you think might promote presenteeism? Do you think there are any aspects in the environment external to the organisation that may contribute to such problems?

2   Is it appropriate for employers to respond to poor employee health by providing a 'health coach' and encouraging employees to take responsibility for their own health as suggested by Professor Edington?

3   It is calculated that an employee who is not taking care of his or her health, and who is on a $50 000 a year salary, is likely to have a 3 per cent drop in productivity and as such cost an employer $1500 per annum. Are there any other costs involved in an employee's poor health? What sort of view is being taken of the costs involved? Is this an appropriate view to take?

THE SOUTH BLACKWATER MINE

Background

South Blackwater Coal Ltd (SBCL) employs 400 workers and is located approximately 900 kilometres north-west of Brisbane at the heart of the Bowen Basin coal mining region of Queensland. As part of policy development to ensure a safer working environment, management and trade unions were in the process of negotiating policies and procedures for drug-testing at the mine (in line with that of other mines in the region). Previously, testing only took place if staff were involved in an accident. During this process, management found a used syringe on-site and took this as prima facie evidence of illicit drug use in the workplace. Management immediately moved to install drug-testing procedures at the mine. Trade unions advised their members to refuse this blanket testing for drugs, at which point they were stood-down by the company. After one week and three visits to the Australian Industrial Relations Commission (AIRC) the case was (theoretically) resolved. The following analysis illustrates the problems and issues associated with the implementation of these procedures.

The company's perspective

SBCL management had been in negotiation with the Construction, Forestry, Mining and Energy Union (CFMEU) and the Communication, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Service Union (CEPU) for approximately ten months, in an attempt to

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implement a company 'Drugs and Alcohol' policy at the South Blackwater Coal Mine. From management's perspective, the rationale for the introduction of such a drug policy was to:

>   identify any drug problems that might exist in the workforce and incorporate the results into the education part of the process

>   ensure that the drug testing scheme operates effectively, and consider any changes that may be required in future anti-drug efforts

>   ensure that the company provides a 'safe workplace' (for both employees and visitors) and that 'safe systems of work' are not jeopardised by individuals under the deleterious influence of illicit substances.

In August 2000 a needle-stick injury was reported which was caused by a used syringe located in a toilet on-site. The general manager, Jim Randall, noted that: 'After we had our experts look at it, it was obvious it had been used for some kind of drug injection on-site'.

Management took this as prima facie evidence of drug abuse in the workplace. Due to its responsibility to maintain a safe work environment, and its frustration with regard to the negotiation process to date, SBCL management informed the unions in July 2000 that it was going ahead with the implementation of its Drugs and Alcohol policy in August of that year. The first stage was the introduction of 'blind' drug tests for all employees (as a precursor to

random drug testing). The 'blind' tests required each employee, contractor and even visitors to the site to provide a urine sample for testing, but no specific records (identifying individuals) were to be kept. Senior SBCL management indicated that the company believed it had the right, if not the obligation, to test for illicit drugs and alcohol abuse, claiming the concern for employee safety and the vicarious liability of the company for employee actions and citing a requirement under law to provide both a safe workplace and safe systems of work.

The mine's management stated that the introduction of such a testing program was consistent with industry standards, and SBCL's competitors had undertaken similar substance tests for some time. Management argued that the 'blind' testing was merely a way to provide the company with useful statistical data, upon which management could act should the need arise.

The unions' perspective

CFMEU and CEPU representatives cited two important issues behind their decision not to 'allow' their members to provide the samples required by management. Firstly, the union rejected managerial arguments concerning the need for a 'safer workplace'. The unions argued that the employer's concern was not so much safety, but rather an attempt to increase the ability to rid themselves of 'trouble employees'. Union representatives were concerned that management seemed interested only in the issue of whether employees were using illicit substances, not why they were using them. Indeed, as the state secretary of the CFMEU, Andrew Vickers, stated:

> *the miners were not against drug-testing but did not want a half-baked scheme put up as part of a feelgood exercise by management. Peeing in a cup and submitting that for drug testing will not tell you if you're stressed or fatigued. We want proper procedures and protocols used and genuine safety measures, not just more arrows in the company's quiver of punitive measures.*

The second issue identified was that of the inability of substance testing to accurately gauge the level of employee impairment whilst on-duty. It was the contention of the unions that substance testing may be inherently flawed in efforts to ensure a safer workplace for all individuals. In addition, union representatives also noted that if the issue is OH&S, then measures of impairment and chemical ingestion related to the work itself should also be included in these safety procedures. As Steve Pierce of the CFMEU stated:

> *… The union wanted pupil dilation tests and psych-motor test (which measure average reaction times), and protocols including anonymity, protection from legal action and proven validity attached to urine testing. It also wanted increasing use of 12-hour*

> *shifts examined in tandem with fatigue and stress tests. Finding out down the line that you've dangerous practices is too late … I believe tests for impairment are probably more accurate than just a test for presence of substance … We're not condoning the use of illegal substances, but a person could be measured to have it in his system when in fact there is no impairment.*

Representatives of the CFMEU maintained this argument that whilst agreeing that drugs testing procedures were consistent with the company's 'fitness for duty' policy, it needed to form part of a 'proper set of comprehensive procedures' aimed at the detection of fatigue and stress levels as well as illicit substance abuse and subsequent employee rehabilitation. The CFMEU counterposition regarding the implementation of the testing policy focused on four points:

> The union will refuse to allow members to submit for drugs testing if the employees are collectively unhappy with the intrusion into their personal lives.

> The testing of urine samples does not reveal the extent of impairment, with some drugs staying in the human body long after any significant effects have 'worn off'.

> The drugs testing policy discounts any analysis of why the employee is taking illicit substances, focusing only on the question as to whether they are taking drugs. Such a lack of analysis fails to indicate whether working conditions may be partly responsible for employee dependence upon illicit substances (for example, 12-hour shifts, work stress levels, poor job satisfaction, unrealistic deadlines).

> The drugs testing policy fails to test for chemicals that may enter the bloodstream of an employee via their work duties that may be harmful and adversely affect their performance (for example, carbon dioxide levels, excessive dust particles).

Source: Peter Holland, 'Case study: drug testing in the Australian mining industry', *Surveillance & Society*, 1 (2), 2003, pp. 204–9. Reproduced by permission. <http://www.surveillance-and-society.org>.

END OF CHAPTER CASE QUESTIONS

1   Is drug testing more important than employee privacy?

2   Senior management at SBCL argues that they need to implement drug testing in order to ensure the safety of employees and visitors at their mine site. Union representatives have argued that such drug testing would result in an inappropriate invasion of employees' privacy. Summarise the arguments for and against drug testing.

3   What ethical principles underlie these arguments?

4   Which arguments do you find most convincing?

Notes

1 Beauchamp, T. L. & Bowie, N. E., *Ethical Theory and Business*, 7th edn, Prentice Hall, Englewood Cliffs, New Jersey, 2004.

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3 See for example Beauchamp & Bowie, 2004.

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8 Kamoche, K., *Understanding Human Resource Management,* Open University Press, Buckingham, 2001, p. 18.

9 Crane, A. & Matten, D., *Business Ethics*, Oxford University Press, Oxford, 2004, p. 19.

10 Crane & Matten, 2004.

11 Klein, N., *No Logo No Space No Choice No Jobs: Taking Aim at the Brand Bullies*, Flamingo, London, 2000.

12 *Hidden Unemployment in Australia*, Australian Council for Social Service, Sydney, 2003.

13 Watson, I., Buchanan, J., Campbell, I. & Briggs, C., *Fragmented Futures: New Challenges in Working Life*, Federation Press, Sydney, 2003.

14 Van Buren III, H. J., 'Boundaryless careers and employability obligations', *Business Ethics Quarterly*, 13 (2), 2003, pp. 131–50 (see p. 131).

15 Winstanley, D. & Woodall, J., *Ethical Issues in Contemporary Human Resource Management*, MacMillan Business, Basingstoke, 2000b.

16 Woodall, J. & Douglas, D., 'Winning hearts and minds: ethical issues in human resource development' in Woodall, J. (ed.), *Ethical Issues in Contemporary Human Resource Management*, MacMillan Business, Basingstoke, 2000, pp. 116–36 (see p. 116).

17 Wiley, C., 'Re-examining perceived ethics issues and ethics roles among employment managers', *Journal of Business Ethics*, 17, 1998, pp. 147–61 (see pp. 148–9).

18 For some, the centrality of ethics in HRM is interpreted as a requirement that HR managers and HR departments engender ethical compliance among their employees. According to Nankervis, A. R., Compton, R. L. & Baird, M., *Strategic Human Resource Management*, 4th edn, Nelson Thomson Learning, South Melbourne, 2002, ethics in HRM can be defined as 'the contribution to the design of right values and behaviours in the social and operational context' (p. 29) and 'the HRM role needs to monitor and maintain behavioural norms within an organisation' (p. 30). In contrast with this view, the author of this chapter explicitly rejects this notion of HRM as the ethical police officer of the organisation ensuring that managers and workers behave themselves.

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20 Wiley, 1998, p. 149.

21 Australian Human resources Institute AHRI Awards 2004, Assessment Criterion 6, Ethical Behaviour <http://www.ahri.com.au/>.

22 Velasquez, M. G., *Business Ethics: Concepts and Cases*, Prentice Hall, Upper Saddle River, New Jersey, 1998.

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24 Davis, N., 'Contemporary deontology' in Singer, P. (ed.), *A Companion to Ethics*, Blackwell Reference, Oxford, 1991, pp. 205–18.

25 Davis in Singer, 1991.

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27 Rawls, J., *A Theory of Justice*, Oxford University Press, Oxford, 1972.

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37 Brady, F. N. & Dunn, C. P., 'Business meta-ethics: an analysis of two theories', *Business Ethics Quarterly*, 5 (3), 1995, pp. 385–98.

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42 Goodpaster, in Bowie, 2002.

43 Freeman, 1984.

44 Evan, W. M. & Freeman, R. E., 'A stakeholder theory of the modern corporation: Kantian capitalism', 1998 in Beauchamp & Bowie, 2004, p. 58.

45 Evan & Freeman, 1998 in Beauchamp & Bowie, 2004, p. 58.

46 Phillips, R. A., 'Stakeholder theory and a principle of fairness', *Business Ethics Quarterly*, 7 Jan. 1997, pp. 51–66.

47 Beauchamp & Bowie, 2004.

48 Beauchamp & Bowie, 2004, p. 29.

49 Beauchamp & Bowie, 2004, pp. 30–1.

50 For example Duska, R., 'Employee rights' and Ciulla, J. B., 'Business ethics and work: questions for the twenty-first century' in Frederick, 2002 provide an analysis of such texts.

51 Many examples of this exist and have been documented. See, for example, Klein, 2000.

52 For more detail of such issues, see Dowling, P. J. & Welch, D. E., *International Human Resource Management,* 4th edn, International Thomson, London, 2004.

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55 Van Buren III, 2003.

56 Bowie, 1998.

57 Bowie, 1998, p. 1083.

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into the labour market at different periods of the life-cycle', *Learning and Training for Work in the Knowledge Society*, 2003, International Labour Organization.

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62   Duska, R., 2004 in Beauchamp & Bowie, 2004.

63   Larmer, R. A., 'Whistleblowing and employee loyalty', *Journal of Business Ethics*, 11 (2), 1992, p. 125.

64   Rousseau & Parks, 1992.

65   Beauchamp & Bowie, 2004.

66   The opposite of this is true in HRM texts that assume that ethics in HRM is about controlling the behaviour of the employee. However, as noted earlier, this pseudo-ethical debate has been rejected as being a manifestation of the 'problem'.

67   Crane & Matten, 2004 switch sides on their 'employee and employer rights list' without acknowledgment of doing so.

68   Beauchamp & Bowie, 2004.

69   Crane & Matten, 2004.

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83   Bowie, 2000.

84   Macklin, 2003.

85   Macklin, 2003, p. 6.

86   Foote, D. & Robinson, I., 'The role of the human resources manager: strategist or conscience of the organisation?', *Business Ethics: A European Review*, 8 (2), 1999, pp. 88–98.

87   Ardagh, D., *Professionalisation of a Practice: Human Resource Management as a Test Case*, Paper presented at the Proceedings of the Hawaii International Conference on Business, Honolulu, Hawaii, 18–21 June 2003.

88   The Australian Human Resource Institute (AHRI) has no code of conduct for its members. In contrast, the equivalent body in the United States, the Society for Human Resource Management, does have a code which is accessible at <http://www.shrm.org/chapters/resources/codeofconduct.asp>

89   Membership of AHRI is entirely voluntary and the body has no capacity to register/deregister HR officers. AHRI has no capacity to compel its members to undertake development activities.

90   Wiley, 1998, p. 147.

91   Foote & Robinson, 1999.

92   Foote & Robinson, 1999, p. 96.

93   Greenwood, M. R. & Simmons, J., 'A stakeholder approach to ethical human resource management', *Business & Professional Ethics Journal,* 23 (4), 2004.

94   Wilcox & Lowry, 2000.

95   Klein, 2000.

96   Wilcox & Lowry, 2000.

97   Wilcox & Lowry, 2000, p. 32.

98   Claydon, T. & Doyle, M., 'Trusting me, trusting you? The ethics of employee empowerment', *Personnel Review*, 25 (6), 1996, pp. 13–25.

99   Greenwood, M. R., 'Ethics and HRM: a review and conceptual analysis', *Journal of Business Ethics*, 36 (3), 2002, pp. 261–79 (see p. 272).

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101   Gandz, J. & Bird, F. G., 'The ethics of empowerment', *Journal of Business Ethics*, 15 (4), 1996, pp. 383–92.

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