

## INTERNATIONAL SOCIO-LEGAL APPROACHES TO HUMAN RESOURCES MANAGEMENT IN CONDITIONS OF DIGITALIZATION

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**Abstract:** The article discusses recently aggravated challenges of international human resource management (IHRM) in the context of rapidly ongoing digital transformation, tightened regulatory requirements, and unprecedented since 1960s growth of unionization. Particular attention is given to the concept of human capital management (HCM) as the logical continuation of HRM, as well as 'sustainable HRM', and the matrix of HRM units activities to ensure the implementation of sustainable development is suggested. The possibilities of AI application in social and legal approaches to IHRM within HCM ecosystems are outlined.

**Keywords:** digitalization; human resource management; discourse; speechwriting; artificial intelligence; ecosystem; sustainability.

### 1 Introduction

The activities of any international company are inextricably linked with international human resource management. The following fundamental definitions of IHRM proposed by various authors can be distinguished:

- "The process of hiring and improving the skills of employees who work in the global space" [41];
- "Issues, functions, policies, and practices of HRM arising from the strategic activities of international companies and relating to the international interests and goals of these companies" [56];
- "The field of IHRM implies understanding, researching, applying and revising all activities in the field of human resources in their internal and external context, as they affect the processes of human resource management in organizations in a global environment, increasing the experience of many stakeholders" [60];
- "The use of human resources around the world to achieve the goals of the organization, regardless of geographical boundaries" [66];
- "IHRM emphasizes the subordination of national culture and national employment practices with corporate culture and HRM practices" [54];
- "The interaction of three dimensions -HRM activities, types of personnel, and countries in which operations are carried out" [67].

Let us summarize the views of scientists on the interpretation of the concept of IHRM as follows: IHRM should be understood as a set of strategies, policies, and practices of an international company in the field of human resource management at its headquarters and foreign divisions. The key feature of IHRM is to take into account the influence of external (political, economic, social, technological, cultural) and internal (organizational structure, company size, company age, internationalization stage, organizational culture, etc.) factors on the HRM function, as a result of which an international company develops an overall strategy for HRM, convergence or divergence.

At the same time, the divergence strategy is more flexible for an international company and makes it possible to more quickly and efficiently resolve current issues in the field of HRM. For

example, it is not entirely reasonable to use the same test methods when selecting personnel for company divisions located in different countries; this is due both to the specifics of the national labor legislation, and to the socio-psychological characteristics of the candidates. If the test is not modified taking into account the local characteristics of the unit and local specialists did not take part in its development or evaluation, then it is possible to obtain distorted (biased) results [40].

It should be noted, however, that the very term "strategic IHRM" is somewhat artificial: international companies tend to develop an overall HRM strategy that is integrated into the company's business strategy (so-called vertical alignment) and private functional HRM strategies (staffing, training and development, remuneration, labor relations) that correspond to each other ("horizontal consistency"), i.e., the strategic component is a priori present in the IHRM paradigm. Thus, the use of the umbrella term "IHRM" is adequate.

Typically, international companies employ three types of personnel: expatriates, residents of the host country, and third-party nationals. An expatriate (parent-country national, PCN) is an employee who is not a citizen of the country in which a division of a foreign company is located, but a citizen of the country where the headquarters of the organization is located [2; 3]. A resident of the host country (host-country national - HCN) is a citizen of the country in which the subsidiary (affiliated) company / branch of the organization is located. A third-country national (TCN) is a citizen of one country who works in another country and is employed by an organization headquartered in a third country. Accordingly, this determines the need for a differentiated socio-legal approach to human resource management. For example, Saudi legislation in the field of labor migration is considered one of the most stringent in the countries of the Persian Gulf region. The work of an international HRM manager is added by such job responsibilities as participation in international taxation issues, international assignments and relocations of employees, special adaptation trainings (including the so-called pre-departure training), provision of administrative services to expatriates, as well as interaction with government authorities of host countries. In addition, factors such as the type of government and the state of the economy in the host country, trade unions and consumer organizations can have a significant impact on HRM processes in an international company.

Digitization also makes its own adjustments. The digital transformation of business affects the change in business models of companies, and, consequently, the strategy and practice of HRM and its social and legal framework. At the same time, two main directions can be distinguished in digital HRM research. The first one is related to the very introduction of digital technologies in personnel management, while the second is related to the transformation of relevant corporate strategies and practices [7-10]. The object of study in the first case is the process of digitalization as such, in the second - digital technologies as a means of transforming the HRM function in a dynamic environment.

HRM digitalization issues attract consulting and analytical companies. Thus, in PwC reports, it is attributed to the priority areas of the Industry 4.0 concept, the main limitation in the implementation of which is the often low level of development of digital culture and the shortage of specialized specialists in companies. The role of personnel and strategies for working with them for successful digitalization is noted, in particular, by McKinsey experts [1]. Deloitte's annual Human Capital Trends highlights the most important trends in corporate HRM across countries. Digitalization has been one of the key trends in the field of personnel management for many years. The authors of the studies note that the function under consideration should not only digitalize itself, but also contribute to this process in other areas, and therefore the digital transformation of an organization should begin with HRM [15]. The content of digitalization of

HRM is also noted: the introduction of relevant ICT tools and specialized applications, their automation and provision of decision-making based on data. While the 2016-2017 consulting firm surveys describe digitalization as a priority in its own right, the 2018-2019 surveys see it as a tool to achieve more strategic goals dictated by the changing socio-economic environment.

It is widely recognized that digitalization in human resource management provides a strategic edge to business. Figure 1 below shows the importance of digital HR trend for representatives of international business back in 2017.



Figure 1. Digital HR: Percentage of respondents rating this trend "important" or "very important" [47]

It is interesting to note that the effectiveness of digital HRM is a qualitative characteristic of digitalization, reflecting the level of integration of digital practices into the core activities of companies, the ease of their application to solve routine tasks, and the strength of digital tools [47]. For example, in a company, only one aspect of personnel management may be digitalized, but the rent from the introduction of technology will be significant.

Thus, the complexity of IHRM itself in today turbulent environment, and, accordingly, ambiguity of application vectors for social and legal approaches to IHRM determine the need for systemic research.

## 2 Materials and Methods

The theoretical and methodological basis of the study was the works of scientists, as well as the opinions of expert practitioners and reports of consulting companies on general problems of the sociology of management, various aspects of HRM, organizational and institutional issues of the development of personnel management systems, in particular in the context of sustainable development [12; 13]. At different stages of the study, systemic, structural-functional, and statistical methods for studying management problems, as well as elements of the case study method were used.

## 3 Results and Discussion

The collected empirical data confirm the existence of two modes of HRM digitalization, on the basis of which the companies can be divided into four clusters depending on: (1) the high efficiency of digital HRM practices and the large scope of the digitalization of relevant processes; (2) high efficiency of such practices, but small coverage of digitalization; (3) low efficiency of digital practices, but wide coverage of digitalization; and (4) low effectiveness and low coverage of digital HRM practices. In addition to existing studies on the relationship between digitalization of HRM and various characteristics of a company (see, for example: [11]), the study of clusters made it possible to identify specific patterns and features of companies with different levels of digitalization of the processes under consideration.

Various findings suggest that companies that are more digitally successful have greater flexibility in managing their workforce

structure: they are more likely to resort to non-standard types of work and have, on average, younger staff. This is facilitated by the use of ICT tools to strengthen the HR brand, which increase the interest of job seekers in vacancies. In addition, companies with more extensive and effective digitalization of HRM demonstrate high rates of employee turnover, including at the initiative of the employer, which may reflect not so much the shortcomings of HR management, but rather its flexibility and dynamism). Such results add to the controversy of previously obtained data that digital technologies affect the work experience of staff in a company in an extremely positive way [38].

Employees are the main asset of the organization, investments in which can bring serious returns to the business. Therefore, information systems related to the management of the life cycle of an employee in an enterprise are now experiencing a kind of boom. Management systems, defined as HRMS (Human Resource Management System), have long been included in almost all ERP products as modules responsible for personnel administration, time tracking, and payroll: hiring employees, maintaining time sheets, changing positions, dismissal, i.e., most often it is the automation of routine processes [17; 21-24]. But HCM (Human Capital Management) is a broader concept that arose in the process of evolution of the employer-employee relationship system, the transfer of focus in the implementation of the information system from the employee's "function" directly to people, to the individual. Today it is not enough just to record in the information system the movement of an employee, his career growth or qualifications. The tools for searching and developing talents, the tasks of adapting employees at the time of starting work in the company, training, managing professional growth, tracking satisfaction and motivation, and, finally, retaining specialists are coming to the fore, since the preparation of a candidate will require additional time and significant financial costs.

In today's environment, it is also important to give employees tools for feedback and mutual evaluation of both colleagues and managers at all levels of positions (360° score) in order not to lose mutual understanding and to find solutions to emerging problems on time, and better even in advance, and in international companies this should be end-to-end processes and databases covering simultaneously all branches or departments in all countries of presence [26-30]. Nevertheless, the automation of routine processes is still necessary, and it is not advisable to break both functions. Accordingly, HCM systems are relevant today, providing coverage for the entire "life cycle" of an employee and containing all the functionality noted above.

HCM is an integrated system that supports, in addition to the basic functionality familiar to everyone (from personnel records to payroll), the entire life cycle of an employee - from the recruitment process, onboarding, development of his competencies and career, to timely replacement of personnel and offboarding. The strength of HCM is in completeness, integration into all business processes and in providing quality and timely feedback at all levels.

However, the legal environment for business, including international business, is becoming increasingly complex and challenging. In particular, there are evident problems in with growing unionization and tightening legal requirements for the US hotel industry and other service sectors. Unionization in the service industry is increasingly in the news today, as employees at Chipotle and several Starbucks locations, as well as Google's cafeteria workers, have successfully organized and begun the work of negotiating contracts with their employers [31-34]. "What's happening right now, especially with a lot of younger workers, is that they're being exposed not just to unions but to organizing and the idea of standing up for yourself, even if they wouldn't even use the word 'organizing,'" said Saru Jayaraman, who is co-founder of Restaurant Opportunities Centers United. "There's a lot of different forms of organizing going on right now," she said, "and we really do ourselves a disservice by only looking at examples of unionization in the traditional model. Workers across the board are recognizing their worth" [25; 71].

The fact of renewing fast growth of unionization movement, and sentiments described by Jayaraman above, derive from pure talent management and even pure HRM as whole, lack of effective employee ownership programs and ownership culture [55; 61; 63]. Distrust between hotel labor, management and real estate owners increased alongside the industry's fragmentation and is evident in increased unionization and organized labor demands in cities across the country at a time when unionization in all other industries has declined sharply.

"In 2022, more than 16 million workers in the United States were represented by a union—an increase of 200,000 from 2021" [44]. Moreover, the share of Americans who approve of unions is at its highest since 1965 (see Figure 2 below).

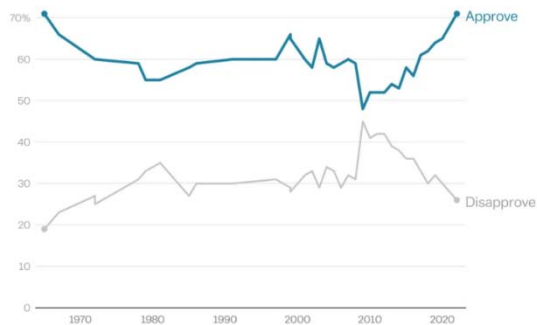


Figure 2. The dynamics of share of Americans who approve of unions [44]

This chart evidently demonstrates crisis in HRM even in the USA. Such phenomena belong to the elements constituting social and legal environment of HRM, in particular, in the international business.

In classical terms, the main task of trade unions, as organized groups of interests/pressure, trade unions of the "new democratic type at the present stage of social development", is to convey to everyone the ideology of labor, the ideology of freedom of choice and the right to work, the ideology of justice, the ideology of solidarity, dignity of hired worker, working person" [25]. "The main mission of trade unions in the modern world is to create a just civil society" [25]. However, the role and very necessity of trade unions is leveled if equality, diversity, participation, elements of meritocracy are provided by corporate HCM ecosystems, scalable for any market – from European and Asian and Middle East. "There is no need for weapons if peace reigns" [62].

Meanwhile, many CEOs from Central and Eastern Europe say that technological infrastructure and market changes will be the main challenges for their organizations in the next two to three years. In addition, more than 62% of respondents named technology, and 43% mentioned legislation among the main external forces that will affect business in the medium term [54].

One of the acute challenges is gender and racial quotas. Gender diversity has received serious attention to legislation changes in some countries. In response to the slow progress in female representation in corporate boards, several European Union countries have imposed gender quotas on firms to augment corporate boards' efficiency by incorporating diverse talent. This move has influenced many other nations across the world. Gender diversity boosts business profitability, according to McKinsey 2020 report [72]. Former White House Economic Adviser Laura Tyson talks about women's influence on productivity and decision-making in companies [4; 76]. The Diversity&Inclusion (DEI) strategy is considered favorable for business: increasing the diversity of the staff by adding employees of different gender, age, nationality provides a greater breadth of views and competencies of the team. But sometimes its application is ambiguous.

There are cases when, for the sake of diversity, an employer is forced to refuse people with suitable qualifications, hiring candidates from an unrepresented minority in their place. Companies have to offer candidates of different sexes different conditions and entry requirements. So at Google, men were paid less than women for the same job [20; 69]. In the case, which will be discussed below, male programmers with excellent skills and experience could not get the desired position and lost in wages due to the forced need of the employer to hire women.

One small IT company in Europe, which deals with 5G networks and has only engineering staff, was faced with the need to hire employees. At the same time, the option of hiring foreigners with relocation to a small European town was considered, a good salary and an interesting project were offered. There are many suitable professionals on the market, and they were happy to take on this position [35-37]. The company needed specialists in low-level development and hardware, and the vast majority of them were men. However, due to the gender quota that the company is required to follow after being acquired by a global corporation, it changed the recruiting plan, which ultimately had a negative effect on company performance [64; 65; 68]. The company suspended the search for candidates and changed the conditions. A division has appeared: a male specialist must have 5+ years of experience, excellent English, and he can apply for a conditional salary of up to €4,000. A female specialist needs 3+ years of experience, English can be average, the salary level with the same competencies and experience is up to €6,000 [70]. It turns out an inverse relationship: lower qualifications - higher wages. An employer gets less experienced and skilled employees for a lot of money, while a highly qualified specialist loses wages and even employment opportunities.

Economists argue that developed countries are losing up to 20% of GDP due to systemic discrimination against women in the workplace [5; 73-75]. That is, globally, quotas in the future can bring GDP growth by 20%. However, at the micro level, the situation is by no means so unambiguous. Therefore, not only a systematic, flexible, and easily adaptable approach is needed, but also the use of the capabilities of digital intelligent technologies, which will synergistically combine the social and legal approach to human resource management in complex and multifaceted international business conditions.

According to modern ideas about the structure and content of ecosystems, an HRM ecosystem can be represented as a self-developing system that includes two components:

1. Personnel ecosystem – a collection of actors both inside and outside the organization working to achieve both individual and collective goals, including "in-house employees, freelancers, contracted employees from digital agencies or talent pool, on-demand work platforms, as well as employees who are involved together with partners for the implementation of common projects" [1].
2. Technological HRM-ecosystem - a technological platform (marketplace), which offers various technologies for human resource management, services that satisfy the widest possible range of needs of this profile.

Organizational ecosystems are seen as 'emergent phenomena that result from a tenuous balance between actor agency and social structure, rather than from purposeful engineering' [40, p. 274]. Dickmann et al. [9, p. 459] states that HRM research is an (open) innovation system and its healthy ecology relies on the community's voluntary but collective efforts in absorbing emerging phenomena and conducting research to make sense of them. Cooke et al. [16], employing ecosystem approach, suggests considering human-centered HRM as a contributor to building sustainable societies, thus expanding social 'context' of HRM.

The ecosystem, in essence, represents a social approach to human resource management, while the legal approach is one of its subsystems. Formally, the legal support of the personnel management system consists in the use of means and forms of legal influence on the bodies and objects of personnel management in order to achieve the effective operation of the

organization [39]. Legal support of the personnel management system includes: observance, execution, and application of the norms of the current legislation in the field of labor, labor relations; development and approval of local normative and non-normative acts of an organizational, administrative, economic nature; preparation of proposals for changing existing or canceling obsolete and actually invalidated regulations issued by the organization on labor and personnel issues [4]. However, for international companies, the legal aspects of HRM are much more complex and multifaceted - the example of trade unions and quotas described above is a clear confirmation of this. Management of human capital is a natural evolution of management of human resource, with the expansion of HRM social 'context' [42; 43]. Instead of trying to negotiate with trade unions and make more and more concessions to the detriment of organizational performance and, which is even more critical, contributing to the deepening of the "chasm" of mistrust and the gap between employees and the employer, it is advisable to build a digital human capital management ecosystem aimed at achieving sustainability in the sense of adaptations of UN SDGs – human rights, equity and fairness through workers' voice, work-life issues, employee wellbeing and forms of employee assistance. This is, in overall, 'sustainable HRM', allowing boiling down legal aspects of HRM to 'technical' process but soundly enhancing the significance of social component.

According to modern discourse, for sustainable development, an organization should strive for a balanced observance of all areas of the ESG principles. However, depending on the field of activity of the company, the focus may shift to the relevant areas [45; 46]. For example, in energy companies, mining companies, special attention, as a rule, is paid to environmental factors, in financial companies - to managerial ones. However, there is also a common area of sustainability for all industries and sectors - HRM.

To implement the SD strategy, HR must rethink its business value model in terms of Green HRM. Consulting companies have developed a matrix with specific HR actions to ensure the implementation of sustainable development (see Table 1).

Table 1: Matrix of HRM units activities to ensure the implementation of sustainable development

Purpose of the value proposition	HR actions to provide/maintain the value proposition
Knowledge of external business realities	Understands external business realities and sustainability trends, and adapts its practices and allocates resources accordingly
Compliance with the interests of internal and external stakeholders	Creates market value for investors through intangible value creation and sustainability Increases customer share by establishing close connections with target customers Helps line managers implement a sustainability strategy by building organizational capabilities Creates a clear sustainability value proposition for employees and ensures that employees have the necessary skills and abilities to do their jobs
Creation of HR practices (Green HRM)	1. Manages HR processes in a way that creates sustainable value 2. Manages the processes associated with performance management in a way that creates environmental and social value 3. Manages information and organization processes in a way that creates sustainable development value
Development of HR resources	1. Has a clear strategic planning process for investments in HR in line with the company's business goals related to sustainability 2. Aligns the organization according to a sustainable development strategy

Sustainable Human Resource Management is "putting people in the center", thus representing the very essence, foundation of social approach to HRM.

But legislation will always trail behind technology. Simply put, technology moves fast — it's constantly evolving, changing, and optimizing. Laws move slow. Since these two fundamental elements of modern society move at such drastically different paces, they are often out of sync with each other [48-50]. Companies, especially those operating in an international business environment, have to adapt to these conditions, trying not only to maintain performance, but also, if possible, use external social and legal factors in their favor. For this, digital intelligent systems are indispensable. Benchmarking, referring to best practices is also advisable. In particular, "the features of the innovative model of personnel management of high-tech companies are the combination of high involvement strategies and innovation management [51-53]. Within the framework of this model, HR innovations can be distinguished at the individual, team, and organizational levels. These types of HR innovations are associated with the management of innovation cycles, the creation of an innovation climate, the development of innovation teams and the innovation potential of employees, which is a significant factor in competitive advantage in a high-tech environment" [6].

The sphere of jurisprudence, including labor law, which until recently was conservative in the field of new technologies, has recently undergone significant changes. Thus, in the US, the popularity of IT technologies in the field of jurisprudence, whose services are cheaper and more efficient, is growing exponentially. According to the Wall Street Journal, in the United States, since 2012, 280 startups have been created that deal with the application of artificial intelligence in the legal field [14]. One of the sound advantages of artificial intelligence is the ability to analyze the situation, taking into account numerous factors, which is extremely important in the international legal approach to HRM. IBM has developed the ROSS program, which tracks all changes in legislation and precedents in the field of bankruptcy and, for a specific question in this branch of law, begins to search in all existing codes of laws, and, having found the answer, formulates it, supports it with a selection of legal norms, judicial precedents and citations from secondary sources. Users of the program say that it helps them save from 20 to 90% of their time: for example, a task that took six hours for a lawyer working without the program took his colleague with the program only 2 hours. Experts note that this machine intelligence has reduced labor costs, increasing the speed and volume of services provided [38]. Such developments for labor law are still only in their infancy, but the development trend is obvious [57-59].

In general, CEOs around the world believe that cloud solutions, AI, Internet of things, and process robotization (RPA) will be among the technologies that will benefit businesses in the next few years. In Central and Eastern Europe, 83% of the surveyed executives confirmed that the Internet of things brings the greatest impact, followed by cloud solutions, artificial intelligence and RPA [62]. Successful CEOs are twice as likely as others to say that AI tools should start to make a difference in the next two or three years. IBM analysts believe that leaders in this category are more advanced in implementing AI at scale in their organizations and are more likely to use this technology as the basis for intelligent workflows, rather than in single or fragmented pilot projects. Technologies based on hybrid cloud infrastructure (AI, IoT, and automation) can make core business processes (not only the supply chain, finance, procurement, but also human resources management) more flexible and intelligent, which means that they can be used to increase business performance in today's volatile economic conditions, as well as to receive real-time cross-functional analytics [18].

The internationalization of business is changing the principles of recruitment. Analyzing the US personnel market in the field of ICT, R. Lermann draws attention to how important it is to attract the best specialists from all over the world in order to maintain the company's competitiveness [70]. Even a new formula for

economic growth has appeared: “Richard Florida describes it in the form of the so-called ‘‘Three Ts’’: Technology, Talent, Tolerance, which contribute to economic development, market attractiveness, and competitiveness” [19]. Digital platforms like talent marketplaces successfully and at the lowest cost for the company neutralize the potential negative impact of cross-cultural factors in international HRM, due to the absence of human biases and the initial perception by employees of the digital platform as “equal for all”.

In general, the transformation of human resource management processes under the influence is inevitable in view of the evolution of the organization's management as a whole and is a positive event, since it entails an increase in performance efficiency and a shift in staff employment to more creative professions that require unique knowledge, skills, and abilities. Undoubtedly, such qualitative transformations will affect not only the internal environment of the organization, but also the labor market as a whole and, in conjunction with it, the education system. To achieve a positive effect of such transformations, complex work is needed to implement them both at the level of individual enterprises and at the level of national, regional, and international economic systems.

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