



The important but neglected legal context of virtual teams: Research implications and opportunities



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ABSTRACT

The potential for the legal context in which an organization operates to significantly impact its HRM function is widely, if not universally accepted. Nonetheless, to date, the legal context of virtual teams has received very little attention from researchers. This article helps address that limitation in the literature by providing readers a foundational understanding of the primary legal constraints and legal issues affecting virtual teams, identifying important research questions related to the impact of legal context on virtual teams, and stimulating further thinking about the potential relevance of legal context to the role of trust, cultural differences, discriminatory behavior, and other phenomena in virtual teams.

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1. Introduction

Theory and empirical research support the observation that essentially all aspects of human resource management (HRM) may be affected by the legal context within which organizations function (Jackson & Schuler, 1995). Conceptual models of the HRM function include laws, regulations, and/or litigation risk as important aspects of an organization's external environment that may both directly influence the types of HRM strategies and specific HRM policies and practices that are adopted by organizations, and moderate the effectiveness of an organization's HRM strategies, policies, and practices once they are adopted and implemented (e.g., Boxall & Purcell, 2008; Ferris, Hall, Royle, & Martocchio, 2004; Kim & Wright, 2010; Taylor, Beechler, & Napier, 1996). The theoretical role of the legal context posited in such models has been supported by a large and diverse body of research (e.g., Colvin, 2006; Klaas & Wheeler, 1990; Lawler, Chen, Wu, Bae, & Bai, 2011; Tixier, 2004).

In light of the theoretical and empirically demonstrated influence that laws, regulations, and litigation risk may have on the HRM function, the legal context of virtual teams has received surprising little attention from researchers. Articles identifying legal issues associated with virtual teams are typically practitioner oriented, focusing on alerting readers to law-related risks, "legal pitfalls," or the practical challenges of applying traditional labor and employment laws to virtual teams (e.g., Makinen, Hurmelinna-Laukkanen, & Hassan, 2008; Plump & Ketchen, 2013). These articles identify numerous legal constraints and concerns that might be expected to affect decision making and behavior in organizations. Some researchers have suggested that aspects of an organization's legal context may impact the adoption or functioning of virtual teams (e.g., Brey & Hemingway, 2004; Gajendran & Harrison, 2007; Pournaras & Lazakidou, 2008). However, no published work has focused on explicating the implications of the legal context of virtual teams for scholarly research, or identifying important law-related research questions involving virtual teams. Perhaps even more surprising, my review of the virtual teams literature was unable to identify any empirical studies examining the potential influence that legal context may have on the adoption, functioning, or effectiveness of virtual teams. This finding contrasts sharply with the attention that legal context has received in literatures addressing other HRM practices (e.g., selection, training, performance appraisal, compensation,

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employee discipline), but it is consistent with published reviews of the virtual teams literature that do not report any such studies, nor even mention the law or any other aspect of the legal context of virtual teams (e.g., Gilson, Maynard, Young, Vartiainen, & Hakonen, 2015; Hertel, Geister, & Konradt, 2005).

As result of the relative lack of attention the legal context of virtual teams has received from researchers to date, many important questions remain under investigated, or not addressed at all. To what extent does the legal context affect the adoption of virtual teams, or their effective functioning once formed? What is the risk that observed differences across countries in virtual team design or functioning that have been attributed to differences in culture are more appropriately attributable to differences in the legal context? Does the legal context influence whether the use of virtual teams tends to promote (or undermine) workplace equal opportunity and diversity? Are there legal mechanisms (e.g., contracting) that may help organizations address key issues associated with the effective functioning of virtual teams, such as trust and communication among team members?

This article helps address the above described gap in the virtual teams literature. Its broad goals are to increase researchers' awareness of the need and the opportunity to take into account the legal context of virtual teams, begin to help develop researchers' ability to respond to the identified needs and opportunities, and to stimulate further theorizing regarding the impact that legal considerations may have on the design, operation, or effectiveness of virtual teams.

The remainder of the article is organized as follows. It begins by addressing the implications of the legal context for virtual team researchers, answering the question "Why is it important for researchers to be aware of, and take into account, the legal context of virtual teams?" The implications reflect theoretical, research design, and practical concerns. The second section provides an overview of the legal context of virtual teams, identifying and briefly discussing the primary sources of legal constraint associated with such teams, and the key legal issues arising from those sources of constraint. It appears that one reason for the lack of attention to the legal context of virtual teams by researchers is its complexity, especially when dealing with virtual teams. Thus, an aim of this section is to provide a basic foundational framework that will facilitate researchers' subsequent acquisition of more detailed or nuanced understanding of the legal context of virtual teams. The third section identifies and discusses specific areas of proposed virtual team research that integrate legal and behavioral science considerations and, it is suggested, are particularly deserving of attention from researchers. The discussion in this section highlights significant future research opportunities and illustrates several of the key reasons why it is important for researchers to give greater attention to the legal context of virtual teams.

2. The implications of the legal context for virtual teams research

There are a number of reasons why it is important for researchers to have an awareness and basic understanding of the legal context of virtual teams. First and foremost, researchers need to be aware of how the legal context may influence the specific virtual team phenomena they are investigating so that they can thoughtfully consider, and if necessary, take into account those potential influences when designing, analyzing, and reporting virtual team research. The legal context of HRM more generally has been shown to significantly affect the adoption, functioning, and/or effectiveness of a wide range of employment policies and practices (e.g., employee dispute resolution procedures, Colvin, 2003; employer work-life balance practices, Dulk, Groeneveld, Ollier-Malaterre, & Valcour, 2013; collaborative HRM practices, Gooderham, Nordhaug, & Ringdal, 1999; discipline, Klaas & Wheeler, 1990; high performance work systems, Lawler et al., 2011; employee selection, Wu, Lawler, & Yi, 2008). The influence of legal context, and its threat to the validity of findings when not taken into account, is of particular concern in cross-country studies where there is likely to be greater significant differences in legal context (Florkowski & Nath, 1993; Gooderham et al., 1999; Young & Makhija, 2014).

Second, an awareness and basic understanding of the legal context of virtual teams is important for researchers because compliance with the law and avoiding litigation are criteria used by many employers in evaluating the effectiveness of their HRM policies and practices (Posthuma, Morgeson, & Campion, 2002), one that may dominate or "trump" other effectiveness criteria in practice (Roehling & Wright, 2006). Thus, researchers should at least give consideration to including law-related outcomes as a criterion when they discuss or set out to assess virtual team effectiveness.

Third, greater awareness of the legal context of virtual teams will help researchers identify interesting and practically relevant research. Multiple examples of what are believed to be interesting and practically relevant research questions related to the legal context of virtual teams are provided in later sections of this article.

Finally, an understanding of the legal context of virtual teams will help ensure that researchers demonstrate an appropriate awareness of the law-related practical constraints and concerns faced by organizations. Researchers seeking access to organizations as part of their data collection efforts should be aware of employers' potential legal concerns and be prepared to address them with regard to their proposed research. Also, researchers need to take into account practical legal concerns when discussing the implications of their findings for practice in reports of their research. A lack of awareness of practical legal concerns, or even worse, proposing a data collection or making recommendations in an article that raise significant legal concerns, will undermine researchers' credibility.

3. Overview of the legal context of virtual teams

I define the *legal context of virtual teams* to encompass all sources of legally enforceable rights or obligations foreseeably relevant to the design, implementation, or functioning of virtual teams, and the perceived law-related risks (e.g., civil litigation, fines, criminal prosecution) associated with those rights and obligations. In most industrialized countries almost all aspects of HRM are now potentially affected by workplace laws, regulations, and/or the risk of litigation (Roehling, Posthuma, & Hickox, 2008). Because virtual teams are a relatively recent phenomena that present some unique issues that are not directly addressed by legislation, the

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