Should human resources managers utilize affirmative action to give diversity programs legitimacy?

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SHOULD HUMAN RESOURCES MANAGERS UTILIZE
AFFIRMATIVE ACTION TO GIVE DIVERSITY
PROGRAMS LEGITIMACY?

by

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Bachelor of Arts
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1988

A thesis submitted in partial fulfillment
of the requirements for the

Master of Arts in Ethics and Policy Studies
Department of Ethics and Policy Studies
College of Liberal Arts

Graduate College
University of Nevada, Las Vegas
May 2004
Thesis Approval
The Graduate College
University of Nevada, Las Vegas

March 29, 2004

The Thesis prepared by
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Entitled
SHOULD HUMAN RESOURCES MANAGERS UTILIZE
AFFIRMATIVE ACTION TO GIVE
DIVERSITY PROGRAMS LEGITIMACY?

is approved in partial fulfillment of the requirements for the degree of
MASTER OF ARTS: ETHICS & POLICY STUDIES

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ABSTRACT

Should Human Resources Managers Utilize Affirmative Action to give Diversity Programs Legitimacy?

by

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Since 1987, the valuing and managing of diversity has been on the radar screens of most human resources managers. Specifically, many are wrestling with how to establish the "perfect" diversity program that serves to get the message out to their organizational members that individual differences should be viewed as resources for learning and understanding and not barriers to career success or opportunity. However, for the majority, this has proved a difficult task. Simply, human resources managers are missing the mark when it comes to identifying a solid foundation for diversity management—a foundation that will compel organizational stakeholders to recognize diversity as a legitimate business imperative. Hence, in this examination of the origins, current state, and ethical "misses" of diversity management, an argument is made that the use of Title VII and its affirmative action mandates in diversity discourse will serve to legitimize program protocols and forward organizational acceptance.
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ACKNOWLEDGMENTS

Thanks to my parents, Mr. and Mrs. Joe L. Morrison, I learned long ago that the way people are treated should be in response to their character, not their color or gender. Hence, it is fitting that the primary event that led to this project was my father’s work as a military Race Relations Officer in mid-1970. So, Chief Warrant Officer Joe L. Morrison, United States Army, this work is in your memory—thank you for the life lessons that you knew I would need. To my mother, Mrs. Anita L. Morrison—you have been the “wind beneath my wings” and the source of my strength. Mother, I could have never achieved this without you as a teacher and role model—so this work is ultimately in your honor.

As any project goes, there are those individuals that walk with you in your day-to-day struggle to complete it. In that vein, I would like to thank my Thesis Committee Chair, Dr. Craig Walton for his unending support, constructive criticism, and, more importantly, his edits. Next, I must thank those professors that served on my Thesis Examination Committee: Dr. Alan Zundel, Dr. Rainier Spencer, and Dr. Todd Jones. A special thanks goes to Mrs. Bertha Brooks for criticizing, prodding, and elbowing me (for the last three years) to complete this paper—your criticism and challenges actually worked a miracle.

To my brother, Mr. Victor O. Morrison, thank you for caring enough during my thesis process to always ask how my writing was going—your visits were like a bolt of inspiration to continue my course. Finally, to Mr. Anthony J. Malbranche who gave “final” words of encouragement—thank you.
CHAPTER 1

INTRODUCTION: THE “LEGAL” BIRTH OF ORGANIZATIONAL DIVERSITY

Diversity initiatives were born as the result of organizations attempting to find an alternative to the affirmative action mandates of the early 1970s. Particularly, during early to mid-1970, the effort of many organizations to comply with Equal Employment Opportunity Commission (EEOC) regulations regarding affirmative action resulted in numerous labor issues that were to be the basis for allegations of reverse discrimination. Unfortunately, these reverse discrimination tribulations were due to common interpretation errors that most organizations made during that early period in an effort to comply with EEOC mandates. Specifically, many organizations inferred that affirmative action compliance meant that finding an individual the “right color or gender” to fill a job vacancy was more important than that that individual should (or would) have the requisite skills or qualifications to perform the job. Organizations, because of the enforcement powers of the EEOC, had become so concerned with meeting the hiring guidelines for women and minorities that the unintended consequence of reverse discrimination was not even a consideration. It is evident that effective interpretation of the law, for most organizations during that time period, was easier said then done, and sadly, a process that would shed...
some light on the problem was more than a decade away.

By late 1970, many organizations were hoping to avoid the road to affirmative action becoming a "super-highway toll road" plagued with EEOC penalties and discrimination lawsuits, so they began to hire Equal Employment Opportunity (EEO) or Affirmative Action (AA) consultants. These consultants had the huge task of helping organizations navigate through the crush of EEOC mandates as well as responding to EEOC investigators when there was receipt of a complaint. However, the need for these consultants suddenly changed in 1978 when the Supreme Court surprisingly ruled against the affirmative action program of the University of California, Davis (UC Davis) medical school in *Bakke v. Regents of the University of California*. In this landmark case, the Court ruled that UC Davis' selection process was unconstitutional in that their wish to have more minority doctors was not a compelling enough reason to violate the 14th Amendment rights of Allan Bakke (the claimant in the suit). The Bakke decision swung open the door of legally supported disregard for affirmative action by those opposed to its requirements.

Consequently, it was no surprise in 1981 when President Reagan, new to his office and keeping his campaign promise, implemented severe budget cuts that reduced the enforcement power of the EEOC by decreasing their staff levels. However, President Reagan's biggest sting to affirmative action was his appointment of individuals to key positions within his administration who were openly critical of how the law was written and enforced. Suddenly, being an advocate for affirmative action or a consultant regarding EEOC issues was not such a great occupation.

The negative impact of President Reagan's cost-constraints on the EEOC was immediate. Though the EEOC still received discrimination and harassment complaints, the
ability to investigate them was limited by decreased staff members. Initially, organizations did nothing but breathe a sigh of relief because they could relax their compliance efforts---it was no longer crucial to have an EEO or AA consultant on site. Their relief, however, was short-lived because the reality of highly publicized race and sex discrimination cases, such as Denny's ($45.7 million), Texaco ($176.1 million), and Mitsubishi ($34 million), brought home the reality of the negative impact of a multi-million dollar discrimination settlement on a company’s bottom line.1 More importantly, not only were these companies made to pay large cash settlements, they were also ordered to change some of their workplace practices.

As a case in point, Mitsubishi, as part of their judgment was required to:

1. Set up a complaint mechanism that encourages employees to come forward.
2. Investigate all complaints of harassment within three weeks.
3. Report its findings and plan for remedial action on all complaints seven days after they have been investigated.
4. Maintain a 24-hour hot line for anonymous complaints.
5. Take seriously all anonymous complaints.2

Following this, it became apparent to many organizations that if they did not wish to see or hear their name in the media publicly depicting their woes due to a lost discrimination lawsuit, they had better do something. In fact, the message that three Fortune 500 company

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1 May 24, 1994, Denny’s Inc. announced that it would pay approximately $45.7 million to settle two major class-action lawsuits filed by plaintiffs in California and Maryland who claimed they were refused service based on their race at various Denny’s restaurants in 1993 (“Denny’s Inc. Reaches Agreement to Settle Racial Discrimination Class Action Lawsuits,” S & P Daily News, 24 May 1994). On November 15, 1996, just days after it was disclosed that top Texaco executives had been caught on tape belittling blacks and plotting to destroy documents related to their discrimination case, the Company agreed to pay $176.1 million to settle a 2-year-old race discrimination suit (“Texaco Settles Discrimination Suit for $176.1M,” The Daily Record (Baltimore, MD.), 18 November 1996: 17). The EEOC and Mitsubishi Motors announced on June 11, 1998, that the Japanese car manufacturer would pay $34 million to settle a sexual discrimination and harassment case filed in 1996 by over 300 employees at its Normal, IL, plant (“Sexual Harassment (Settlement): EEOC v. Mitsubishi Motors,” Employment Litigation Reporter 16, no. 4 (1998): 5).

leaders took away from these large settlements was that “it would be easier to train their employees on how to value the differences of others rather than not only lose a huge lawsuit, but also cause long-term damage to their reputation in the eyes of the public.” Something needed to be done, but what? The answer was within reach, and though the negative perception of affirmative action still managed to further polarize organizational members along the lines of their differences, it would be the basis of a resolution.

In his summation commentary regarding *Bakke v. UC Davis*, Justice William Powell emphasized that “educational diversity” could have been shown to be a “compelling interest” for an educational institution to implement a set-aside admittance program for minorities. Justice Powell’s comments reaffirmed the benefits derived from a diverse student population—owing to affirmative action—as enhancing the educational experience of all students. His comments gave credence to both diversity initiatives and affirmative action as it was originally sketched. In essence, diversity initiatives were born out of law, and are, for all intents and purposes, a means to achieve affirmative action as an end. Justice Powell, as a result of his statement, began the focus on organizational diversity program implementation that was responsible for the reemergence of EEO and AA consultants as diversity consultants or specialists. Notably, however, there has been a deliberate difference: unlike the EEO or AA consultants of the past, diversity consultants have stayed as far away from the mandates of affirmative action as they could due to the law’s controversial history. As a result, diversity consultants have a view of diversity that is

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somewhat out of line with Justice Powell’s view that diversity is owed to affirmative action. Hence, the purpose of this thesis is to examine the following question: Should human resources managers utilize affirmative action to give diversity programs legitimacy?

In Chapter 2, the focal point is the impact of population changes on minority buying power and the consequent revolution in organizational marketing strategies. Particularly, there has been an obvious increase in the popularity of using organizational diversity initiatives as a public relations tool to attract media attention as well as minority employees that will (hopefully) assist organizations in attracting minority consumers. However, as will be made clear, there may be a downside to establishing a diversity program solely because of the media spotlight—"all that glitters is not gold."

Next, Chapter 3 evaluates the impact of organizational culture on the ability of diversity to take hold and transform an organization into one that values and effectively manages individual differences. Specifically, does the health of an organization’s culture matter in diversity implementation? If not, then it should follow that diversity can stand alone to transform an organizational culture for the better—even if that culture does not value employee individuality or equitable career outcomes. On the other hand, if diversity implementation requires the “right sort” of organizational culture for it to succeed, then it is probable that an affirmative action intervention would be necessary in the majority of organizations to compel them to endorse diversity efforts.

Chapter 4 broadens the scope of the question posed in Chapter 3 by looking at organizational culture from a global platform. In addition, country-specific cultural dimensions, as put forth by Geert Hofstede, are assessed with the hope of further understanding how organizational life is shaped outside of the United States. As an
organization becomes a global entity, it is important that their obligation to maintain an ethical orientation across cultures is thoroughly reviewed. Therefore, based on Ruth Benedict's cultural ground plans and the theories that support organizational design, this Chapter will submit a framework to help organizations develop a global ethics strategy. Moreover, the point of this Chapter is to illuminate the importance of the relationship between domestic diversity initiatives and global business strategies as one that cannot be ignored; if an organization can harness diversity in the United States, that will in turn make the integration of their organizational norms with another country's culture that much easier. Nonetheless, why would an employee working in another country be compelled to value organizational diversity and make ethical decisions based on their home country (United States) ethics? As Chapter 4 will argue, ethical employee empowerment is the key. In essence, if an organization empowers an employee, without fear of penalty or reprisal, to make the "right choice" no matter the issue or negative business consequence, then that employee may make a choice that supports the good of the organization.

An ethically sound diversity initiative, it is suggested in Chapter 5, is quite often due to the leadership of a human resources manager that has the ability to identify and support equitable program outcomes by effective use of what Aristotle calls "practical wisdom." This practical wisdom, underscores Aristotle, is an essential element of individual character if one is to possess the ability to be equitable. However, what happens in cases where a human resources manager does not have the practical wisdom necessary to design a diversity program based on fairness and equal access to organizational opportunity? In that case, this Chapter proposes that affirmative action may serve to validate diversity because an individual's character does not legitimize law---instead, law is legitimate because of the
power given it by a commonwealth.

Chapter 6 further supports the argument that civil law should be the basis for diversity program implementation so that all organizational members are compelled to treat each other equitably without regard to their differences. Purposely, Chapter 6 raises concern about diversity rhetoric that seeks success at the expense of white males; negates the disabled as not worthy of consideration due to their need for workplace accommodation; and, ignores religions that are not in the mainstream. This Chapter conclusively illustrates that though the ostensible goal of diversity is to value individual difference, even it falls short without the support of law.

The difficulty of grounding diversity in an archetype that has replicability from organization to organization is the focal point of Chapter 7. Since its inception, diversity advocates have been trying to understand the elements necessary to ensure diversity success when applied across business industry and organizational lines. In fact, many organizational development theorists believe that by giving diversity programs structure, organizational decision-makers would more readily accept diversity as a business imperative because they would then be in a better position to measure diversity’s return on investment.

Consequently, Chapter 7 applies diversity to the science of Organizational Development (OD) and the practice of “benchmarking” with the intent of proving that the only valid and reliable formula for success in diversity program implementation is the inclusion of affirmative action as a legally binding organizational obligation.

Lastly, in Chapters 8 and 9, Hobbes’ views of civil law are applied to the legislative development of the Civil Rights Act of 1964 and its affirmative action mandates. Chapter 8, in particular, examines the significance of the relationship between the commonwealth, its
sovereign, and civil law. Specifically, the 1964 Civil Rights Act is reflective of the power a commonwealth bestows upon a sovereign to forward far-reaching communal change by means of civil law. Finally, Chapter 9 makes it clear that, because there is no clear-cut formula for diversity success, an organization's best recourse to ensuring diversity program success and consequent employee adherence is to frame it with affirmative action—in effect, giving diversity the force of law within an organization's bulwark.
CHAPTER 2

THE "BIG BUSINESS" OF VALUING DIVERSITY

In 1987, The Hudson Institute, a private not-for-profit research organization, was commissioned by the United States Department of Labor to study and predict workforce trends through the year 2000. This now famous study, called Workforce 2000, became known to many organizations as “corporate gospel” regarding the prediction of labor force changes that would emerge in the coming years to transform the landscape of the workplace. These demographic changes were expected to have a profound impact on the way organizations recruited, trained, and developed their employees. Specifically, the study concluded that the following demographic shifts would occur:

- White males, thought of only a generation ago as the mainstays of the economy, will comprise only 15 percent of the net additions to the labor force between 1985 and 2000.

- Non-whites will comprise 29 percent of the net additions to the workforce between 1985 and 2000.

- By the year 2000, approximately 47 percent of the workforce will be female, and 61 percent of all women will work outside of the home.

- Legal and illegal immigration combined are expected to swell the labor force by 6.8 million between 1985 and 2000.\(^5\)

\(^5\) William B. Johnston et al., eds., Workforce 2000 (Indiana: The Hudson Institute, 1987): chap. 1
The study went on to warn organizations that for "those who have previously hired mostly young white men, the years ahead will require major changes." In effect, no longer could organizations afford to ignore the potential contributions of non-white, disabled, or female persons. More importantly, the study predicted that as the United States experienced these demographic shifts in the minority population, organizations that wanted a business advantage would need to expand the way they target, market, and sell their products. Hence, in this Chapter, to better understand the "big business" of diversity, we will examine the predictions of Workforce 2000 as well as review publications that pay homage to organizational diversity and its potential impact on business outcomes.

Minority Demographics and Product Marketing

As the year 2003 began, it was apparent that the predictions of Workforce 2000 were amazingly on target. According to a population update released by the United States Census Bureau in January 2003, the overall population increased by 1.2 percent or from 281.4 million to 284.8 million between April 2000 and July 2001. In addition, and for the first time, Latinos outnumbered African Americans 37.0 to 36.2 million and both groups experienced population increases at 4.7 percent and 1.5 percent, respectively. Furthermore, just as anticipated by Workforce 2000, the population change for White Americans was less significant, increasing to 196.2 million or 0.3 percent from 195.6 million. As a result, it is expected that over the next few years, these demographic changes will spill over into all facets of the American economy (i.e. jobs, marketing, politics, etc.) and significantly change

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6 Ibid., 95.
the vista of educational and employment opportunity. As Elena Maria Lopez emphasizes in her June/July 2003, *DiversityInc.* article, "The business case for diversity has been strengthened dramatically over the past year by new demographic data and increasing spending-power numbers for ethnic, racial, and multicultural markets. The numbers tell the story and the story increasingly, is about America's future."7

"America's future," as Lopez explains, is the ability of today's organizations to tap into the spending-power of diverse groups. For example, the Hispanic market was estimated to have close to $600 billion in spending power in 2002 with an expected increase by 2007 to $927.1 billion.8 So, not surprisingly, when the Census Bureau announced that Hispanics had become the nation's largest minority group, marketing experts were rallying to their drafting tables to craft catchy slogans designed to spur the Hispanic consumer to purchase their products. Companies like General Motors, Sears, and Kmart all made announcements to focus their advertising dollars on multicultural media campaigns and product development that targets Hispanic consumers. On the other hand, in a recent *Financial Times* article, John Authers was careful to emphasize that though "Hispanics make up 6.4 percent of the American market, less than 2 percent of marketing expenditure in the US targets the Latin community through Spanish-language advertising."9 This disproportionate advertising expenditure is clearly indicative of a questionable oversight by most American companies and, perhaps, evidence that the real reason for finally stepping-up the marketing

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8 Ibid., 20.

efforts towards Hispanic consumers is not because the group’s population increased, but because organizations realized that they were not advertising in proportion to the group’s buying power in the first place. Nevertheless, it is also plausible that the media spotlight on Hispanic population growth and cultural specificity in product marketing has given organizations an awareness that to be really profitable, they have to jump on the diversity marketing bandwagon.

It is no coincidence that the grass is not just greener for the economic power of the Hispanic population. In July 2002, the Selig Center for Economic Growth at the University of Georgia “forecasted continued rapid growth in total buying power over the next five years for the nation’s major racial and ethnic groups, thanks to both favorable demographics and better employment opportunities.” Further, it is estimated that by 2007, the combined economic clout of Asian Americans, Native Americans, and African Americans will be over $1 trillion. Simply, organizations cannot afford to ignore the writing on the wall—multicultural marketing is “big business” because it positively impacts consumer loyalty and product sales.

Marketing Diversity as a Tool to Recruit, Hire, and Retain Employees

In spite of the over 2 million estimated job cuts and layoffs in 2001 due to the combination of the tragedy of September 11, 2001 and an already sagging economy,

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employers have remained keenly aware of their need to compete for top job market talent, increased shareholder value, and an ever-expanding customer base. As a result, organizations are finding that the effort to establish, maintain, or revamp their diversity program is well worth the potential increase of both their recruiting pool and customer base—people like to work for and purchase products from a company that publicly values diversity. Matthew Boyle, in his March 2002 *Fortune* magazine article, acknowledges the competitiveness of employee and consumer recruiting with his comments that:

"Not only do today's 'Most Admired' [companies] keep customers and shareholders happy, but they spend time courting employees, federal and international regulators, the media, nongovernmental organizations, corporate-governance watchdogs, retirees, suppliers, and the local communities across the globe in which they operate—many of which distrust large corporations. And they do so in a hyper-competitive business environment where every wrong move is magnified."\(^{12}\)

The fact is, companies realize that if they are to have the characteristics of a successful organization, business results alone are no longer enough to do the job. Instead, they must also be perceived by the public as an organization that cares about its employees, community, and the environment on a global scale—even during the tough times.

*Diversity and Media Campaigns*

Lights, camera—and we need the positive media attention diversity can bring to increase our stock value—action! Since the early 1980’s, *Fortune* has published a list of the year's "100 Best Companies to Work For" and a list of the "Most Admired" companies. For selection on the annual list, an organization's cumulative responses to a predetermined list

of questions must place them ahead of their Fortune 500 competition. Further, though the details of how each survey is scored are not clear, what is clear, for an organization to make the cut, is that there is a significant amount of data that goes into the analysis. Specifically, *Fortune* discloses the following background about the process:

Two-thirds of the score is based on how randomly selected employees respond to the ‘Great Place to Work Trust Index,’ a survey instrument measuring the quality of workplace culture. For 2002, 44,848 employees filled out surveys, sending them directly to the Great Place to Work Institute, the consulting firm that created the survey. More than 18,000 employees also provided written comments. The remainder of the score is based on their evaluation of company responses to the Institute’s Culture Audit.¹³

More importantly, emphasizes *Fortune*, “the top ten companies chosen from 1988 to 1991, had returns in the 12 months following publication of the list that consistently beat those of the S&P 500—a feat that the top ten usually—but not always—have been able to pull off.”¹⁴ In fact, even companies that have simply appeared on the “Most Admired” companies list have shown improved profits due to their selection. Moreover, as the surveys have grown in business significance and because the overall success of an organization has broadened to include employee satisfaction, the criteria for companies competing for a spot on these highly publicized lists has correspondingly evolved. Particularly, two aspects that have increased in importance are: the employee demographics (diversity) at various levels of the organization, and the satisfaction of the employees with their work culture. Without a doubt, both *Fortune*’s “100 Best Companies to Work For”

¹³ Robert Levering and Milton Moskowitz, “The 100 Best Companies To Work For: In A Tough Year These Companies Tried To Do Right By Their Employees,” *Fortune* 145, no. 3 (2002): 72.

¹⁴ Ibid.
and "Most Admired" companies lists matter to employees, shareholders, and customers alike.

While the previously mentioned Fortune magazine publications have meant a great deal to the organizations that have been featured on their pages, there is one annual article that has brought diversity to the forefront like no other: Fortune's "50 Best Companies For Minorities" list. Fortune has published this list since 1998 and, because of the current import organizations place on diversity as a business strategy, it has become a benchmark listing. In fact, the cover story title regarding the July 1999 survey says it all, "The 50 Best Companies for Asians, Blacks, & Hispanics. Companies That Pursue Diversity Outperform the S&P 500. Coincidence?" Concisely, this article made it clear that companies that value diversity, not only have the best employees, but also tend to outperform their competitors. As a result, an organization making the "50 Best..." list gains a recruiting advantage and is thereby in a better position to compete for top minority talent that may help them reach both their diversity and business objectives. The "50 Best..." list, more than anything, has allowed the companies mentioned to tout their diversity success to both their shareholders and customers with the high likelihood that it will increase their market share by increasing their customer base—"buy our products, our employees look like you!"

The Negative Side of Marketing Diversity:

Employee Networks

Organizational profits aside, it is evident that if employees are not happy with their work culture, the organization will not be in contention to be included on the list of any magazine.
that tracks company diversity efforts. However, if the *raison d’être* of most companies for
having a policy or program regarding diversity hinges on their public relations goal to be
perceived as an organization that values the individuality of their employees—as evidenced
by being mentioned in a magazine article—does this in turn make their diversity program
less legitimate? Some critics suggest that it does, and more importantly, believe that it
causes more damage to the company than if there were no diversity program because it
further segments the employee population.

In June/July 2003, the featured cover story of *DiversityInc.* magazine was the “Top 50
Companies for Diversity” list, written by Yoji Cole. In that story, Ford Motor Company led
the pack of Fortune 500 companies surveyed by *DiversityInc.* for their overall diversity
success in the areas of race/ethnic employee demographics, supplier diversity, employee
networks, tying compensation to diversity initiatives, and communicating their diversity
message through multimedia forums. In the final analysis, the article illustrated that one of
the key ingredients Ford listed as the reason for their success was the “leveraging of
diversity with representatives from the company’s 10 employee-resource groups: Ford
(gay, lesbian and bisexual employees), Ford Hispanic-Network Group, the Ford Interfaith
Network, Ford Parenting Network, the Middle Eastern Community, the Professional
Women’s Network, and the Ford Employees Dealing with Disabilities Network.”^15

Ford’s employee-resource groups are demonstrative of a common practice amongst
most organizations with a diversity program: employees who have similar social

characteristics (i.e. gender, culture, ethnicity, religion, sexual orientation, etc.) work better in an environment where they can find a sense of belonging and employee-resource groups are believed to give them that. Simply, the premise is that these groups or networks allow employees to feel more included while affording them the opportunity to see others, like themselves, who have successfully climbed the career ladder. Nevertheless, despite their positive outward appearance, these groups are becoming more controversial because it may well be argued that the rationale behind them is, for too long, white males have had their “good-old-boys” social club and now it is time for other groups to also have a club. The problematic similarity is obvious---during the days of the prevalent “good-old-boys” club, career opportunity, as a matter of routine, was given outside of established and publicized organizational protocols. Thus, the fear today is that employee-resource groups are the current spin on the historic “good-old-boys” club, but with the added peril that their practices are camouflaged in diversity rhetoric.

As diversity continues to gain momentum and organizations increase the use of multicultural awareness activities (i.e. employee-resource groups, cultural days, etc.) in their program initiatives, it is not surprising that critics like Myron Roomkin, in his article “Diversity Programs Facing Hurdles That Block Success,” are sounding the alarm in regards to the significant reality that, in many cases:

“...diversity programs have produced a backlash. Formal programs created to promote diversity and tolerance have raised awareness among different social groups within companies...a program that aims to overcome differences could actually balkanize the organization.”16

Perhaps, as Roomkin suggests, the focus should not be on utilizing diversity to further separate people within identity groups or to give organizations a public relations tool. Instead, the emphasis should be on reminding organizations that diversity, more than anything, ought to instill an awareness that what one brings to the table in skills or qualifications is more important than what one looks like sitting there. Regrettably however, suggests R. Roosevelt Thomas, Jr. in his book appropriately titled, Beyond Race and Gender, until organizations (including the media) get beyond race and gender they will continue to evaluate employees based on the right fit for an ethnic group and not the right fit for a job. Moreover, Thomas concurs with Roomkin in his misgivings about multicultural activities/events. Specifically, says Thomas, though employee-resource groups or cultural activities “aim to foster greater understanding of minorities and women . . . It is not uncommon for multicultural events to be supported primarily by members of the featured group, and thus the goal of enhanced understanding across groups is compromised.”17 In conclusion, says Thomas, “If we are unable to create organizations that work naturally for everyone, we will have great difficulty tapping our human resources.”18 Unfortunately, until that time, companies will continue to make the “best in diversity” list of magazines for publicly celebrating the separation of their employees into groups based on age, race, gender, sexual orientation, and religious differences without an awareness of the historic irony of their actions.

18 Ibid., xv.
Conclusion

It is clear that changes in the population dynamics of United States minorities will not only mean "big business" for organizations who are smart enough to target their product marketing to these groups, but also be an economic benefit for both minority consumers and employees:

- Minority consumers will benefit from the increased selection of products and services tailored to meet their special needs where there may have been none or limited choices before.
- At the same time, minority employees will benefit from the increased efforts of organizations to recruit, hire, and retain them so that they may assist the organization with the development of appropriate marketing strategies to gain the business of minority consumers.

On the surface, the execution of business strategies that support diversity may seem simple, but emerging minority market share beware! Although diversity is in the media spotlight, and a cursory view of some initiatives may indicate success, organizations marketing their diversity efforts should take care that, beneath the surface, these differences are not further polarizing their employees in the form of covert discrimination.
According to Ann M. Van Eron, in her HRMagazine article, "Ways To Assess Diversity Success," an organization "should seek out diversity to enhance their responsiveness to diverse customer needs, maintain the best talents, improve teamwork and mitigate interpersonal conflicts. This is because an organizational culture that supports diversity provides a more conducive environment for employees to turn out their best work." Van Eron, with her statement, suggests that the "health" of an organization's culture has a significant impact on the success of their diversity efforts. In fact, she goes on to emphasize that, "diversity in itself does not result in a competitive edge." More importantly, continues Van Eron, "diversity is likely to breed tension, conflict, misunderstanding and frustration unless an organization develops a culture that supports, honors, and values differences." However, what is a "healthy" organizational culture or, in the case of diversity, a culture that supports its acceptance? On the other hand, is it

20 Ibid.
21 Ibid.
possible that Van Eron has missed the mark and "diversity in and of itself" is the catalyst for positive organizational change? Hence, in this Chapter, the objective is to identify what type of work environment, if any, is necessary for diversity to flourish.

Organizational Culture

Organizational culture, as defined by Edwin M. Hartman in his book, *Organizational Ethics and the Good Life*, is "the body of shared beliefs, values, expectations, and norms of behavior that shape life in the organization and account for certain observable artifacts." Moreover, suggests Hartman throughout his book, an organization's culture is influenced by three factors: the focus of its products or services, the knowledge of available labor resources, and the local laws and customs of the community they serve. Clearly, though each factor is necessary to the development of an organization's culture, over time, the behaviors of organizational members are the most influential. The reason, emphasizes Hartman, is that "... the ends belong to the organization and the means to its employees ..." In effect, the realities of an organization are reflected by the actions of their employees: actions that become practices, practices that becomes norms, and finally, norms that take shape as permanent components of the organization's culture. In essence, continues Hartman, "corporate culture works in part by creating or supporting a community structure that implies roles for people"; roles that give their lives meaning and create values that

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23 Ibid., 161-162.
guide their aspirations and behavior both within the organization and community. Hence, the type of organization, its employees, and the surrounding community are the crucial elements that form the foundation of an organization's culture as illustrated by Figure 1, p. 23.

As might be gathered from Figure 1, "the moral life in business requires the support of the right sort of organization and the right sort of community." That is, it would be difficult for an ethical organization to function within an ethically impoverished community. Primarily, because an organizational culture is like a mirror that reflects everything around it, it would be difficult to find and remove all of the community images that are unethical or cause unethical behavior. So, would an ethically impoverished community have a greater influence on organizational members than the organization itself? Or, is it possible that the organization's employees, since they are members of the local community, bring unethical practices into the organization and directly pollute the culture? Hartman, in answer to these questions, suggests that the influences of a community, when compared to that of an organization, would have the least impact on negatively influencing the behavior of organizational members. He emphasizes that we use to think of "religion as teaching people to strive to be a certain sort of person, to try to have the right dispositions. Now corporate culture performs that function." Meaning, while on an external level, one of the strongest influences on an organization's business practices is local law and custom, internally, the effect of an organization's culture in shaping the

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24 Ibid., 162.
25 Ibid., 68.
26 Ibid., 153.
Figure 1. This diagram is an illustration of how the shared beliefs that exist between the organization, the employee, and the community help to bind and form the culture of the organization. Hartman emphasizes "corporate culture works in part by creating or supporting a community structure that implies roles for people. Culture creates meaning for people’s lives by giving them roles to play . . . To the extent that the workplace has replaced other community institutions, organizations accumulate greater power to socialize."\(^{27}\)

\(^{27}\) Hartman, *Organizational Ethics and the Good Life*, Chap. 6 passim.
character of its members actually has the potential to be the stronger and more positive influence. Furthermore, says Hartman, “a strong culture, sometimes determines, or at any rate significantly affects, what one wants to want; its influence can reach to one’s values.”

For example, if the local laws and business customs of a country dictate that children over the age of six-years may work, but a United States employer that relocates to that area prohibits such underage employment because they believe it unethical, then it is likely that their employees will adopt such a value system. Consequently, while it may be difficult for an ethical organization to function in a community that violates or makes worse the human condition, it is possible for that organization to institute ethical practices as part of their organizational culture that are adopted and fully supported by its members.

As previously mentioned, though the industry of the organization, its employees, and the surrounding community may be considered the foundation of organizational culture, it is the people within the organization that orally and behaviorally convey the daily meaning of the true culture. Hartman agrees, “culture is communicated through the socialization that proceeds by example, peer pressure, rituals, symbols, and didactic stories, true or apocryphal.” Hence, it is to an organization’s advantage that they distinctly define their goals and expected behaviors to their employees because, if they miss this opportunity, the employees will establish their own culture and it may or may not coincide with the organization’s beliefs, values, and norms. In fact, continues Hartman, “The important messages are often not stated explicitly (by employees): even people most influential in

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28 Hartman, 153.

29 Ibid., 149.
keeping the cultural flame may be unable to state the rules, for the same reason fish do not feel wet. In short, to positively support the organization's culture with their decision-making, employees need the specifics of organizational "right" and "wrong."

Organizational Life Cycles

External forces such as the surrounding community, customer base, and business law, as deduced from previous discussion, influence an organization's culture, while internal forces, such as employee behavior, communication, and accepted practice are an organization's "cultural core" or "cultural reflection." Yet, another factor serves as a catalyst for changing organizational culture. That catalyst, an intangible force that has a significant influence upon redirection of an organization's culture, is the process of organizational development. According to a study conducted by the Society for Human Resources Management (SHRM), an organization has a life cycle similar to that of humans. In fact, the characteristics of the organization during each phase are so pronounced that they become the organization's culture. SHRM's organizational life cycle has five very distinct phases:

- **Introduction**-This phase is characterized by a period of high energy and creativity. The organization is attempting to get its new product off the ground by the most effective means. The organization will meet or exceed the standard pay range to recruit a talented, knowledgeable work force.
- **Growth**-Change and expansion in terms of facilities, marketing, and personnel that are designed to keep up with the demands for products or services.

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30 Ibid.

31 Society for Human Resources Management, The SHRM Learning System (1999), Management Practices, 57. The belief is that because an organization is composed of people, its organizational stages or life cycle is "reflective of human characteristics and tendencies." However, it is not clear that SHRM views an organization as being able to indiscriminately cycle through the stages.
characterize the growth phase.

- **Maturity**-At this time the organization is stabilized. They are attempting to remain competitive by introducing new products and/or refining their current offerings.

- **Decline**-This is a time period plagued with product quality issues, expense concerns, high attrition rates, and a sliding organizational morale. The organization, in addition to being resistant to change, may also be entrenched in rules and policies that are no longer practical.

- **Demise**-The organization, at this point, is struggling to stay in business. They are likely burdened with overwhelming debt. The result will be the inability to retain adequate staffing levels, supplies, and customers. This phase results in aggressive layoffs and finally an end to the business itself.\(^{32}\)

Though SHRM does not clarify whether an organization may cycle back through these stages, it is clear that the organization’s current stage in the cycle is a distinct determinant of its short-or long-term culture. Specifically, the organizational cycle may have a significant impact on the ethics the organization intertwines into its culture because the organization’s health changes significantly during each phase. For example, it may be easy for an organization that is in “demise” to forget the necessity of ethics when dealing with aggressive layoffs because they are in an overall struggle to simply stay in business.

Fundamentally, the notion that an organization has a life cycle adds an interesting dimension to the ideal that culture may change, seamlessly over time, due to both external and internal forces. Hence, similar to an individual or a community, the state of an organization’s life cycle may be healthy or unhealthy, and so, impacts the harmony of their culture. To draw a parallel, SHRM’s organizational life cycle is really no different from that of a human being; at different times in an individual’s life, their focus, sense of morality, values, beliefs, ethics, etc. may or do change. In essence, an organization, like people or a community, may change for the better, for worse, or even remain the same. This, if viewed

\(^{32}\text{Ibid.}\)
optimistically, means that through an organization's culture, both moral and ethical progress is possible. Summarily, it is as Hartman emphasizes, "Corporate culture is important to business ethics because it is a vehicle for imparting and maintaining the moral principles and the values, good and bad, that animate life in the organization."\(^{33}\)

**Aristotle and the Influences of Ethics on Organizational Culture**

As has been made clear, within an organization's culture there are factors that positively or negatively influence its health for better or worse. In this framework, a healthy organization may be defined as one where moral progress is possible or as Hartman suggests, where "managers create rules and institutions that, while they cannot be counted on to cause moral behavior every time, at least create an environment in which people are encouraged to be moral and consider what being moral entails."\(^{34}\) Accordingly, a healthy work environment would be one that enables and supports fairness for all, reinforces open and honest communication, and more importantly, views employees, customers, and the community as assets that should be respected and protected. Nevertheless, as suggested by the discussion regarding organizational life cycles, the health of an organization also hinges on its business orientation---it may be either process or results oriented, or a combination of both at different times. This business orientation influences the decisions an organization makes to succeed, and therefore, the health of an organization rests on the approach it takes

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\(^{33}\) Hartman, *Organizational Ethics and the Good Life*, 150.

\(^{34}\) Ibid., 49.
to meets its objectives while at the same time maintaining its ethical posture. Thus, what matters most to the organization’s health is answered in one of two ways:

1. Results are more important, even at the expense of people, as long as they generate financial gain.
2. It is more important that organizational processes create goodwill amongst organizational members and customers even if there is a need to sacrifice profit to ensure this goodwill.

Yet, for many organizations, when you consider that their primary objective is to make a profit, in particular business situations, it may be difficult to determine a route that is more ethical. For example, should an organization consider social or political impact over profit even if it means risking their entire operation and laying off personnel, or should they worry about protecting the environment even when it would mean productivity declines or, worse, the loss of a raw resource that is the basis of their business? Thus, herein exists an organization’s ethical dilemma: to be results-oriented (teleological), process-concerned (deontological), or perhaps, an amalgamation of both?

To begin to formulate an answer to this organizational ethics question, Book I of Aristotle’s *Nicomachean Ethics* must be carefully examined. Aristotle, early in Book I states that, “if there exists an end in the realm of action which we desire for its own sake, an end which determines all other desires . . . then obviously this end will be the good, that is the highest good.”35 The good that Aristotle speaks of is the good as it relates to a community’s politics and, more importantly, “politeia” or politics as the “master science.”36 Aristotle further claims that politics uses the rest of the sciences to legislate “what people

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35 *Nicomachean Ethics*, 1094a20.
36 Ibid., 1094b5.
are to do and what they are not to do, its ends seem to embrace the ends of the other sciences. Thus, it follows that the end of politics is the good for man."^37 Though it may at first seem difficult to understand how Aristotle’s commentary may be applied to organizational ethics, it becomes clear when you consider whom politics addresses: the citizenry, and hence, the community. As Aristotle reiterates, “the end of politics is the best of ends; and the main concern of politics is to engender a certain character in the citizens and to make them good and disposed to perform noble actions."^38 Hence, if the laws of the community are not considerate of justice, human rights, and value for the environment, then it would be difficult for an organization to value these dimensions without being looked upon suspiciously by the members of the community. Contrarily, if community laws do value these dimensions then it would be difficult for an organization not to value them as well, unless, of course, they are willing to face the (potential) negative repercussions of not doing so.

Aristotle conclusively conveys his embrace of teleological ethics in his commentary that, “even excellence proves to be imperfect as an end: for a man might possibly possess it while asleep or while being inactive all his life, and while, in addition, undergoing the greatest suffering and misfortune."^39 And so, while most organizations believe that the true measure of their excellence is demonstrated by their monetary profitability, Aristotle emphasizes that “as for the money-maker, his life is led under some kind of constraint: clearly wealth is not the good we are trying to find, for it is useful, i.e., it is a means to

37 Ibid.
38 Ibid., 1099b30.
39 Nicomachean Ethics, 1096a.
something else. Consequently, though a healthy organization is one that may be concerned with excellence as an end, it is not an excellence that has its sole focus on monetary profit—for money-making is imperfect as an end. Instead, a healthy organization aims for an excellence based on the good works (or politics) of its organizational members towards each other and the community they serve.

Conclusion

At the beginning of this investigation, while it may have seemed that Ann M. Van Eron could be wrong in her presupposition that the health of an organization’s culture mattered in the implementation of a diversity program, it turns out that she is correct. Simply, diversity functions best in an organization that has a healthy culture because such an environment supports fairness for all, reinforces open and honest communication, and more importantly, views employees, customers, and the community as assets that should be respected and protected. Moreover, for diversity to flourish, an organization should define moral excellence as Aristotle suggests, an ethically based culture that publicly supports individual behaviors that are reflective of moral decision-making no matter the organization’s life cycle, profit risk, or loss of resources.

40 Ibid., 1096a5.
CHAPTER 4

ORGANIZATIONAL GLOBALIZATION AND THE
SYNERGY OF ORGANIZATIONAL CULTURE,
ETHICS, AND DIVERSITY

As organizations continue their quest for a competitive edge by offering low-cost, high-quality products to consumers who, for the most part, value end results over production methods, moving production operations to underdeveloped countries has become a business necessity. The days of the “neighborhood grocer” or “friendly corner hardware store” have been replaced by “mega-stores” that combine similar operations under one roof on a national and increasingly global scale. However, just as smaller neighborhood businesses met with increased competition due to a saturated local market, larger organizations are facing similar circumstances on a national level. The result is the need to increase profits by expanding organizational operations and markets on a global scale. Philip R. Harris and Robert T. Moran, *Managing Cultural Differences*, reiterates this in their commentary that, “for organizations to flourish let alone survive in the future, their perspectives must be global . . . global skills and perspectives cannot be viewed as a specialty or segment of
business today, they must be an integral part of an enterprise. Simply, globalization is becoming synonymous with organizational survival.

"Understanding diversity from a global perspective," states Michael L. Wheeler, "Global Diversity: Reality, Opportunity, and Challenge," augments "our understanding of domestic initiatives, United States initiatives in the global framework, and can enhance our success domestically and abroad." Specifically, global diversity is defined as "the complex social, cultural, political, and economic forces that shape the nations where we do business." Thus, as organizations continue to expand into the world market, the need to shape diversity on a global scale becomes an imperative. In essence, global diversity is not only an advantage abroad, but also positively impacts domestic business success. Wheeler further emphasizes that "... global diversity is about organization enhancement and effectiveness through people—the people who increasingly reflect the world population." Hence, it is important that an organization understand that to develop and implement a global diversity initiative "requires cultural and geographical sensitivity." A sensitivity that is simple yet complex and, more importantly, stems from an organization's domestic culture—good or bad. Therefore, in this Chapter, not only will the factors that an organization should consider when making the transformation to a global enterprise be assessed, but also, the

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43 Ibid., 77.

44 Ibid.

45 Ibid.
impact of local laws and customs on organizational ground plans, ethics, diversity, and organizational culture. More importantly, this Chapter will also expand the examination of organizational culture as presented in Chapter 3 by attempting to answer the following question from a global platform: Should an organization adopt host country ethics or business practices when pursuing world markets even if it means compromising home country ethics or laws?

**Why Are Organizations Focused On Global Expansion?**

Not surprisingly, the reasons for an organization moving their production operations to another country, aside from the obvious—to increase market share—are numerous. In fact, though the reasoning is not identical in every organization, according to Harris, there are some “environmental forces” that exist from organization to organization that make the ideal of globalization attractive, such as:

- **Labor costs**—reduced labor costs in underdeveloped countries.
- **Homogeneous product demand**—product demands are similar across culture.
- **Lowered transportation costs**—the global transportation costs have decreased in recent years.
- **Free trade agreements**—tax reductions to induce international trade.
- **Telecommunications**—fax machines and the Internet have made global ordering as simple as pushing a button.
- **Homogeneous technical standards**—the International Organization for Standardization has been successful in developing global standards for technical processes.

In short, these environmental forces make it cost-effective to relocate to an underdeveloped country. First, because reduced labor costs may significantly increase an organization’s ability to be globally competitive. The potential for payroll savings when going from staffing an organization based on United States minimum wage standards to the
wage standards of a third world country is financially significant. These low wage rates combined with no organized labor and minimal, if any, labor laws, make the potential for a labor lawsuit practically non-existent. The absence of organized labor issues and labor lawsuits make global relocation a profit-making venture for most organizations, especially if the organization is faced with costly labor issues, i.e. attempts to unionize, discrimination and/or harassment lawsuits, etc. Therefore, as Harris and Moran indicate, expense reductions due to labor costs are the primary reason for moving production/manufacturing units overseas.

Increased access to various telecommunications resources has caused a cultural "synergy" or mutual reciprocity across cultures in their production, awareness, and demand for homogeneous products. Hence, media and television communications have increased consumer demand for certain products on a global scale. For instance, Coca-Cola is one of the most recognized American brands in the world. Coca-Cola is seen as a bridge across cultures—a benefit to all that want to “smile,” as suggested by the popular slogan, “Have a Coke and a Smile.” “Synergy,” says Ruth Benedict in “Patterns of the Good Culture,” is a "gamut that runs from one pole to another, where any act or skill that advantages the individual at the same time advantages the group, to the other pole, where every act that advantages the individual is at the expense of others."\(^{46}\) So, what benefits and/or disadvantages one individual or culture has an impact on other individuals and/or cultures, it may be negative or positive, respectively “low synergy” or “high synergy.” Consequently, as applied in the Coca-Cola example, one segment of society advantages the other by

producing the finished Coca-Cola product for consumption, but both may benefit if they
drink the product. Benedict illustrates this homogeneous demand for products indirectly
when she speaks of a social structure as being homologous: "A social structure organized
by homologous units uses likeness as a bond among the segmented units. Likeness is a
familiar and usable basis for human ties: it makes easy sympathy, empathy, ‘like-
mindedness’ as we say."\(^7\) The increased global use of high-tech communications has
amplified the demands for homogeneous products and made an organization’s ability to
supply these products a definite competitive advantage.

Lowered transportations costs combined with decreased taxes and tariffs have
significantly increased the ease with which an organization may relocate their operations to
another country. For instance, an organization which relocates to an offshore, low-cost
production site in Mexico can then import their product back to the United States and pay
no taxes or tariffs due to the North American Free Trade Agreement (NAFTA). In theory,
an organization would benefit more from exporting their raw material to another country
for manufacture and importing the finished product back to the United States for consumer
purchase. Harris and Moran emphasize that NAFTA encourages a "new era of economic
growth, cultural exchanges, and expanding markets that will do much to enhance mutual
enrichment"---between the organization and the markets they pursue.\(^8\)

It is clear that the predominant reason for an organization’s decision to reallocate its
production resources to another country are due to the need to reduce costs so as to better

\(^7\) Ibid.

compete in a global market. However, this new focus on global expansion will require organizations to make a concerted effort to understand and adapt their culture to accommodate these changes. More importantly, how will an organization convey its business objectives globally and at the same time ensure the health of the organization across cultures? Specifically, what cultural ethics, norms, and mores should predominate? Finally, how will an organization enforce their cultural values and ethics across regions and across cultures? In summary, the success of an organization's globalization will depend on how well their actions and behaviors answer these questions.

Organizational Globalization, Cultural Contexts, and Ethics

It is evident that the surrounding community in which an organization exists has the ability to influence the ease with which the organization maintains its ethical orientation. Consequently, it is imperative that an organization develops plans, processes, and strategies that take into account differences across cultures—which ones are of value in the general aspects of behavior and contexts of communication. To understand the context of culture one must examine a study conducted by Geert Hofstede from the late 1960's through the early 1990's. Hofstede identified four cultural dimensions as having the greatest impact on an organization's culture. He considered these dimensions as determinants of organizational value and hence, the consequent organizational culture. These dimensions

49 Geert Hofstede, Cultural Consequences, 2d ed., (Thousand Oaks, Ca.: Sage Publications, 2001). The original study is considered one of the most thorough of its kind in relation to the subject of cultural similarity and complexity. The research subjects were from IBM (one of the first United States organizations with significant global recognition). Over time, Hofstede studied employee opinion surveys from over 116,000 employees from 40 countries.
are specific to a geographic area and relate to individual behavior and communication styles:

- **Power distance**-indicates the extent to which a society accepts the unequal distribution of power in institutions and organizations.
- **Uncertainty avoidance**-refers to a society's discomfort with uncertainty, preferring predictability and stability.
- **Individualism/collectivism**-reflects the extent to which people prefer to take care of themselves and their immediate family, remaining emotionally independent from groups, organizations, and other collectivities.
- **Masculinity/femininity**-reveals the bias either towards the "masculine" values of assertiveness, competitiveness, and materialism, or towards the "feminine" values of nurturing, and the quality of life and relationships.

Hofstede analyzed and developed a ranking system for 40 countries based on each of these four cultural dimensions. For instance, because laborers in the United States generally view themselves as equal to individuals that hold positions of authority within their organization, they are "low in power distance." Additionally, the United States ranked high in individualism and masculinity, while low in uncertainty avoidance. Hofstede's dimensional ranking of the culture of the United States is not surprising when consideration is given to the assertiveness required to succeed in a capitalistic economy---"every man for himself" is the common axiom. Similar to the United States in organizational culture, with only one exception, were the Canadians: they were at the midpoint in the dimension of masculinity versus femininity. Contextually, in Canada, assertiveness and competition matter just as much as the need to positively maintain relationships. Whereas in Mexico, though one might assume their culture would be highly influenced by the United States, employees are at the top of the scale in power distance, low in individualism, slightly masculine, and extremely high in uncertainty avoidance. In other words, in Mexico, authority, family, and males come first and it is accepted that one's station in life changes very little or is permanent. However, despite Hofstede's existing assessment of the
respective cultural attributes of each of the North American Free Trade Agreement (NAFTA) countries, it should be expected that over time and to some degree—due to the economic relationships forged by free trade—cross-cultural assimilation is bound to occur.50

Economic globalization makes it necessary to take a broader view of Hofstede’s cultural analysis, with particular attention paid to the dimensional rankings of Japan (with whom the United States has maintained a long-standing and crucial trade relationship). It is readily apparent that Japanese culture is at an opposite extreme when compared to the United States. Japan, according to Hofstede, ranks slightly above average in power distance, quite low in individualism, much higher in masculinity and uncertainty avoidance. In essence, the Japanese view the team or work group as most important, seek routine in their tasks, view authority in high esteem, and perceive males as the custodian of workplace expertise. More than anything, the Japanese work group is conceptually similar to a traditional family: workers, following completion of their education, usually learn on the job and, as a consequence, are promoted slowly but generally considered employees for life while women are expected to remain in organizationally supportive workplace functions. Though this structure may seem oppressive by today’s Western management theories and practices, from the early 1980’s through 1997 Japanese management theory was the benchmark of success for many United States companies. However, when Japan lost its leading edge due to “the simultaneous globalization of the market as a consequence of the fall of the ‘iron curtain’, the over-evaluation of the Yen, and ultimately the Asian financial crisis,” their

50 “North American Free Trade Agreement (NAFTA): Over the last eight years NAFTA has served to increase the trade between the United States, Canada, and Mexico by 109%,” Business Researchers Network 3, no. 3 (2003): 1.
status as the proprietors of cutting-edge management theory quickly faded.\textsuperscript{51} As a result, the Japanese are beginning to (slowly) assimilate their organizational culture in ways that are more charitable to the Western style of doing business. Explicitly, as Ulrich von Buol illustrates, in his review of the book by ed. Daniel Dirks et al., \textit{Japanese Management in the Low Growth Era -- Between External Shocks and Internal Evolution}, "Japan Incorporated', once the symbol of pride and even arrogance, vanished, and forced firms to open up to admit important partners from Western countries with considerable stockholdings (i.e. Ford, DaimlerChrysler, Renault, Siemens), a fact which formerly would have been unthinkable.\textsuperscript{52} Nevertheless, because Japanese tradition still abounds, a domestic organization that wishes to succeed in that country should customize their practices accordingly.

As this examination of country-specific cultural contexts continues, it is important to begin formulating an answer to the primary question posed at the start of this Chapter: Should organizations adopt the culture of the country in which they operate? Hofstede, in his research found that most countries within the four dimensions fell into certain quadrants. From that he generalized certain characteristics within various combinations and the countries represented within those quadrants:

- \textbf{Latin countries-ranked high on both power distance and uncertainty avoidance:} The employees in this region would lack initiative and accept bureaucracy. Hence, task assignments would need to be clearly defined at every step.
- \textbf{Anglo countries-ranked low on both power distance and uncertainty avoidance:} These organizational members are not threatened by authority and prefer to take


\textsuperscript{52} Ibid.
responsibility for task completion.

- **Germanic countries**—ranked low in power distance and high in uncertainty avoidance: Hierarchy in the organization is downplayed, decisions are decentralized, but rules and regulations are more formal, and task roles and responsibilities are more defined.

- **Asian countries**—Power distance is high but uncertainty avoidance and individualism are low: Here organizations resemble families or tribes. The organization is seen as a parent—subordinates do not have clearly defined tasks. Relationships are nurtured and the spirit of teamwork is what matters most.

Though no study or theory is proof positive that its actual application will work, Hofstede’s research is of immeasurable benefit to an organization that aims to increase their global exposure because his cultural dimensions help shed light on country-specific organizational expectations. Nevertheless, Hofstede’s study does not capture how an organization would convey its ethics if they were considerably different from the ethics of a host country. For instance, bribery and corruption are a routine way of doing business in many developing countries and, unfortunately, often times the political systems of most of these countries are the primary participants and promoters of this corruption. It is not uncommon, emphasizes Harris, that “payoffs to public officials, especially the police, have been reported in the media.”⁵³ Thus, would it be the duty of an organization to “go along to get along” or should they adhere to their organizational ethics and home country laws against such behavior? One view is that the organization should adopt the business behaviors of its host country, as long as those behaviors coincide with the current practices of that country. Why? Because, exclaims Schneider, “notions of what is moral

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and ethical do not necessarily translate across national borders.”⁵⁴ On the contrary, argues Hartman, “the good community or organization is one in which it is rationally self-interested to be moral.”⁵⁵ Hartman’s ideal would be more in line with Aristotle’s notion of the good that “if happiness depends on excellence, it will be shared by many people; for study and effort will make it accessible to anyone whose capacity for virtue is unimpaired.”⁵⁶ Therefore, an organization, no matter their location, has an obligation to aim for what is “good” for society as a whole and that means making ethically based decisions across cultural lines.

Ruth Benedict’s Cultural Ground Plans and Organizational Design

Edwin M. Hartman, Organizational Ethics and the Good Life, defines an organization as a “community whose members are united by something much like a contract that generates rules that they have a presumptive obligation to follow.”⁵⁷ Therefore, as proposed by Ruth Benedict in “Patterns of the Good Culture,” organizations, like communities, will have a specific structure or “ground plan” that differentiates the “corporate society.” Specifically, says Benedict, a corporate society is “set up according to


⁵⁶ Nicomachean Ethics, 1099b15.

several different schemes, the ground plans of which are different and pose different problems.\(^5^8\) There are two basic types of ground plans in a corporate society:

- **Homologous:** The social structure is based on likeness. Likeness as a bond among the segmented units. Likeness is a familiar and usable basis for human ties; it makes easy sympathy, empathy, and like-mindedness. It avoids the difficulties of the different.

- **Non-homologous:** A social plan fundamentally based on differences. Groups are ranked from high to low. Each group has its own specialized labors to perform, its special insignia.\(^5^9\)

In fact, Benedict's ground plans are applicable to the four international organizational design approaches to staffing recommended by the Society for Human Resources Management to global organizations: *ethnocentric, regiocentric, geocentric,* and *polycentric.*\(^6^0\) The basic foundation of each global design is dependent upon the goals and objectives of an organization's parent or headquarters (refer to Tables 1 and 2, p. 43-44).

It is readily apparent, upon close inspection, that three of the four designs may hinder an organization's ethics and global diversity efforts because of the perpetuation of various forms of overt discrimination. As Table 1 (p. 43) indicates, the ethnocentric organization would consider the host country important only as a means to an end; the end is the product, the means are laborers. The homologous-ethnocentric organization has little concern for worker needs (i.e. working conditions, pay, and benefits) unless the worker is from home country headquarters. Additionally, the leadership of an ethnocentric organization is extremely hierarchical and lacks an understanding of local customs and cultural norms. Consequently, adherence to organizational policies and respect for

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\(^5^9\) Ibid.

TABLE 1

BENEDICT'S HOMOLOGOUS GROUND PLANS APPLIED TO GLOBAL ETHNOCENTRIC AND REGIOCENTRIC ORGANIZATIONAL DESIGNS

<table>
<thead>
<tr>
<th>HOMOLOGOUS</th>
<th>ETHNOCENTRIC</th>
<th>REGIOCENTRIC</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Subsidiaries have no autonomy.</td>
<td>• Multinational corporation reflects geographic strategy and structure.</td>
</tr>
<tr>
<td></td>
<td>• Strategic decisions are made at headquarters (HQ).</td>
<td>• Wider pool of managers utilized but in more limited ways, i.e. specific to a geographic region.</td>
</tr>
<tr>
<td></td>
<td>• HQ personnel fill key jobs.</td>
<td>• Regional managers may not be promoted to positions at HQ but do enjoy a degree of regional autonomy in decision-making.</td>
</tr>
<tr>
<td></td>
<td>• Expatriates from home country manage subsidiaries.</td>
<td></td>
</tr>
</tbody>
</table>

Note: In this illustration, Benedict's ground plan in application to SHRM's "ethnocentric" and "regiocentric" international organizational designs indicates how an individual's similarity to HQ personnel places them in key organizational positions. Hence, as Benedict surmised, "the social problem in a social structure organized by homologous units is to use likeness as a bond among the segmented units."\(^{61}\)

TABLE 2
BENEDICT’S NON-HOMOLOGOUS GROUND PLANS APPLIED TO GLOBAL GEOCENTRIC AND POLYCENTRIC ORGANIZATIONAL DESIGNS

<table>
<thead>
<tr>
<th>NON-HOMOLOGOUS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GEOCENTRIC</strong></td>
</tr>
<tr>
<td>- Ability favored over nationality.</td>
</tr>
<tr>
<td>- Worldwide, integrated business strategies.</td>
</tr>
<tr>
<td>- Best people sought for jobs.</td>
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Note: Benedict’s ground plan in application to “geocentric” and “polycentric” international organizational designs indicate how individual differences are often viewed as a benefit to HQ. Local nationals may have key organizational positions. In a non-homologous organization, emphasizes Benedict, “the ground plan is stable as long as the different groups are really interdependent for mutual necessities and recognize that they are receiving benefits from the others. If there is this recognition, very great differences in prestige, in wealth and in authority may occur within a stable and zestful society.”

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62 Ibid., 54.
organizational values will be low or nonexistent for laborers because the organization’s preference for internal (individual) similarity will be obvious. This is dangerous, asserts Benedict, because the groundwork is flawed by "conflicting claims and activities based on likeness itself."^63

The regiocentric organization, though still homologous, is slightly more individually advantageous to laborers because they do have some decision-making authority. A limited understanding of the local economy and cultural norms is reflected in the organization’s geographic strategies. There is also a tendency for the organization to devote more headquarters personnel to a regional area to ensure its objectives are met as much as possible. Hence, this type of global organization is also "dangerous" because likeness is the predominant basis for decision-making authority and promotions.

Local nationals in a polycentric organization (Table 2, p. 44) are given legitimate positions of authority; in particular, so as to bridge cultural gaps between the local community and the subsidiary, a polycentric organization fills key geographic management positions with local nationals. Moreover, as a rule, polycentric organizations are quite familiar with international management and usually have operations in several countries. Therefore, an organization with this type of structure is careful to establish the right mix of laborers, managers, and headquarters personnel for a geographic area, and so, it is no surprise that there is a clear understanding of local laws, customs, and norms amongst organizational members. In essence, a global organization with a polycentric framework can effectively manage diversity across cultures.

The geocentric organization views its success as dependent upon recruiting and retaining the most qualified people no matter their culture or nationality. Hence, geocentric organizations have a keen awareness that, if they want to be a leader in global business, they must put people in place that possess a sound knowledge of local laws, customs, and cultural norms. Quite simply, in this type of organization, success is limited only by an individual’s ability. Consequently, because cultural difference in a geocentric organization is viewed as an asset, Ruth Benedict would almost certainly consider this type of organization one of high synergy. Fundamentally then, the geocentric organization values the importance of a diverse employee population and, more importantly, readily uses that diversity as a means to succeed.

It is clear that Benedict saw the greatest societal benefit in a non-homologous ground plan and believed that its success depended on the various culture’s understanding as to how their interdependence was of mutual advantage. Surprisingly, however, she likened the non-homologous ground plan to the caste system of India—a system that has survived thousands of years. Because, in a caste system, said Benedict, “Each group has its own specialized hereditary labors to perform, its special insignia.” In other words, the groups are comfortable with their place or station in the relationship as long as the mutual benefits are maintained. For instance, with the caste system, the benefits for a person of lower rank may simply be that they have their basic needs met and, consequently, the reciprocal servitude, in their mind, is worth it. Basically, concludes Benedict, societies with non-

\[64\] Ibid., 54.
homologous ground plans may be quite stable even when “the underprivileged live very miserably.”

Cultural differences and the resulting individual and group behaviors caused by those differences, according to Benedict, may run the “gamut.” This “gamut,” stresses Benedict, is a continuum of synergy that runs from low to high. The type of synergy depends on the structure of the ground plan—homologous vs. non-homologous. A low synergy society practices counterproductive behaviors based on the exclusion of others because of their differences and, thus, would have a homologous ground plan. While, on the other hand, a high synergy society practices mutually inclusive behaviors that use individual difference as an advantage (what we now call “valuing diversity”) and would, necessarily, comprise a non-homologous ground plan. Hence, Benedict’s non-homologous ground plan, as applied to organizational development, reinforces the importance of valuing individual difference across organizational lines. In short, the better of the two ground plans is non-homologous because it does not matter that an individual is a manager or a laborer, male or female, black or white, religious or non-religious; all that matters is the skill set that individual brings to the organization.

The application of Ruth Benedict’s ground plans to global organizational design is functional in that it helps to establish the criterion for “comparative organizational culture.” Specifically, the ground plans demonstrate the gamut of organizational culture, from one that hinders itself based on internal similarities to one that is enhanced by

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65 Ibid.

66 George Harris, “About Ruth Benedict and Her Lost Manuscript,” *Psychology Today* (1970): 52. Harris speaks of Benedict’s ideals as providing anthropologists with the chance to build a “humanistic study of comparative culture to escape narrow scientism.”
individual difference. A high synergy organization will have the “multicultural proficiency to take the time to analyze the cultural dimensions of each participating host country, then develop business strategies to ensure the successful blending of the strengths of each.” High synergy organizations are also flexible in their ability to change to meet the needs of those within the organization, the local community, and the customers they serve—“the organization pursues their personal ends by serving the needs of others.” At the opposite extreme, is the low synergy organization where selfish desires drive the organization to focus only on the end result of financial gain no matter the cost. Simply, a low synergy (i.e. ethnocentric or regiocentric) organization, will not invest the time and energy required to develop an understanding of the local customs and cultural norms of its host country. This lack of integration with the host country will definitely lead to organizational problems and potential organizational decline or demise. As a case in point, Disney admittedly would have saved millions had they taken cultural differences into consideration prior to building Euro Disney. In conclusion, the best investment a global organization can make is in understanding the cultural norms of their host country, meshing that culture with their own, and then synergizing the strengths of the two to benefit and enhance the organizational objectives. In other words, an organization should focus on business strategies that help to deliver a message that they support programs and processes that forward global diversity.

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Maintaining Organizational Ethics as a Competitive Strategy of Globalization

Although global values are becoming more homogeneous due to technological advances in communication and transportation, there is still a need to accept and value the underlying cultural differences of "global citizens" as enhancing society as a whole. To that end, product and service demands are quite similar throughout the world; the McDonald's in the local neighborhood is quite similar to the McDonald's in Europe, except that the one in Europe is permitted to serve beer and wine. In this example, the underlying cultural value difference is one of ethics: In the United States, it would be considered unethical to serve alcohol in an establishment geared toward children, whereas in Europe, wine and beer are simply considered an important part of a meal. It is clear that notions of what is ethical do not necessarily translate across international borders. However, that is not to say that one cannot respect and synergize their ethical standards across cultures. In fact, organizations must be careful of their criticism of a host country's ethics, even if those ethics negatively impact human rights. For many years, the United States has been openly critical of China's stance on the rights of their citizens. Nevertheless, a trade relationship continues to exist and thrive between the two countries. Why? Because it is very difficult to apply business ethics to cultural practices and traditions despite the fact that, over time, they do influence one another.

So, what should a global organization do when their business ethics are significantly

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70 Ibid., 236.
71 Ibid., 213.
different from that of their host country? "Corporate culture," insists Hartman, "is important to business ethics for imparting and maintaining the moral principles and the values (good and bad) that animate life in the organization." Not surprisingly then, business ethics may be good or bad, dependent of course upon who is the moral judge and jury. As mentioned, if one were to judge China's stance on human rights they would, by United States standards, receive extremely low marks. However, if China were to evaluate the ethical business standards of the United States, perhaps they would say that we were individualistic to the point of it being detrimental to our society as a whole. The problem, according to Hartman, "is that to understand an action we must understand its context or 'thick concepts' (i.e. institutions, rules, virtue, and language)---that one can understand only by seeing how they are embedded in a culture's complex practices, which may incorporate moral and factual presuppositions." In short, we need to understand the reason for the behavior before we criticize the behavior and its consequences; we need to be aware of moral relativism within organizations and cultures. Because, says Hartman, "Some acts may be morally appropriate that in the absence of an organizational system are wrong." An example of this would be a facility that manufactures insecticides: It is legal (within certain parameters) to put citizens at risk of chemical exposure and subsequent health concerns that may include death in order to provide a product for trade or sale. However, a person has no legal protection if they use the product and accidentally poison someone

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73 Ibid., 98.

74 Ibid., 72.
while attempting to rid their home of vermin—a conviction of manslaughter due to negligence may result. Hence, should an organization, though protected by law, look the other way when their ethical standards have the potential for harm? Many might argue that it is impossible to evaluate this because “morality is what a community agrees it is.” Further, because a community establishes its own laws, an organization is obligated to proceed accordingly. Therefore, if harm to individuals does occur, due to an organization’s action or inaction, they should face the consequences (legal or customary) as prescribed by that community.

As previously established, an organization is a kind of community. However, an organization is more than that, it is actually a community within a community, and therefore, has a moral obligation to both its own people and to the larger community. “A community,” states Aristotle, “is not formed by two physicians, but by a physician and a farmer [as applied to our case, an organization and a laborer], and in general, people who are different and unequal. But they must be equalized; and hence in everything that enters into an exchange must somehow be comparable.”

75 To that end, an organization is not justified in taking more from a community than it gives. So, to revisit the question, “Should an organization look the other way when their ethical standards are compromised by their local community?” No, they should face the issue and stand up for what will benefit society as a whole and not just the organization because, as Hartman advocates, “the moral life requires the support of the right sort of community and the moral life in business requires

75 *Nicomachean Ethics*, 1133a15.
the support of the right organization." The right or good community, according to Aristotle, practices justice in distribution as a rule:

... justice is that quality in terms of which we can say of a just man that he practices by choice what is just, and that, in making distribution between himself and another, or between two others, he will not give himself the larger and his neighbor the smaller share of what is desirable (and vice versa in distributing what is harmful), but he will give an equal share as determined by proportion, and he will act in the same way in distributing between two others. Injustice, on the other hand, is the quality similarly related to what is unjust, and the unjust is an excess and a deficiency of what is helpful and harmful, and it violates proportion. Injustice is, therefore, excess and deficiency, because it tends toward excess and deficiency: in one’s own case toward an excess of what is in itself helpful and toward a deficiency of what is harmful; in the case of distribution among others, although the result is by and large the same, the violation of proportion may take place in either direction. Of the offenses the lesser is to suffer unjustly and the greater to act unjustly."

Aristotle is careful to point out that what is an unjust action is not always an injustice. For example, in an organization’s effort to increase their representation of minority executives, they may recruit from a search firm that only represents minority candidates. While this, to non-minorities, may appear to be an unjust act, it is not an injustice. Communal law regulates an injustice, where an unjust action is assigning more good to oneself than bad in distribution. Hence, in this example, no law was broken, but it is considered a violation of proportion—an unjust act—because only minority candidates were given a chance at an executive employment opportunity.

Nature or natural law qualifies just or unjust acts. Natural laws are laws that have the same force everywhere—across cultures. Laws against nature that should be avoided are those that purposely cause harm to individuals or society. “There are some things for which

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77 *Nicomachean Ethics*, 1134a5.
it is impossible to enact a law . . . equity [as a natural law] is a rectification of law where law falls short by reason of its universality."™ Hence, the application of Aristotle’s notions of injustice versus unjust (unethical) acts to organizational globalization results in this conclusion: The just organization is one that adheres to the laws of the land. However, “what is just in the sight of law is not the same as what is just in the primary sense.”™

Hence, it is important that the global organization also be good [equitable]; meaning, the good or ethical organization must be more than just in a sense, it must be equitable where the law, due to its broadness, cannot address a specific issue or situation. Aristotle emphasizes that being “equitable is both just and better than the just . . .”™ For, as Aristotle accentuates, “It is evident that the man who distributes, and not always he who acquires, too large a share acts unjustly . . . the initiative rests with the distributor and not with the recipient” to act ethically.™ Consequently, it follows that a global organization is good if it practices equitable distribution within a context respective to both host and home country cultural norms, laws, and customs.

The Obligations of a Global Organization

It is clear that a global organization has a societal obligation to its worldwide citizenry to behave ethically, even when local laws and customs are not supportive of their efforts. It is imperative that organizations develop a strategic understanding of how to synergize

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78 Ibid., 1137b25.
79 Ibid., 1137a.
80 Ibid., 1138a.
81 Ibid., 1136b25.
business ethics and business competitiveness across cultures. There are three distinct steps that may assist an organization in transitioning from a local entity to a global competitor while maintaining their organizational culture and, at the same time, synergizing their ethics across cultures and thereby, harnessing global diversity:

1. **Ethical Analysis**: Clarification of home country ethics.
2. **Collaboration Ethics**: Development of ethical communication standards.
3. **Global Ethics**: Despite the potential for financial loss, a commitment to adhere to the ethical standards across cultures as practiced in the United States.

1. **Ethical Analysis**: The first step in ethical analysis involves ascertaining the current perceptions of home country employees regarding the organization’s ethics. Why? Because, as Susan Wells indicates in her article, “Turn Employees into Saints?,” a third of United States employees “know or suspect that ethical violations have occurred in their organizations.”

Further, continues Wells, a survey of human resources managers in organizations with written ethical standards and/or codes of conduct reported that for the most part “their companies don’t provide training on ethical standards or have ethics offices or ombudsmen.” Hence, if home country employees and decision-makers have no clear definition of what ethical behavior looks like then they will certainly not be able to develop or apply ethical standards on a global scale. This first step then should include the following seven tasks:

1. An employee climate survey to determine their perception of the organization’s ethics.
2. Based on the results of the climate survey, establish corrective measures as needed. (In this step, there may be a need to reassess employee response to corrective measures.)

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83 Ibid.
3. Based on employee feedback and organizational objectives, develop an organizational mission statement that blends product, service, or manufacturing standards with the need to protect employees, consumers, and the surrounding community.

4. Establish values that should never be compromised or sacrificed in order to achieve the organization's objectives.

5. From the mission statement and the statement of values, an organization should derive their ethical code of conduct.

6. Formulate policies and processes that give the organizational code of conduct non-compromising and retributive force.

7. Finally, the organization should include specific disciplinary action that may occur as the result of not adhering to ethical policies.

It is imperative that following this first step the organization makes every effort to convey their ethical stance, mission, and values to their employees.

2. Collaboration Ethics: This second step is where an organization develops an ethic of collaboration or communication. The organization does this by creating an environment that supports open communication throughout all levels. The overall concept is that everyone in the organization participates and is valued for their individual perspective. Additionally, the organization takes purposeful action steps in consistently communicating its mission, values, and corresponding ethical standards to each employee. Hence, during this second step an organization would need to put the following in motion:

- A policy regarding the necessity and availability of open-door communication.
- Participatory management that supports and values feedback from everyone in the organization.
- A method or process for consistently receiving feedback from individuals in the organization that would prefer anonymity, i.e. a suggestion box or anonymous "hotline."
- Organizational commitment to respond to all (both positive and negative) employee communications.
- A clear and concise policy against intimidation or retaliation for negative feedback.
- A peer review board made up of employees from throughout the organization who serve to make recommendations to organizational decision-makers regarding employee issues and concerns.
Establish a formal review and appeal process for employees who feel that they have been unfairly treated or disciplined. (This review process should be strictly employee-requested and include a review of the course of action by a board made up of the employee’s peers.)

In summation, the most important aspect of the ethics of collaboration is for an organization to commit to open communication that is risk free for their employees. In this way, they will allow honesty to truly be the best policy.

3. Global Ethics: The third and final step in synergizing organizational ethics and globalization is for the organization to mesh the home country ethics to that of the host country. To do this, an organization will need to clearly state their initial objectives and determine the corresponding ground plan (Tables 1 and 2, p. 43-44). For instance, if an organization were interested in short term development (i.e. the production of one product over a six month period) then perhaps it would be more ethical to utilize an ethnocentric ground plan (Table 1). Why? For the simple reason that, despite the fact that an ethnocentric ground plan is narrowly focused on “likeness,” it may be more damaging to a local national manager to have a top position for only six months. Thus, the more ethical recourse would be to disrupt the host country’s employee base and corresponding culture as little as possible. Accordingly, the third step should include:

- A clear and concise statement regarding the organization’s global objectives.
- A study benchmarking similar global organizations to better assess which host country could effectively accommodate the operating/manufacturing needs of the organization.
- An awareness of host country laws, norms, customs, and overall culture.
- A thorough analysis of staffing needs to ascertain the most appropriate organizational ground plan and corresponding international organizational design.
- A commitment to adhere to United States labor laws across borders to preserve home country human rights standards.
- Mandatory expatriate training for all headquarters personnel assigned cross-
cultural positions at subsidiaries.

- Most importantly, a commitment to "do the right thing" no matter local laws and customs. Specifically, taking social responsibility although doing so may cause the organization significant financial loss.

The last component ("doing the right thing") of the third step is the most difficult adherence mandate for a global organization. As Susan C. Schneider et al. emphasize, "It is easy to be magnanimous and support the ethical course when things are going well. The real test is when there is a choice between acting ethically and making a profit, as is the case of the U.S. jeans company, Levi-Strauss, to pull their $40 million business out of the lucrative Chinese market in protest against human rights violations." This type of situation is the true test of an organization's ethical stance--- demarcating whether their ethics are genuine or merely posturing. Not surprisingly then, because of the various layers or "thick concepts" behind the ethics standards of many countries, an organization must be prepared to back what they believe is ethical with the appropriate action no matter the cost to their business.

As might be gathered, though it may initially appear lucrative for an organization to move production operations to an underdeveloped country, it should be understood that since many manufacturing countries are underdeveloped, an organization will probably have to deal with a volatile economy, civil war, organized and disorganized crime, or political corruption. Hence, though it should not necessarily be an organizational objective to alter a country's morality, they should, nevertheless, be prepared to "create organizational

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conditions under which ordinarily self-interested people have reason to act morally.\(^{85}\)

Texas Instruments, for example, in order to support and reinforce the ethical standards of their employees worldwide, issued a business-card sized ethics card that asks an employee to consider seven questions before making a questionable decision:\(^{86}\)

- Is the action legal?
- Does it comply with our values?
- If you do it, will you feel bad?
- How will it look in the newspaper?
- If you know it is wrong, do not do it!
- If you are not sure, ask.
- Keep asking until you get an answer.

While the Texas Instruments ethics business card may seem somewhat simplistic, it is an invaluable communication tool because it constantly reminds employees of their organization’s expectation that they behave ethically whether in the United States or on global assignment. The card also reassures employees that their organization’s culture is supportive of their making the choice to “do the right thing” no matter the difficulty of the situation. Texas Instruments has the right idea: a good organization must support a culture that thrives on ethical standards and is willing to take whatever course necessary to ensure that those standards are communicated, adhered to, and enforced daily---especially in the global marketplace. In conclusion, as the Texas Instruments example demonstrates, an organization’s domestic ethics must be synergized with their global development strategies and viewed as the most important aspect of doing business with anyone, anywhere, and at anytime.


\(^{86}\) Susan J. Wells, “Turn Employees into Saints?,” *HR Magazine* 44, no. 13 (1999): 52.
Conclusion

As emphasized at the beginning of this Chapter, organizational globalization has become synonymous with business success. However, as organizations pursue the global expansion of their market share to increase profits, they should make certain that they effectively bridge cultural gaps by maintaining strategies focused on effective global diversity initiatives. Specifically, as illustrated by Ruth Benedict, cultural differences necessitate that an organization---in the global marketplace---focus on becoming high synergy by customizing their processes to harness cultural strengths that enhance their ability to effectively meet business objectives. What is more, this Chapter reinforced the belief that global diversity strategies are the key to shaping the complex social, political, and economic characteristics that influence the cultural artifacts of an organization and so, their ethical posture. Therefore, in answer to our most important question, organizations should commit to business strategies that establish ethical consistency no matter the country within which they operate and, as suggested by our examination of Aristotle’s *Nicomachean Ethics*, they have a moral obligation to do so. For example, to assure the ethical protection of their global employee base, an organization’s moral obligation and business strategy could take shape in their commitment to adhere to United States civil rights legislation (i.e. Title VII of the Civil Rights Act and its affirmative action mandates) no matter the international location of their business enterprise(s). Conclusively, with this strategy, both the organization and its members would have the moral obligation to act within established legal bounds.
Organizations, as previously mentioned, pursue diversity for a number of reasons: in an attempt to “do the right thing,” as a business practice in the hope of increasing their customer base, because their competitors have diversity programs, or in response to a high-profile discrimination lawsuit. Hence, in an attempt to address their specific reasons for diversity implementation, most organizations assign one individual, namely a diversity consultant or human resources manager, to “benchmark” comparable organizations and design diversity programs customized to fit their particular needs. Yet, no matter the subjectivity of the design, all diversity programs have one common goal and that is to resolve the conflict that arises over the access and distribution of limited career opportunities, i.e. pay, promotions, job security, etc. As Deborah Stone emphasizes in her book, Policy Paradox, “Distribution---whether of goods and services, wealth and income, health and happiness, or opportunity and disadvantage---are at the heart of policy controversies . . . equity is the goal for all sides in a distributive conflict; the conflict comes
over how the sides envision the distribution of whatever is at issue." Simply, this distribution is a source of organizational power, and therefore, should be prescribed by an individual with a comprehension of equitable outcome. Therefore, this Chapter will establish the character necessary for a human resources manager to effectively resolve distributive conflict.

**Equity: Aristotle's Excellence of the Soul**

Since equity is used to resolve distributive conflicts, then it is essential that we take a moment to understand its meaning. Aristotle submitted that equity, in relation to justice, is a virtue or excellence of the soul. In fact, though Aristotle believed both equity and justice to be morally good, he felt that equity was the better of the two because it served "as a corrective of what is legally just." In Book V of his *Nicomachean Ethics*, Aristotle defines equity in alignment with partial justice. According to Aristotle, there are two types of partial justice:

One form of partial justice and of what is just in this sense is found in the distribution of honors, of material goods, or of anything else that can be divided among those who have a share in the political system. For in these matters it is possible for a man to have a share equal to or unequal to that of his neighbor. A second kind of just action in the partial sense has a rectifying function in private transactions, and it is divided into two parts---voluntary and involuntary.

To Aristotle, both justice and equity are viewed as midpoints on a line with the extremes of that line being more or less than a fair share of what one has. For instance, if a person

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89 Ibid., 1130b30.
suffers an injustice then their portion or share will reflect this disparity—“the just is necessarily both median and equal.”™ The consequence, according to Aristotle, is that “the unjust admits of a more and a less, and this is what takes place in actual fact: a man who acts unjustly has more than his share of good, and a man who is treated unjustly has less. The reverse is true in the case of evil: for in relation to a greater evil the lesser evil counts as a good . . .”™ Hence, though equity is the tool by which injustice is rectified, it must be delivered proportionally to rectify a wrong or else to allocate resources in situations that are political, legal, or in transactions that are of a personal nature—proportionate equity.

Specifically, while justice can be equal or proportional—equal as with the right to vote, proportional as with higher salaries for greater skills or experience—equity works to correct a particular case where a person or a group suffers harm or burden (injustice). According to Aristotle, equity is one manner by which a good or just man may attain excellence of character. Expressly, indicates Aristotle, “he who possesses it [equity] can make use of his virtue not only by himself but also in his relations with his fellow men; for there are many people who can make use of their virtue in their own affairs, but are incapable of using it in their relations with others.”™

Human Resources Managers: Personal Agendas and Equity

Equity as the goal of diversity sounds simplistic—“if people do not have access to equal

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90 Ibid., 1131a15.
91 Ibid., 1131b15.
92 Ibid., 1129b30.
opportunities then put processes in place to ensure they do.” However, is it truly enough that employees have equal access to opportunity, or should an organization attempt to right past wrongs by ensuring that they hire or promote minority candidates (as their preferred candidates) until their employee population is reflective of the community at large? Although this may sound outrageous, for many organizations, this was their initial interpretation of affirmative action. The results were, of course, equity for some and claims of reverse discrimination for others. Clearly, due in large part to the subjectivity of equity, its use as a process or measure of the success of a diversity program may be problematic. As an aim, equity is a form of distributive justice that must be attained through virtuous acts and processes, and so, it requires an agent with the practical wisdom to proceed appropriately. With organizational diversity, the agent of equity---given that he/she has become the strategic catalyst for most organizational processes related to people development---is more often than not, a human resources manager.

According to Gerald R. Ferris et al., “human resources managers create value in a manner that is rare, non-imitable, and non-substitutable. The nuances of the human resource value creation process are extremely difficult, if not impossible for competitors to imitate, as they are path dependent and causally ambiguous.” Steven W. Hays reiterates this value specificity in his article, “Anticipated Changes in Human Resource Management: Views from the Field,” through his statement that human resources managers “are called upon not only to be efficient, but also to promote social agendas such as equal employment

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and equity.® Hence, human resources managers are quite often the conscience of an organization—they become a force of resolution in resource allocation, decision-making, and thus, equity. Simply, human resources managers personify the organization’s commitment to diversity through their use of equity to resolve distributive conflicts.

As indicated, equity, as an objective of diversity, may be defined in terms of providing equal access to employment opportunities or other avenues of positive career mobility, i.e. training, education, internships, etc., that were formerly inaccessible to some based on their ethnicity, race, sexual orientation, gender, etc. However, the way in which this is interpreted in the process of diversity management may do more damage than good if there exists a limited understanding of the importance of ethics in the attainment of equity. This concern is evident by the statements of Hellen Hemphill and Ray Haines in their book, Discrimination, Harassment, and the Failure of Diversity Training:

Diversity training may give the impression that a company has dealt with diversity, when in reality the glass ceiling, discrimination, and harassment remain intact. Ineffective diversity training can raise false expectations of women and minorities. It increases fear and resistance among minority males, who are held back, and whites males, whose security is threatened. It can harm the organization’s effort to find solutions to the workplace dilemma. Some diversity trainers encourage people to discuss things in a group that they would not otherwise talk about and that later has been used as ammunition against them. Companies have been sued and forced to pay heavy fines for comments made by trainers and employees in diversity training programs.95

The potential for harmful interpretations of diversity objectives is a reality that becomes more glaring when one considers there is no uniform program prerequisite or code of


95 Hellen Hemphill and Ray Haines, Discrimination, Harassment, and the Failure of Diversity Training (Westport, Conn.: Quorum Books, 1997), 50.
conduct required before an organization may institute a program, and "almost 70 percent of the Fortune 500 companies surveyed in 2000 had formal diversity programs or diversity training for their employees." To compound this even further, there are no specific educational requirements, certifications, or credentials that a human resources manager or diversity consultant must have in order to establish or facilitate these programs. There are also no mandated program elements, process steps, or measurements utilized to denote diversity success from diversity failure. Consequently, as they lead the charge toward organizational equity, much is left to chance if a diversity consultant or manager does not recognize the importance of ethics in their decision-making process or program objectives.

Virtue and Human Resources Managers

As is readily apparent, human resources managers are responsible for ensuring the equitable distribution of organizational opportunity, however, there is a need to define the magnitude of that responsibility. In *Nicomachean Ethics*, Aristotle takes on the discussion of what is required of a person in the distribution of limited resources. Aristotle makes it clear that it is the responsibility of the "distributor" to act justly. He emphasizes that, "It is evident also that the man who distributes, and not always he who acquires, too large a share acts unjustly. It is not the person who has the unjust share in his possession who acts unjustly, but one who performs such an act voluntarily, and that is the person with whom

rests the initiative of the action. Further, Aristotle points out that being equitable is primarily in response to issues that are not directly correctable by law but are, nevertheless, protected by law. Thus, he declares, “Although both [just and equitable] are morally good, the equitable is the better of the two . . . equitable is not just in the legal sense of ‘just‘ but as a corrective of what is legally just.”

It is evident that equity rectifies unintended injustice, particularly when law, due to its universality, fails to foresee the specific issue at hand. For example, a disabled employee fails to get a promotion because the employer claims that the job accommodations required to promote him or her would be too costly. As a result, the employee files a complaint and the case goes to court. Based on Aristotle’s concept of equity, because the law is unable to address detailed cost variables specific to each employer regarding accommodation of the disabled, it would be up to the judge in the case to determine what would restore the equilibrium between the employer and the employee. “Such a rectification,” says Aristotle, should “correspond to what the lawgiver himself would have said if he were present, and what he would have enacted if he had known of this particular case.” However, due to the ever-increasing costs of litigation, it is imperative that cases similar to our example are resolved by an organization’s human resources manager prior to a need for outside mediation. In effect, a human resources manager has become organizational judge and jury with regards to workplace disputes: they have a profound responsibility with regards to

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97 *Nicomachean Ethics*, 1136b25.

98 Ibid., 1137b10.

99 Ibid., 1137b20.
equity and distribution—they must act within the law to correct injustices not addressable by law.

To have an affinity for just or equitable action, as illustrated by Aristotle, requires an agent who is virtuous. According to Aristotle, there are two types of virtue:

... intellectual and moral virtue. Intellectual virtue or excellence owes its origin and development chiefly to teaching, and for that reason requires experience and time. Moral virtue, on the other hand, is formed by habit, ethos ... 100

Virtue, emphasizes Aristotle, is not inherent by nature but our natural abilities give us the capacity to learn it through experience and practice over time. Morality or moral virtue is based on one's ability to do "right action" in spite of the pleasure or pain involved in doing it or its opposite. Aristotle exemplifies this with the state of being self-controlled versus self-indulgent, or brave versus cowardly. For instance, to stand up for justice by taking or distributing less than one's share, even when it may bring individual danger or sorrow, is considered brave and self-controlled. While, as an alternative, if one decides to take or distribute more than their share, they may be said to be base, self-indulgent, and cowardly. However, this raises the inquiry of how a person, in this case, would have the ability to understand what delineates "right action" from what is base or wrong. Aristotle points out that the virtue or excellence we need in this this kind of deliberation is "practical wisdom."

Though he asserts moral virtue as a characteristic that can be learned and practiced over time, Aristotle is careful to emphasize that "practical wisdom" as a component of virtue "is not merely a rational characteristic or trained ability" because, if it were that simple, it could

100 Ibid., 1103a15.
be easily forgotten.\textsuperscript{101} Basically, those in possession of practical wisdom use it in the absence of definitive truth such as exists in science—for scientific evidence is such that it cannot be disputed. Whereas, practical wisdom is required in situations regarding human affairs or issues that are not clearly defined and, according to Aristotle, can be other than what they appear to be. Further, individuals that possess practical wisdom have “the capacity to see what is good for them and for mankind.”\textsuperscript{102} This good, as an end, affirms Aristotle, is because “good deliberation in the unqualified sense of course brings success in relation to what is, in an unqualified sense, the end, (i.e., in relation to the good life). Excellence in deliberation as directed toward some particular end, however, brings success in the attainment of that end.\textsuperscript{103} Consequently, practical wisdom leads us to the good life by giving us a path to right reason, it is the most comprehensive or inclusive of the moral virtues.

A discussion regarding virtue, and its relationship to diversity would be incomplete without discussing the part that intellectual virtue or excellence plays in the accomplishment of practical wisdom. To Aristotle, intellectual virtue is important in the sense that it helps one to formulate the fundamental principles that lead to the attainment of truth. Intellectual virtue, though not as vital to practical wisdom as moral virtue because the former does not require conscious deliberation), does give one a real world foundation of knowledge that leads us to deliberate in relation to action based on desire. Intellectual virtue then, is the starting point of choice; whereby, there can be no action in its absence. Hence, according

\textsuperscript{101} Ibid., 1110b30.

\textsuperscript{102} Ibid., 1110b10.

\textsuperscript{103} Ibid., 1142b3.
to Aristotle, intelligence is essential in that it enables one to apprehend the fundamental principles of science and everything demonstrable. In sum, intellectual virtue allows us to yearn for the truth and search for it via the faculties of practical wisdom, scientific knowledge, and theoretical wisdom. Simply, without intellect, an individual has no ability to choose one course over another, and without choice, an individual has no reason or capacity to act. Therefore, intellectual virtue, in all activities is aimed at seeking the truth---“by which we are never deceived both in matters which can and in those matters that cannot be other than they are.” Furthermore, intellectual virtue is a necessary condition for knowledge, and knowledge is what moves us to action so that we may pursue the good life as an end.

The import of virtue as it relates to the agent of diversity—a human resources manager—cannot be dismissed. It is evident that their character must be one of moral excellence; they should possess both the ability to impart justice and apply practical wisdom on the right object, at the right time, and for the right reason. Consequently, diversity, as implemented by a virtuous agent, is successfully accomplished when there is both equitable representation of minorities and women throughout an organization and the processes utilized to achieve this result are also equitable. As Aristotle emphasizes, “[moral] virtue makes us aim at the right target, and practical wisdom makes us use the right means.” Therefore to be morally virtuous requires that practical wisdom and right reason be blended---you cannot have one without the other. It follows that human resources

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104 Ibid., 1139b20, passim.

105 Ibid., 1144a10.
managers, in their pursuit of a diversity-enhanced organization, will be on the right course if they themselves are virtuous in character.

Conclusion

One of the most important choices an organization can make when implementing a diversity program is to select a human resources manager or diversity consultant who possesses the practical wisdom necessary to design and establish program initiatives that support the ongoing equitable distribution of organizational resources. As a result, when it is necessary to rectify organizational injustice, a human resources manager that possesses practical wisdom will have the ethical character required to appropriately redistribute organizational resources. In fact, Willie E. Hopkins, in his book, *Ethical Dimensions of Diversity*, agrees that managers who have an “ethical/moral” value orientation “engage in ethical behavior because they feel it is the right thing to do. Thus, these managers will not intentionally or knowingly violate the rights and justice principles of their employees.”

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The concept of ethics, as applied to organizational diversity, has many layers that bolster the ultimate goal of diversity as equity. However, for many organizations it has been difficult to implement these layers in a manner that supports both equitable processes and results. Accordingly, the chronicles of diversity program success and failure are filled with stories that speak to the difficulty of harnessing diversity to the benefit of all members of an organization. R. Roosevelt Thomas, Jr., one of the foremost authorities on diversity, in his book, *Beyond Race and Gender*, indicates that an organization may utilize five different approaches when attempting to manage diversity: civil rights, women's rights, humanitarianism, moral responsibility, or social responsibility. Roosevelt surmises that the goal of diversity should be to select an approach that “can enhance progress with both equal opportunity for employees and success for the corporation.” Thus, with the hope of improving the realization of equity for all through more effectively designed diversity programs, the purpose of this Chapter is to bring attention to the forgotten individuals in diversity discourse.

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Organizational Equity

Equity, as an objective of diversity, means equal access to employment opportunity based on knowledge, skills, and abilities without regard to non-relevant individual difference. In essence, an equitable work environment is one of inclusion where there are no hiring inconsistencies, secret promotions, or unfair terminations---organizational policies and practices are uniformly applied. The idea of organizational equity takes us back to the original problem of diversity implementation: How do you institute an equity based program when organizational resources are, and have been, unequal for a long period of time? Is it ethical to disadvantage some in order to advance others who have suffered historic discrimination? Expressly, is it appropriate for organizations to utilize inequitable diversity program methods as long as the result is equitable representation of all minority and majority groups across organizational lines? In order to answer these questions, an issue that must be painstakingly considered is whether the goal of diversity should be equity as a process, a result, or both. For instance, assuming equitable representation of minority groups throughout an organization is illustrative of an organization harnessing diversity, equity as a result would be the goal. Not surprisingly, as previously mentioned, in the wake of affirmative action, many companies opted to do this---sacrifice the process as long as the result was equitable representation of minorities in various parts of their organization. However, as a consequence, many are paying the price for that decision as they listen to, and must defend against, the loud legal cry of reverse discrimination.

Conversely, to further balance this examination, it is important to ascertain whether diversity, as a process, is better for business because it creates organizational synergy. That is, if diversity can teach organizational members to better relate to one another, despite their
differences, then it is likely that both worker productivity and organizational profits will increase. Therefore, the organization would have the potential of making a natural progression to equity—everyone feels good about themselves, their co-workers, and the work environment so it becomes important to each person that the other is treated fairly. In consequence, as the organization naturally heals itself, diversity would no longer be an ethical issue but instead a business one and, in that sense, more palatable for the organization members to practice. After all, many in business “actively support the view that a restrained egoism leads to commendable utilitarian outcomes.” Diversity, in this realm, would be illustrative of equity in process—people are given the tools to change, but they forge the change themselves by learning to value their differences.

If valuing diversity can increase organizational profits and, at the same time, it happens to increase the public good, then even more reason to institute it—good publicity positively affects the bottom line. R. Roosevelt Thomas, Jr. agrees that diversity is of utmost importance for organizations in their relationship with the public. Specifically, says Thomas, “To state the matter in blunt business terms: who do you want to see attract the best talent and reap the benefits of greater productivity, you or your competitors? Make no mistake, diversity issues are corporate imperatives of the greatest magnitude.”

Nonetheless, the difficulty is in understanding how an organization may forward their diversity efforts while avoiding a “Catch Twenty-Two” with regard to discrimination. That is, how can they make their organization better without exhibiting the same patterns of

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discrimination that were the catalyst for their diversity program in the first place? The answer, according to R. Roosevelt Thomas, is that an organization must focus on "managing diversity." As Thomas explains it:

Managing diversity does not seek to give relief from a system’s negative consequences by adding on supplementary efforts. Instead, it begins with taking a hard look at the system and asking the questions that were not asked: Why doesn’t the system work naturally for everyone? What has to be done to allow it to do so? Will the cultural roots of this company allow us to take the necessary corrective action? If not, what root changes do we have to make?\textsuperscript{110}

As Thomas suggests, when assessing an already existing diversity program or examining the organizational climate to begin diversity program implementation, it is important to understand why exclusions exist and equity is so difficult. Hence, in the following sections, the conspicuous exclusions of diversity are scrutinized in hopes of bringing attention to the missing rudiments of an equitable diversity program.

Conspicuous Exclusions and Diversity

Program Justification

Upon examination of the common themes of most diversity programs, it is readily apparent that several segments of our society are not represented as markedly in diversity discourse as others. In fact, more often than not, diversity takes on race and gender as the primary opportunities for diversity development when there is a real need to focus on the conspicuous exclusions\textsuperscript{110} of diversity with the same tenacity as is given to race and gender since diversity, in its truest sense, does not support the exclusion of anyone. These exclusions, that take the form of questionable practices and silent disregard, are as follows:

\textsuperscript{110} Ibid., 26.
- White males—diversity discourse that uses the historic evidence of
discrimination by white males as a form of organizational guilt.
- The disabled—the absence of the disabled in diversity discourse sends a message
that they are not worthy of recognition as contributing and productive
employees.
- Religious exceptions—diversity dialogue that pays little or no attention to an
individual’s religious affiliation.

*White Males*

Many companies that focus on diversity are now feeling the impact of their efforts to
balance out the demographic representation of their workforce. The unfortunate result has
been that many of those companies are facing reverse discrimination lawsuits and a segment
of their workforce, particularly white males, who may feel that diversity initiatives were of
no advantage to them or their organization. In fact, though the teleological goal of diversity
is to produce insignificance of race as a consideration for equal access to career
opportunities, some diversity programs have given credence to the notion of preferential
treatment based on race. Hence, the success of white males in the workplace has become
the measure of the necessity of diversity programs. In fact, according to the Department of
Labor, white males “are far more likely to be managers or professionals (29.2 percent) than
black or Hispanic men (18.5 percent and 11.4 percent) respectively.”††† Further, white
males have greater participation rates, hold higher ranking positions, and have higher
average incomes than any other segment of the labor force. In essence, they are
disproportionately more successful in every aspect of the labor market in all industries.
Consequently, for many diversity consultants it was obvious where the

problem was concerning the necessity of diversity initiatives—the historic and unequal advantages of white males.

White males, ironically, are not only the perceived catalyst for the need to focus on diversity but are also blamed when it fails. In addition, their position in diversity implementation is made even more ironic because they are often the decision-makers of an organization who have the task of deciding whether or not to pursue diversity as an operational expense. Therefore, they place themselves in the precarious position of possibly being a career casualty of a diversity program that they initiate. As a result, white males are faced with the possibility that they may need to readjust their thinking, stereotypes, prejudices, behaviors, or perhaps their entire persona to assimilate into a changing work culture that supports broader recruiting efforts, refocused performance expectations, and more competitive promotional criteria—all laden with messages touting the benefits and preferences of a diverse workforce while bringing to light the historic advantages of being a white male in American organizations. Therefore, for many white males, diversity could prove a tough pill to swallow—the medicine is great for the symptoms but the side effects may be unpredictable and overwhelming.

What have the side effects of an organization’s selected “diversity medication” been to white males? Many are facing organizational challenges and inequities that have plagued, and still do plague minorities in the workforce. These new challenges, perhaps taxing for white males, are viewed in contrast by many minorities that have been on the other side of opportunity, as justice at its best. However, that would beg the question, “In managing diversity, is justice served when, in the final hiring phase, a job candidate’s selection comes down to one based on race or gender preference?” The answer to this question, for many
organizations that pursue diversity, is an ongoing and complicated dilemma: Should they correct past wrongs only to create news ones or should they “start fresh” with equality and justice in hiring while demographically they are far from balanced? The path that an organization chooses as resolution to this dilemma is indicative of their ethical posture --- equity as a process or equity as result. Yet, no matter the choice, white males should find themselves not as the victims of diversity but full participants in a program of inclusion.

*The Disabled*

The Americans with Disabilities Act (ADA) was signed into law July of 1990 by President George Bush, Sr. In fact, as he signed the ADA into law, President Bush declared, “Let the shameful walls of exclusion come tumbling down.” Unfortunately, little did he know that ADA would quietly cause a shameful wall of confusion and chaos to replace the wall of exclusion. Because, the truth is, most organizations are still attempting to define and wade through the confusing requirements of ADA, particularly, as those requirements relate to accommodating the workplace so that a disabled individual may perform the essential functions of a job. As a case in point, though the ADA defines a person as disabled if they have a “physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment,” the Supreme Court ruled in *Sutton v. United Airlines* and *Murphy v. United Parcel* that “the determination of whether a person has an ADA ‘disability’ must take into consideration whether the person is substantially limited in

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performing a major life activity when using a mitigating measure." So, what does this ruling mean to an organization? Further confusion; because, it is not clear what type of "mitigating measures" would negate a disability from falling under the protection of ADA. In fact, the EEOC's guide, *The ADA: Your Responsibilities as an Employer*, interprets the Supreme Court ruling this way, "... whether a person has an ADA 'disability' is determined by taking into account the positive and negative effects of mitigating measures used by the individual." It is evident that the EEOC's guide does not offer a great deal of clarity on this subject and, therefore, the risk of legal misinterpretation---that could land an organization in a lengthy and costly court battle---is ever present. To compound this confusion, the impact of ADA on reducing the employment discrimination of the disabled has been difficult to measure statistically. Clearly, the statistical murkiness of ADA is not only due to misinterpretation of the law, but also because of the following factors:

- The extent and visibility of a disability or functional limitation.
- The potential for covert discrimination during the hiring process.
- Refused job offers by the disabled due to low wages.
- Functionally disabled individuals who have never attempted to enter the job market.
- Functionally disabled individuals working but who have never requested a workplace accommodation.
- Inadequate comparator data is available before ADA.

Further, a study by Marjorie L. Baldwin and William G. Johnson regarding the wage differentials of disabled males versus that of non-disabled males illustrates the difficulty of obtaining reliable data in this area. Particularly, they emphasize that "the existence of

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114 Ibid., 1.
prejudice against persons with disabilities is well documented, but the extent to which prejudice is translated into employment and wage differentials is not. Though their study concluded that disabled males make on the average $2.33 less per hour than a non-disabled male, these results did not definitively conclude that the pay differential was due to discrimination. More importantly, some data illustrated that the difference may simply be due to the physical limitations caused by a disability. Simply, the disabled worker may not be capable of performing higher paying jobs that require strength and dexterity. This problem is compounded by the improbability of disabled males pursuing higher education (disabled males on average have no formal education past high school). Perhaps, as intimated by Baldwin and Johnson's research, the disabled are simply as often unprepared for the workforce as they are discriminated against. Consequently, emphasize Baldwin and Johnson, "it is equally important to recognize that impairments do limit productivity, contradicting the assertions of some disability rights activists that the only limits on the employment of persons with disabilities are the perceptions and prejudices of non-disabled persons."

While Baldwin and Johnson may be correct in their assertion that disabilities do impact productivity, the answer may not be adequate enough to explain the limited participation rates of the disabled in the workforce. In other words, the limited labor force participation rates of the disabled may be, more than anything, the result of discrimination---as

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116 Ibid., 559.

117 Ibid., 562.
evidenced by the fact that “more than 140,000 claims of disability discrimination have been filed with the Equal Employment Opportunity Commission since enforcement of the ADA began in 1992.” Moreover, these cases have resulted in substantial fines that range from $50,000-$300,000 (based on the size of the organization) and remedies that include hiring, reinstatement, promotion, back pay, front pay, and reasonable accommodation. For example, based on cases brought directly to the Equal Employment Opportunity Commission, ADA lawsuits have cost employers, excluding legal fees, over $174 million since July 1992. However, these costs are negligible when you consider the potential for negative publicity if an organization allows itself to become the target of a high-profile disability claim where there is proof of discrimination.

Because the significant costs of ADA lawsuits cannot be ignored, they challenge the summation of Baldwin and Johnson that discrimination is no more a reason than the severity of the disability itself in limiting the employment opportunities of the disabled. Thus, it is appropriate that Baldwin and Johnson are admittedly aware of the inconclusiveness of their study and the need for supplementary empirical data regarding the reasons that the disabled are likely to be ill prepared for the labor force. Furthermore, Baldwin and Johnson do agree that a significant number of disabled men do experience inequities in the workplace that are indicative of employment discrimination. Fortunately, even they realize that discrimination of the disabled does occur—though the gravity of the problem is difficult to


120 Ibid., 919.
ascertain because the insidious nature of discrimination is that it often hides within the processes of an organization until it is challenged in the public forum of a courtroom.

Hence, it is apparent that regardless of ADA mandates for organizations to accommodate individuals with disabilities, the workforce of most organizations does not reflect serious attempts to recruit and retain individuals that are disabled. Therefore, Baldwin and Johnson are correct in their summation that "the best chance for [ADA] success appears to begin with a recognition that the majority of men with disabilities are able to work, but discrimination reduces their wages and opportunities for employment."\(^{121}\)

It would seem that due to the current focus on diversity, most organizations would pay as close attention to the inclusiveness of the disabled as they do that of minorities. However, diversity programs, though well intentioned, often extend little or no focus to the challenges of the disabled in the workforce. For example, most companies have no immediate provisions for potential hires that are deaf or blind even during the simplest stage of the hiring process---completing an application. Further, the employment ads or company marketing tools that organizations develop to highlight their diversity rarely, if ever, show an individual who has an obvious disability. For proof, simply scan any business magazine or journal for an organization's job marketing announcement and it is unlikely that you will see anyone who is noticeably disabled in the sea of smiling faces that are poised to send a clear message that they are "happy to work there." In fact, if an organization does recruit in this area they usually do so under the guise of corporate giving or community service.

There exists, in most companies, a silent stigma that the disabled are not able to excel in job

\(^{121}\) Baldwin and Johnson, "Labor Market Discrimination Against Men with Disabilities in the Year of the ADA," 562.
performance even when given the opportunity. Consequently, though counter heights and bathrooms in most organizations have been adjusted for the disabled, silent attitudes and stereotypes regarding their inabilities have not.

The painful reality of ADA is that because of its continued misinterpretation, it has cost employers millions of dollars in punitive damages and litigation costs. Nevertheless, despite these monetary losses, organizations are still unprepared to effectively deal with the reality of the disabled in the workforce. Jared Wade, in his article, “Disability-Based Litigation on the Rise,” emphasizes that “employers wanting to keep their name off the court docket must begin to take disability discrimination as seriously as sexual- and race-based discrimination.” Wade’s statement is made more profound with the recent declaration of President George W. Bush regarding his Administration’s efforts to “tear down the barriers to equality that face many of the 54 million Americans with disabilities.” President Bush, in an effort to continue the work begun by his father with the signing of the ADA in 1990, has introduced his “New Freedom Initiative” designed to “help Americans with disabilities by increasing . . . their ability to integrate into the workforce . . . .” Without a doubt, organizations that have overlooked the disabled as a focus of their diversity programs should be on notice that, not only does ADA protect the civil rights of the disabled to have equal access to employment opportunities, but the current Administration plans to ensure that an organization’s ignorance of those rights will continue to prove costly.

124 Ibid.
Religious Exclusions

Pursuit of religious freedom permeates the history of the United States. It was important enough that the creators of our democratic system made it a part of a citizen's basic freedom—a freedom that has prompted individuals from all over the world to immigrate to the United States. In fact, it is estimated that there are over 1,500 forms of organized religions listed and practiced in the United States with further denominations of those religions broadening the scope and traditions of its members. As a result, the landscape of the American culture is rich with a diversity that is reflective of the spiritual beliefs and customs generated by religious freedom. For example, the United States government and its laws are permeated by the customs and practices of spiritual beliefs. "In God we trust" is the common hope as evidenced in the National anthem, on currency, and in the words of the majority of State and Federal laws. Consequently, it follows that nationally recognized Holidays are tied to spiritual beliefs or observations of the religious recognition of life after death, thankfulness, or the need to grieve for historic losses. Clearly, whether it is readily apparent or not, American society is intertwined with and based on religion and the freedom to practice a faith as is seen fit. Ironically, despite this recognition of individual religious freedom, it has been difficult for many facets of our society, particularly the workplace, to allow religious accommodation to take precedence over "business as usual." Essentially, when religious freedom is placed up against capitalism—well, the answer should be obvious—there is no religion like our free enterprise system . . . productivity must go on no matter the Holiday and/or holy day.

Diversity initiatives, as has been stressed, often attempt to address varying physical attributes of employees in the workplace, i.e. race, gender, age, etc. However, as is
obvious, most of our individual differences, especially the ones that truly matter, are invisible—unseen with just the passing glance, but undeniable when considering one’s individuality. An often-overlooked aspect of an individual is their spiritual grounding or religion—not to exclude or minimize the absence of such beliefs. Nevertheless, either aspect—the presence or absence of religious beliefs—has a profound impact on what type of lens each of us uses to view the world. The importance of religious accommodation is clear based on recent court cases that challenge an organization’s responsibility to accommodate the religious rights of employees during work time. Moreover, according to EEOC data, between 1992 and 2001, charges of religion-related discrimination have increased drastically along with the financial penalties of an organization judged liable to the charging party. Specifically, in 2001, the EEOC received 2,127 religious discrimination complaints and plaintiffs were awarded $14.1 million in monetary benefits whereas in 1992 the EEOC received 1,388 complaints and plaintiffs were awarded $1.4 million in remuneration. Undoubtedly, the importance of religious tolerance, in the way of workplace accommodation, may need to become a priority for an organization’s diversity focus, if they are to avoid the very real potential of legally mandated religious forbearance.

Conclusion

Clearly, diversity in the workplace means that no individual or group is overlooked for an employment opportunity due to reasons other than their lack of requisite knowledge, skills, or abilities. Nonetheless, it is evident that, quite often, diversity discourse does not
acknowledge the needs of white males, the disabled, or individuals that require religious accommodation with the same tenacity it does women, minorities, or homosexuals.

Consequently, organizations should take note of R. Roosevelt Thomas, Jr.’s submission of questions an organization should answer in order to better manage their diversity initiatives:

- Why doesn’t the system work naturally for everyone?
- What has to be done to allow it to do so?
- Will the cultural roots of this company allow us to take the necessary corrective action?
- If not, what root changes do we have to make?\footnote{126}

Unfortunately, if organizations are not willing to ask these questions and reply with an all-inclusive diversity program, their lack of response may soon begin to look like organizationally sanctioned discrimination---serving to “revenge” historic discrimination by answering it with reverse discrimination and responding to disability or religious accommodation requests with indifference by arguing that a modification to the work place would be a business/financial hardship. In reality, if diversity is to be reflective of all that it claims (equal access to employment opportunities for all), conspicuous exclusions must no longer exist. R. Roosevelt Thomas, Jr. sums up what diversity should mean to an organization with the following commentary:

Diversity includes everyone; it is not something that is defined by race or gender. It extends to age, personal and corporate background, education, function, and personality. It includes lifestyle, sexual preference, geographic origin, tenure with the organization, exempt or nonexempt status, and management or non-management. It also shows up clearly with companies involved in acquisitions and mergers. In this expanded context, white males are as diverse as their colleagues. A commitment to diversity is a commitment to all employees, not an attempt at preferential treatment.\footnote{127}

\footnote{126} R. Roosevelt Thomas, Jr., 26.

\footnote{127} Ibid., 10.
CHAPTER 7

THE DIFFICULTY OF MEASURING AND
REPLICATING DIVERSITY SUCCESS

One of the most controversial aspects of diversity is the difficulty it presents to an organization in being measured as a point of profit, e.g. increased productivity, increased shareholder value, etc. According to Jonathan Stutz and Randy Massengale, HR Magazine, "it can be difficult to measure such data or communicate the trends they reveal to managers who handle transactional activities such as hiring, firing, promotions and transfers." This is a point that becomes more significant considering most organizations spend in the neighborhood of $30,000 to $5.1 million each year on diversity programs for their employees. Unfortunately, because the upfront costs may be quite high, it is difficult for some organizations to justify continuation of a program without an obvious annual return on investment (ROI). After all, the business of business is profit, and if those profits were put into a program that does not generate decipherable results on a company's annual balance sheet, then what would be the value? For many diversity advocates, the answer is

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uncomplicated: the long term value would come by way of a work environment of mutual respect and equal opportunity that would, over time, increase both employee morale and productivity. Further, most argue, in spite of the difficulty diversity presents in being measured, the advantages of pursuing diversity far outweigh the disadvantages and, if done correctly, a diversity program can enhance bottom line profits. But, is it possible to implement a diversity program where the ROI is obvious, program replication is possible, and positive employee results (i.e. productivity, motivation, morale, dedication, etc.) are measurable? The objective of this Chapter is to answer that question by first, reviewing the costs and benefits of diversity, and secondly, applying Organizational Development (OD) theory to diversity in hopes of adding measurable consistency to program formats, and finally, assessing the business case for organizational “benchmarking.”

Costs and Benefits of Diversity

Ironically, though Fortune magazine has highlighted the increased monetary success of organizations that implement diversity, the reality is that the costs versus benefits of a diversity program are difficult to measure. How do you put a price on the benefits of a work environment that promotes belonging and tolerance for individuals---what is an acceptable cost for that? In effect, since it is impossible to put a concrete cost on intangibles such as, employee morale, then how can an argument be made for diversity positively affecting an organization’s bottom line? Is it a simple case of dreaming on the part of diversity proponents that it generates revenue and is quantifiable? Possibly, as implied by Deborah Stone in Policy Paradox, numbers may be used to tell a story or make a political case for either side of an issue. Further, she asserts, “far more important than the
actual number of a measure is how the measure is interpreted."\textsuperscript{130} Hence, because diversity, more than anything, is symbolic of an organization taking positive steps to remove the impact of discrimination from within its walls, any measure of it will be ambiguous, indirect, and difficult to predict or replicate from organization to organization. As previously mentioned, even *Fortune* gathers their organizational diversity data based on survey results—a method that may be easily biased. Thus, this suggests that when an organization is attempting to make a case for or against diversity, a focus on measuring its effectiveness by a change in their bottom line alone will not tell the true story. The Conference Board in their publication, *Corporate Practices in Diversity Measurement: A Research Report*, agrees that it is inadequate to assume that changes in an organization's bottom line (alone) will be indicative of the success or failure of their diversity efforts. Specifically, they emphasize that:

> The measurement of diversity reflects a long and ongoing interest in understanding how to measure the contribution and potential of the human element in organizations. Impact on the bottom line is not the emphasis of diversity measurement. Rather, measurement is seen as a tool for change, urgency, sustainability, success, value-added, and the creation of more effective organizations. \textsuperscript{131}

Hence, the Conference Board's definition suggests that measuring diversity is best observed in terms of its domino impact on human behavior. In other words, the belief that diversity initiatives extract immeasurable individual potential—"people gains"—from team members that can lead an organization to sustained success in areas such as creativity, problem-

\textsuperscript{130}Deborah Stone, *Policy Paradox* (New York: W. W. Norton & Company, 1997), 169.

solving, productivity, etc., that in the long run may positively impact their bottom line. This extrapolation is best supported by the March 2001 survey conducted by the Society for Human Resources Management and *Fortune* magazine in which diversity questionnaires were sent to 839 human resources professionals of Fortune 1000 Companies and those listed as Fortune's "100 Best Companies to Work For." Admittedly, the survey sample was relatively small with only 121 responses. However, the results are noteworthy in that they impart potentially useful information to human resources professionals on how to evaluate the impact of diversity on organizational culture. Interestingly, though the summary topics do indicate statistical results that are considered "soft" (because they attempt to quantify feelings), the results also support the notion that diversity behaviors can positively affect an organization's bottom line as a long-term benefit. Therefore, not surprisingly, 91% of the respondents believed that diversity gave their organization a competitive advantage. The survey results are as follows (Table 3, p. 90):
TABLE 3

SHRM AND FORTUNE SURVEY OF THE
"100 BEST COMPANIES TO WORK FOR"

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improving corporate culture</td>
<td>83%</td>
</tr>
<tr>
<td>Improving employee morale</td>
<td>79%</td>
</tr>
<tr>
<td>Higher retention of employees</td>
<td>76%</td>
</tr>
<tr>
<td>Easier recruitment of new employees</td>
<td>75%</td>
</tr>
<tr>
<td>Decreasing complaints and litigation</td>
<td>68%</td>
</tr>
<tr>
<td>Increasing creativity</td>
<td>59%</td>
</tr>
<tr>
<td>Decreasing interpersonal conflict among employees</td>
<td>58%</td>
</tr>
<tr>
<td>Enabling the organization to move into emerging markets</td>
<td>57%</td>
</tr>
<tr>
<td>Improving client relations</td>
<td>55%</td>
</tr>
<tr>
<td>Increasing productivity</td>
<td>52%</td>
</tr>
<tr>
<td>Improving the organization's bottom line</td>
<td>49%</td>
</tr>
<tr>
<td>Maximizing brand identity</td>
<td>34%</td>
</tr>
<tr>
<td>Reducing training costs</td>
<td>13%</td>
</tr>
</tbody>
</table>


As stated earlier, the survey categories outlined above (Table 3) signify the problem of diversity measurement---most represent the difficult to measure “soft statistics.” For instance, where it is easy to measure an increase or decrease in discrimination-based litigation cases following institution of a diversity program, the data regarding improved employee morale is not so hard and fast. In fact, establishment of a diversity program usually drives employee morale down because feelings and issues regarding race, gender, and other differences that were once taboo to discuss openly are now brought to the surface; and, for most people, topics along the lines of race and gender are not so easy to
handle. Accordingly, if employee morale were measured subsequent to this, it would probably indicate that diversity training was not working when, in reality, emotional dissent is a common reaction to diversity initialization. However, if employee morale is thought of in terms of its potential impact on the bottom line, the common sense answer is that if employees are unhappy, then they are not going to make good products or extend superior customer service. Hence, in the end, an organization is well served to pay attention to the "soft statistics" utilized to measure the impact of diversity on organizational culture.

In contrast to soft statistics, the use of "hard statistics" that indicate diversity success or failure seems inappropriate given the premise that diversity enhances the organization by not focusing on individual difference in a vein similar to that utilized in affirmative action. Nevertheless, many diversity proponents suggest the use of minority and gender based statistics to measure the utilization of these individuals throughout an organization. In view of this, it is no surprise that there are several problems with the resulting data if used superficially; meaning, if an organization's "blanket" demographic information is used as an indicator of how diversity is impacting their organization they may get an unrealistic view of the utilization of their minority population. For example, if an organization looks at their data in its entirety, instead of by department or division, it may not illustrate the inequitable representation of certain minorities in the upper ranks of the organization---where the lack of diversity usually exists. David A. Thomas, *Breaking Through: The Making of Minority Executives in Corporate America*, illustrates this point in his discussion of how the elusive glass ceiling is constantly overlooked in benchmark companies that have successful diversity programs. "Typically," says Thomas, "best practice companies are chosen on the basis of their overall percentage of managers of color, with almost no attention to what these
individuals actually do, what levels they attain, or what resources they control." Thus, while it is valuable to understand hard data regarding minority metrics and diversity, it is just as important to understand the ambiguity of those numbers. Thomas' statement suggests that an organization should ask the following questions when assessing their organization for a glass ceiling effect:

- Are the organizational demographics reflective of the minorities in the local community or labor force?
- Are upper management positions reflective of the employee population as a whole?
- Are demographics equally analyzed throughout leadership positions and divisions?
- Do individual salaries reflect minority or gender pay inequity?
- Are promotion selection processes reviewed to ensure they are based on quantifiable criteria and do not have a disparate impact on any social group?

Clearly, so that an organization may better gauge the success of their diversity programs or initiatives, they should gather baseline data. In that way, they will be in a better position to understand what components are effective and should continue and, alternatively, what may require revamping or cessation.

In relation to the costs versus the benefits of diversity, a ratio is quite difficult to ascertain unless an organization has been charged in a costly discrimination lawsuit and, as part of that settlement, made to establish a program of diversity initiatives. Obviously, in such a situation, due in large part to the usual high dollar settlement assigned, it would have presumably been more cost effective to have had a program of diversity prior to being legally mandated to do so. On the contrary, it is also arguable that unless an organization has had numerous issues surrounding discrimination, establishing a diversity program is a

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waste of resources. Unfortunately, this type of thinking is what has placed many organizations in the position of being mandated by the courts to establish diversity programs or refocus on their affirmative action efforts. However, the fact of the matter is that discrimination, even in this day and age, is not so easily identifiable because it is often covertly buried in programs and processes that make the practice of prejudice effortless and, sadly, silently condoned by a system in need of repair. For instance, if an organization, as a step of their formal promotional process, has a written policy that all career opportunities go through a review board for approval while informally they permit managers in high level positions to circumvent the system and authorize direct placements when they see fit, then the system becomes susceptible to condoned discrimination. The result of such a flawed system may substantiate a legal claim of disparate impact that, in turn, exposes an organization to a costly discrimination lawsuit, a lawsuit that could have possibly been avoided with the implementation of a diversity program that instituted measures to consistently monitor the recruitment, hiring, promotion, and termination processes of an organization for discriminatory impact. Accordingly, the benefits of instituting a diversity program may far exceed the costs of totally ignoring race or gender issues and, instead, having them called to an organization’s attention with a discrimination lawsuit.

Scientific Evidence Lacking

Diversity, as a cure-all for discriminatory behavior in the workplace, is at the center of much debate because, though the social processes that took diversity practitioners from affirmative action to diversity may be clear, the scientific evidence that leads to diversity as an effective solution to bridge individual differences is not readily apparent. Many
organizational theorists believe that the alignment of diversity with a scientific approach has the potential of reducing the debate amongst practitioners vis-à-vis the most effective way to entrench diversity into an organization’s culture and make its outcomes measurable. Thus far, the scientific approach that offers the best solution for a measurable diversity framework is “Organizational Development (OD)” theory. The reason OD is most applicable to diversity, says Jim Grieves in his article, *Introduction: The Origins of Organizational Development*, is because “although processes, procedures, ways of working, etc., do undergo change in organization development programs, the major targets of change are the attitudes, behaviors, and performances of people.”

With that, it may be argued that the scientific processes that are often lacking in the evolution of a diversity program may be more adaptable from organization to organization if aligned with OD approaches, particularly, the area of group theory.

OD, while new in its application to diversity, has an extensive research history dating back to the early 1950’s. Further, although OD’s origins are in the area of workforce productivity, since the early 1970’s the focus of the discipline has been on organizational behavior, particularly, organizations as functioning systems. The discipline examines the ongoing relationship dynamics that exist between managers and employees, employees and peers, and the relationship of all to the organization and its customer base as they attempt to balance their values and motivations with the needs of the business. Grieves suggests that “OD is a well-defined discipline because it absorbed the assumptions of scientific reason and progress, synthesized early psychodynamics with organismic sociology resulting in its major

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focus on group and organization-wide change efforts. For that reason, it may be argued that OD is germane to the cultural transformation that diversity attempts to spawn within an organization in order to alter the covert influences of discrimination difficult to penetrate single-handedly by program initiatives.

OD based diversity, it is proposed, might have definitive phases applicable across organizations, with only moderate customization to reflect business practices. In fact, this argument parallels Grieves’ emphasis that:

OD represents “a planned program involving a holistic, systemic approach related to the organization’s mission, planned from the top down, representing a long-term linear effort to change the organization through behavioral science interventions and involving collective action.” Further, it is “distinguished from a training course or management workshop because, instead of producing knowledge, skill, or understanding to individuals, the group or team takes ownership and builds the connections and follow-up activities aimed toward action programs.”

In sum, because an organization is a system in flux and diversity programs attempt to permanently change the way an organization goes about the business of business, OD, by means of alignment with static principles, interprets an organization’s current state and intercedes accordingly to forward change as necessary. Put simply, this argument proposes that OD would give diversity a scientific, and hence, a more concrete and predictable foundation.

To further the argument that OD may scientifically formalize diversity, Richard S. Allen and Kendyl Montgomery, “Applying an Organizational Development Approach to Creating Diversity,” purport that while an organization’s rationale for instituting a diversity program

\[134\] Ibid., 348.

\[135\] Ibid., 349.
may vary from one to the other, the usual precursor is an event or series of events that have caused or have the potential to cause severe or ongoing financial loss. Allen and Montgomery believe that these events cause an organization to unfreeze (change) and then refreeze (steady state of change) at very discernible levels of diversity. Specifically, an event that causes an organization financial loss is typically strong enough to “unfreeze” the current dysfunctional organizational patterns of behavior and ready it for diversity change efforts that have the ability to “move” the organization forward and “refreeze” it in a healthier state receptive to diversity. Allen and Montgomery suggest, based on an OD approach, diversity may “refreeze” at three distinct levels:

1. **Monolithic**—An organization’s valuing diversity is limited to the hiring of minorities for entry level positions who are expected to conform to the norms and values of the managing, usually white male, majority.

2. **Pluralistic**—At a more intermediate level of diversity, a pluralistic organization has a defined diversity program that is narrow in scope and has minimal organizational impact.

3. **Multicultural**—The pinnacle of diversity inculcation; diversity has become a part of day-to-day business processes at all levels of the organization—recruiting, the “executive suite” supports hiring, promotions, customer relations, and more importantly, diversity is part of the organizational culture.

With these three distinct phases, Allen and Montgomery have clearly illustrated the potential of OD to provide a scientific foundation for diversity as it relates to organizational theory. At the same time, however, it does not establish a scientific foundation that may stand alone based solely on their three-stage hypothesis. In essence, as Grieves emphasizes, the process of OD is only as good as the consultant who establishes the program. He states, “There are clearly tensions and strains between human benefits and organization performance resulting
in ‘value dilemmas’ and ‘value conflicts.’ Thus, based on an OD approach, in order for an organization to avoid “refreezing” at a level other than one of multicultural diversity, Marc Bendick, Jr. et al., “Workforce Diversity Training: From Anti-Discrimination Compliance to Organizational Development,” suggests that an organization incorporate the following principles into their program to forward success:

- Ensure that diversity has top management support.
- Training should be tailored to meet business objectives.
- Diversity should link business operations, i.e. increased productivity, enhanced creativity, reduced costs, and a more positive work environment.
- Diversity trainers should have professional managerial or organizational development experience so that they may easily link valuing diversity to business processes.
- Training is given to all employees across the organization.
- Trainers should emphasize the broad-reaching effects and types of discrimination— it is not simply a black and white issue.
- Training should address behavior that is appropriate for valuing diversity as well as the common themes of attitude and perception modification.
- Human resources practices should be modified to support diversity efforts, i.e. hiring, recruiting, training, and promotions.
- Diversity training and initiatives should be oriented to transform the organizational culture into one that values diversity throughout the organization— it should become a multicultural organization.

However, this list of diversity principles begs the same question that Grieves puts forth:

“Are OD professionals more ethical than other organizational consultants?” Basically, do they have what it takes to implement these principles in a (scientific) manner that promotes or maintains the ethics of an organization? It is obvious that individual ethics may be measured and challenged on numerous levels— one may be ethical based on their own individual needs, the organization’s needs, or optimally, what would be best for the

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136 Ibid., 351.

137 Ibid.
individual, the members of the organization, and the community at large. Hence, instead of OD providing a foundation that gives diversity a firm scientific foundation as was hoped, it forwards the skepticism regarding the motivation behind diversity consultants and organizations that attempt to establish such programs—are they egoists or do they genuinely believe diversity to be an effective organizational imperative?

The Success “Snapshot”:
Organizational Benchmarking

In line with the principles suggested in the evaluation of OD, organizational “benchmarking” has been recognized as the method of choice for organizations attempting to evaluate their current diversity efforts or establish a new diversity program. Whilst the primary goal of diversity benchmarking is to replicate the successful components or “best practices” of another organization’s program, it is still a practice potentially fraught with error. Fundamentally, benchmarking is error prone because, the sad truth is, benchmark organizations do not necessarily advertise their blemishes because it may expose them to public reprimands, employee complaints, government scrutiny, and more importantly, discrimination lawsuits. So, why do organizations benchmark diversity if it is potentially laden with hidden inconsistencies? Because it allows an organization to quickly “band-aid” a public problem, such as discrimination, with action—even if that action may be superficial at best.

Benchmarking diversity, examined in terms of ethics, is not only descriptive in aim but also categorically normative in that it endeavors to suggest what an organization should have instituted to “do diversity right.” Tom L. Beauchamp and Norman E. Bowie, *Ethical*
Theory and Business, concur that:

The descriptive approach or what may be considered the scientific approach to ethics illustrates factual or behavioral stances that individuals take in their ethical views as outlined in codes of conduct, professional standards, etc. While the principles of normative ethics are commonly used to treat specific moral problems such as . . . racial and sexual discrimination.\(^{138}\)

Therefore, though they are perhaps unaware of it, companies should utilize diversity benchmarking as a tool to foster use of the most ethical methods and measures to forward diversity. Simultaneously, however, organizations that have been given status in the diversity arena as voices of authority have a responsibility to take care that what they say or do is ethical. As a case in point, many companies, as previously illustrated, examine *Fortune* magazine's descriptions of what best-in-class companies do to forward diversity and then attempt to replicate those programs and processes in their respective organizations. Furthermore, because *Fortune* first postulates what defines diversity success, then lists the stages leading to that success, and, finally, submits those stages as the right method to follow, they, in essence, define the moral principles that others should adhere to if they desire to have an "ethically" based diversity program. This argument is easily supported upon review of their article, "What Minority Employees Really Want: It's Simple: Inclusion, Encouragement, and Opportunity. But How Do You Know You're Really Providing It?" In that article, *Fortune* alludes to their position as an authority on the topic of diversity in the following commentary:

. . . that's why it's in everyone's interest to identify and honor the corporations that have done the most to make employees of all races into full participants in their businesses. In our third annual list of the best companies for minorities, assembled

for *Fortune* by the nonprofit Council on Economic Priorities, we do just that: Each company on our list has made an exemplary commitment to diversity at every level—from its new hires, to its suppliers, to the charities its supports. In this year's rankings, we pay enormous attention to diversity in the upper ranks of each company. In our average top-50 corporation, members of ethnic minorities hold about 16% of the board seats, make up 22% of the officials and managers, and pull down 13% of the 50 largest paychecks. Those are all key signs that a company has gone beyond political correctness. After all, no company would fill its top slots with unqualified people just to look multicultural.139

*Fortune*, with their statements, brings to light their version of what represents diversity success or, summarily, diversity ethics: representation of minorities in the upper echelons of top organizations. Unfortunately, this data may be misleading as a benchmark resource if, for example, in proportion to the office population, 16% of an organization's board members are ethnic minorities but 50% of the surrounding labor market are minorities. This issue becomes more perplexing if an organization has not completed an audit of the requisite knowledge, skills, and abilities of their employee base to appraise whether minority candidates, when compared to non-minorities at the same level, are qualified for higher-ranking positions but seemingly limited to lower level positions due to inconsistent promotional practices. Hence, it would be erroneous for an organization to benchmark another organization without looking beneath the surface of their diversity data---"you cannot judge a book by its cover" applies in the assessment of diversity statistics. In this case, it is certain that benchmarking is not necessarily the key to diversity ethics. Instead, it is the ethical responsibility of an organization to ensure that if a diversity program is attempted, it is done with the goal of benefiting all organizational members, at all levels, and across all divisions.

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Conclusion

It evident that the shape a diversity program takes across organizations will vary because diversity programs have neither a concrete formula, scientific foundation, nor an unambiguous measuring tool. Diversity is an ideal, a notion of the hope that people in the workplace will learn how to value, respect, and accept one another despite their differences and, although it is believed that this will increase employee productivity, concrete numbers are still a mystery. Therefore, until the time when a formula is developed to precisely measure the "soft" statistics (i.e. employee morale) of diversity, measuring the ROI (p. 90) of diversity by estimating the worth of employee and customer goodwill by business profitability increases or decreases will have to suffice.

Furthermore, it is evident that the replication of a diversity program from one organization to the next, even when paired with OD, is extremely difficult because an organization is in a constant state of flux---adjusting to business climate, economic changes, the labor market, surrounding community, etc. Consequently, it may be more applicable across organizational lines if the framework for formalizing a diversity program were broad-based and ethically grounded in the following to forward program consistency:

- Treat people equitably based on their knowledge, skills and abilities.
- Adhere to legal statutes regarding employment law and business practices.
- Consistently administer organizational policies and processes.
- Encourage organizational members to be corporate citizens.

Additionally, as emphasized in Chapter 4, the most important aspect of any organization undertaking an ethical approach to diversity is that they communicate, train, and hold their employees accountable to taking the "right" course of action no matter the situation.

According to Willie E. Hopkins, one way of doing this is by establishing an organizational
code of conduct in regards to diversity. As a guideline, he recommends that the code have the following characteristics:

- **Be visible:** If a diverse workforce is held to a code of conduct, they should be aware of its existence. Therefore, the code ought to be widely circulated and posted throughout an organization.
- **Reflect organizational values:** Because the code is the vehicle through which diverse individuals will become familiar with the organization’s ethical identity, it must reflect the value system of the organization.
- **Support individual values:** Inevitably, individuals in a diverse workforce will not hold exactly the same standards for right and wrong as those held by the organization. Although the code establishes the outer limits of acceptable behavior, it cannot be functional unless it represents the ethical standards of most members of the workforce.
- **Focus on the behavior:** To state ethics in anything but behavioral terms may translate into an attack on diverse individuals’ personal values and beliefs. Therefore, the code should focus only on ethical behaviors that can be judged against published standards.\(^{140}\)

However, a notable omission or oversight on Hopkins’ part is that his diversity code of conduct characteristics neither include nor suggest any inducement(s) to ensure both the organization and its members adhere to its mandates. Hence, though it may be obvious that the value of a diversity program is enhanced if an organization links program outcomes to their code of conduct, there is still no “best” or obligatory approach to diversity management. Simply, unless organization’s and their members are compelled, in some way (i.e. financially or legally), to observe the rudiments of their code of conduct, their adherence becomes a matter of choice or convenience. In addition, and as previously indicated, this selective adherence to organizational codes of conduct is compounded by the fact that neither OD nor organizational benchmarking is strong enough to forward diversity program consistency or an organization’s adherence to program guidelines. Hence, it is

\(^{140}\) Ibid., 103.
clear that for organizational members to take diversity serious and practice it as an organizational imperative, they must have a compulsory, yet inflexible, inducement to do so—affirmative action.
CHAPTER 8

LEGITIMIZING DIVERSITY PROGRAMS BY FRAMING THEM WITH CIVIL LAW: AFFIRMATIVE ACTION

You do not take a man who for years has been hobbled by chains, liberate him, bring him to the starting line of a race, saying, you are free to compete with all the others, and still justly believe you have been completely fair . . . We seek not just freedom but opportunity. Not just legal equity, but human ability---not just equality as a right and a theory, but equality as a fact and as a result.

President Johnson

Title VII of the Civil Rights Act of 1964 and its affirmative action mandates, though highly controversial, have managed to garner more success than failure in improving race and gender relations in the United States. More importantly, despite the fact that numerous nondiscrimination laws preceded affirmative action, no other legislation has altered United States employment practices with such vigor. In effect, affirmative action is the catalyst that gave people from diverse backgrounds their “true” equal employment opportunity and made organizations accountable for discriminatory practices. Thus, the focus of this Chapter is twofold: 1. Assess why the combination of the Civil Rights Act of 1964 and its affirmative action mandates transformed this country on a core in justice---both overt and covert discrimination---where no other legislation could; and, 2. Establish what affirmative
action, despite its continued controversy, has meant and continues to mean to the ongoing
effort to legitimize organizational diversity.

**Discrimination Legislation: From the Constitution**

**to Affirmative Action**

In 1789, the United States Constitution, though constitutionally applicable to everyone
and despite the immortal words of the Declaration of Independence that “all men are
created equal,” was just legally applicable to white men. In fact, limiting the phrase to
“men” speaks to the time period in which the Constitution was written: a time when the
law was meant for white male property owners; when people, because of their skin color,
could be chattel and, hence, not guaranteed the same protections under the law; and
women, no matter their accomplishments, were considered inferior. Nevertheless, though
it was impossible for the authors of the Constitution to prepare for the diverse ways in
which the nation would evolve, it must be argued that their notions of equality have stood
the test of time and laid the foundation for human rights.

The historic and difficult pursuit of race and gender equity through legislation is
traceable from the Constitution to the passage of the Civil Rights Act of 1964. In fact,
Jefferson and other Constitutional framers were aware of the problem of slavery, but they
knew the South would not support their efforts if an attempt were made to rectify the
problem with the writing of the Constitution. As a result, they answered this dilemma with
the use of words that indirectly spoke to considerations of personhood, citizenship, liberty,
and equality. “Although forthrightly charting federal powers and explicating fundamental
guarantees previously reposing in the amorphous realm of natural law,” states Donald E.
Lively, *The Constitution and Race*, "the Constitution's architects avoided any overt mention of slavery."\(^\text{141}\) To the framers, ratification of the Constitution was a more noble battle, for slavery was considered a terminal institution that would soon be abolished in the North, and that was enough for the moment. As Lively emphasizes, "the institution's continuing existence and consequences were considered acceptable costs of effecting a union."\(^\text{142}\)

The passage of the 13\(^{\text{th}}\) Amendment on January 31, 1865 made slavery illegal. Section 1 of the Amendment specifically states:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

This Amendment, almost 100 years after the Declaration of Independence (that had already proclaimed "all men as being created equal") and a Civil War, was the impetus for blacks in America to begin a new stage in their journey to pursue the realities of freedom as guaranteed by anti-slavery law. Further, to ensure that equity would be the outcome of their freedom, the 14\(^{\text{th}}\) Amendment was proposed in June of 1866. The 14\(^{\text{th}}\) Amendment guaranteed an individual protection under the law as a right of citizenship:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.


\(^\text{142}\) Ibid., 2.
Many consider the 14th Amendment a “landmark of legal liberty.” Without a doubt, emphasizes Brennan, “the vindication of the legal right of Negroes [sic] to equality of opportunity was by itself one of the most remarkable achievements of law in our history” and it was accomplished by the ratification of the 14th Amendment. More importantly, continues Brennan:

If there were a list of principles fundamental to the functioning of a free republic, it would, in addition to guaranteeing that no citizen would be denied an education, a house, or a job on account of the color of his skin, certainly include an assurance that each citizen’s vote would count no more or no less than that of any other citizen, that his government would take no voice in or interfere with his religion, that he would enjoy freedom of speech and a free press, and that the administration of criminal laws would adhere to civilized standards of fairness and decency. The 14th Amendment is assuring all of these things. In sum, it is the prime tool by which citizens are striving to shape a society that truly champions the dignity and worth of the individual as its supreme value.

It is clear that Brennan believes the 14th Amendment to be the guarantor of individual liberty as originally intended by the framers of the Constitution. Specifically, that law should equally protect all citizens, no matter their race, and that no State may pass legislation or uphold practices that dictate otherwise. In effect, the 14th Amendment paved the way for people of all colors to have a say in our political system.

Despite the fact that the 14th Amendment reaffirmed that all citizens are equal under the law and collectively, the 13th and 14th Amendments remedied the ironic acceptance of slavery by the authors of the Constitution, it required another 100 years of additional laws and inducements for minorities in this country to truly have equal access to the rights and privileges that their citizenship guarantees. In fact, the list of civil legislation from the time

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144 Ibid.
of ratification of the 14th Amendment to the Civil Rights Act of 1964 is surprisingly extensive given that they had no real impact on the increased acceptance and equitable treatment of minorities in this country:

1866-The Civil Rights Act of 1866: Preface to the 14th Amendment. Declared that all persons born in the United States were citizens with full rights under the Constitution.

1869-15th Amendment: The right of citizens to vote irrespective of race, color, or previous servitude.

1875-The Civil Rights Act of 1875: Pursuant to the 14th Amendment, Congress passed further civil rights legislation prohibiting discrimination in public accommodations.

1879-The Enforcement Act: Made public or private interference in the right to vote criminal.

1883-The Pendleton Act: Sought to establish the principle of “merit employment” in federal jobs. In addition, one of the first regulations issued that outlawed religious discrimination in federal employment.


1933-Unemployment Relief Act: Stated that in employing citizens for the purpose of this Act, no discrimination shall be made on account of race, color, or creed.

1940-Ramspeck Act: Enforced the ideal of “equal rights for all” in classified federal employment.

1941-Fair Employment Practice Law: Established to prevent job discrimination in war industries.

1951-Executive Order 10308: Committee, enacted by President Eisenhower, designed to investigate claims of discrimination in government contracting. This committee had no power to enforce its recommendations.

This list, though not all-inclusive of the nondiscrimination legislation that has been passed since the inception of our Constitution, speaks volumes regarding the difficulty minorities have faced in their pursuit of equal rights. As specified in The Bar Association’s manual,
The Civil Rights Act of 1964, irrespective of the fact that this historic legislation
"unequivocally" denounced discrimination, the government had nothing in place to enforce
those laws. In essence, by passing laws with no enforcement power, the United States
government permitted an unofficial acceptance of discrimination in the judicial, legislative,
and executive branches. This legislation, continues The Bar Association, "amounted to
little more than expressions of policy because there were no standards by which
discrimination could be determined, and machinery and sanctions for enforcement were
rare." As a result, each piece of legislation was equivalent to fancy window dressing
backed by an empty store—the law looked good but in reality was an empty gesture.

It was not until the Civil Rights Act of 1964 that nondiscrimination was taken seriously.
This act, unlike the civil rights legislation of the past that possessed the ideals of moral and
political relativism while maintaining racial segregation, had the concept of equality before
the law. Prior nondiscrimination legislation, according to Andrew Kull, The Color-Blind
Constitution, perpetuated the problem of "sorting people by the color of their skin." In
Kull’s opinion, the government had no business segregating people in this manner
"regardless of the equality with which they were treated." More importantly, because
this legislation coincided with pertinent social change regarding freedom and acceptance in
the United States, its timing was impeccable and hence, ratification, though seemingly
difficult, was a given. "The enactment of the Civil Rights Act of 1964," emphasizes Kull,


147 Ibid.
“makes a convenient benchmark—this once radical idea had become part of the governing liberal consensus of American political life.”

The 1964 Civil Rights Act and Hobbes’ Civil Law

While it is clear that the timing of the 1964 Civil Rights Act was favorable to its confirmation, the overwhelming question remains: Why would this piece of legislation have such a long-lasting impact on the judicial, legislative and executive branches of government when similar laws had historically prompted little change? Perhaps, the manner in which the law was written made its adherence unquestionable. Specifically, it is plausible that the 1964 Civil Rights Act is made more palatable, enforceable, and, as a result, legitimate because its language meets the conditions of Thomas Hobbes’ standard of civil law as put forth in Leviathan. First, Hobbes defines civil law as “those rules, applied to every subject, which the commonwealth hath commanded him (by word, writing, or other sufficient sign of the will) to make use of, for the distinction of right and wrong, that is to say, of what is contrary, and what is not contrary to the rule.” It is obvious that one of the key components of Hobbes’ definition is the membership of individuals in a commonwealth; a society that recognizes the responsibility and necessity of its citizens to adhere to the civil laws that are put forth. Hobbes likens our obligation of citizenship in a commonwealth to our duty to obey natural law because we are human beings. Specifically, declares Hobbes, “The law of nature and the civil law contain each other, and are of equal extent. For the

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148 Ibid.

laws of nature, which consist in equity, justice, gratitude, and other moral virtues... are not properly laws, but qualities that dispose men to peace and obedience.150 A commonwealth’s binding declaration of what is just or equitable, combined with ordinances to punish those who go against that declaration as outlined, is what makes natural law a civil law. Consequently, obeying a civil law is not optional because it is done for the common good of the citizens, and hence, must be obeyed by all in that commonwealth.

It is obvious that civil laws are established by the commonwealth for its citizens and then reinforced with inducements so that all citizens are compelled to obey the law for their own good and protection. According to Hobbes, “Law is an ordinance of reason for the common good, made by him who has care of the community, ...”151 But, what and who make up Hobbes’ commonwealth, and how are the ordinances that support the proper order of the citizenry established? Further, who becomes the “persona civitatis” or the head of the commonwealth and how is that decision made? When Hobbes speaks of the “one who cares for the community,” he is not necessarily speaking of the “persona civitatis” as being one who acts alone. Instead, the “persona civitatis” is one who, because of their position, possesses the authority of law and therefore, obliges others to obey them. The persona civitatis may be an assembly or one man---no matter---their predominant criterion is that they are considered the sovereign of the commonwealth. Accordingly, in Hobbes’ view, the commonwealth may be both the citizens of a country or a legislator because both “prescribe

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150 Ibid., 174.
151 Ibid., 173.
and commandeth the observation of those rules which we call law." Yet, emphasizes Hobbes, "the commonwealth is no person, nor has capacity to do anything, but by the representative (this is, the sovereign); and therefore, the sovereign is the sole legislator . . . none can abrogate a law made but the sovereign."^{153}

The Sovereign: President Kennedy

In 1961 when the Kennedy administration (the sovereign) enacted the initial legislation that would lead to the Civil Rights Act of 1964, the measures they put in place to support the laws adherence met Hobbes' criterion for civil law like no other nondiscrimination law before it. Kennedy, in his Executive Order 10925, created a President's Committee on Equal Employment Opportunity. The committee's task was to study and make recommendations to further the government's attempt at nondiscrimination in federal employment and federal contracting. Specifically, the order stated that the establishment of the President's Committee was necessary:

- Whereas discrimination because of race, creed, and color or national origin is contrary to the Constitutional principles and policies of the United States; and

- Whereas it is the plain and positive obligation of the United States Government to promote and ensure equal opportunity for all qualified persons, without regard to race, creed, color, or national origin, employed or seeking employment with the Federal Government and on government contracts; and

- Whereas it is in the general interest and welfare of the United States to promote its economy, security, and national defense through the most efficient and effective utilization of all available manpower; and,

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152 Ibid.
153 Ibid.
Whereas a review and analysis of existing Executive orders, practices, and government agency procedures relating to government employment and compliance with existing nondiscrimination contract provisions reveal an urgent need for expansion and strengthening of efforts to promote full equality of employment opportunity;

Now, therefore, by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered...

With these orders, Kennedy outlined the historic failure of preceding nondiscrimination legislation and established his authority to make corrections based on those failures. He also, without directly placing blame on the United States government, conveyed the intolerable official acceptance of discrimination within the government as being the reason for urgent attention to, and correction of, this pattern.

Kennedy’s order, based on Hobbes’ criterion, encompasses the two primary contingencies that are necessary for successful commonwealth acceptance of a civil law. First, it must be considered as being for the good of the commonwealth—as Kennedy put it, “for the general interest and welfare of the United States.” Secondly, the persona civitatis has to be recognized as the sovereign and Kennedy speaks to his authority as President of the United States by recognition of the Constitution. Consequently, Kennedy’s voice is in essence that of the commonwealth. Hobbes explains the relationship with his avowal that, “...the commonwealth, and his command that maketh the law; and the commonwealth being in their representative but one person, there cannot easily arise any contradictions in the laws...”

If it be the case, as Hobbes suggests, that the sovereign speaks for the commonwealth,

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154 Ibid., 176.
then why was the Civil Rights Act of 1964 legitimized and reinforced with adherence when so many nondiscrimination laws that preceded it—ostensibly supported by their associated sovereign—were not? In all actuality, suggests Hobbes, it is not surprising that the nondiscrimination legislation that preceded the 1964 Civil Rights Act was not heeded for the simple reason that, "when long use obtained the authority of law, it is not the length of time that maketh authority, but the will of the sovereign signified by his silence (for silence is sometimes an argument of consent)." Therefore, because there was little or no attempt to enforce the previous legislation by the representative sovereign, the practice of non-adherence was silently accepted. By contrast, the Civil Rights Act of 1964 and affirmative action were legitimized with enforcement power—it became the yardstick of the long-arm of the law. Kennedy established powers of enforcement that consisted of the Committee's discretionary ability to establish inducements they deemed obligatory and appropriate to accomplish the purposes of the order. For example, the castigation for noncompliance by a federal contractor was as follows:

- Publish or cause to publish, the names of contractors or unions that it has been concluded have failed to comply with this order.

- Recommend to the Department of Justice that in cases where there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth that suit be filed to compel compliance.

- Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information.

- Terminate, or cause to be terminated, any contract, or any portion thereof, for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract.

155 Ibid., 174.
- Provide that any contracting agency shall refrain from entering into further contracts with any non-complying contractor unless it is demonstrated that discrimination does not exist.

Obviously, if the ability to enforce affirmative action with criminal prosecution had not been written into it by the sovereign, it is unlikely that it would have been adhered to by most organizations (both federal and private). Hobbes agrees that, without the aspect of enforcement, "the length of time shall bring no prejudice to his right, ..." Furthermore, Hobbes believes that to say "law" and "right civil" are to say the same thing. He continues that, "right liberty, namely that liberty which the civil law leaves us; but civil law is an obligation, and takes from us the liberty which the law of nature gave us." This law of nature, Hobbes conveys in the spirit of the theory of evolution—survival of the fittest. "Nature," he says, "gave a right to every man to secure himself by his own strength ... but the civil law takes away that liberty in all cases where the protection of the law may be safely stayed for." Inducements, as indicated previously, are needed because to declare what is equitable, just, or of moral virtue, is so variable that our laws, as was the case in preceding nondiscrimination legislation, would not be adhered to without them. Civil law, continues Hobbes, "was brought into the world to limit the natural liberty of particular men, in such a manner as they might not hurt, but assist one another, and join together a common enemy."

156 Ibid.
157 Ibid., 189.
158 Ibid.
159 Ibid., 174.
The Data Consternation

One of the most controversial aspects of affirmative action is the requirements associated with compliance; namely, data collection and demographic analysis. While affirmative action guidelines are determined and established by the sovereign, it is initially up to employers (based on their organizational size and locale) to establish programs designed to comply with those mandates. Therefore, employers are required to retain and submit, as requested by the EEOC, proof of their positive efforts to hire, recruit, and promote women, and minorities. In order to this, it is necessary that employers ascertain the number of women and minorities and, when necessary, hire, recruit, and promote based on that information. For instance, employers with 100 or more employees are required to annually file an employer information report that “shows the relationship of minority and female workers to the total work force of the employer in specified job categories.” The labor market data that federal contractors and private employers would consider when remanded to do so are as follows:

(i.) The minority population of the area surrounding the city;
(ii.) The size of the minority unemployment force in the labor area surrounding the facility;
(iii.) The percentage of the minority work force as compared with the total work force in the immediate labor area;
(iv.) The general availability of minorities having requisite skills in the immediate labor area;
(v.) The availability of minorities having requisite skills in a recruiting area;
(vi.) The availability of promotable and transferable minorities within the an organization;
(vii.) The existence of training institutions capable of training persons in the requisite skills; and,

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(viii.) As a means of making all job classes available to minorities, the degree of training that the employer is reasonably able to offer.\textsuperscript{161}

These affirmative steps are illustrative of Hobbes' concept of "common equity" in that they work to promote access to equal opportunity by leveling the playing field for women and minorities to that of non-minorities.\textsuperscript{162} Specifically, these steps require that an employer maintain and utilize employment data and take action as appropriate to ensure that the demographics of their employee base are an equitable representation of their available labor pool. Meaning, employers are expected to remove any barriers to equal access of employment opportunity.

Though collecting data to support affirmative action sounds easy enough, this is where the data consternation comes into play. Basically, why would the law require that minority versus non-minority demographics be assessed? It seems that this would go against the very intent of anti-discrimination legislation. Hobbes addresses the concerns of record-keeping and the law in his statements that, "the difficulty consisteth in the evidence of the authority derived from him, the removing whereof dependeth on the knowledge of the public registers, public counsels, public ministers, and public seals, by which laws are sufficiently verified; . . . for the verification is but the testimony and record, not the


\textsuperscript{162} \textit{Leviathan}, 179. Hobbes states, "If therefore a man have a question of injury depending on the law of nature (that is to say common equity), the sentence of the judge that by commission hath authority to take cognizance of such causes is a sufficient verification of the law of nature in that individual case. For though the advice of one that professeth the study of the law be useful for the avoiding of contention, yet it is but advice; it is the judge must tell men what is law, upon the hearing of the controversy." In this case, law validates the outlined affirmative steps, and though they may appear to only benefit minorities, they actually promote equity of opportunity in employment—common equity.
authority of the law, which consisteth in the command of the sovereign only."\textsuperscript{163} In essence, based on Hobbes' statement, though data may be good, it is only as good as those who retrieve, analyze, and interpret it; but, as powerful as the sovereign allows it to be. The problem with this is that because the statistical data generated by an organization, as they go through the affirmative action steps, has been given so much (legal) power while at the same time it is prone to erroneous or unfair interpretation, organizations are unjustly susceptible to committing discriminatory hiring practices that could land them in court. Hence, in the opinion of many, because of this risk, instead of the focus being to collect and analyze demographic data, organizations should be allowed to concentrate their efforts on recruiting, hiring, and promoting the most qualified candidates based on their having the requisite knowledge, skills, and abilities to do a job and not because they meet some demographic parameters. Therefore, this brings into question “the justice for all” of the 1964 Civil Rights Act and its compliance guidelines. Does affirmative action, in and of itself, actually promote racism and gender preferences? In short, when does compliance based on data collection become synonymous with reverse discrimination? Finally, who decides when an act is discriminatory? Hobbes puts forth two convincing explanations that may help to answer these questions: First, he emphasizes, “Laws are the rules of the just and unjust.”\textsuperscript{164} In essence, a law that favors one person will have to favor that person over the other in the name of equity. Hobbes emphasizes that, “... the will of another cannot be understood but by his own word, or act, or by conjecture taken from his scope and purpose,

\textsuperscript{163} Leviathan, 178.
\textsuperscript{164} Ibid., 173.
which in the person of the commonwealth is to be supposed always consonant to equity and reason";\(^{165}\) Secondly, according to Hobbes, even if similar cases are brought before a judge and the decisions rendered vary significantly in scope, it is "because there is no judge, subordinate nor sovereign, but may err in a judgment of equity, if afterward, in another like case, he find it more consonant to equity to give a contrary sentence, he is obliged to it."\(^{166}\)

To Hobbes, interpretation of the law based on "a right understanding of that principal law of nature called equity, which, depending not on the reading of other men’s writing but on the goodness of a man’s own natural reason and meditation," is what makes a good judge. Hobbes emphasizes that a good judge, aside from being appointed by the sovereign, should also have the following characteristics to equitably interpret the law:

The abilities required in a good interpreter of the law (that is to say, in a good judge) are not the same with those of an advocate, namely, the study of laws. For a judge ought to take notice of the fact from none but witnesses, so also he ought to take notice of the law from nothing but the statutes and constitutions of the sovereign, alleged in the pleading or declared to him by some that have authority from the sovereign power to declare them; and need not take care beforehand what he shall judge; for it shall be given him what he shall say concerning the fact by witnesses, and what he shall say in point of law from those that shall in their pleadings show it and by authority interpret it upon the place.\(^{167}\)

In short, it is the obligation of a judge, appointed by the sovereign, to review evidence and render a decision that is not only binding, but also is appropriately aimed at an equitable outcome. For example, based on Hobbes’ comments, the legal contradiction that exists around the gathering of race- or gender-specific data is of no value because the primary

\(^{165}\) Ibid., 178.

\(^{166}\) Ibid., 181.

\(^{167}\) Ibid., 184.
reason to collect employment data is to assess equity and, if an issue goes to court, it is up to a judge to determine if the collection of that data was inappropriate. Consequently, since the enactment of Title VII and its affirmative action mandates, employment data has been given increased validity because of its affirmation by the courts.

As mentioned, though affirmative action opponents continue to argue that the practice of measuring the success of an organization's affirmative steps—based on race and gender—are illustrative of its potential for reverse discrimination, supporters continue to believe this to be the aspect that makes Title VII of the Civil Rights Act of 1964 a well-written law. Why? Because, highlights supporters, the law established the President's Equal Employment Opportunity Committee to monitor organizational efforts to realize more fully the national policy of nondiscrimination by analyzing applicant, hire, and promotion data in comparison to that of the source labor pool. In essence, the law's flexibility and array of demographical data—specific to the affirmative action efforts of an organization relative to its local community—make it more applicable on a broader scope, i.e. educational institutions, private organizations, federal contractors, etc. Consequently, as legal arguments are brought forward, interpretation of this data may be used as prima facie evidence of the existence of discrimination. More importantly, according to Barbara Lindemann Schlei and Paul Grossman, Employment Discrimination Law, "statistics are almost totally determinative in adverse impact cases."\(^{168}\) Statistical data has, and continues to play, a very important role in the outcome of affirmative action court decisions; decisions that have significant impact on the perception, construal, and application of affirmative

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\(^{168}\) Schlei and Grossman, Employment Discrimination Law, 1287.
action—some good and some bad. Consequently, as both affirmative action proponents and opponents will acknowledge, this legal interpretation has served to add “fuel to the fire” with regard to the equity of affirmative action but given credence to “a picture being worth a thousand words.” Meaning, affirmative action data, on its surface, may be very damaging to a case made for or against it due to its interpretation. For that reason, Schlei and Grossman stress that affirmative action data analysis is usually a three-step process for those on either side of a legal dispute regarding it:

First, they compare the racial/ethnic/sexual makeup of the qualified applicant pool to the makeup of those actually hired. If, for the protected group, there is substantial disparity between the percentage in the qualified applicant pool and the percentage hired, an inference of discrimination in hiring may, in the absence of unusual circumstances, be drawn. Second, a substantial disparity between the composition of the qualified applicant pool and the relevant labor market may create an inference of discrimination in recruitment. Third is a consideration of disparity in the treatment of those actually hired. This may be obvious, such as placement of protected groups in lower paying, less desirable jobs, or it may be more subtle, such as placement of protected groups in initial assignments which, though seemingly comparable, have a chain of progression which is a relative dead end.169

Conclusion

Hobbes’ definition of civil law reinforces the legitimacy of affirmative action and Title VII of the 1964 Civil Rights Act despite the ongoing reverse discrimination issues that surround it. By Hobbes’ appraisal of civil law, resultant reverse discrimination may be an acceptable outcome when one’s need for individual equity is greater than that of another as determined by a judge. He would argue that Title VII is a distributive law or “a law that determines the rights of the subjects, declaring to every man what it is by which he

169 Ibid., 570.
acquireth and holdeth a propriety in lands or goods, and a right or liberty of action; and these speak to all subjects.” 170 What the civil rights legislation of 1964 does is establish distribution criterion with the lasting goal being racially blinded equity produced over time through the courts. Hobbes concurred, as he believed that “the intention of the legislator is always supposed to be equity.” 171 Furthermore, Hobbes was acutely aware of how natural law could make the less fortunate vulnerable to the rich and powerful and thus, would necessitate the establishment of civil law as a means to forge a balance between natural law and equity. Consequently, based on Hobbes’ suppositions, the Civil Rights Act of 1964 and its affirmative action mandates are legitimate, even in the face of controversial interpretations that may favor one individual or segment of the population over another, because they meet the criteria for civil law by having both the goal of equity and sovereign endorsement.

170 Leviathan, 185.

171 Ibid., 183.
CHAPTER 9

CONCLUSION AND RECOMMENDATIONS:

LEGITIMIZING ORGANIZATIONAL DIVERSITY
WITH AFFIRMATIVE ACTION

Ironically, though the 1964 Civil Rights Act was strengthened with the passage of the 1991 Civil Rights Act, efforts have continued across the country to repeal many aspects of affirmative action, particularly, those affirmative action efforts utilized to cultivate and preserve diverse student populations at various universities across the United States. For instance, in 1996 the State of California passed Proposition 209 making it illegal to extend preferential treatment to minorities in the areas of education admissions, the granting of state contracts, and state government employment. Also in 1996, the case of Hopwood v. The State of Texas, "the 5th United States Circuit Court of Appeals in Austin (the 5th circuit covers Texas, Louisiana, and Mississippi) prohibited the use of race-based affirmative action in higher education admissions policies."172 Even more recently, April 14, 2003, the battle against the use of affirmative action in higher education admissions continued with the Supreme Court hearing arguments regarding the University of

Michigan's deliberate use of race and ethnicity to increase applicant scores for less academically qualified minority students in both their undergraduate and Law School admissions. As the Michigan case proved, with their win for the appropriateness of their affirmative action based Law School admission program, though the legal battles may continue, they cannot disguise the positive impact affirmative action has had on diversity in education. In fact, an educational research study conducted by William G. Bowen and colleagues concluded that the impact of affirmative action on diversity has been nothing but positive. Bowen's study, "A Report Card on Diversity: Lessons for Business From Higher Education," which included survey data from 28 colleges across the nation (both public and private) found that:

- A strong and growing belief is apparent among graduates in the value of enrolling a diverse student body.

- 79% of white graduates affirmed that race-sensitive admissions policies at their alma mater should either be retained or strengthened.

- A high-level of support exists for diversity by white matriculants who had been turned down by their first-choice school (and who might therefore be expected to resent race-sensitive admissions policies).

- There is a significant degree of social interaction between the races during college.

- There is a belief among graduates that college had contributed much to their ability to work well and get along with members of other races.\(^{173}\)

Nevertheless, though diversity is full of promise as a process that will teach organizational members how to bridge the gap between their differences, it is still wrought with implementation difficulties primarily due to the race, gender, and cultural differences it

attempts to address. As was made evident in Chapter 6, “Valuing Diversity: Who Has Been Forgotten?,” many programs still fail to adequately consider white males, the disabled, or individuals that require religious accommodation. Moreover, in Chapter 7, “The Difficulty of Measuring and Replicating Diversity Success,” it was shown that there is no sound formula or method by which to ground organizational diversity. Instead, as indicated in Chapters 3, 4, and 5 regarding organizational culture, ethics, and the moral virtues in human resources managers, respectively, the best hope is to design a diversity program with an ethical/moral orientation. However, the problem then becomes a question of, “whose ethical orientation should be the basis for a diversity program?”—should it be the ethics of an organization’s human resources manager, their employees, the local community, or the organization itself? Clearly, as identified in Chapter 8, “Legitimizing Diversity Programs By Framing Them with Civil Law: Title VII and Affirmative Action,” because perception of what is ethical or moral from one individual to the next is sure to vary, law plays an important role in unifying an organization, society, or community. Simply, law sets the framework for a uniform stream of shared ethics. In the case of diversity, that stream arises from affirmative action—it serves as the ethical foundation for diversity.

Undoubtedly, diversity, whether in organizations or educational institutions, is representative of the true intent of affirmative action—equity of opportunity. Without affirmative action, it is quite unlikely that there would be the current emphasis on valuing and managing diversity. Affirmative action, with its inducements, made it unacceptable for organizations to continue employment practices that were discriminatory—whether overt or covert—and take affirmative steps to hire and retain minorities. The intent of affirmative action is not to discriminate against non-minorities, but to remove the barriers to
opportunity for minorities. In other words, it razes the building formed by racial and gender inequity and replaces it with one built on equal access and fair play. As David A. Thomas and John J. Gabarro emphasize in their book, *Breaking Through: The Making of Minority Executives in Corporate America*, “affirmative action had a profound impact on the access of racial minorities to jobs . . . from 1970 to 1980 corporations subject to review by the Office of Federal Contract Compliance Programs (OFCCP) had a minority employment growth rate twice that of firms that were not subject to review.” Irrefutably, affirmative action made the American dream of equal opportunity obtainable for minorities.

In conclusion, it is important that individuals who are decision-makers in the area of recruitment, hiring, and/or promotional processes (e.g. human resources professionals and managers) understand that affirmative action, though controversial, is nonetheless a civil law that organizations are legally compelled to implement and enforce. For that reason, if the chosen mode of organizational or educational integration is to create an environment where diversity is valued and managed, it should be done with a clear understanding of Title VII of the Civil Rights Act of 1964 and the enforceable aspects of affirmative action. In fact, Arthur A. Fletcher, one of the original crafters of “The Philadelphia Plan,” agrees that diversity and affirmative action work together to help organizational members overcome their individual differences and build a culture based on equitable employment opportunity. In particular, says Fletcher, “I’m proud to be able to say I set the stage for today’s workplace and work force diversity efforts. Affirmative action changed the American

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workplace for the better, forever . . . it should remain in place indefinitely.” 175 Hence, just in case Mr. Fletcher gets his wish and affirmative action does not succumb to one of its many attacks, diversity training should be taught with a basis in the legal ramifications of Title VII and affirmative action on employment practices. More importantly, because this argument has demonstrated the importance of civil law in society, it is conclusive that affirmative action-based diversity training would give program initiatives the force of law and promote consequent “organizational institutionalization”---it would then not be about doing the “right thing,” but about doing the “legitimate thing.”

175 “Business and Race: Only Halfway There: The Father of Affirmative Action Is Pleased With Today's Diversity In The Workplace But Says Business Still Has A Long Way To Go,” Fortune 141, no. 5 (2000): 76. In 1969, Assistant Secretary of Labor, Arthur Fletcher announced the “Philadelphia Plan” with the support of President Nixon. Under this plan, following an assessment of the employment conditions in the Philadelphia area, the Department of Labor's Office of Federal Contract Compliance set targets for minority contractors. The result was that federal contractors, as a precondition to having their bids considered, were required to submit affirmative action plans detailing goals and timetables to hire blacks to satisfy underutilization targets developed by the Office of Federal Contract Compliance. The “Philadelphia Plan” was the beginning of affirmative action and what many believe to be President Nixon’s most long-lasting accomplishment.
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