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Busi- ness

Eth- ics

The Impact of Culture and Time on Business Ethics

Figure 5.1 Business ethics do not exist in a vacuum. They are a reflection of the underlying values of a society and the way society lives out those values over time. This experience is captured in language, culture, religious traditions, and modes of thinking, all of which have varied throughout history and influence the conduct of business in a range of ways. (credit: modification of “atlas close up dark dirty” by Aaditya Arora/Pexels, CC0)

Chapter Outline

- 5.1 The Relationship between Business Ethics and Culture
- 5.2 Business Ethics over Time
- 5.3 The Influence of Geography and Religion
- 5.4 Are the Values Central to Business Ethics Universal?

Introduction

Ethics is a construct of considerable significance to human beings. Some suggest ethics emerged to allow families and clans to cooperate in harsh environments. Others point to its use in governing trade and commerce, even simple bartering. Still others say ethical behavior is wired into the cognitive structures of the brain, explaining why we find codes of ethics and morality in texts as diverse as the Code of Hammurabi (a Babylonian code of law nearly four thousand years old), the Bible, the Napoleonic Code, and *The Analects of Confucius*, all of which outline ways for people to live together in society.

Whatever its origin, ethics has almost certainly existed throughout human time and varied with language, culture, history, and geography ([Figure 5.1](#)). Are there underlying values that transcend time and place, however? If so, do the protocols of business ethics embody these values? For instance, we see respect for others in Dubai, where tea accompanies negotiations; in Tokyo, where formal words and bows come first; and in Lima, where polite inquiries about the family precede business. Is respect, therefore, a universal value?

In short, to what degree is any code of business ethics conditioned by culture, time, and geography? Given that individuals are responsible only for their own behavior, is it possible for business ethics to be universal?

5.1 The Relationship between Business Ethics and Culture

Learning Objectives

By the end of this section, you will be able to:

- Describe the processes of acculturation and enculturation
- Explain the interaction of business and culture from an ethical perspective
- Analyze how consumerism and the global marketplace might challenge the belief system of an organization

It has been said that English is the language of money and, for that reason, has become the language of business, finance, trade, communication, and travel. As such, English carries with it the values and assumptions of its native speakers around the world. But not all cultures share these assumptions, at least not implicitly. The sick leave or vacation policies of a British investment bank, for instance, may vary greatly from those of a shoe manufacturer in Laos. Because business and capitalism as conducted today have evolved primarily from European origins and profits are measured against Western standards like the U.S. dollar, the ethics that emerges from them is also beholden primarily (but not exclusively) to Western conceptions of behavior. The challenge for business leaders everywhere is to draw out the values of local cultures and integrate the best of those into their management models. The opportunities for doing so are enormous given the growing impact of China, India, Russia, and Brazil in global commerce. The cultures of these countries will affect the dominant business model, possibly even defining new ethical standards.

Business Encounters Culture

To understand the influence of culture on business ethics, it is essential to understand the concepts of enculturation and acculturation. In its most basic anthropological sense, **enculturation** refers to the process by which humans learn the rules, customs, skills, and values to participate in a society. In other words, no one is born with culture; all humans, regardless of their origin, have to learn what is considered appropriate behavior in their surrounding cultures. Whereas enculturation is the acquisition of any society's norms and values, **acculturation** refers specifically to the cultural transmission and socialization process that stems from cultural exchange. The effects of this blending of cultures appear in both the native (original) culture and the host (adopted) culture. Historically, acculturation has often been the result of military or political conquest. Today, it also comes about through economic development and the worldwide reach of the media.

One of the earliest real estate deals in the New World exemplifies the complexity that results when different cultures, experiences, and ethical codes come into contact. No deed of sale remains, so it is difficult to tell exactly what happened in May 1626 in what is now Manhattan, but historians agree that some kind of transaction took place between the Dutch West India Company, represented by Pieter Minuit, the newly appointed director-general of the New Netherland colony, and the Lenape, a Native American tribe ([Figure 5.2](#)). Which exact Lenape tribe is unknown; its members may have been simply passing through Manhattan and could have been the Canarsee, who lived in what is today southern Brooklyn.¹ Legend has it that the Dutch bought Manhattan island for \$24 worth of beads and trinkets, but some historians believe the natives granted the Dutch only fishing and hunting rights and not outright ownership. Furthermore, the price, acknowledged as “sixty guilders” (about \$1000 today), could actually represent the value of items such as farming tools, muskets, gun powder, kettles, axes, knives, and clothing offered by the Dutch. Clearly, the reality was more nuanced than the legend.²



Figure 5.2 The 1626 purchase of Manhattan as depicted by Alfred Fredericks in *The Popular Science Monthly* of 1909. (credit: "The Purchase of Manhattan Island" by "Ineuw"/Wikimedia Commons, Public Domain)

The "purchase" of Manhattan is an excellent case study of an encounter between two vastly different cultures, worldviews, histories, and experiences of reality, all within a single geographic area. Although it is a misconception that the native peoples of what would become the United States did not own property or value individual possession, it is nevertheless true that their approach to property was more fluid than that of the Dutch and of later settlers like the English, who regarded property as a fixed commodity that could be owned and transferred to others. These differences, as well as enforced taxation, eventually led to war between the Dutch and several Native American tribes.³ European colonization only exacerbated hostilities and misunderstandings, not merely about how to conduct business but also about how to live together in harmony.

LINK TO LEARNING

For more information, read this [article about the Manhattan purchase and the encounter between European and Native American cultures \(https://openstax.org/l/53Manhattan\)](https://openstax.org/l/53Manhattan) and also this [article about Peter Minuit \(https://openstax.org/l/53PeterMinuit\)](https://openstax.org/l/53PeterMinuit) and his involvement. What unexamined assumptions by both parties led to problems between them?

Two major conditions affect the relationship between business and culture. The first is that business is not culturally neutral. Today, it typically displays a mindset that is Western and primarily English-speaking and is reinforced by the enculturation process of Western nations, which tends to emphasize individualism and competition. In this tradition, business is defined as the exchange of goods and services in a dedicated market for the purpose of commerce and creating value for its owners and investors. Thus, business is not open ended but rather directed toward a specific goal and supported by beliefs about labor, ownership, property, and rights.

In the West, we typically think of these beliefs in Western terms. This worldview explains the misunderstanding between Minuit, who assumed he was buying Manhattan, and the tribal leaders, who may have had in mind

nothing of the sort but instead believed they were granting some use rights. The point is that a particular understanding of and approach to business are already givens in any particular culture. Businesspeople who work across cultures in effect have entered the theater in the middle of the movie, and often they must perform the translation work of business to put their understanding and approach into local cultural idioms. One example of this is the fact that you might find *sambal* chili sauce in an Indonesian McDonald's in place of Heinz ketchup, but the restaurant, nevertheless, is a McDonald's.

The second condition that affects the relationship between business and culture is more complex because it reflects an evolving view of business in which the purpose is not solely generating wealth but also balancing profitability and responsibility to the public interest and the planet. In this view, which has developed as a result of political change and economic globalization, organizations comply with legal and economic regulations but then go beyond them to effect social change and sometimes even social justice.⁴ The dominant manufacture-production-marketing-consumption model is changing to meet the demands of an increasing global population and finite resources. No longer can an organization maintain a purely bottom-line mentality; now it must consider ethics, and, therefore, social responsibility and sustainability, throughout its entire operation. As a result, local cultures are assuming a more aggressive role in defining their relationship with business prevalent in their regions.

Had this change taken place four centuries ago, that transaction in Manhattan might have gone a little differently. However, working across cultures can also create challenging ethical dilemmas, especially in regions where corruption is commonplace. A number of companies have experienced this problem, and globalization will likely only increase its incidence.

CASES FROM THE REAL WORLD

Petrobras

If you were to do a top-ten list of the world's greatest corruption scandals, the problems of Petrobras (*Petróleo Brasileiro*) in Brazil surely would make the list. The majority state-owned petroleum conglomerate was a party to a multibillion-dollar scandal in which company executives received bribes and kickbacks from contractors in exchange for lucrative construction and drilling contracts. The contractors paid Petrobras executives upward of five percent of the contract amount, which was funneled back into slush funds. The slush funds, in turn, paid for the election campaigns of certain members of the ruling political party, *Partido dos Trabalhadores*, or Workers Party, as well as for luxury items like race cars, jewelry, Rolex watches, yachts, wine, and art.⁵

The original investigation, known as Operation Car Wash (*Lava Jato*), began in 2014 at a gas station and car wash in Brasília, where money was being laundered. It has since expanded to include scrutiny of senators, government officials, and the former president of the republic, Luiz Inácio Lula da Silva. The probe also contributed to the impeachment and removal of Lula's successor, Dilma Rousseff. Lula and Rousseff are members of the Workers Party. The case is complex, revealing Chinese suppliers, Swiss bank accounts where money was hidden from Brazilian authorities, and wire transfers that went through New York City and caught the eye of the U.S. Department of Justice. In early 2017, the Brazilian Supreme Court justice in charge of the investigation and prosecution was mysteriously killed in a plane crash.

It is hard to imagine a more tragic example of systemic breakdown and individual vice. The loss of trust

in government and the economy still affects ordinary Brazilians. Meanwhile, the investigation continues.

Critical Thinking

- Is there any aspect of the case where you think preventive measures could have been taken either by management or government? How would they have worked?
- Do you think this case represents an example of a culture with different business ethics than those practiced in the United States? Why or why not? How might corporations with international locations adjust for this type of issue?

LINK TO LEARNING

Read this [article about the Petrobras case \(https://openstax.org/l/53Petrobras\)](https://openstax.org/l/53Petrobras) to learn more.

Balancing Beliefs

What about the ethical dimensions of a business in a developed country engaging in commerce in an environment where corruption might be more rampant than at home? How can an organization remain true to its mission and what it believes about itself while honoring local customs and ethical standards? The question is significant because it goes to the heart of the organization's values, its operations, and its internal culture. What must a business do to engage with local culture while still fulfilling its purpose, whether managers see that purpose as profitability, social responsibility, or a balance between the two?

Most business organizations hold three kinds of beliefs about themselves. The first identifies the purpose of business itself. In recent years, this purpose has come to be the creation not just of shareholder wealth but also of economic or personal value for workers, communities, and investors.⁶ The second belief defines the organization's mission, which encapsulates its purpose. Most organizations maintain some form of mission statement. For instance, although IBM did away with its formal mission statement in 2003, its underlying beliefs about itself have remained intact since its founding in 1911. These are (1) dedication to client success, (2) innovation that matters (for IBM and the world), and (3) trust and personal responsibility in all relationships.⁷ President and chief executive officer (CEO) Ginni Rometty stated the company "remain[s] dedicated to leading the world into a more prosperous and progressive future; to creating a world that is fairer, more diverse, more tolerant, more just."⁸

LINK TO LEARNING

Johnson & Johnson was one of the first companies to write a formal mission statement, and it is one that continues to earn praise. This statement has been embraced by several succeeding CEOs at the company, illustrating that a firm's mission statement can have a value that extends beyond its authors to serve many generations of managers and workers. Read [Johnson & Johnson's mission statement](#)

(<https://openstax.org/l/53Johnson>) to learn more.

Finally, businesses also go through the process of enculturation; as a result, they have certain beliefs about themselves, drawn from the customs, language, history, religion, and ethics of the culture in which they are formed. One example of a company whose ethics and ethical practices are deeply embedded in its culture is Merck & Co., one of the world's largest pharmaceutical companies and known for its strong ethical values and leadership. As its founder George W. Merck (1894–1957) once stated, “We try to remember that medicine is for the patient. We try never to forget that medicine is for the people. It is not for the profits. The profits follow, and if we have remembered that, they have never failed to appear. The better we have remembered it, the larger they have been.”⁹ Culture is deeply rooted, but businesses may make their own interpretations of its accepted norms.

LINK TO LEARNING

Merck & Co. is justly lauded for its involvement in the fight to control the spread of river blindness in Africa. For more information, watch this [World Bank video about Merck & Co.'s efforts to treat river blindness \(https://openstax.org/l/53Merck&Co\)](https://openstax.org/l/53Merck&Co) and its partnership with international organizations and African governments.

Our beliefs are also challenged when a clash occurs between a legal framework and cultural norms, such as when a company feels compelled to engage in dubious and even illegal activities to generate business. For example, the German technology company Siemens has paid billions of dollars in fines and judgments for bribing government officials in several countries. Although some local officials may have expected to receive bribes to grant government contracts, Siemens was still bound by national and international regulations forbidding the practice, as well as by its own code of ethics. How can a company remain true to its mission and code of ethics in a highly competitive international environment ([Figure 5.3](#))?



Figure 5.3 Ethical decision-making in a global context requires a broad perspective. Business leaders need to know themselves, their organization’s mission, and the impact of their decisions on local communities. They also must be open to varying degrees of risk. (credit: “accomplishment action adventure atmosphere” by unknown/Pixabay, CC0)

Business performance is a reflection of what an organization believes about itself, as in the IBM and Merck examples.¹⁰ Those beliefs, in turn, spring from what the individuals in the organization believe about it and themselves, based on their communities, families, personal biographies, religious beliefs, and educational backgrounds. Unless key leaders have a vision for the organization and themselves, and a path to achieving it, there can be no balance of beliefs about profitability and responsibility, or integration of business with culture. The Manhattan purchase was successful to the degree that Minuit and the tribal leaders were willing to engage in an exchange of mutual benefit. Yet this revealed a transaction between two very different commercial cultures. Did each group truly understand the other’s perception of an exchange of goods and services? Furthermore, did the parties balance personal and collective beliefs for the greater good? Given the distinctions between these two cultures, would that even have been possible?

Consumerism and the Global Marketplace

To paraphrase the ancient Greek philosopher Heraclitus (c. 535–475 BCE), the one constant in life is change. Traditional norms and customs have changed as the world’s population has grown more diverse and urbanized, and as the Internet has made news and other resources readily available. The growing emphasis on **consumerism**—a lifestyle characterized by the acquisition of goods and services—has meant that people have become defined as “consumers” as opposed to citizens or human beings. Unfortunately, this emphasis eventually leads to the problem of diminishing marginal utility, with the consumer having to buy an ever-increasing amount to reach the same level of satisfaction.

At the same time, markets have become more diverse and interconnected. For example, South Korean companies like LG and Samsung employ 52,000 workers in the United States,¹¹ and many U.S. companies now manufacture their products abroad. Such globalization of their domestic markets has allowed U.S. consumers to enjoy products from around the world, but it also presents ethical challenges. The individual consumer, for instance, may benefit from lower prices and a greater selection of goods, but only by supporting a company that might be engaged in unethical practices in its overseas supply or distribution chains. Producers’ choices about wages, working conditions, environmental impact, child labor, taxation, and plant safety feature in the creation of each product brought to market. Becoming aware of these factors requires consumers to engage in an investigation of the business practices of those parties they will patronize and exercise a certain amount

of cultural and ethical sensitivity.

CASES FROM THE REAL WORLD

Overseas Manufacturing

How can the purchase of a pair of sneakers be seen as an ethical act? Throughout the 1990s, the U.S. shoe and sportswear manufacturer Nike was widely criticized for subcontracting with factories in China and Southeast Asia that were little more than sweatshops with deplorable working conditions. After responding to the criticisms and demanding that its suppliers improve their workplaces, the company began to redeem itself in the eyes of many and has become a model of business ethics and sustainability. However, questions remain about the relationship between business and government.

For instance, should a company advocate for labor rights, a minimum wage, and unionization in developing countries where it has operations? What responsibility does it have for the welfare of a contractor's workers in a culture with differing customs? What right does any Western company have to insist that its foreign contractors observe in their factories the protocols required in the West? What, for example, is sacred about an eight-hour workday? When Nike demands that foreign manufacturers observe Western laws and customs about the workplace, arguably this is capitalist imperialism. Not only that, but Western firms will be charged more for concessions regarding factory conditions. Perhaps this is as it should be, but Western consumers must then be prepared to pay more for material goods than in the past.

Some argue that demanding that companies accept these responsibilities imposes cultural standards on another culture through economic pressure. Others insist there should be universal standards of humane employee treatment, and that they must be met regardless of where they come from or who imposes them. But should the market dictate such standards, or should the government?

The rise of artificial intelligence and robotics will complicate this challenge because, in time, they may make offshoring the manufacture and distribution of goods unnecessary. It may be cheaper and more efficient to bring these operations back to developed countries and use robotic systems instead. What would that mean for local cultures and their economies? In Nike's case, automation is already a concern, particularly as competition from its German rival, Adidas, heats up again.¹²

Critical Thinking

- What ethical responsibilities do individual consumers have when dealing with companies that rely on overseas labor?
- Should businesses adopt universal workplace standards about working conditions and employee protections? Why or why not?
- What would be required for consumers to have the necessary knowledge about a product and how it was made so that they could make an informed and ethical decision? The media? Commercial watchdog groups? Social-issues campaigns? Something else?

LINK TO LEARNING

Read this [report, “A Race to the Bottom: Trans-Pacific Partnership and Nike in Vietnam,”](https://openstax.org/l/53Nike) to learn more (<https://openstax.org/l/53Nike>) about this issue.

In considering the ethical challenges presented by the outsourcing of production to lower costs and increase profits, let us return to the example of IBM. IBM has a responsibility to provide technology products of high quality at affordable prices in line with its beliefs about client success, innovation, and trust. If it achieved these ends in a fraudulent or otherwise illegal way, it would be acting irresponsibly and in violation of both U.S. and host country laws and as well as the company’s own code of ethics. These constraints appear to leave little room for unethical behavior, yet in a globalized world of intense competition, the temptation to do anything possible to carve out an advantage can be overpowering. This choice between ends and means is reminiscent of the philosophers Aristotle and Kant, both of whom believed it impossible to achieve just ends through unjust means.

But what about consumer responsibility and the impact on the global community? Western consumers tend to perceive globalization as a phenomenon intended to benefit them specifically. In general, they have few compunctions about Western businesses offshoring their manufacturing operations as long as it ultimately benefits them as consumers. However, even in business, ethics is not about consumption but rather about human morality, a greater end. Considering an expansion of domestic markets, what feature of this process enables us to become more humane rather than simply pickier consumers or wasteful spenders? It is the opportunity to encounter other cultures and people, increasing our ethical awareness and sensitivity. Seen in this way, globalization affects the human condition. It raises no less a question than what kind of world we want to leave to our children and grandchildren.

5.2 Business Ethics over Time

Learning Objectives

By the end of this section, you will be able to:

- Describe the ways ethical standards change over time
- Identify major shifts in technology and ethical thinking over the last five hundred years
- Explain the impact of government and self-imposed regulation on ethical standards and practices in the United States

Besides culture, the other major influence in the development of business ethics is the passage of time. Ethical standards do not remain fixed; they transform in response to evolving situations. Over time, people change, technology advances, and cultural mores (i.e., acquired culture and manners) shift. What was considered an appropriate or accepted business practice one hundred or even fifty years ago may not carry the same moral weight it once did. However, this does not mean ethics and moral behavior are relative. It simply acknowledges that attitudes change in relationship to historical events and that cultural perspective and the process of acculturation are not stagnant.

Shifts in Cultural and Ethical Standards

We find an example of changing cultural mores in the fashion industry, where drastic evolution can occur even over ten years, let alone a century. The changes can be more than simply stylistic ones. Clothing reflects people's view of themselves, their world, and their values. A woman in the first half of the twentieth century might be very proud to wear a fox stole with its head and feet intact ([Figure 5.4](#)). Today, many would consider that an ethical faux pas, even as the use of fur remains common in the industry despite active campaigns against it by organizations such as People for the Ethical Treatment of Animals. At the same time, cosmetics manufacturers increasingly pledge not to test their products on animals, reflecting changing awareness of animals' rights.



Figure 5.4 Philanthropist Anne Morgan, wife of banker and industrialist J.P. Morgan, wearing a fur stole circa 1915. (credit: "Anne Morgan, wearing fur stole, ca. 1915" by "Elisa.rolle"/Wikimedia Commons, Public Domain)

Bias is built into the human psyche and expressed through our social structures. For this reason, we should avoid making snap judgments about past eras based on today's standards. The challenge, of course, is to know which values are situational—that is, although many values and ethics are relative and subjective, others are objectively true, at least to most people. We can hardly argue in favor of slavery, for example, no matter in which culture or historical era it was practiced. Of course, although some values strike us as universal, the ways in which they are interpreted and applied vary over time, so that what was once acceptable no longer is, or the reverse.

ETHICS ACROSS TIME AND CULTURES

When Even Doctors Smoked

From the 1940s to the 1970s, cigarettes were as common as water bottles are today. Nearly everyone

smoked, from judges in court to factory workers and pregnant women. Edward Bernays, the Austrian-American founder of the field of public relations, promoted smoking among women in a 1929 campaign in New York City in which he marketed Lucky Strike cigarettes as “torches of freedom” that would lead to equality between men and women. However, by the late 1960s, and in the wake of the release of the landmark Surgeon General’s report on “Smoking and Health” on January 11, 1964, it had become clear that there was a direct link between cigarette smoking and lung cancer. Subsequent research has added heart and lung diseases, stroke, and diabetes. Smoking has decreased in Western countries but remains well established in the global East and South, where cigarette manufacturers actively promote the products in markets like Brazil, China, Russia, and Singapore, especially among young people.

Critical Thinking

Are such practices ethical? Why or why not?

LINK TO LEARNING

Explore these [statistics on cigarette smoking in young adults from the CDC \(https://openstax.org/l/53CDCsmoking\)](https://openstax.org/l/53CDCsmoking) and these [charts on the global state of smoking from the World Bank \(https://openstax.org/l/53GlobalSmoking\)](https://openstax.org/l/53GlobalSmoking) for information about cigarette use in the United States and globally, including demographic breakdowns of smoking populations.

Thus, we acknowledge that different eras upheld different ethical standards, and that each of these standards has had an impact on our understanding of ethics today. But this realization raises some basic questions. First, what should we discard and what should we keep from the past? Second, on what basis should we make this decision? Third, is history cumulative, progressing onward and upward through time, or does it unfold in different and more complicated ways, sometimes circling back upon itself?

The major historical periods that have shaped business ethics are the age of mercantilism, the Industrial Revolution, the postindustrial era, the Information Age, and the age of economic globalization, to which the rise of the Internet contributed significantly. Each of these periods has had a different impact on ethics and what is considered acceptable business practice. Some economists believe there may even be a postglobalization phase arising from populist movements throughout the world that question the benefits of free trade and call for protective measures, like import barriers and export subsidies, to reassert national sovereignty.¹³ In some ways, these protectionist reactions represent a return to the theories and policies that were popular in the age of mercantilism.

Unlike capitalism, which views wealth creation as the key to economic growth and prosperity, **mercantilism** relies on the theory that global wealth is static and, therefore, prosperity depends on extracting wealth or accumulating it from others. Under mercantilism, from the sixteenth to the eighteenth centuries, the exploration of newly opened markets and trade routes coincided with the impulse to colonize, producing an ethical code that valued acculturation by means of trade and often brute force. European powers extracted raw commodities like cotton, silk, diamonds, tea, and tobacco from their colonies in Africa, Asia, and South America and brought them home for production. Few questioned the practice, and the operation of business ethics consisted mainly of protecting owners’ interests.

During the Industrial Revolution and the postindustrial era, in the nineteenth and early twentieth centuries, business focused on the pursuit of wealth, the expansion of overseas markets, and the accumulation of capital. The goal was to earn as high a profit as possible for shareholders, with little concern for outside stakeholders. Charles Dickens (1812–1870) famously exposed the conditions of factory work and the poverty of the working class in many of his novels, as did the American writer Upton Sinclair (1878–1968). Although these periods witnessed extraordinary developments in science, medicine, engineering, and technology, the state of business ethics was perhaps best described by critics like Ida Tarbell (1857–1944), who said of industrialist John D. Rockefeller (1839–1937) ([Figure 5.5](#)), “Would you ask for scruples in an electric dynamo?”¹⁴

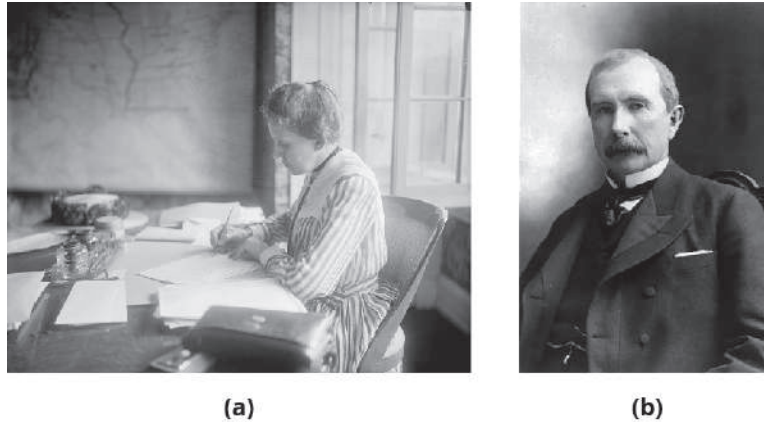


Figure 5.5 Ida Tarbell (a) was a pioneer of investigative journalism and a leading “muckraker” of the Progressive Era. She is perhaps best known for her exposé of the business practices of John D. Rockefeller (b), founder of the Standard Oil Company. (credit a: modification of “TARBELL, IDA M.” by Harris & Ewing/Library of Congress, Public Domain; credit b: modification of “John D. Rockefeller 1885” by “DIREKTOR”/Wikimedia Commons, Public Domain)

With the advent of the Information and Internet ages in the late twentieth and early twenty-first centuries, a code of professional conduct developed for the purpose of achieving goals through strategic planning.¹⁵ In the past, ethical or normative rules were imposed from above to lead people toward right behavior, as the company defined it. Now, however, more emphasis is placed on each person at a firm embracing ethical standards and following those dictates to arrive at the appropriate behavior, whether at work or when off the clock.¹⁶ The creation of human resources departments (increasingly now designated as human capital or human assets departments) is an outgrowth of this philosophy, because it reflects a view that humans have a unique value that ought not be reduced simply to the notion that they are instruments to be manipulated for the purposes of the organization. Millennia earlier, Aristotle referred to “living tools” in a similar but critical way.¹⁷ Although one characteristic of the information age—access to information on an unprecedented scale—has transformed business and society (and some say made it more egalitarian), we must ask whether it also contributes to human flourishing, and to what extent business should concern itself with this goal.

A Matter of Time

What effect does time have on business ethics, and how is this effect achieved? If we accept that business today has two purposes—profitability and responsibility—we might assume that business ethics is in a much better position now than in the past to affect conduct across industries. However, much of the transformation of business over time has been the result of direct government intervention; one recent example is the Dodd–Frank Wall Street Reform and Consumer Protection Act that followed the financial crisis of 2008. Yet,

despite such regulation and increased management vigilance in the form of ethics training, compliance reporting, whistleblower programs, and audits, it is tempting to conclude that business ethics is in worse shape than ever. The Information Age and the Internet may even have facilitated unethical behavior by making it easier to move large sums of money around undetected, by enabling the spread of misinformation on a global scale, and by exposing the public to the theft and misuse of vast stores of personal data gathered by companies as diverse as Equifax and Facebook.

However, since the mercantile era, there has been a gradual increase in awareness of the ethical dimension of business. As we saw in the preceding chapter, businesses and the U.S. government have debated and litigated the role of corporate social responsibility throughout the twentieth century, first validating the rule of shareholder primacy in *Dodge v. Ford Motor Company* (1919) and then moving away from a strict interpretation of it in *Shlensky v. Wrigley* (1968). In *Dodge v. Ford Motor Company* (1919), the Michigan Supreme Court famously ruled that Ford had to operate in the interests of its shareholders as opposed to its employees and managers, which meant prioritizing profit and return on investment. This court decision was made even though Henry Ford had said, “My ambition is to employ still more men, to spread the benefits of this industrial system to the greatest possible number, to help them build up their lives and their homes. To do this we are putting the greatest share of our profits back in the business.”¹⁸ By mid-century and the case of *Shlensky v. Wrigley* (1968), the courts had given boards of directors and management more latitude in determining how to balance the interests of stakeholders.¹⁹ This position was confirmed in the more recent case of *Burwell v. Hobby Lobby* (2014), which held that corporate law does not require for-profit corporations to pursue profit at the expense of everything else.

Governmental regulation and legal interpretations have not been the only avenues of change over the past century. The growing influence of consumers has been another driving force in recent attempts by businesses to self-regulate and voluntarily comply with global ethical standards that ensure basic human rights and working conditions. The United Nations (UN) Global Compact is one of these standards. Its mission is to mobilize companies and stakeholders to create a world in which businesses align their strategies and operations with a set of core principles covering human rights, labor, the environment, and anticorruption practices. The Global Compact is a “voluntary initiative based on CEO commitments to implement universal sustainability principles and to undertake partnerships in support of UN goals.”²⁰ Of course, as a voluntary initiative, the initiative does not bind corporations and countries to the principles outlined in it.

LINK TO LEARNING

Read the [Ten Principles of the United Nations Global Compact \(https://openstax.org/l/53UNcompact\)](https://openstax.org/l/53UNcompact) urging corporations to develop a “principled approach to doing business.” The principles cover human rights, labor, the environment, and corruption.

Whenever we look at the ways in which our perception of ethical business practice changes over time, we should note that such change is not necessarily good or bad but rather a function of human nature and of the ways in which our views are influenced by our environment, our culture, and the passage of time. Many of the examples discussed thus far illustrate a gradual increase in social awareness due to the actions of individual leaders and the historical era in which they found themselves. This does not mean that culture is irrelevant, but that human nature exists and ethical inclination is part of that nature. Historical conditions may allow this nature to be expressed more or less fully. We might measure ethical standards according to the degree they

allow human compassion to direct business practice or, at least, make it easier for compassion to hold sway. We might then consider ethics not just a nicety but a constitutive part of business, because it is an inherent human trait. This is a perspective Kant and Rawls might have agreed with. Ethical thinking over time should be measured, deliberate, and open to examination.

5.3 The Influence of Geography and Religion

Learning Objectives

By the end of this section, you will be able to:

- Describe the impact of geography on global relationships and business ethics
- Explain how religion informs ethical business practice around the world

Business ethics guides people to practice commerce professionally and honestly and in a way that permits as many as possible to flourish. However, as we have seen, the ethical standards by which business is conducted can vary depending on culture and time. Geography and regional cultural practices also play a significant role. As global markets become increasingly connected and interdependent, we navigate more of our valued relationships across international boundaries.

Business as Global Relationships

Global relationships teach us to be sensitive not just to other languages and customs but also to other people's worldviews. A company looking to move its production to another country may be interested in setting up supply, distribution, and value chains that support human rights, worker safety, and equity for women, while the local culture is excited about the economic benefits it will gain from the company's investment in employment and the local tax base and infrastructure. These goals need not be in conflict, but they must be integrated if the company is to reach an ethically sound agreement with the host country. Dialogue and openness are crucial to this process, just as they are in every other kind of relationship.

Geography affects a business's relationship with almost any type of stakeholder, from stockholders and employees to customers, the government, and the environment. Hence the growing importance of **localization**, the process of adapting a product for non-native environments and languages, especially other nations and cultures. Such adaption often starts with language translation but may include customizing content or products to the tastes and consumption habits of the local market; converting currencies, dates, and other measurements to regional standards; and addressing community regulations and legal requirements.

Research has shown that successful leaders and organizations with global responsibilities "need to understand and exceed the leadership expectations in the cultures they are interacting with."²¹ In its study of leadership effectiveness and organizational behavior across cultures, the GLOBE leadership project of the Beedie School of Business at Simon Fraser University in Vancouver, Canada, found leader effectiveness is contextual and strongly connected to cultural and organizational values. The study also concluded that, although leaders learn to adapt to cultural expectations, they often have to exceed those expectations to be truly successful.²² In other words, business has a role beyond merely reflecting the culture in which it operates.

One element of business culture you may not realize is based on local custom and culture is the notion of time. Unlike the notion of historical time discussed in the previous module, the concept of time in

business—people’s approach to punctuality, for example—varies widely in different cultures. To put it in economic terms, all cultures share the resource of time, but they measure and use that resource very differently. These differences might significantly affect the foundation of any business relationships you may want to establish around the world. For this and many other reasons, basic cultural literacy must be at the forefront of any ethical system that governs business behavior.

Consider, for example, that in the United States, we might speak of “a New York minute,” “the nick of time,” “the eleventh hour,” and so on. Such expressions make sense in a culture where the enculturation process emphasizes competition and speed. But even among Western business cultures, conceptions of time can differ. For example, the Italian *subito* and the German *sofort* both refer to something happening “at once” or “straightaway,” but with different expectations about when the action, in fact, will take place. And some cultures do not measure the passage of time at all.

Generally, the farther east and south we travel from the United States, the more time becomes relational rather than chronological. In Kenya, *tutaonana baadaye* means “see you later,” although “later” could be any time, open to context and interpretation. The nomadic inhabitants of North Africa known as the Tuareg sit down to tea before discussing any business, and as a rule, the longer the time spent in preliminary conversation, the better. A Tuareg proverb has it that the first cup of tea is bitter like life, the second sweet like love, and the third gentle like death.²³ Compare this with the Western attitude that “time flies” and “time is money.” Finally, Westerners doing business in some English-speaking African countries have learned that if they want something immediately, they have to say “now now” as “now” by itself does not convey the desired sense of immediacy.

Another aspect of international business relationships is the question of personal space. In Nigeria, for example, standing either too close or too far from someone to whom you are speaking might be seen as impolite. In some cultures, touch is important in establishing connection, whereas in others it may be frowned upon. As a general rule, “contact” cultures—where people stand closer together when interacting, touch more often, and have more frequent direct eye contact—are found in South America, the Middle East, and southern Europe, while “noncontact” cultures—where eye contact and touching are less frequent, and there is less physical proximity during interactions—are in northern Europe, the Far East, and the United States. So, the seemingly innocuous gesture of a handshake to cement a new business relationship might be viewed very differently depending on where it occurs and who is shaking hands.

All of this speaks to the awareness and cultural sensitivity that must be exhibited by an ethical manager doing business in a region different from his or her own. Certain mistakes, particularly accidental ones and those not motivated by malicious design, will likely be forgiven. Still, a global ethical demeanor requires that we be as conscious as possible as to what constitutes courtesy wherever we find ourselves conducting business.

WHAT WOULD YOU DO?

Tucked In, Tucked Out

Time and space are just two examples of cultural characteristics that you may take for granted but that are not universal. Business attire is another, as is humor, which is notoriously hard to translate across languages and cultures. And, of course, miscommunications can occur not just across regional boundaries and business cultures but even within them. For example, unless you are a barista at a

hipster coffee bar, it may not be a good idea to wear piercings, tattoos, or colorfully dyed hair to work. Employers have the right to establish a dress code and expect employees to abide by it.

In the movie *The Intern*, Robert De Niro's senior character wears conservative blue and gray suits to his job at an e-commerce fashion startup, whereas the younger men dress very casually. At one point in the film, De Niro's character asks, "Doesn't anybody tuck in their shirt?" Leaving your shirt untucked has become more acceptable in recent years, and the black t-shirt and jeans favored in Silicon Valley are now quite fashionable in some business environments.

Many today would disagree with the old adage that "clothes make the man," yet studies show that well-dressed employees are held in higher esteem and may earn more, on average, than those who dress down. The age of uncomfortable dresses and starched white shirts may be over, but cultural standards, along with underlying values that prioritize, say, innovation over uniformity, change over time and even within the same company.

Critical Thinking

- How do you think clothing choices affect the relationships we form at work or in other business situations?
- What is your opinion about workplace dress codes, and how far should employers go in setting dress and other behavior standards? Why are these standards important (or not) from an ethical perspective?
- How do you think clothing might affect an international company's approach to business ethics?

LINK TO LEARNING

The Italian Jesuit priest Matteo Ricci (1552–1610) learned Mandarin, adopted Chinese dress, translated Confucian texts into Latin, and was welcomed into the Chinese emperor's court as a scholar. His message was religious, not commercial, but his respectful attitude allowed him to be accepted and trusted by the emperor and administrators. Learn more about [Ricci's approach and the relationship between Western and Ming Chinese views of ethics \(https://openstax.org/l/53Ricci\)](https://openstax.org/l/53Ricci) on this webpage.

Religion and Ethics

A major factor in the difference that geography and culture make in our ethical standards is the influence of religious practice. For example, just as the current debate over the redistribution of goods and services has Christian roots, so the Industrial Revolution in England and northern Europe looked to Protestant Christianity in particular for the values of frugality, hard work, industriousness, and simplicity. Until the seventeenth century, religion and ethics were nearly inseparable. Many believed that people could not be persuaded to do the right thing without the threat of eternal damnation. The Enlightenment's attempt to peel religion away from ethics was short-lived, with even Kant acknowledging the need to base morality on something beyond the rationalism of his time.

Religions are neither uniform nor monolithic, of course, nor are they unchanging over time. The core of Christianity, for instance, does not change, but its emphasis in any given period does. Moreover, the state or

crown often worked side by side with the church in the past, choosing certain teachings over others to promote its own interests. This cooperation was evident during the era of mercantilism when the issue of personhood, or the privilege of having the freedom and capacity to make decisions and act morally, was hotly debated in the context of slavery, a practice that had been going on for centuries in the Christian West and the Islamic East. Although the church officially opposed slavery, the conquest of new lands was justified theologically as bringing salvation and civilization to populations considered savage and unsophisticated. Christianity was thought to save them from their pagan ways just as Islam and the message of the prophet saved unbelievers in the East. Behavioral norms for the clergy were founded and supported by the divine right of kings and the authority of religious tradition (Figure 5.6). Commerce and trade followed these norms.



Figure 5.6 Just as concepts of time and space vary from culture to culture, so do the influence of religious tradition and authority on ethics and what is considered appropriate behavior, whether individual or corporate. The Taj Mahal is not the Palace of Versailles. (credit left: modification of “Taj Mahal” by Suraj rajiv/ Wikimedia Commons, CC BY 4.0; credit right: modification of “Cour de Marbre du Château de Versailles October 5, 2011” by Kimberly Vardeman/Wikimedia Commons, CC BY 2.0)

By the time of the Industrial Revolution and postindustrial eras, Protestantism and its values of frugality, hard work, and simplicity (the “Protestant ethic”) had helped create a culture of individualism and entrepreneurship in the West, particularly in Great Britain and the United States. In fact, the Protestant work ethic, religion, and a commitment to hard work all are intertwined in the business history of both these countries. One example of this singular association is John D. Rockefeller, who, in the late nineteenth and early twentieth centuries, commanded the attention given today to Bill Gates and Warren Buffet as emblems of free enterprise.

No one was more convinced of the link between religious faith and success in business than Rockefeller, who clung to his Baptist faith from his early years until his death in 1937. The richest person of his age, Rockefeller earned his fortune as the founder and major shareholder of Standard Oil but always regarded his billions as a public trust rather than his personal prize. “As his fortune grew big enough to beggar the imagination, [Rockefeller] retained his mystic faith that God had given him money for mankind’s benefit . . . or else why had He lavished such bounty on him?”²⁴ Despite criticism, even from family members, Rockefeller donated enormous sums to many causes, especially medical research (in the form of Rockefeller University) and higher education. He financed the founding of the University of Chicago as an institution that would train students to pursue their professional and business interests under the guidance of Christian faith.

Still, as Ida Tarbell pointed out in her work, Rockefeller’s business ethics were not above reproach. In making his fortune, he pursued markedly Darwinian practices revealing a conviction in survival of the fittest. Later in life, and as his philanthropic motivation increased, his endowment of several charitable causes more fully reflected his belief as to how God wished him to dispose of a sizable portion of his wealth.

LINK TO LEARNING

Watch this [episode of “American Experience” on John D. Rockefeller, Sr. from the Public Broadcasting System \(https://openstax.org/l/53Rockefeller\)](https://openstax.org/l/53Rockefeller) to learn more about him.

Of course, Rockefeller’s concept of stewardship—an attitude toward money and capital that stresses care and responsibility rather than pure utility—can be found across cultures and religions in various forms, and there are many similarities among the Judaic, Islamic, and Christian views of money and its use toward a greater end. All three of these religions teach that no harm should be done to others, nor should people be treated as means toward a material end like wealth. Yet what role does a religious concept of stewardship play in the ethics of the twenty-first century? The Enlightenment attempted to separate religion and ethics but could not. Are the two concepts inextricably linked? Might the business leaders of today succeed where the Enlightenment failed?

Although religious practices and cultural assumptions remain strongly in place, fewer people in the West today profess a religion than in the past.²⁵ Does this development affect the way you approach business relationships and conduct negotiations? Might we see a universal, secular code of ethics developing in place of religion? If so, how would it accommodate the differences across time, regions, and cultures discussed in this chapter? The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in December 1948, contains a list of basic human rights such as the right to life, liberty, due process, religion, education, marriage, and property. Business ethics will have to balance all these factors when adopting standards of conduct and local practices.

WHAT WOULD YOU DO?

Ramadan

Jillian Armstrong leads an external audit team reviewing the financial statements of Islamabad Investment Bank in Islamabad, Pakistan. It is Ramadan, and the employees on her team are Muslims who fast each day for a month. Jillian has never fasted and believes the practice can be harmful over prolonged periods, especially in the heat of summer. She proposes several times that team members keep up their strength by drinking water or tea, but her suggestions are met with awkward silence. She has decided to leave well enough alone as long as everyone does their work, but now she faces a dilemma. What should she do for lunch? Should she eat in her office, out of sight of the team and bank employees? Have lunch in one of the local restaurants that cater to Westerners? Or perhaps fast with her team and eat at sundown?

Critical Thinking

- What do you think would be the effect of Jillian’s accepting the local custom but continuing her own personal preference at mealtimes?
- Can two ways of life exist side by side at work? Why or why not?

5.4 Are the Values Central to Business Ethics Universal?

Learning Objectives

By the end of this section, you will be able to:

- Explain the difference between relative and absolute ethical values
- Discuss the degree to which compliance is linked with organizational responsibility and personal values
- Identify the criteria for a system of normative business ethics
- Evaluate the humanistic business model

One of the perennial themes in business ethics—indeed, in ethics in general—is the difference between relative and absolute values. Is it possible to identify a set of universal values that is consistent across cultures and time? We might begin with always honoring the terms of a contract, consistently treating customers and partners with honesty, and never cheating. Where could we go from there? No matter our culture, geography, or time, could we identify some basic normative behaviors to govern business conduct in general?

Absolute Values versus Relative Values

To put this question another way, is there a set of **universal values** that all can endorse? Are there “human values” that apply everywhere despite differences in time, place, and culture (Figure 5.7)? If not, and if ethical standards are relative, are they worth having? Again, the UN Universal Declaration of Human Rights is a useful starting point for the way business can conduct itself. Let us look at how it is possible to align business with human rights in such a way that both profitability and responsibility are honored across the globe.



Figure 5.7 The pursuit of happiness is as near a universal human trait as we can find. It is not a coincidence that it appears in the American Declaration of Independence (1776), which was written by Thomas Jefferson and inspired by the British Enlightenment philosopher John Locke. However, the nature of human happiness is subjective. For example, everyone must eat to survive, but not everyone would agree that eating chocolate-raspberry cake brings happiness. (credit: “Happiness Is a Piece of Cake Close Up Photography” by Antonio Quagliata/Pexels, CC0)

According to the Union Internationale des Avocats, an international, nongovernmental association of legal professionals, corruption “corrodes the democratic principles of accountability, equality, and transparency. It

poses an extremely high cost to the citizenry, it saps the credibility of government and it places companies under an unbearable economic burden.”²⁶ The UN Convention Against Corruption has called corruption “an insidious plague” that exists everywhere and “hurts the poor disproportionately by diverting funds intended for development, undermining a Government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment.”²⁷ Corruption appears to exist everywhere, so it would seem to require a persistent and consistent answer everywhere. Can business ethics provide one?

Business ethics exists on three levels: the individual, the organizational, and the societal. At the organizational and societal levels, laws, regulations, and oversight can go a long way toward curtailing illegal activity. Business ethics motivates managers to (1) meet legal and industry governing and reporting requirements and (2) shape corporate culture so that corrupt practices such as bribery, embezzlement, and fraud have no place in the organization. In the ideal case, the organization’s culture never allows the latter, because scandals not only damage reputations but they make companies and countries much less attractive to investors. Corruption is expensive: According to the World Economic Forum, no less than \$2 trillion is lost each year worldwide as a result of corruption, a staggering waste not just of resources but of credibility for business in general.²⁸

At the individual level, when corruption takes place, it is a matter of conscience. Corruption can be defeated only by individuals acting in accordance with their conscience and being supported by systems and corporate culture that encourage such action. Transparency, whistleblower programs, ethics training, and modeling of appropriate behavior by upper management can create the conditions for employees to act ethically, but conscience is a personal phenomenon. So, although the work of national, regional, and international organizations can limit corruption through enforcement and the prosecution of cases (as was the case with the revelation of the so-called Panama Papers), corruption will not be reduced in any significant way unless efforts have been made to form individual conscience and teach practical ways to act on it.

LINK TO LEARNING

Read the [article “Perspective: Panama Papers and ‘responsible’ journalism” on the Panama Papers and how journalists might hold the corporate world to account in cases of fraud and corruption](https://openstax.org/l/53PanamaPapers) (<https://openstax.org/l/53PanamaPapers>) for a detailed explanation.

Although ethical practice has been directly influenced by religion, as noted, ethics is not religion and religious belief is not a prerequisite for a commitment to business ethics. For example, although what constitutes ethical behavior in Islamic society is strongly linked to religious values, secular philosophers can endorse a highly developed commitment to commercial ethics, too. Furthermore, most religions have high ethical standards but do not address many of the problems faced in business. And although a good system of law incorporates ethical standards, the law can and sometimes does deviate from what is ethical. Finally, in the same vein, ethics is not science. The social and natural sciences provide data to make better ethical choices, but science cannot tell people what they ought to do (nor should it).

Absolute values do exist. Abstaining from cheating customers, defrauding clients, lying, and murder are fairly objective ethical values; the reason for making any exceptions must be carefully laid out. Ethical systems, whether utilitarian, rights based, or based on natural law and virtue ethics, are attempts to translate absolute values like these into workable solutions for people. From these systems has emerged a basic set of ethical norms for the business world.

Business Ethics and Compliance

A hallmark of any profession is the existence of ethical guidelines, often based on values like honesty, integrity, and objectivity. Organizational responsibility is fairly straightforward: Comply with applicable local, state, national, and international regulations. Compliance can be an immense task for industries like aerospace, pharmaceuticals, banking, and food production, due to the large number of employees involved, the certification of them that sometimes is necessary, and the requisite record keeping. Still, legal requirements are usually clear, as are the ways an organization can exceed them (as do, for example, companies such as Whole Foods, Zappos, and Starbucks). Personal responsibility is a different matter. It is either less clear what to do or harder to do it because of constant pressure to increase the organization's profitability and the perception that "everybody else is doing it."²⁹

In the United States, companies spend more than \$70 billion annually on ethics training; worldwide, the figure is more than double that.³⁰ Unfortunately, in the United States, much of this money is spent on merely meeting the minimum requirements of compliance, so that if there is ever a problem with the Department of Justice or the Securities and Exchange Commission, the organization is insulated from criticism or liability because its employees have engaged in the recommended training. Federal Sentencing Guidelines for felonies and serious misdemeanors now carry mandatory prison time for individual executives who are convicted. These guidelines also are designed to help organizations with compliance and reporting, and they introduce seven steps toward that end: (1) create a Code of Ethics, (2) introduce high-level oversight, (3) place ethical people in positions of authority, (4) communicate ethics standards, (5) facilitate employee reporting of misconduct, (6) react and respond to instances of misconduct, and (7) take preventive steps.

Many organizations focus on the letter of the law so that they can claim "good faith" in their effort to create an ethical environment. However, middle managers and employees often complain their ethics training consists of passing a computerized sexual harassment or fraud program once a year but that nothing is done to address issues in a substantive way or to change the culture of the organization, even those that have experienced problems.³¹ The focus still seems to be on organizational responsibility and compliance as opposed to individual responsibility and the formation of ethical conscience. We might argue that it is not the business of business to form people in their conscience, but the result of not doing so has become expensive for everyone concerned.³²

The damage done to an organization's or government's reputation due to scandal can be enormous and long lasting. The 2017 conviction for bribery and embezzlement of Lee Jae-yong, heir to the Samsung electronics empire, was part of a widespread corruption scandal that brought down the president of South Korea. Bribery was also at the heart of the FIFA (Fédération Internationale de Football Association) corruption scandal, in which soccer officials, marketing executives, and broadcasters were accused of racketeering, wire fraud, and money laundering by the U.S. Department of Justice in 2015. The Volkswagen emissions scandal also began in 2015, when the Environmental Protection Agency cited the German automaker for violating the Clean Air Act by cheating on emissions tests. To date, the fallout has cost the company nearly \$30 billion in fines.

As the LIBOR (London Interbank Offered Rate) scandal, in which banks were manipulating rates to profit from trades, showed, ethical breakdowns often occur because systems fail or people make bad decisions, and sometimes both. In the case of LIBOR, the United Kingdom's Serious Fraud Office determined there were inadequate systems of oversight in the setting of rates and that individual executives encouraged rate fixing, which led to the conviction of several traders, at least one of whom still maintains his innocence.³³ The result was a staggering \$6 billion cumulative fine for the banks involved (i.e., Barclay's, J.P. Morgan Chase, Citicorp, Royal Bank of Scotland, and Deutsche Bank).³⁴

LINK TO LEARNING

Read this [article on the LIBOR scandal and the consequences \(https://openstax.org/l/53LIBOR\)](https://openstax.org/l/53LIBOR) for an in-depth overview.

If there is anything to be learned from these scandals, it is that organizations will succumb to ethics crises if they do not pay attention to their organizational culture and foster their employees' growth as moral beings. This is even more important in industries like banking that are more susceptible to unethical behavior because of the great sums of money that change hands. Compliance is important, but business managers must attempt to go above and beyond to clearly model and enforce the highest standards of ethical behavior.

Normative Business Ethics

Normative business ethics should address systemic issues such as oversight and transparency as well as the character of individuals who make up the organization. Human flourishing may not be the immediate concern of business, but managers and employees have a significant impact on business performance. Giving employees common-sense advice and training in practical ways to counter unethical behavior, as well as ethical role models at the top of the organization, can be more effective than prevention. There are programs that do this, such as "Giving Voice to Values" at the Darden School of Business at the University of Virginia.³⁵ These programs are effective for their ability to help individuals act on their principles. As effective as they may be, however, they beg the larger question not of how someone can act on what their conscience tells them but how to determine what their conscience is telling them in the first place.

One model of ethical behavior, sometimes called the **humanistic business model**, may provide the answer for businesses that wish to achieve the dual goal of human flourishing and responsible profits. In this model, organizations focus on employees as a vital part of the operation and support them in their professional training, health care, education, family responsibilities, and even spiritual concerns. Leaders create positive relationships with stakeholders, including their employees, to cultivate investor goodwill and because they believe in the underlying values of trust and authenticity. The influence of positive psychology is evident, and there is much to commend in this kinder approach to the job of management that makes an effort to establish "sustainable human welfare."³⁶ However, happy employees are one thing; the human flourishing identified by Aristotle and John Stuart Mill is quite another. What, then, is missing from humanistic business?

The problem is that if anything flourishes in this model, it is often the business rather than the employees. After all, free enterprise has the interests of the enterprise at heart. But employees are human beings first, which means any attempt to improve their welfare must begin by thinking of them as human beings rather than as employees. How can businesses do this?

One alternative is to put the humanities into business. Businesses currently rely heavily on data analytics, algorithms, and statistical analyses to drive decision-making. The use of these tools is often backed by social science research in consumer behavior, behavioral finance, and cognitive studies. But looking to the humanities to understand business is an opportunity to engage business in subjects and ideas that have a tremendous, if often overlooked, impact on people. After all, literature that has stood the test of time can provide tremendous insight into human behavior, and Homer or Shakespeare may be more relevant to contemporary executive leadership than a business seminar on how to motivate employees.

In fact, we could argue that anything that makes an impact on people should legitimately be within the scope of business. Richard DeGeorge (1933–) of the University of Kansas describes what adding the humanities to business education entails:

“Students do not need psychosociological jargon in their business interactions. They do need to understand people and their motives, to know how to read and judge character, and to have the ability to imagine themselves in another’s shoes, be they those of a competitor, a boss, or a subordinate. For those dedicated to the case method, novels, short stories, and plays offer an inexhaustible storehouse of riches, more detailed, subtle, and complete than most cases written up for courses.”³⁷

In DeGeorge’s humanities model, business ethics would not prepare students to *do* certain things, for which they likely will be trained by their employers, but to *be* certain persons. DeGeorge suggests that “a course in the philosophy of business would enable students to think about the foundations of business—its values, ends, purpose, and justification . . . philosophy could add a critical element to business education, an element that would keep business education always alive and prevent it from becoming an accepted, orthodox ideology.”³⁸

Finally, if normative business ethics is to recognize and, ultimately, be based on the individual, it must address another human trait: bias. Intellectual, emotional, and social biases affect all decision-making, including those of an ethical nature. Some bias is good, as in having a favorable disposition toward those who work hard in intellectually honest ways. Bias also rewards those who support and nurture the best elements of a culture, whether corporate, social, or political. But it becomes dangerous when people use it to blind themselves to the reality around them, reinforce hardened positions even in the face of contradictory evidence, and shirk their responsibility as moral beings.

An example of bias occurs when employees engage in unethical activity because it has been sanctioned by higher-ups. They abdicate personal responsibility by assigning blame elsewhere. However, no amount of rationalization of the fear of job loss, financial pressure, desire to please a supervisor, and the rest, can justify such behavior, because it diminishes **moral agency**, the self-awareness, freedom, and ability to make choices based on our perception of right and wrong. And such agency needs to be at the heart of business ethics. After all, we cannot make a commitment to serve customers, develop leaders, and improve life for all stakeholders unless there is freedom and moral agency, the necessary ingredients in establishing an attitude of concern, that is, respect for oneself and for others, including all appropriate stakeholders.

ETHICS ACROSS TIME AND CULTURES

“What’s Love Got to Do with It?”

Philosopher and historian Martin Buber (1878–1965) taught that love is not a feeling but a responsibility of one person for another. Feelings may come and go, but the solidarity that people have with each other and the care they take with one another define them as human beings ([Figure 5.8](#)). Thus, love, as responsibility, depends on relationships based on good faith and concern. Business, too, is about relationships. Without a relationship of trust, there can be no exchange of goods or services upon which economies are built.

Many people question the place of love in a business setting. When seen from Buber’s perspective, however, love is not an idyllic feeling but a driving force for justice and care. This does not deny the need

for profit and financial success. It simply emphasizes the other side of the twofold purpose of business (profit and responsibility). In fact, John Mackey, the founder of Whole Foods, has said that love has been the basis of his success in business, which translates into care and concern for customers beyond profit and for workers beyond productivity (Figure 5.8).³⁹



Figure 5.8 If there is anything that transcends time, place, and culture, it is love. The search for a universally applied set of ethics always comes back to it. But what does love look like in a business setting? (credit: “Love Is All You Need Signage” by Jacqueline Smith/Pexels, CC0)

Recall the statement by IBM quoted earlier in the chapter: “[IBM] remain[s] dedicated to leading the world into a more prosperous and progressive future; to creating a world that is fairer, more diverse, more tolerant, more just.”⁴⁰

Critical Thinking

- Can Martin Buber’s notion of love play a role in business? What would that look like?
- What responsibilities do companies have regarding justice and care? Should business ethics be grounded only on more concrete tenets? Why or why not?



Key Terms

acculturation the cultural transmission and socialization process that stems from cultural exchange

consumerism a lifestyle characterized by the acquisition of goods and services

enculturation the process by which humans learn the rules, customs, skills, and values to participate in a society

humanistic business model a business model for balancing profitability and responsibility fairly, especially with regard to stakeholders

localization the process of adapting a product for non-native environments and languages, especially in other nations and cultures

mercantilism the economic theory that global wealth is static and prosperity comes from the accumulation of wealth through extraction of resources or trade

moral agency the self-awareness, freedom, and ability to make choices based on one's perception of right and wrong

universal values ethical principles that apply everywhere despite differences in time, geography, and culture



Summary

5.1 The Relationship between Business Ethics and Culture

Culture has a tremendous influence on ethics and its application in a business setting. In fact, we can argue that culture and ethics cannot be separated, because ethical norms have been established over time by and make sense to people who share the same background, language, and customs. For its part, business operates within at least two cultures: its organizational culture and the wider culture in which it was founded. When a business attempts to establish itself in a new environment, a third culture comes into play. With increasingly diverse domestic and global markets and the spread of consumerism, companies must consider the ethical implications of outsourcing production and resist the temptation to look the other way when their values are challenged by the reality of overseas supply or distribution chains.

5.2 Business Ethics over Time

As a function of culture, ethics is not static but changes in each new era. Technology is a driving force in ethical shifts, as we can see in tracing changes from the age of mercantilism to the Industrial Revolution to the postindustrial era and the Information Age. Some of the most successful recent efforts to advance ethical practices have come from influences outside industry, including government regulation and consumer pressure.

5.3 The Influence of Geography and Religion

Business is primarily about relationships—with employees, business partners, and customers and clients. Ethical standards and practices governing these relationships depend on the environment they exist in, an environment that, in turn, depends on additional factors such as geography and religion. Religion's role in business is less certain today; we are perhaps more likely to see a universal, secular code of ethics develop than to see religion serve as common ground for different cultures to come together.

5.4 Are the Values Central to Business Ethics Universal?

Any system of business ethics must consider the processes of enculturation and acculturation as well as the fact that ethical standards may shift depending on geography or time, even if certain underlying ethical values

(e.g., prohibitions against lying, fraud, or murder) may remain constant. It is usually in a business's best interest to promote human flourishing within the organization, providing comprehensive training along a humanistic business model, which applies the social sciences to ensure profitability and responsibility in an organization as well as happy, productive employees.



Assessment Questions

1. The fact that a McDonald's in Indonesia might provide *sambal* chili sauce to its customers rather than ketchup is as an example of _____.
 - A. acculturation
 - B. consumerism
 - C. enculturation
 - D. globalization
2. What is the major difference between enculturation and acculturation?
3. How might consumerism be at odds with the growing concern for business ethics?
4. True or False? Globalization is evidence that business is culturally neutral.
5. Protecting owners' interests was a common feature of _____.
 - A. the Industrial Revolution
 - B. the Information Age
 - C. the Dodd-Frank Act
 - D. muckraking
6. True or false? All ethical standards are relative and should be treated as such.
7. True or false? The United Nations Global Compact is a set of standards that is binding worldwide.
8. What did the decision in *Shlensky v. Wrigley* (1968) establish in ethical terms? How does it compare to the decision in *Dodge v. Ford Motor Company* (1919)?
9. Values of Protestant Christianity were often used to justify _____.
 - A. mercantilism
 - B. Standard Oil's overseas investments
 - C. business success during the Industrial Revolution
 - D. secular humanism
10. True or false? Religion continues to be a forceful influence on ethical systems.
11. Define localization and name at least three items that might be included as part of a localization effort.
12. How would you reconcile cultural differences between so-called contact and noncontact cultures in the context of business negotiations?

13. Businesses today are concerned with balancing profitability with responsibility. Therefore, they should _____.
- pay attention to culture
 - go beyond compliance
 - hire moral people
 - hire outside consultants to monitor their supply chain.
14. What are the levels upon which business ethics exists?
- compliance and governance
 - federal, state, and local
 - normative and descriptive
 - individual, organizational, and societal
15. Why is conscience the locus or center of ethical behavior in business?
16. Describe the challenge of identifying a universal set of ethics.
17. How does humanities in ethics differ from a humanistic business model?



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What Employers Owe Employees

Figure 6.1 Fifty years ago, corporate and regulatory boardrooms were almost exclusively male and white, as this meeting of the Federal Open Market Committee, an executive committee of the Federal Reserve banking system, demonstrates. How much has this changed today? (credit: modification of “FOMC meeting, 1970s” by Harris & Ewing/Wikimedia Commons, Public Domain)

Chapter Outline

- 6.1 The Workplace Environment and Working Conditions
- 6.2 What Constitutes a Fair Wage?
- 6.3 An Organized Workforce
- 6.4 Privacy in the Workplace



Introduction

The 2020 Gender Diversity Index shows that many *Fortune* 1000 boards of directors still lack diversity.¹ Women and minorities continue to be underrepresented at the chief executive officer (CEO) level too.² Does this sameness merely look bad, or are there ethical and business reasons why top U.S. management should be more diverse ([Figure 6.1](#))?

A demographic disconnect between leadership and workforce influences working conditions in many ways. For example, if more women held leadership roles, would workplace sexual harassment have come to light before the #MeToo movement? Would more companies offer paid family leave? If minorities were better represented at the executive level, would corporate lobbyists advocate differently for immigration and health care policies? When 70 percent of boardroom seats are occupied by white men,³ who make up only 30 percent of the population, many people’s views, ideas, and opinions will go unheard in decisions that affect their lives and livelihoods. We have seen progress, but much remains to be accomplished. Does management have an ethical duty to try to diversify top leadership? Whatever individual responses we might offer to each of these questions, a significant theme in this chapter is that ethical behavior in the workplace is most effectively

instituted when it is modeled by senior leadership.

6.1

The Workplace Environment and Working Conditions

Learning Objectives

By the end of this section, you will be able to:

- Identify specific ethical duties managers owe employees
- Describe the provisions of the Occupational Safety and Health Act
- Identify Equal Employment Opportunity Commission protections, including those against sexual harassment at work
- Describe how employees' expectations of work have changed

All employees want and deserve a workplace that is physically and emotionally safe, where they can focus on their job responsibilities and obtain some fulfillment, rather than worrying about dangerous conditions, harassment, or discrimination. Workers also expect fair pay and respect for their privacy. This section will explore the ethical and legal duties of employers to provide a workplace in which employees want to work.

Ethical Decision-Making and Leadership in the Workplace

A contemporary corporation always owes an ethical, and in some cases legal, duty to employees to be a responsible employer. In a business context, the definition of this responsibility includes providing a safe workplace, compensating workers fairly, and treating them with a sense of dignity and equality while respecting at least a minimum of their privacy. Managers should be ethical leaders who serve as role models and mentors for all employees. A manager's job, perhaps the most important one, is to give people a reason to come back to work tomorrow.

Good managers model ethical behavior. If a corporation expects its employees to act ethically, that behavior must start at the top, where managers hold themselves to a high standard of conduct and can rightly say, "Follow my lead, do as I do." At a minimum, leaders model ethical behavior by not violating the law or company policy. One who says, "Get this deal done, I don't care what it takes," may very well be sending a message that unethical tactics and violating the spirit, if not the letter, of the law are acceptable. A manager who abuses company property by taking home office supplies or using the company's computers for personal business but then disciplines any employee who does the same is not modeling ethical behavior. Likewise, a manager who consistently leaves early but expects all other employees to stay until the last minute is not demonstrating fairness.

Another responsibility business owes the workforce is transparency. This duty begins during the hiring process, when the company communicates to potential employees exactly what is expected of them. Once hired, employees should receive training on the company rules and expectations. Management should explain how an employee's work contributes to the achievement of company-wide goals. In other words, a company owes it to its employees to keep them in the loop about significant matters that affect them and their job, whether good or bad, formal or informal. A more complete understanding of all relevant information usually results in a better working relationship.

That said, some occasions do arise when full transparency may not be warranted. If a company is in the midst of confidential negotiations to acquire, or be acquired by, another firm, this information must be kept secret until a deal has been completed (or abandoned). Regulatory statutes and criminal law may require this. Similarly, any internal personnel performance issues or employee criminal investigations should normally be

kept confidential within the ranks of management.

Transparency can be especially important to workers in circumstances that involve major changes, such as layoffs, reductions in the workforce, plant closings, and other consequential events. These kinds of events typically have a psychological and financial impact on the entire workforce. However, some businesses fail to show leadership at the most crucial times. A leader who is honest and open with the employees should be able to say, “This is a very difficult decision, but one that I made and will stand behind and accept responsibility for it.” To workers, euphemisms such as “right sizing” to describe layoffs and job loss only sounds like corporate doublespeak designed to help managers justify, and thereby feel better (and minimize guilt), about their (or the company’s) decisions. An ethical company will give workers advance notice, a severance package, and assistance with the employment search, without being forced to do so by law. Proactive rather than reactive behavior is the ethical and just thing to do.

Historically, however, a significant number of companies and managers failed to demonstrate ethical leadership in downsizing, eventually leading Congress to take action. The Worker Adjustment and Retraining Notification (WARN) Act of 1989 has now been in effect for almost three decades, protecting workers and their families (as well as their communities) by mandating that employers provide sixty days’ advance notice of mass layoffs and plant closings ([Figure 6.2](#)). This law was enacted precisely because companies were not behaving ethically.

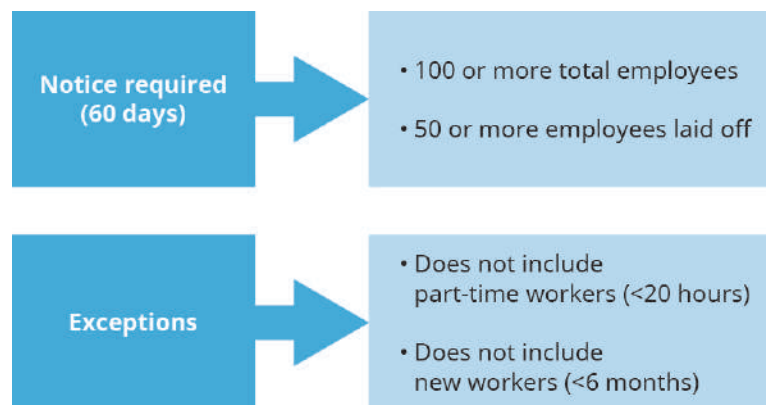


Figure 6.2 The WARN law mandates advance notice of mass layoffs to workers so that they can adequately prepare for such an event. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

A report by the Cornell University Institute of Labor Relations indicated that, prior to passage of WARN, only 20 percent of displaced workers received written advance notice, and those who did received very short notice, usually a few days. Only 7 percent had two months’ notice of their impending displacement.⁴ Employers typically preferred to get as many days of work as possible from their workforces before a mass layoff or closing, figuring that workers might reduce productivity or look for other jobs sooner if the company were transparent and open about its situation. In other words, when companies put their own interests and needs ahead of the workforce, we can hardly call that ethical leadership.

Other management actions covered by WARN include outsourcing, automation, and artificial intelligence in the workplace. Arguably, a company has an ethical duty to notify workers who might be adversely affected even if the WARN law does not apply, demonstrating that the appropriate ethical standard for management often exceeds the minimum requirements of the law. Put another way, the law sometimes is often slow to keep up with ethical reflection on best management practices.

Workplace Safety under the Occupational Safety and Health Act

The primary federal law ensuring physical safety on the job is the Occupational Safety and Health Act (**OSHA**), which was passed in 1970.⁵ The goal of the law is to ensure that employers provide a workplace environment free of risk to employees' safety and health, such as mechanical or electrical dangers, toxic chemicals, severe heat or cold, unsanitary conditions, and dangerous equipment. OSHA also refers to the Occupational Safety and Health Administration, which operates as a division of the Department of Labor and oversees enforcement of the law. This act created the National Institute for Occupational Safety and Health (NIOSH), which serves as the research institute for OSHA and enunciates appropriate standards for safety and health on the job.

Employer obligations under OSHA include the duty to provide a safe workplace free of serious hazards, to identify and eliminate health and safety hazards ([Figure 6.3](#)), to inform employees of hazards present on the job and institute training protocols sufficient to address them, to extend to employees protective gear and appropriate safeguards at no cost to them, and to publicly post and maintain records of worker injuries and OSHA citations.



Figure 6.3 Harry McShane, who celebrated his sixteenth birthday a month or so before this photo was taken by social reformer and photographer Lewis Wickes Hine, lost his left arm as a result of a workplace injury in May 1908 in Cincinnati, Ohio. McShane had already been working in the factory for more than two years. Before federal safety regulations (such as OSHA and FLSA), catastrophic injuries on the job were common, as was the presence of children in the workforce. McShane received no compensation for his injuries. (credit: modification of "Lewis Wickes Hines - Harry McShane 1908" by "Fordmadoxfraud"/Wikimedia Commons, Public Domain)

OSHA and related regulations give employees several important rights, including the right to make a confidential complaint with OSHA that might result in an inspection of the workplace, to obtain information about the hazards of the workplace and ways to avoid harm, to obtain and review documentation of work-related illnesses and injuries at the job site, to obtain copies of tests done to measure workplace hazards, and protection against any employer sanctions as a consequence of complaining to OSHA about workplace conditions or hazards.⁶ A worker who believes his or her OSHA rights are being violated can make an anonymous report. OSHA will then establish whether there are reasonable grounds for believing a violation exists. If so, OSHA will conduct an inspection of the workplace and report any findings to the employer and employee, or their representatives, including any steps needed to correct safety and health issues.

OSHA has the authority to levy significant fines against companies that commit serious violations. The largest imposed to date were against BP, the oil company responsible for the largest oil spill in U.S. history, discussed in the feature box on [BP Deepwater Horizon Oil Spill and Government Regulation](#). OSHA took into account that seventeen workers died on BP's rig, Deepwater Horizon, as a result of the initial explosion and fire in April 2010. Consequently, rig-worker safety was upgraded by statute. Total OSHA penalties issued to BP from 2005 to 2009 exceed \$102 million.⁷

Other large fines issued over the last thirty years include \$2.8 million against Union Carbide for violations related to an explosion and fire at its plant in Seadrift, Texas, in March 1991; \$8.2 million levied against Samsung Guam in the wake of numerous worksite accidents at Guam's International Airport in 1995; and \$8.7 million against Imperial Sugar in connection with an explosion at the company's plant in Port Wentworth, Georgia, in February 2008.⁸ More recently, OSHA fined the producers of *The Walking Dead* \$12,675 (the maximum allowable for a single citation) in the wake of the death of a stuntman working on an episode of the television show in Georgia in July 2017.⁹ These fines demonstrate that the agency is serious about trying to protect the environment and workers. However, for some, the question remains whether it is more profitable for a business to gamble on cutting corners on safety and pay the fine if caught than to spend the money ahead of time to make workplaces completely safe. OSHA fines do not really tell the whole story of the penalties for workplace safety issues. There can also be significant civil liability exposure and public relations damage, as well as worker compensation payments and adverse media coverage, making an unsafe workplace a very expensive risk on multiple levels.

LINK TO LEARNING

Read this [OSHA Fact Sheet about fines and penalties \(https://openstax.org/l/53OSHA\)](https://openstax.org/l/53OSHA) to learn more.

A Workplace Free of Harassment

Employers have an ethical and a legal duty to provide a workplace free of harassment of all types. This includes harassment based on sex, race, religion, national origin, and any other protected status, including disability. Employees should not be expected to work in an atmosphere where they feel harassed, prejudiced against, or disadvantaged. The two complaints most frequently filed with the Equal Employment Opportunity Commission (**EEOC**), which strives to eliminate racial, gender, and religious discrimination in the workplace, are sexual harassment and racial harassment. Together, these categories made up two-thirds of all cases filed during 2017. More than thirty thousand complaints of sexual, gender, racial, or creedal harassment are filed

each year, illustrating the frequency of the problem.¹⁰

The EEOC enforces Title VII of the Civil Rights Act (CRA) of 1964, which prohibits workplace discrimination including **sexual harassment**.¹¹ (As discussed elsewhere in the text, the CRA also protects employees from discrimination based on race, gender, religion, and national origin.) According to EEOC guidelines, it is unlawful to sexually harass a person because of that person's sex, either through explicit offers in exchange for sexual favors (known as *quid pro quo*) or through actions at a broader more systemic level that create a "hostile working environment." Sexual harassment includes unwelcome touching, requests for sexual favors, any other verbal or physical harassment of a sexual nature, offensive remarks based on a person's sex, and off-color jokes. The harasser can be the victim's supervisor (which creates company liability the first time it happens) or a peer coworker (which usually creates liability after the second time it happens, assuming the company had notice of the first occurrence). It can even be someone who is not an employee, such as a client or customer, and the law applies to men and women. Thus, the victim and the harasser both can be either a woman or a man, and offenses include both opposite-sex and same-sex harassment.

Although the law does not prohibit mild teasing, offhand comments, or isolated incidents that are not serious, harassment does become illegal when, according to the law, it is so frequent "that it creates a hostile or offensive work environment or when it is so severe that it results in an adverse employment decision (such as the victim being fired or demoted)."¹² It is management's responsibility to prevent harassment through education, training, and enforcement of a policy against it, and failure to do so will result in legal liability for the company.

Two relatively recent examples of workplace environments that descended into the worst excesses of sexist and other inappropriate behavior occurred at American Apparel and Uber. In both cases, principal leaders were mostly men who engaged in ruthless, no-holds-barred management practices that benefitted only those subordinates who most resembled the leaders themselves. Such environments may thrive for a while, but the long-term consequences can include criminal violations that produce hefty fines and imprisonment, bankruptcy, and radical upheaval in corporate management. At American Apparel and at Uber, these events resulted in the dismissal of each company's CEO, Dov Charney (who also was the founder of the company) and Travis Kalanick (who was one of the corporation's founders), respectively.¹³

In 2017 and 2018, a renewed focus on sexual harassment in the workplace and other inappropriate sexual behaviors brought a stream of accusations against high-profile men in politics, entertainment, sports, and business. They included entertainment industry mogul Harvey Weinstein; Pixar's John Lasseter; on-air personalities Matt Lauer and Charlie Rose; politicians such as Roy Moore, John Conyers, and Al Franken; and Uber's Kalanick, to name just a few ([Figure 6.4](#)).

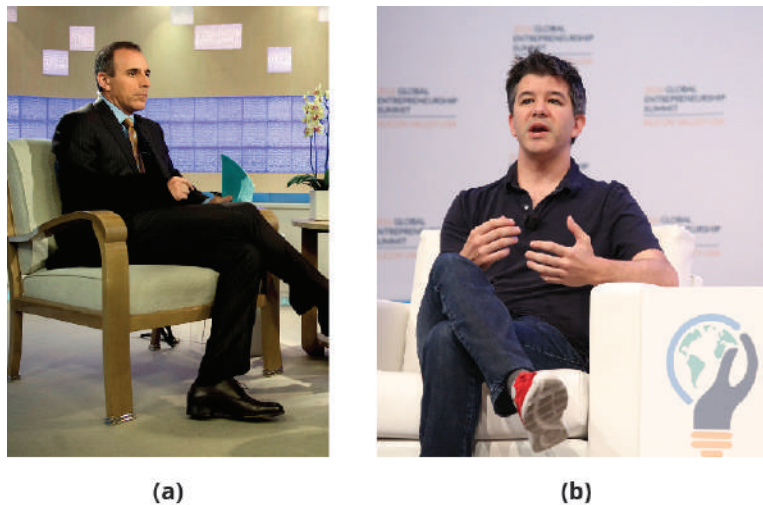


Figure 6.4 Major figures in the news and entertainment industries, as well as Silicon Valley, have been accused of sexual harassment and often terminated or forced into retirement. Examples include Matt Lauer of NBC (a) and Travis Kalanick at Uber (b). (credit a: modification of “Hires 090402-N-0696M-018b” by Chad J. McNeeley/Wikimedia Commons, Public Domain; credit b: modification of “GES Opening Plenary on June 23, 2016” by GES Photo/Flickr, Public Domain)

The workplace harassment problem has continued for many decades despite the EEOC’s enforcement efforts; it remains to be seen whether new public scrutiny will prompt a permanent change in the workplace. The Ford Motor Company serves as a relevant example. Decades after Ford tried to address sexual harassment at two Chicago-area assembly plants, the abuse at the plants evidently continues. According to legal action filed with the EEOC in the early 1990s, conditions for women working at some Ford auto assembly plants were hostile. Female employees alleged they were groped, that men pressed against them and simulated sex acts, and that men even masturbated in front of them. They further asserted that men would routinely make crude comments about the figures of female coworkers, and graffiti depictions of penises were everywhere—carved into tables, spray painted onto floors, and scribbled on walls. Managers and floor supervisors were accused of giving women better assignments in return for sex and punishing those who refused.¹⁴

In the 1990s, lawsuits and an EEOC action led to a \$22 million settlement in which Ford admitted to widespread misconduct and committed to crack down on the offenders. However, it seems Ford still did not learn its lesson, or, after almost three decades, the memory dimmed and they slipped right back into old habits. In August 2017, the EEOC reached a new \$10 million settlement with Ford for sexual and racial harassment at the two Chicago plants. Though Ford did not admit any wrongdoing in the recent settlement, it appears that neither millions of dollars in earlier damages nor promises by management led to any serious change. The *New York Times* interviewed some of the women at Ford,¹⁵ and Sharon Dunn, who was a party of the first case and is now again a party of the second, said, “For all the good that was supposed to come out of what happened to us, it seems like Ford did nothing. If I had that choice today, I wouldn’t say a damn word.”

A Satisfied Workforce

Although the workplace should be free of harassment and intimidation of every sort, and management should provide a setting where all employees are treated with dignity and respect, ideally, employers should go much further.

Most people spend at least one-third and possibly as much as one-half of their waking hours at work. Management, therefore, should make work a place where people can thrive, that fosters an atmosphere in which they can be engaged and productive. Workers are happier when they like where they work and when they do not have to worry about childcare, health insurance, or being able to leave early on occasion to attend a child's school play, for example. For our grandparents' generation, a good job was dependably steady, and employees tended to stay with the same employer for years. There were not many extras other than a secure job, health insurance, and a pension plan. However, today's workers expect these traditional benefits and more. They may even be willing to set aside some salary demands in exchange for an environment featuring perquisites (or "perks"; nonmonetary benefits) such as a park-like campus, an on-the-premises gym or recreational center, flextime schedules, on-site day care and dry cleaning, a gourmet coffee house or café, and more time off. This section will explore how savvy managers establish a harmonious, compassionate workplace while still setting expectations of top performance.

Happy employees are more productive and more focused, which enhances their performance and leads to better customer treatment, fewer sick days, fewer on-the-job accidents, and less stress and burnout. They are more focused on their work, more creative, and better team players, and they are more likely to help others and demonstrate more leadership qualities. How, then, does an employer go about the process of making workers happy? Research has identified several pitfalls that managers should avoid if they want to have a good working relationship with their direct reports and, indeed, all their employees.¹⁶ One is making employees feel like they are *just* employees. To be happy at work, employees, instead, need to feel like they know each other, have friends at work, are valued, and belong. Another pitfall is remaining aloof or above your employees. Taking an authentic interest in who they are as people really does matter. When surveys ask employees, "Do you feel like your boss cares about you?," too frequently the answer is no. One way to show caring and interest is to recognize when employees are making progress; another might be to take a personal interest in their lives and families. Asking employees to share their ideas and implementing these ideas whenever possible is another form of acknowledgement and recognition. Pause and highlight important milestones people achieve, and ensure that they feel their contributions are noticed by saying thank you.

Good advice to new managers includes making work fun. Allow people to joke around as appropriate so that when mistakes occur they can find humor in the situation and move forward without fixating simply on the downside. Celebrate accomplishments. Camaraderie and the right touch of humor can build a stronger workplace culture. Encourage exercise and sleep rather than long work hours, because those two factors improve employees' health, focus, attention, creativity, energy, and mood. In the long run, expecting or encouraging people to regularly work long hours because leaving on time looks bad is counterproductive to the goals of a firm. Accept that employees need to disengage sometimes. People who feel they are always working because their management team expects they must remain in touch via e-mail or mobile phone can become tremendously stressed. To combat this, companies should not expect their workers to be available around the clock, and workers should not feel compelled to be so available. Rather, employers should allow employees to completely disengage regularly so they can focus on their friends and families and tend to their own personal priorities. By way of international comparison, according to a recent article in *Fortune*, Germany and France have actually gone as far as banning work-related e-mails from employers on the weekends, which is a step in the right direction, even if only because disconnecting from work is now mandated by law.¹⁷

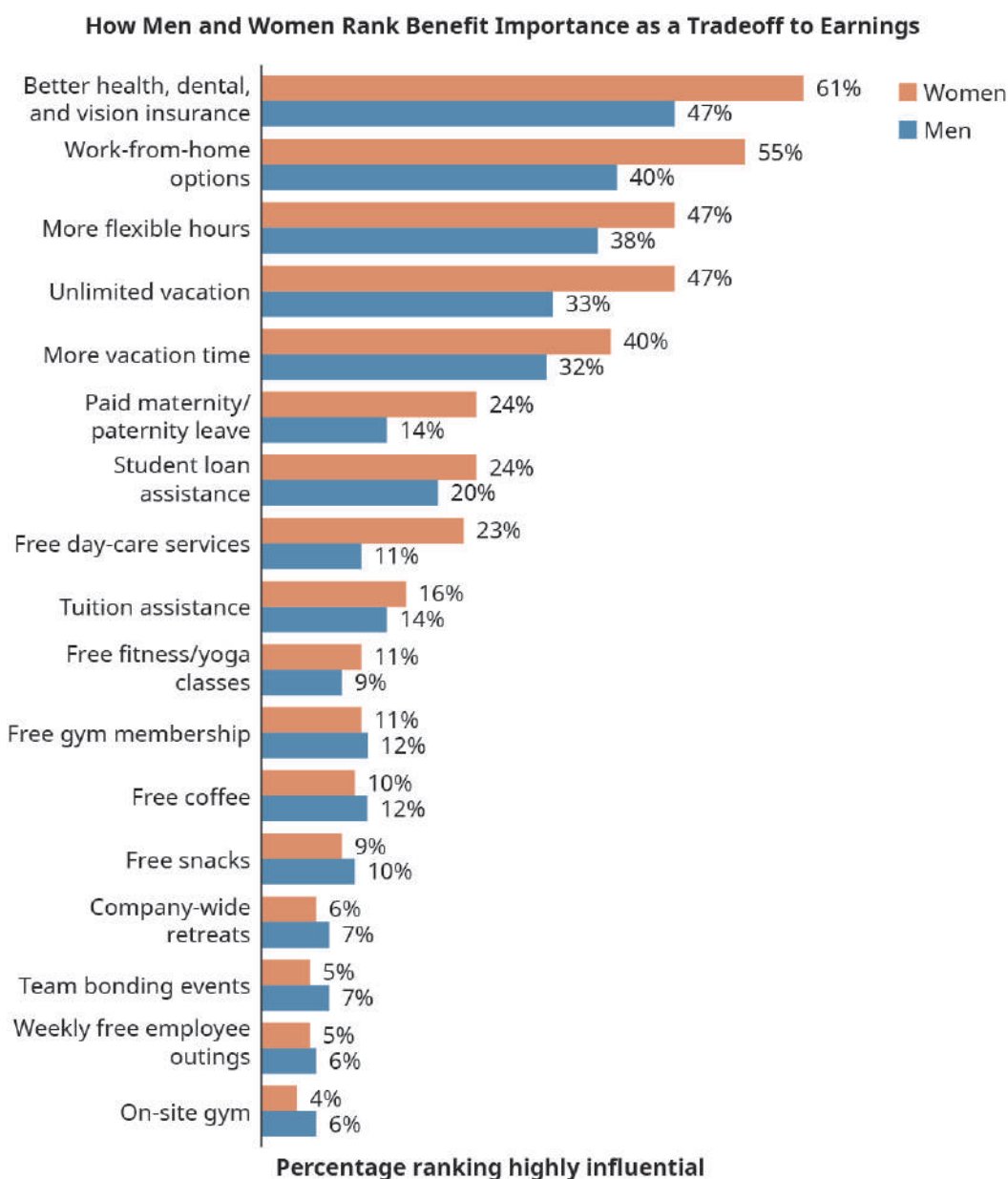
Employers must decide exactly how to spend the resources they have allocated to labor, and it can be challenging to make the right decision about what to provide workers ([Figure 6.5](#)). Should managers ask employees what they want? Benchmark the competition? Follow the founder's or the board's recommendations? How does a company make lifestyle benefits fair and act ethically when there is backlash against family-friendly policies from people who do not have their own families? Unlike the purchase of raw

materials, utilities, and other budgetary items, which is driven primarily by cost and may present only a few choices, management's offering of employee benefits can present dozens of options, with costs ranging from minimal to very high. Work-at-home programs may actually cost the company very little, for example, whereas health insurance benefits may cost significantly more. In many other industrialized countries, the government provides (i.e., subsidizes) benefits such as health insurance and retirement plans, so a company does not have to weigh the pros and cons (i.e., do a cost-benefit analysis) of what to offer in this area. In the United States, employee benefits become part of a cost-benefit analysis, especially for small and mid-sized companies. Even larger companies today are debating what benefits to offer.



Figure 6.5 Workplace or clubhouse? Some companies offer playful perks in an effort to attract the best employees and increase worker satisfaction. (credit: work by Jason Putsche Photography/Spark Baltimore, CC BY 4.0)

Management has to decide not only how much money to spend on benefits and perks but precisely what to spend the money on. Another decision is what benefit choices management should allow each employee to make, and which choices to make for the workforce as a whole. The best managers communicate regularly with their workforce; as a result, they are more likely to know (and be able to inform top management about) the types of perks most desired and most likely to attract and keep good workers. [Figure 6.6](#) shows that men and women do not always want the same benefits, which presents a challenge for management. For instance, many women place about twice as much value as many men do on day care (23%–11%) and on paid family leave (24%–14%). Also valued more highly generally by women than by men are better health insurance, work-from-home options, and flexible hours, whereas more men value an on-site gym and free coffee more than women typically do.



Source: Jones, Kerry. "The Most Desirable Employee Benefits." *Harvard Business Review*. Feb 15, 2017.
 (Some data from FRACLT. "The Cost of Employee Happiness." <http://www.frac.tl/employee-benefits-study/>)

Figure 6.6 As this chart shows, men and women view the importance of various benefits differently, even if their top-ranked benefits are the same (i.e., better insurance, work-from-home options, and more flexible hours). (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Age and generation also play a role in the types of perks that employees value. Workers aged eighteen to thirty-five rank career advancement opportunities (32%) and work-life balance (33%) as most important to them at work. However, 42 percent of workers older than thirty-five say work-life balance is the most important feature. This is likely because Generation X (born in the years 1965–1980) place a high value on opportunities for work-life balance, although, like Baby Boomers (born in the years 1946–1964), they also value salary and a solid retirement plan. On the other hand, Millennials (born in the years 1981–1997) appreciate flexibility: having a choice of benefits, paid time off, the ability to telecommute, flexible hours, and

opportunities for professional development.¹⁸

The menu of benefits and perks thus depends on several variables, such as what the company can afford, whether employees value perks over the more direct benefit of higher pay, what the competition offers, what the industry norm is, and the company's geographic location. For example, Google is constantly searching for ways to improve the health, well-being, and morale of its "Googlers." The company is famous for offering unusual perks, like bicycles and electric cars to get staff around its sprawling California campus. Additional benefits are generous paid parental leave for new parents, on-site childcare centers at one location, paid leaves of absence to pursue further education with tuition covered, and on-site physicians, nurses, and health care. Other perks are gaming centers, organic gardens, eco-friendly furnishings, a pets-at-work policy, meditation and mindfulness training, and travel insurance and emergency assistance on personal and work-related travel. On the death of a Google employee, his or her spouse or domestic partner is compensated with a check for 50 percent of the employee's salary each year for a decade. In addition, all a deceased employee's stock options vest immediately for the surviving spouse or domestic partner. Furthermore, a deceased employee's children receive \$1000 per month until they reach the age of nineteen, or until the age of twenty-three if they are full-time students.¹⁹

LINK TO LEARNING

Of course, Google is not the only company that offers good perks. Another is the software giant SAS. Glassdoor has an [article describing some interesting benefits offered by other companies](https://openstax.org/l/53perks) (<https://openstax.org/l/53perks>) in 2017. Do a quick comparison of a few of these companies. Do the perks influence your choice? Would you be willing to work for any of them?

In addition to offering benefits and perks, managers can foster a healthy workplace by applying good "people skills" as well. Managers who are respectful, open, transparent, and approachable can achieve two goals simultaneously: a workforce that is happier and also one that is more productive. Good management requires constant awareness that each team member is also an individual working to meet both personal and company goals. Effective managers act on this by regularly meeting with employees to recognize strengths, identify constructive ways to improve on weaknesses, and help workers realize collective and individual goals. Ethical businesses and good managers also invest in efforts like performance management and employee training and development. These commitments call for giving employees frequent and honest feedback about what they do well and where they need improvement, thereby enabling them to develop the skills they need, not only to succeed in the current job but to move on to the next level. Fostering teamwork by treating people fairly and acknowledging their strengths is also an important responsibility of management. Ethical managers, therefore, demonstrate most, if not all, of the following qualities: cultural awareness, positive attitude, warmth and empathy, authenticity, emotional intelligence, patience, competence, accountability, respectful, and honesty.

6.2 What Constitutes a Fair Wage?

Learning Objectives

By the end of this section, you will be able to:

- Explain why compensation is a controversial issue in the United States
- Discuss statistics about the gender pay gap
- Identify possible ways to achieve equal pay for equal work
- Discuss the ethics of some innovative compensation methods

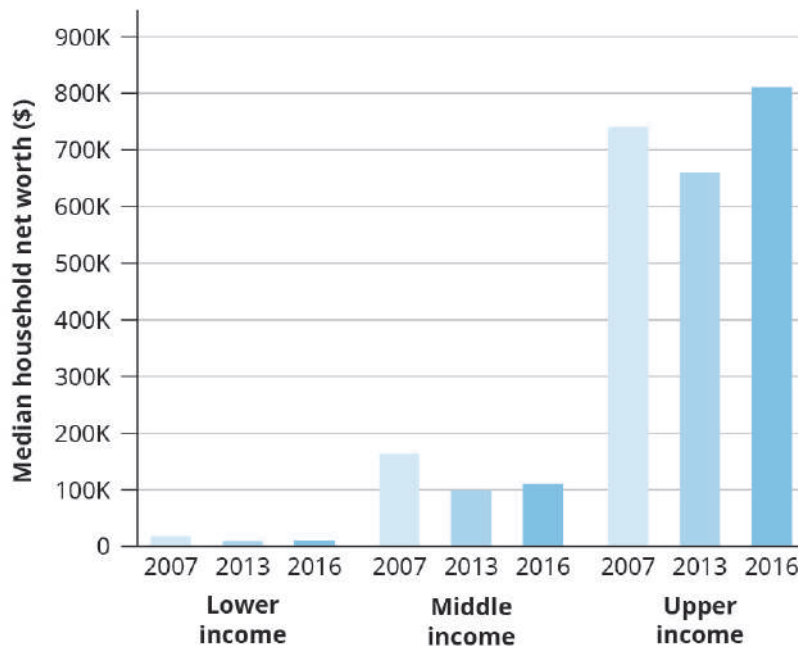
The Center for Financial Services Innovation (CFSI) is a nonprofit, nonpartisan organization funded by many of the largest American companies to research issues affecting workers and their employers. Findings of CFSI studies indicate that employee financial stress permeates the workplaces of virtually all industries and professions. This stress eats away at morale and affects business profits. A recent CFSI report details data showing that “85% of Americans are anxious about their personal financial situation, and admit that their anxiety interferes with work. Furthermore, this financial stress leads to productivity losses and increased absenteeism, healthcare claims, turnover and costs affecting workers who cannot afford to retire.”²⁰ The report also indicates that employees with high financial anxiety are twice as likely to take unnecessary sick time, which is can be expensive for an employer.

The CFSI report makes clear that ensuring workers are paid a fair wage is not only an ethical practice; it is also an effective way to achieve employees’ highest and most productive level of performance, which is what every manager wants. In the process, it also makes workers more loyal to the company and less likely to jump ship at the first sign of a slightly better wage somewhere else.

The concept of a fair wage has a greater significance than simply one worker’s pay or one company’s policy. It is an economic concept critical to the nation as a whole in an economic system like capitalism, in which individuals pay for most of what they need in life rather than receiving government benefits funded by taxes. The ethical issues for the business community and for society at large are to identify democratic systems that can effectively eradicate the financial suffering of the poorest citizens and to generate sufficient wages to support the economic sustainability of all workers in the United States. Put another way, has the real income of average American workers declined so much over the past few decades that it now threatens the productivity of the largest economy in the world?

Economic Data as an Indicator of Fair Wages

The Pew Research Center indicates that over the thirty-five years between 1980 and 2014, the inflation-adjusted hourly wages of most middle-income American workers were nearly stagnant, rising just 6 percent, or an average of less than 0.2 percent, per year.²¹ (The Pew Research Center defines middle-class adults as those living in households with disposable incomes ranging from 65 percent to 200 percent of the national median, which is approximately \$60,000.) The data collected by the Economic Policy Institute, a nonprofit, nonpartisan think tank, show the same stagnant trend.²² Contrast this picture with the wages of high-income workers, which rose 41 percent over the same years. Many economists, political leaders, and even business leaders admit that increasing wage and wealth disparities are not a sustainable pattern if the U.S. economy is to succeed in the long term.²³ Wage growth for all workers must be fair, which, in most cases, means higher wages for low- and middle-income workers. [Figure 6.7](#) presents evidence of the growth of the income gap in the United States since the start of the great recession in 2007.

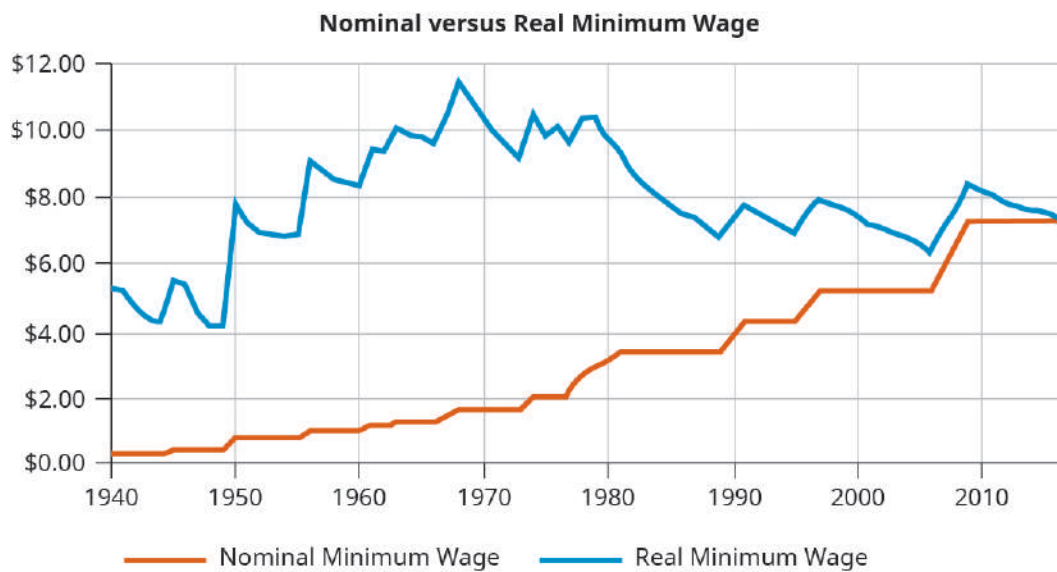
Median Household Worth prior to and after the Great Recession

Source: Kochhar, Rakesh, and Anthony Cilluffo. "How Wealth Inequality Has Changed in the U.S. since the Great Recession, by Race, Ethnicity and Income." Pew Research Center. Nov 1, 2017.

Figure 6.7 Stagnant income has been the reality for lower- and middle-income American adults, with income in 2016 actually lower than it was 10 years before. This has not been the case for upper-income adults. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

No reasonable person, regardless of profession or political party, would dispute that employees are entitled to a fair or just wage. Rather, it is in the *calculation* of a fair wage that the debate begins. Economists, sociologists, psychologists, and politicians all have opinions about this, as have most workers. Some of the factors that feature in calculations are federal and state minimum-wage standards, the cost of living, and the rate of inflation. Should a fair wage include enough money to raise a family, too, if the wage earner is the sole or principal support of a family?

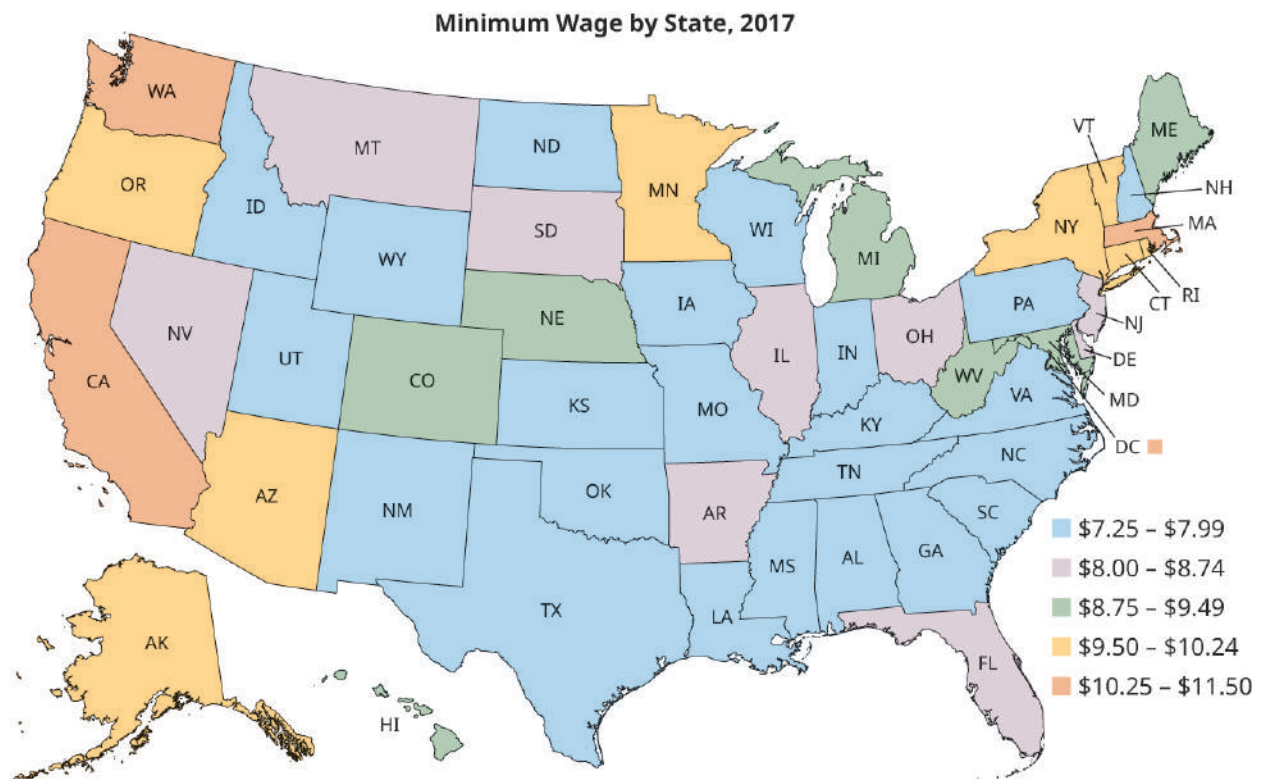
[Figure 6.8](#) shows the growth, or lack of growth, in the buying power of a minimum-wage earner since 1940. Compare the twenty-year period of 1949 through 1968 with the fifty-year period from 1968 through 2017. The difference has created a sobering reality for many workers. In the nearly six decades since 1960, the inflation-adjusted real minimum wage actually declined by 23 percent. That means minimum-wage workers did not even break even; the value of their wages declined over fifty years, meaning they have effectively worked half a century with no raise. In the following chart, *nominal wage* represents the actual amount of money a worker earns per hour; *real wage* represents the nominal wage adjusted for inflation. We consider real wages because nominal wages do not take into account changes in prices and, therefore, do not measure workers' actual purchasing power.



Sources: U.S. Department of Labor. History of Federal Minimum Wage Rates under the Fair Labor Standards Act, 1938–2009. (Some data from CPI Inflation Calculator, <https://data.bls.gov/cgi-bin/cpicalc.pl>.)

Figure 6.8 The graph contrasts the U.S. *nominal wage* (dollar amount) and the *real wage* (dollar amount's purchasing power) over the last seventy-five years, indicating a steady decline in purchasing power experienced by most workers. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

One positive development for minimum-wage workers is that state governments have taken the lead in what was once viewed primarily as a federal issue. Today, most states have a higher minimum hourly wage than the federal minimum of \$7.25. States with the highest minimum hourly wages are Washington (\$11.50), California and Massachusetts (\$11.00), Arizona and Vermont (\$10.50), New York and Colorado (\$10.40), and Connecticut (\$10.00). Some cities have even higher minimum hourly wages than under state law; for example, San Francisco and Seattle are at \$15.00. As of the end of 2017, twenty-nine states had higher minimum hourly wages than the federal rate, according to Bankrate.com ([Figure 6.9](#)).



Source: Lerner, Michele. "Find the Minimum Wage in Your State." Bankrate. January 23, 2017.
(Data from the National Conference of State Legislatures, the U.S. Department of Labor, and state websites.)

Figure 6.9 As of 2017, there is a patchwork quilt of state-level minimum wage laws. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Unfair Wages: The Gender Pay Gap

Even after all possible qualifiers have been added, it remains true that women earn less than men. Managers sometimes offer multiple excuses to justify pay inequities between women and men, such as, "Women take time off for having babies" or "Women have less experience," but these usually do not explain away the differences. The data show that a woman with the same education, experience, and skills, doing the same job as a man, is still likely to earn less, at all levels from bottom to top. According to a study by the Institute for Women's Policy Research, even women in top positions such as CEO, vice president, and general counsel often earn only about 80 percent of what men with the same job titles earn.²⁴ Data from the EEOC over the five years from 2011 through 2015 for salaries of senior-level officials and managers (defined by the EEOC as those who set broad policy and are responsible for overseeing execution of those policies) show women in these roles earned an average of about \$600,000 per year, compared with their male counterparts, who earned more than \$800,000 per year.²⁵ That \$200,000 difference amounts to a wage gap of about 35 percent each year.

The same is true in mid-level jobs as well. In a long-term study of compensation in the energy industry, researchers looked at the job of a land professional—who negotiates with property owners to lease land on which the oil companies then drill wells—and found evidence of women consistently getting paid less than men for doing the same job. Median salaries were compared for male and female land professionals with similar experience (one to five years) and educational background (bachelor's degree), and men earned \$7000 more per year than their female counterparts.²⁶

Doesn't the law require men and women to be paid the same? The answer is yes and no. Compensation

discrimination has been illegal for more than fifty years under a U.S. law called the Equal Pay Act, passed in 1963. But the problem persists. Women earned about 60 percent of what men earned in 1960, and that value had risen to only 80 percent by 2016. Given these historic rates, women are not projected to reach pay equity until at least 2059, with projections based on recent trends predicting dates as late as 2119.²⁷ These are aggregate data; thus, they include women and men with the same job, or similar jobs, or jobs considered to fall in the same general category, but the data do not compare the salary of a secretary to that of a CEO, which would be an unrealistic comparison.

Equal pay under the law means equal pay for the “same” job, but not for the “equivalent” job. Those companies wishing to avoid strict compliance with the law may use several devices to justify unequal pay, including using slightly different job titles, slightly different lists of job duties, and other techniques that lead to different pay for different employees doing essentially the same job. Women have taken employers to court for decades, only to find their lawsuits unsuccessful because proving individual compensation discrimination is very difficult, especially given that multiple factors can come into play in compensation decisions. Sometimes class-action lawsuits have been more successful, but even then plaintiffs often lose.

Can anything be done to achieve equal pay? One step would be to pass a new law strengthening the rules on equal pay, but two recent attempts to pass the Paycheck Fairness Act (S.84, H.R.377) and the Fair Pay Act (S.168, H.R.438) narrowly failed.²⁸ These or similar bills, if ever enacted into law, would significantly reduce wage discrimination against those who work in similar job categories by establishing equal pay for “equivalent” work, rather than the current law which uses the term “same” job. The idea of pay equivalency is closely related to **comparable worth**, a concept that has been put into action on a limited basis over the years, but never on a large scale. Comparable worth holds that workers should be paid on the basis of the worth of their job to the organization. Equivalent work and comparable worth can be important next steps in the path to equal pay, but they are challenging to implement because they require rethinking the entire basis for pay decisions.

LINK TO LEARNING

Though the federal government has not yet passed the Paycheck Fairness Act, some states have taken action on their own. The [website for the National Conference of State Legislatures’ section on state equal pay laws \(https://openstax.org/l/53PayLaws\)](https://openstax.org/l/53PayLaws) provides a chart listing states that go beyond the current federal law to mandate equal pay for comparable or equivalent work. Look up your state in the chart. How does it compare with others in this regard?

If a woman’s starting salary for the first job of her career is less than that of a man, the initial difference, even if small, tends to cause a systemic, career-long problem in terms of pay equity. Researchers at Temple University and George Mason University found that if a new hire gets \$5000 more than another worker hired at the same time, the difference is significantly magnified over time. Assuming an average annual pay increase of 5 percent, an employee starting with a \$55,000 salary will earn at least \$600,000 more over a forty-year career than an employee who starts an equivalent job with a \$50,000 salary. This significantly affects many personal decisions, including retirement, because, all other things equal, a lower-paid woman will have to work three years longer than a man to earn the same amount of money over the course of her career.²⁹

ETHICS ACROSS TIME AND CULTURES

European Approaches to the Gender Pay Gap

The policies of other nations can offer some insight into how to address pay inequality. Iceland, for example, has consistently been at the top of the world rankings for workplace gender equality in the World Economic Forum survey.³⁰ A new Icelandic law went into effect on January 1, 2018, that makes it illegal to pay men more than women, gauged not by specific job category, but rather in all jobs collectively at any employer with twenty-five or more employees, a concept known as an aggregate salary data approach.³¹ The burden of proof is on employers to show that men and women are paid equally or they face a fine. The ultimate goal is to eliminate all pay inequities in Iceland by the year 2022. The United Kingdom has taken a first step toward addressing this issue by mandating pay transparency, which requires employers with 250 workers or more to publish details on the gaps in average pay between their male and female employees.³²

Policies not directly linked to salary can help as well. German children have a legal right to a place in kindergarten from the age of three years, which has allowed one-third of mothers who could not otherwise afford nursery school or kindergarten to join the workforce.³³ In the United Kingdom, the government offers up to thirty hours weekly of free care for three- and four-year-old children to help mothers get back in the workforce. Laws such as these allow women, who are often the primary caregivers in a household, to experience fewer interruptions in their careers, a factor often blamed for the wage gap in the United States.

The World Economic Forum reports that about 65 percent of all Organization for Economic Cooperation and Development (OECD) countries have introduced new policies on pay equality, including requiring many employers to publish calculations every year showing the gender pay gap.³⁴ Steps such as the collection and reporting of aggregate salary data, or some form of early education or subsidized childcare, are positive steps toward eventually achieving the goal of wage equality.

Critical Thinking

- Which of these policies do you think would be the most likely to be implemented in the United States and why?
- How would each of the normative theories of ethical behavior (virtue ethics, utilitarianism, deontology, and justice theory) view this issue and these proposed solutions?

Part of the reason that initial pay disparity is heightened over a career is that when a worker changes jobs, the new employer usually asks what the employee was making in his or her last job and uses that as a baseline for pay in the new job. To combat the problem of history-based pay, which often hurts women, eight states (and numerous municipalities) in the United States now ban employers from asking job applicants to name their last salary.³⁵ Although this restriction will not solve the entire problem, it could have a positive effect if it spreads nationally. In a survey by the executive search firm Korn Ferry, forty-six of one hundred companies said they usually comply with the legal requirements in force in the strictest of the locations in which they operate, meaning workers in states without this law might not be asked about their salary history during new-job negotiations either.³⁶

Experiments in Compensation

Whether we are discussing fair wages, minimum wages, or equal wages, the essence of the debate often boils down to ethics. What should people get paid, who should determine that, and should managers and upper management do only what is required by law or go above and beyond if that means doing what they think is right? Organizational pay structures are set by a variety of methods, including internal policies, the advice of outside compensation consultants, and external data, such as market salaries.

An innovative compensation decision in Seattle may provide some insight. In 2011, a young man earning \$35,000 a year told his boss at Gravity, a credit-card payments business, that his earnings were not sufficient for a decent life in expensive Seattle. The boss, Dan Price, who cofounded the company in 2004, was somewhat surprised as he had always taken pride in treating employees well. Nevertheless, he decided his employee was right. For the next three years, Gravity gave every employee a 20 percent annual raise. Still, profit continued to outgrow wages. So Price announced that over the *next* three years, Gravity would phase in a minimum salary of \$70,000 for all employees. He reduced his own salary from \$1 million to \$70,000, to demonstrate the point and help fund it. The following week, five thousand people applied for jobs at Gravity, including a Yahoo executive who took a pay cut to transfer to a company she considered fun and meaningful to work for.

Price's decision started a national debate: How much should people be paid? Since 2000, U.S. productivity has increased 22 percent, yet inflation-adjusted median wages have increased only 2 percent. That means a larger share of capitalism's rewards are going to shareholders and top executives (who already earn an average of three hundred times more than typical workers, up from seventy times more just a decade ago), and a smaller share is going to workers. If Gravity profits while sharing the benefits of capitalism more broadly, Price's actions will be seen as demonstrating that underpaying the workforce hurts employers. If it fails, it may look like proof that companies should not overpay.

Price recognized that low starting salaries were antithetical to his values and felt that struggling employees would not be motivated to maintain the high quality that made his company successful with that compensation. He calls the \$70,000 minimum wage an ethical and moral imperative rather than a business strategy, and, though it will cost Gravity about \$2 million per year, he has ruled out price increases and layoffs. More than half the initial cost was offset by his own pay cut, the rest by profit. Revenue continues to grow at Gravity, along with the customer base and the workforce. Currently, the firm has a retention rate of 91 percent.³⁷ Yet Price says managers' scorecards should measure purpose, impact, and service, as much as profit.

Michael Wheeler, a professor at Harvard Business School who teaches a course called "Negotiation and The Moral Leader," recently discussed the aftermath of Dan Price's decision at Gravity. He interviewed other entrepreneurs about their plans for creative compensation to help develop a happy and motivated workforce, and it appears that some other companies are taking notice of how successful Gravity has been since Price made the decision to pay his workers more.³⁸ One of these entrepreneurs was Megan Driscoll, the CEO of Pharmedics Recruiting, who, after hearing Dan Price speak to a group of executives, was inspired to raise the starting base pay of her employees by 33 percent. When Driscoll put her plan to work, her business had forty-six employees and \$6.7 million in revenue. A year later, staff and revenues had jumped to seventy-two and \$15 million, respectively. Driscoll points to data showing her people are working harder and smarter after the pay raise than before. There has been a 32 percent increase in clients, and the client retention rate doubled to 80 percent.³⁹

Stephan Aarstol, CEO of Tower Paddleboards, wanted to give his workers a raise, but his company did not have the cash. Instead, Aarstol boldly cut the work day to five hours from the ten hours most employees had been working. Essentially that doubled their pay, and as a result, he says, employee focus and engagement have

skyrocketed, as have company profits.⁴⁰

Managers must carefully balance the short term, such as quarterly profits, versus long-term sustainability as a successful company. This requires recognizing the value of work that each person contributes and devising a fair, and sometimes creative, compensation plan.

6.3 An Organized Workforce

Learning Objectives

By the end of this section, you will be able to:

- Discuss trends in U.S. labor union membership
- Define codetermination
- Compare labor union membership in the United States with that in other nations
- Explain the relationship between labor productivity gains and the pay ratio in the United States

The issue of worker representation in the United States is a century-old debate, with economic, ethical, and political aspects. Are unions good for workers, good for companies, good for the nation? There is no single correct response. Your answer depends upon your perspective—whether you are a worker, a manager, an executive, a shareholder, or an economist. How might an ethical leader address the issue of the gap between labor's productivity gains and their relatively stagnant wages as compared with that of management?

Organized Labor

Americans' longstanding belief in individualism makes some managers wonder why employees would want or need to be represented by a labor union. The answer is, for the same reasons a CEO wants to be represented by an attorney when negotiating an employment contract, or that an entertainer wants to be represented by an agent. Unions act as the agent/lawyer/negotiator for employees during **collective bargaining**, a negotiation process aimed at getting management's agreement to a fair employment contract for members of the union. Everyone wants to be successful in any important negotiation, and people often turn to professionals to help them in such a situation.

However, in the United States, as elsewhere around the globe, the concept of worker organization has been about more than simply good representation. Unionization and worker rights have often been at the core of debates related to class economics, political power, and ethical values. There are legitimate points on each side of the union debate ([Table 6.1](#)).

Pros and Cons of Unions

Pros of Unions	Cons of Unions
Unions negotiate increased pay and benefits for workers.	Unions can make it harder to fast-track promotions for high-performing workers and/or get rid of low-performing ones.

Table 6.1

Pros and Cons of Unions

Pros of Unions	Cons of Unions
Unions create a formal dispute resolution process for workers.	Workers are required to pay union dues/fees that some might rather not pay.
Unions act as an organized lobbying group for worker rights.	Unions sometimes lead to a closed culture that makes it harder to diversify the workforce.
Collective bargaining agreements often set norms for employment for an entire industry—benefiting all workers, including those who are not at a union company.	Collective bargaining contracts can drive up costs for employers and lead to an adversarial relationship between management and workers.

Table 6.1

The value of unions is a topic that produces significant disagreement. Historically, unions have attained many improvements for workers in terms of wages and benefits, standardized employment practices, labor protections (e.g., child labor laws), workplace environment, and on-the-job safety. Nevertheless, sometimes unions have acted in their own interests to sustain their own existence, without primary concern for the workers they represent.

The history of the worker movement (summarized in the video in the following [Link to Learning](#)) reveals that in the first half of the twentieth century, wages were abysmally low, few workplace safety laws existed, and exploitive working conditions allowed businesses to use child labor. Unions stepped in and played an important role in leveling the playing field by representing the interests of the workers. Union membership grew to a relatively high level (33% of wage and salary workers) in the 1950s, and unions became a force in politics. However, their dominance was relatively short-lived, not least because in the 1960s, the federal government started to enact employment laws that codified many of the worker protections unions had championed. In the 1980s and 1990s, the U.S. economy gradually evolved from manufacturing, where unions were strong, to services, where unions were not as prevalent. The service sector is more difficult to organize, due to a variety of factors such as the historical absence of unions in the sector, workers' widely differing work functions and schedules, challenging organizational status, and white-collar bias against unions.

LINK TO LEARNING

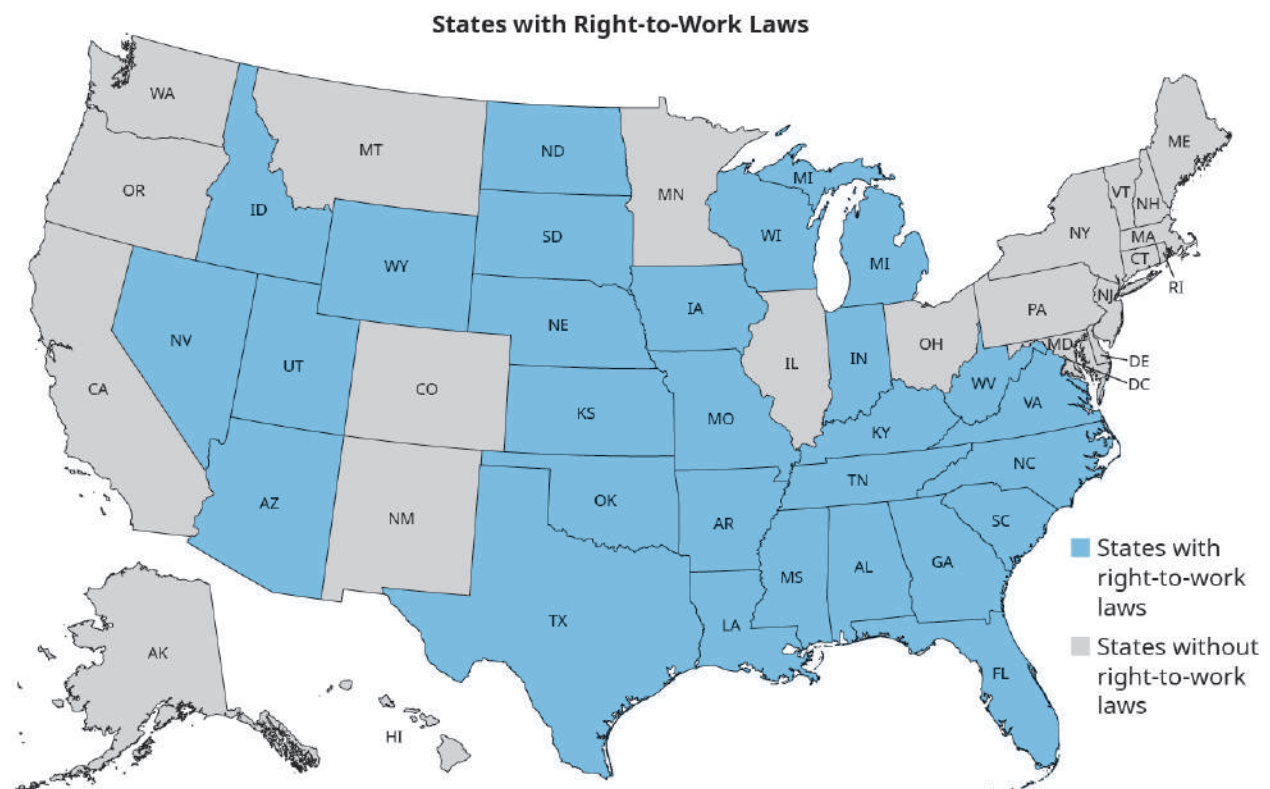
This [three-minute video entitled “The Rise and Fall of U.S. Labor Unions”](https://openstax.org/l/53LaborUnions) (<https://openstax.org/l/53LaborUnions>) summarizes the history of the union movement. It is based on information from University of California Santa Cruz Professor William Domhoff and the University of Houston Bauer College of Business.

These developments, along with the appearance of state right-to-work laws, have led to a decline in unions and their membership. **Right-to-work laws** give workers the option of not joining the union, even at companies where the majority has voted to be represented by a union, resulting in lower membership. Right-

to-work laws attempt to counter the concept of a union shop or **closed shop**, which requires that all new hires automatically be enrolled in the labor union appropriate to their job function and that union dues automatically be deducted from their pay.

Some question the fairness of right-to-work laws, because they allow those who do not join the union to get the same pay and benefits as those who do join and who pay unions dues for their representation. On the other hand, right-to-work laws provide workers the right of choice; those who do not want to join a union are not forced to do so. Those who do not choose to join may end up having a strained relationship with union workers, however, when a union-mandated strike occurs. Some non-union members, and even union members, elect to cross the picket line and continue to work. Traditionally, these “scabs,” as they are derisively labeled by unions, have faced both overt and subtle retaliation at the hands of their coworkers, who prioritize loyalty to the union.

Twenty-eight states have right-to-work laws (Figure 6.10). Notice that many right-to-work states, such as Michigan, Missouri, Indiana, Wisconsin, Kentucky, Tennessee, Alabama, and Mississippi, are among the top ten states where automobiles are manufactured and unions once were strong.



Source: National Conference of State Legislatures. “Right-to-Work Resources.” <http://www.ncsl.org/research/labor-and-employment/right-to-work-laws-and-bills.aspx>.

Figure 6.10 Right-to-work states have typically been clustered in the South and Southeast, where unions have been traditionally less prevalent. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

According to the U.S. Bureau of Labor Statistics, total union membership in the United States dropped to 20 percent of the workforce in 1980; by 2016, it was down to about half that (Figure 6.11).⁴¹ Public sector (government) workers have a relatively high union membership rate of 35 percent, more than five times that of private-sector workers, which is at an all-time low of 6.5 percent. White-collar workers in education and

training, as well as first responders such as police and firefighters now have some of the highest unionization rates, also 35 percent. Among states, New York continues to have the highest union membership rate at 23 percent, whereas South Carolina has the lowest, at slightly more than 1 percent.

Percentage of U.S. Workers Who Are Union Members, 1983–2017

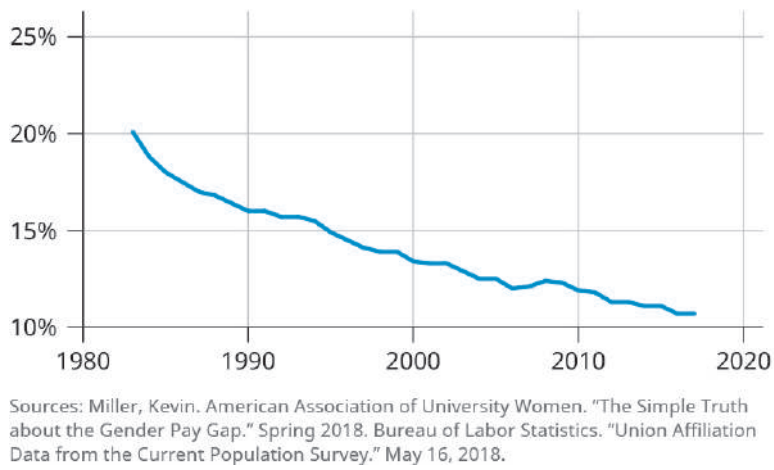


Figure 6.11 Union membership in the United States has steadily declined since 1980. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Codetermination is a workplace concept that goes beyond unionization to embrace shared governance, in which management and workers cooperate in decision-making and workers have the right to participate on the board of directors of their company. Board-level representation by employees is widespread in European Union countries. Most codetermination laws apply to companies over a certain size. For example, in Germany, they apply to companies with more than five hundred employees.⁴² The labor union movement never has been quite as strong in the United States as in Europe—the trade-union movement began in Europe and remains more vibrant there even today—and codetermination is thus not common in U.S. companies ([Table 6.2](#)).

Unionization as Percentage of Workforce in Eight Industrialized Nations

Country	Workforce in Unions, %
Australia	25
Canada	30
France	9
Germany	26
Italy	35
Japan	22

Table 6.2 Labor union membership remains much higher in Europe and other Group of Seven (G7) countries than in the United States. Only France has a lower percentage of union membership.⁴³

Unionization as Percentage of Workforce in Eight Industrialized Nations

Country	Workforce in Unions, %
Sweden	82
United Kingdom	29
United States	12

Table 6.2 Labor union membership remains much higher in Europe and other Group of Seven (G7) countries than in the United States. Only France has a lower percentage of union membership.⁴³

Codetermination has worked relatively well in some countries. For example, in Germany, workers, managers, and the public at large support the system, and it has often resulted in workers who are more engaged and have a real voice in their workplaces. Management and labor have cooperated, which, in turn, has led to higher productivity, fewer strikes, better pay, and safer working conditions for employees, which is a classic win-win for both sides.

Pay and Productivity in the United States

Some managers, politicians, and even members of the general public believe unions are a big part of the reason that U.S. companies have difficulty competing in the global economy. The conservative think tank Heritage Foundation conducted a study that concluded unions may be responsible, in part, for a slower work process and reduced productivity.⁴⁴ However, multiple other studies indicate that U.S. productivity is up.⁴⁵

Productivity in the United States increased 74 percent in the period 1973 to 2016, according to the OECD. In global productivity rankings, most studies indicate the United States ranks quite high, among the top five or six countries in the world and number two on the list compiled by the OECD ([Table 6.3](#)).

Productivity in 2015 by Country (Sample of Eight Industrialized Nations)

Country	Productivity (output/hours worked)
Australia	102.20
Canada	109.45
Germany	105.90
Japan	103.90
Mexico	105.10
South Korea	97.60

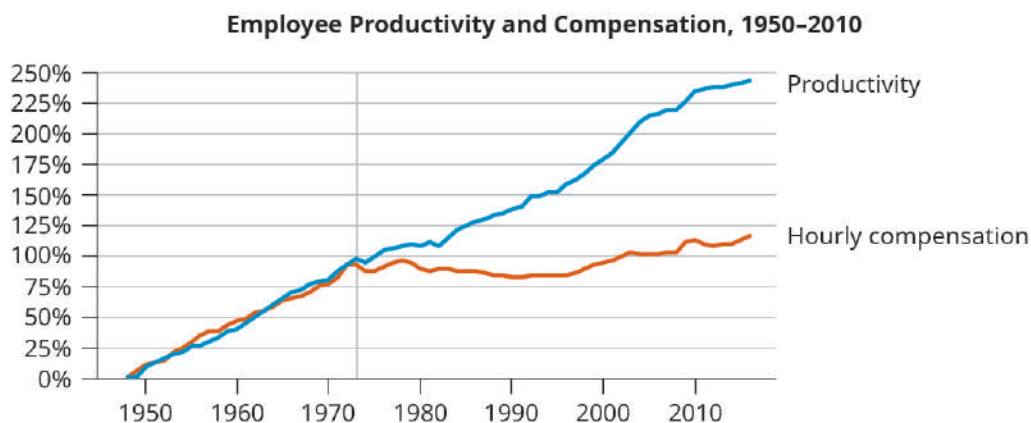
Table 6.3 This table compares 2015 productivity among several industrialized nations. U.S. productivity ranks high on the list.⁴⁶

Productivity in 2015 by Country (Sample of Eight Industrialized Nations)

Country	Productivity (output/hours worked)
United Kingdom	100.80
United States	108.87

Table 6.3 This table compares 2015 productivity among several industrialized nations. U.S. productivity ranks high on the list.⁴⁶

During the same period as the productivity gains discussed in the preceding paragraph, 1973 to 2016, wages for U.S. workers increased only 12 percent. In other words, productivity has grown six times more than pay. Taken together, these facts mean that American workers, union members or not, should not shoulder the blame for competitive challenges faced by U.S. companies. Instead, they are a relative bargain for most companies. [Figure 6.12](#) compares productivity and pay and demonstrates the growing disparity between the two, based on data collected by the Economic Policy Institute.



Source: Economic Policy Institute. "The Productivity-Pay Gap." Oct 2017. Based on analysis of data from BLS Labor Productivity and Costs program, Bureau of Labor Statistics Current Employment Statistics public data series and Employer Costs for Employee Compensation, and Bureau of Economic Analysis National Income and Product Accounts (Tables 2.3.4, 6.2, 6.3, 6.9, 6.10, and 6.11).

Figure 6.12 In the last four decades, wages in the United States have not kept up with productivity. According to the Economic Policy Institute, from 1948 to 1973, hourly compensation rose 91 percent, which closely follows productivity gains of 97 percent. However, from 1973 to 2013, hourly compensation rose only 9 percent, whereas productivity rose 74 percent in the same period. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Is Management Compensation Fair?

We gain yet another perspective on labor by looking at management compensation relative to that of employees. Between 1978 and 2014, inflation-adjusted CEO pay increased by almost 1,000 percent in the United States, while worker pay rose 11 percent.⁴⁷ A popular way to compare the fairness of a company's compensation system with that in other countries is the widely reported **pay ratio**, which measures how many times greater CEO pay is than the wages for the average employee.

The average multiplier effect in the United States is in the range of three hundred. This means that CEO pay is, on average, three hundred times as high as the pay of the average worker in the same company. In the United

Kingdom, the multiplier is twenty-two; in France, it is fifteen; and in Germany, it is twelve.⁴⁸ The 1965 U.S. ratio was only twenty to one, which raises the question, why and how did CEO pay rise so dramatically high in the United States compared with the rest of the world? Are CEOs in the United States that much better than CEOs in Germany or Japan? Do American companies perform that much better? Is this ratio fair to investors and employees? A large part of executive compensation is in the form of stock options, which frequently are included in the calculation of an executive's salary and benefits, rather than direct salary. However, this, in turn, raises the question of whether all or a portion of the general workforce should also share in some form of stock options.

LINK TO LEARNING

Some corporate boards claim executive pay is performance based; others claim it is a retention strategy to prevent CEOs from going to another company for more money. This [video shows former CEO Steven Clifford discussing CEO pay \(https://openstax.org/l/53CEOPay\)](https://openstax.org/l/53CEOPay) and claiming that U.S. executives often dramatically, and in many cases unjustifiably, boost their own pay to astronomical levels, leaving shareholders and workers wondering why. He also discusses how it can be stopped.

Everyone wants to be paid fairly for their work. Whether CEO or administrative assistant, engineer or assembly-line worker, we naturally look out for our own best interest. Thus, management compensation is a topic that often causes resentment among the rank and file, especially when organized workers go on strike. From the employee viewpoint, the question is why management often wants to hold the line when it comes to everyone's wages but their own.

CASES FROM THE REAL WORLD

Verizon Strike

More than forty thousand Verizon workers went on strike in 2016 ([Figure 6.13](#)). The strike was eventually settled, with workers getting a raise, but bitter feelings and distrust remained on both sides. Workers thought management salaries were too high; management thought workers were seeking excessive raises. To continue basic phone services for its customers during the strike, Verizon called on thousands of non-union employees to perform the strikers' work. Non-union staff had to cross picket lines formed by fellow employees to go to work each day during the strike. Enmity toward these picket-line crossers was exceptionally high among some union members.



Figure 6.13 Union workers from the Communications Workers of America and the International Brotherhood of Electrical Workers are shown walking a Verizon picket line. They are protesting Verizon’s decision to not provide pay raises. (credit: modification of “Verizon on Strike” by Marco Verch/Flickr, CC BY 2.0)

Critical Thinking

- How does management reintroduce civility to the workplace to keep peace between different factions?
- How could Verizon please union workers after the strike without firing the picket-line crossers, some of whom were Verizon union employees who consciously chose to cross the picket line?

6.4 Privacy in the Workplace

Learning Objectives

By the end of this section, you will be able to:

- Explain what constitutes a reasonable right to privacy on the job
- Identify management’s responsibilities when monitoring employee behavior at work

Employers are justifiably concerned about threats to and in the workplace, such as theft of property, breaches of data security, identity theft, viewing of pornography, inappropriate and/or offensive behavior, violence, drug use, and others. They seek to minimize these risks, and that often requires monitoring employees at work. Employers might also be concerned about the productivity loss resulting from employees using office technology for personal matters while on the job. At the same time, however, organizations must balance the valid business interests of the company with employees’ reasonable expectations of privacy.

Magnifying ethical and legal questions in the area of privacy is the availability of new technology that lets employers track all employee Internet, e-mail, social media, and telephone use. What kind and extent of monitoring do you believe should be allowed? What basic rights to privacy ought a person have at work? Does your view align more closely with the employer’s or the employee’s?

Legal and Ethical Aspects of Electronic Monitoring

Monitored workstations, cameras, microphones, and other electronic monitoring devices permit employers to oversee virtually every aspect of employees' at-work behavior (Figure 6.14). Technology also allows employers to monitor every aspect of computer use by employees, such as downloads of software and documents, Internet use, images displayed, time a computer has been idle, number of keystrokes per hour, words typed, and the content of e-mails. According to a survey by the American Management Association, 48 percent of employers used a form of video monitoring in the workplace, and 67 percent monitored employee Internet use. In 30 percent of the organizations responding to the survey, this electronic monitoring had ultimately led to an employee's termination.⁴⁹

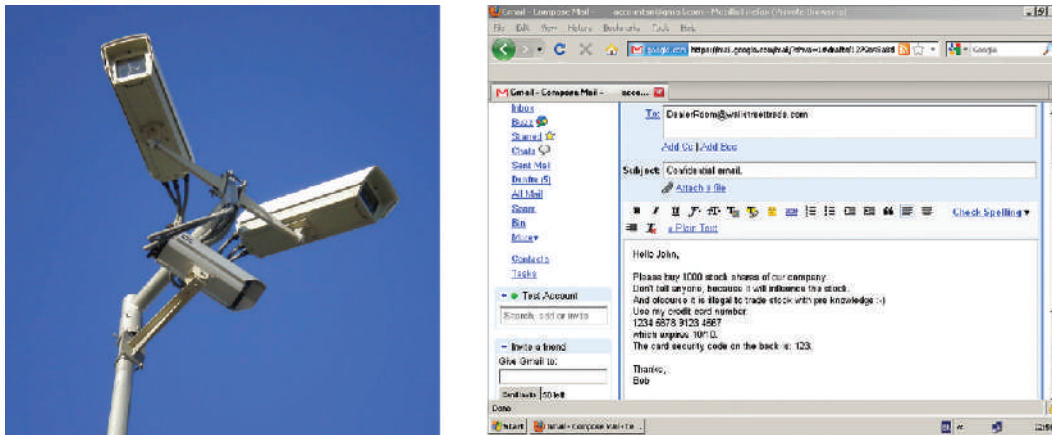


Figure 6.14 Electronic monitoring often captures data from cameras, computers, and listening devices. This information can then be used against employees accused of violating company policy, raising privacy concerns. (credit left: modification of "Surveillance video cameras, Gdynia" by Paweł Zdziarski/Wikimedia Commons, CC 2.5; credit right: credit: modification of "Keylogger-screen-capture-example" by "FlippyFlink"/Wikimedia Commons, Public Domain)

The laws and regulations governing electronic monitoring are somewhat indirect and inconsistent. Very few specific federal statutes directly regulate private employers when it comes to broad workplace privacy issues. However, monitoring is subject to various state rules under both statutory and common law, and sometimes federal and state constitutional provisions as well. The two primary areas of the law related to workplace monitoring are a federal statute called the Electronic Communications Privacy Act of 1986 (ECPA) and various state common law protections against invasion of privacy.⁵⁰

Although the ECPA may appear to prohibit an employer from monitoring its employees' oral, wire, and electronic communications, it contains two big exceptions that weaken its protection of employees' rights. One is the **business purpose exception**. This allows employers—on the basis of legitimate business purposes—to monitor electronic and oral communications, and employers generally assert a legitimate business purpose to be present. The other widely used exception is the **consent exception**, which allows employers to monitor employee communications provided employees have given their consent. According to the Society for Human Resource Management, the ECPA definition of electronic communication applies to the electronic transmission of communications but not to their electronic storage. Therefore, courts have distinguished between monitoring electronic communications such as e-mail during transmission and viewing e-mails in storage. Viewing emails during transmission is broadly allowed, whereas viewing stored e-mail is considered similar to searching an employee's private papers and thus is not routinely allowed under the ECPA unless certain circumstances apply (e.g., the e-mails are stored in the employer's computer systems).⁵¹

In general, it is legal for a company to monitor the use of its own property, including but not limited to computers, laptops, and cell phones. According to the ECPA, an employer-provided computer system is the property of the employer, and when the employer provides employees with a laptop they can take home, it likely violates no laws when it monitors everything employees do with that computer, whether business-related or personal. The same is true of an employer-provided cell phone or tablet, and always true when an employer gives employees notice of a written policy regarding electronic monitoring of equipment supplied by the company. Generally, the same is *not* true of equipment owned by the employee, such as a personal cell phone.

However, an important distinction is based on the issue of consent. The consent provision in the ECPA is not limited to business communications only; therefore, a company might be able to assert the right to monitor personal electronic communications if it can show employee consent (although this is very likely to worry employees, as discussed in the next section). Another consideration is whose e-mail server is being used. The ECPA and some state laws generally make it illegal for employers to intercept private e-mail by using an employee's personal log-on/user ID/password information.

Although the ECPA and National Labor Relations Act are both federal laws, individual states are free to pass laws that impose greater limitations, and several states have done so. Some require employers to provide employees advance written notice that specifies the types or methods of monitoring to which they will be subjected. Examples of state laws creating some degree of protection for workers include laws in California and Pennsylvania that require consent of both parties before any conversation can be monitored or recorded.

Employees can bring common law privacy claims to challenge employer monitoring. (Common laws are those based on prior court decisions rather than on legislatively enacted statutes.) To prevail on a common law claim of invasion of privacy, which is a tort, the employee must demonstrate a right to privacy with respect to the information being monitored. Several state constitutions, such as those in Louisiana, Florida, South Carolina, and California, expressly provide citizens a right to privacy, which may protect employees with respect to monitoring of their personal electronic information and personal communication in the workplace.

One additional regulatory consideration applicable to electronic monitoring is whether the company's workforce is unionized. The National Labor Relations Board, the federal labor law agency, has ruled that the video surveillance of any portion of the workplace is a condition of employment subject to collective bargaining and must be agreed to by the union before implementation, so employees have notice. If a workplace is not unionized (the majority are not), then this federal regulation requiring notice does not apply, and as stated previously in this chapter, if there is any protection at all, it would have to be given by state regulation (which is rare in the private [nongovernmental] sector).

What Constitutes a Reasonable Monitoring Policy?

Many employees generally are not be familiar with the specific details of the law. They may feel offended by monitoring, especially of their own equipment. Companies must also consider the effect on workplace morale if everyone feels spied upon, and the risk that some high-performing employees may decide to look elsewhere for career opportunities. Employers should develop a clear, specific, and reasonable monitoring policy. The policy should limit monitoring to that which is directly work related. For example, if a company is concerned about productivity and the goal of monitoring is to keep tabs on employee performance, then neither keystroke logging nor screenshot recording is necessary; software designed to show idle time or personal Internet use would be more helpful in identifying wasted time, which is the ultimate goal.

Employers should always remember their business goals when monitoring employees. It is not only a matter

of treating employees ethically; it also makes good business sense to ensure that monitoring pertains only to business matters and does not unnecessarily intrude into the privacy of employees. Perhaps most importantly, in the interest of fairness, the monitoring policy must be communicated to the employees. When, if ever, is it acceptable to monitor without notice to the employee and without his or her knowledge?

LINK TO LEARNING

This [notice by the State of Connecticut \(https://openstax.org/l/53notice\)](https://openstax.org/l/53notice) mandates that all employers inform employees of the kinds of electronic monitoring of their activities and communications that may be undertaken at work, and the responsibilities of an employer. Read the notice and decide whether you think it is a reasonable policy. Would it make sense to the average worker? Do you think it is unfair to either party?

The Connecticut policy in the preceding Link to Learning applies to all employers (i.e., in state and in private sector workplaces). However, many states have policies that apply only to employees who work for the government. State employees hold a special status that conveys certain state constitutional rights with regard to due process, reasonable searches, and related legal doctrines. The same is true for federal government employees and the U.S. Constitution, which means the government has a duty of fairness in employee surveillance. It does not mean, however, that the government cannot monitor its employees at all, as demonstrated by an incident involving a California police officer. In a unanimous decision in *Ontario v. Quon*,⁵² the U.S. Supreme Court in 2010 ruled in favor of a police chief in Ontario, California, who read nearly five hundred text messages sent by one of his sergeants on a police-issued pager. Many of the text messages were personal and some were sexually explicit. Only a few dozen were work related. The justices agreed that constitutional limits on unreasonable searches by public employers (under the Fourth Amendment) were minimal given a work-related purpose.

This decision creates precedent for more than 25 million employees of federal, state, and local governments and limits their expectation of privacy when using employer-issued tools. “Because the search [by the police chief] was motivated by a legitimate work-related purpose and because it was not excessive in scope, the search was reasonable,” said Justice Anthony M. Kennedy.

In the private sector, where employees are not working for the government and the constitutional prohibition on unreasonable searches and seizures has very little applicability, if any, employers have even more latitude in terms of employee monitoring than in a government setting. The *Ontario v. Quon* case in all likelihood would never even make it to court if the employer were a private-sector company, because the issue of whether getting the text message was a reasonable search and seizure under the Fourth Amendment does not apply in a nongovernment employment setting. The Constitution acts to limit government intrusions but does not generally restrict private companies in this type of situation. However, ethical considerations may encourage private-sector employers to treat their workers respectfully, even if not required by law.

WHAT WOULD YOU DO?

Security versus Privacy

You manage a large, high-end jewelry store with an international clientele. Your workforce of 150 is demographically diverse, and your employees are trustworthy as a rule. However, you have experienced some unexplained loss of inventory and suspect a couple of employees are stealing valuable pieces, removing them from backroom storage safes and handing them off to another person somewhere in the store who leaves with them or to a third person pretending to be a customer. To prevent this, your assistant managers are urging you to place discreet cameras in the restrooms and break rooms, where these exchanges are likely occurring. Some managers might be concerned about using cameras at all due to privacy issues; others might want to use them without notifying employees or putting up signs because they do not want to tip off the suspects or deal with the negative reaction of the workforce (although that brings up invasion of privacy issues). You are weighing the pros of catching the thieves against the possible loss of other employees' trust.

Critical Thinking

- What issues must you confront as you decide whether you will take the recommendation of your assistant managers?
- What, ultimately, will you do? Explain your decision.

Drug Testing in the Workplace

Key issues that arise about a drug testing or monitoring program begin with whether an employer wants or needs to do it. Is it required by law for a particular job, under state or local regulations? Is it for pre-employment clearance? Does the employer need employees' permission? Does a failed test require mandatory termination? With the exception of employers in industries regulated by the federal government, such as airlines, trucking companies, rail lines, and national security-related firms, federal law is not controlling on the issue of drug testing in the workplace; it is largely a state issue. At the federal level, the Department of Transportation does mandate drug testing for workers such as airline crews and railway conductors and has a specific procedure that must be followed. However, for the most part, drug testing is not mandatory and depends on whether the employer wants to do it. Multiple states do regulate drug testing, but to varying degrees, and there is no common standard to be followed.

Testing of job applicants is the most common form of drug testing. State laws typically allow it, but the employer must follow state rules, if they exist, about providing notice and following standard procedures intended to prevent inaccurate samples. Testing current employees is much less common, primarily due to cost; however, companies that do use drug testing include some in the pharmaceutical and financial services industries. Some states put legal constraints on drug testing of private-sector employees. For example, in a few states, the job must include the possibility of property damage or injury to others, or the employer must believe the employee is using drugs.

Challenging a drug test is difficult because tests are considered highly accurate. An applicant or employee can refuse to take the test, but that often means not being hired or losing the job, assuming the worker is an employee at will. The concept of **employment at will** affirms that either the employee or the employer may

dissolve an employment arrangement at will (i.e., without cause and at any time unless an employment contract is in effect that stipulates differently). Most workers are considered employees at will because neither the employer nor employee is obligated to the other; the worker can quit or be fired at any time for any reason because there is no contractual obligation. In some states, the employee risks not only job loss but also the denial of unemployment benefits if fired for refusing to take a drug test. Thus, the key concept that makes drug testing possible is employment at will, which covers approximately 85 percent of the employees in the private sector (unionized workers and top executives have contracts and thus are not at will, nor are government employees who have due process rights). The only legal limitation is that, in some states, the drug testing procedure must be fair, accurate, and designed to minimize errors and false-positive results.

The drug testing process, however, raises some difficult privacy issues. Employers want and are allowed to protect against specimen tampering by taking such steps as requiring subjects to wear a hospital gown. Some employers use test monitors who check the temperature of the urine and/or listen as a urine sample is collected. According to the Cornell University Law School Legal Information Institute, some state courts (e.g., Georgia, Louisiana, Hawaii) have found it an unreasonable invasion of privacy for the monitor to watch an employee in the restroom; however, in other states (e.g., Texas, Nevada), this is allowed.⁵³

Case examples abound of challenges based on privacy concerns. In an article in the *Harvard Journal of Law and Technology*, University of Houston Law School professor Mark Rothstein, who is director of the Health Law and Policy Institute, summarized examples of legal challenges.⁵⁴ In one case, the court ruled that an employer engaged in unlawful retaliation as defined by the Mine Safety and Health Act. The employer dismissed two employees who were required to urinate in the presence of others but found themselves unable to do so. In a different case, \$125,000 in tort damages was awarded to a worker for invasion of privacy and negligent infliction of emotional distress as a consequence of his being forced to submit a urine sample as he was being directly observed.



Key Terms

business purpose exception an exception to the Electronic Communications Privacy Act of 1986 that permits employers to monitor all oral and electronic communications, assuming they can show a legitimate business purpose for doing so

closed shop a union environment that requires new hires to be automatically enrolled in the labor union and union dues to be automatically deducted from their pay

codetermination a concept popular in Europe that gives workers the right to participate on the board of directors of their company

collective bargaining union negotiations with an employer on behalf of employees

comparable worth the idea that pay should be based upon a job holder's worth to the organization rather than on salary history

consent exception an exception to the Electronic Communications Privacy Act of 1986 that allows employers to monitor employee communications provided employees have given their consent

EEOC the Equal Employment Opportunity Commission, created by the U.S. Civil Rights Act of 1964 and which attempts to eliminate discrimination in the workplace based on race, gender, or creed

employment at will a legal philosophy that holds that either the employee or the employer may dissolve the employment arrangement at will (i.e., without cause and at any time unless an employment contract is in effect that stipulates differently)

OSHA the Occupational Safety and Health Act, which governs workplace safety, and the Occupational Safety and Health Administration, which administers the act at the federal level

pay ratio the number of times greater the average executive's salary is than the average worker's

right-to-work law a state law that says a worker cannot be forced to join a union

sexual harassment unwelcome touching, requests for sexual favors, and other verbal or physical harassment of a sexual nature from a supervisor, coworker, client, or customer



Summary

6.1 The Workplace Environment and Working Conditions

A company and its managers need to provide a workplace at which employees want to work, free of safety hazards and all types of harassment. Perks and benefits also make the company an attractive place to work. Yet another factor is managers who make employees feel valued and respected. A company can use all these tools to attract and retain top talent, helping to reach the goals of having a well-run company with a satisfied workforce. Philosophers Aristotle and Immanuel Kant said taking ethical action is the right thing to do. The decision to create an environment in which employees want to come to work each day is, in large part, an ethical choice, because it creates a healthy environment for all to encounter. However, the bonus comes when a satisfied workforce fosters increased quality and productivity, which leads to appreciative customers or clients and increased profitability. There is a financial payoff in that a well-treated workforce is also a productive one.

6.2 What Constitutes a Fair Wage?

The concept of paying people fairly can become complicated. It includes trying to allocate and compensate workers in the most effective manner for the company, but it takes judgement, wisdom, and a moral imperative to do it fairly. Managers must balance issues of compensation equity, employee morale, motivation, and profits—all of which may have legal, ethical, and business elements. The issue of a fair wage is

particularly salient for those earning the minimum wage, which, in real terms, has declined by 23 percent since 1960, and for women, who continue to experience a significant pay gap as compared with their male counterparts.

6.3 An Organized Workforce

Employees seek fair treatment in the workplace and sometimes gain a negotiating advantage with management by choosing to be represented by a labor union. Union membership in the United States has fallen in recent years as federal and state law have expanded to include worker protections unions fought for, and as the nation has shifted from a manufacturing to a service economy. Public-sector employee groups such as teachers, professors, first responders, and nurses are unionized in some cities and states. U.S. workers have contributed to a long rise in productivity over the last forty years but have not generally shared in wage gains.

6.4 Privacy in the Workplace

Monitoring of employees, whether electronically or through drug testing, is a complex area of workforce management. Numerous state and federal legal restrictions apply, and employers must decide not only what they are legally allowed to do but also what they should do ethically, keeping in mind the individual privacy concerns of their employees.



Assessment Questions

1. How often should managers in a workplace anticipate an inspection from the Occupational Safety and Health Administration?
 - A. every day
 - B. once a month
 - C. upon request or complaint
 - D. never
2. True or false? Sexual harassment is unethical but not illegal.
3. What are examples of benefits or perks that women usually value more than men?
4. What can a company do to try to reduce sexual harassment?
5. According to data presented in the chapter, about how much do women earn in comparison with men doing the same job?
 - A. a lot less (about 40%–50%)
 - B. somewhat less (about 70%–80%)
 - C. almost the same (95%)
 - D. about the same (100%)
6. True or false? Minimum wages are established by federal law only.
7. True or false? Minimum wages have at least kept pace with the cost of living, because of the automatic cost-of-living adjustment clause in the law.
8. Why have some states raised minimum wages above the federal minimum?
9. What are some of the reasons that have contributed to women making less than men in similar jobs?

10. In the United States, CEO pay is on average _____ times as high as the pay of the average worker in the same company.
- 30
 - 50
 - 100
 - 300
11. True or false: U.S. union membership today is at the lowest level since the 1950s.
12. True or false: The right to work without joining a union is controlled by federal law.
13. Why is union membership at an all-time low?
14. How does executive pay in the United States compare to that in other countries?
15. True or false? Advance permission from employees is required before they can be electronically monitored under federal law.
16. True or false? Workplace drug testing is completely prohibited in some states.
17. Why would a company want to monitor Internet use at work?
18. What are the two major exceptions to the Electronic Communications Privacy Act that weaken its protections of employee privacy rights?
19. Should drug testing of employees be allowed?



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7

What Employees Owe Employers

Figure 7.1 What responsibilities do employees have to coworkers and to the company, as well as to themselves, when they are on the job? (credit, clockwise from top left): modification of “Call Centre 2006” by “AaronY”/Wikimedia Commons, CC BY 2.0; credit: modification of “los bolleros” by Agustín Ruiz/Flickr, CC BY 2.0; credit: modification of “Training” by Cory Zanker/Flickr, CC BY 4.0; credit: modification of “Afghan women at a textile factory in Kabul” by Andrea Salazar/Wikimedia Commons, Public Domain; credit: modification of “GenoPheno” by Cory Zanker/Flickr, CC BY 4.0; credit: modification of “Group” by Cory Zanker/Flickr, CC BY 4.0; credit: modification of “doin’ work” by Nick Allen/Flickr, CC BY 2.0)

Chapter Outline

- 7.1 Loyalty to the Company
- 7.2 Loyalty to the Brand and to Customers
- 7.3 Contributing to a Positive Work Atmosphere
- 7.4 Financial Integrity
- 7.5 Criticism of the Company and Whistleblowing



Introduction

[What Employers Owe Employees](#) discussed the duties, obligations, and responsibilities managers and companies owe their employees. This chapter looks at the other side of that relationship to weigh the ethical dimensions of being a worthy employee and responsible coworker ([Figure 7.1](#)).

Coworkers may express their opinions differently, for instance, agreeing or disagreeing, perhaps in very animated ways. Although we and our peers at work may not see eye to eye on every issue, we work best when we understand the need to get along and to show a degree of loyalty to our employer and each other, as well as to ourselves, our values, and our own best interests. Balancing these factors requires a concerted effort.

What would you do, for example, if one of your coworkers were being bullied or harassed by another employee or a manager? Suppose a former colleague tried to recruit you to her new firm. What is the ethical

action for you to take? How would you react if you learned your company's managers were behaving unethically or breaking the law? Who could you tell, and what could you expect as a result? What is the right response if a client or customer behaves badly toward you as an employee representing your firm? How do you provide good customer service and support the company brand in the face of difficult working conditions?

7.1 Loyalty to the Company

Learning Objectives

By the end of this section, you will be able to:

- Define employees' responsibilities to the company for which they work
- Describe a non-compete agreement
- Explain how confidentiality applies to trade secrets, intellectual property, and customer data

The relationship between employee and employer is changing, especially our understanding of commitment and loyalty. An ethical employee owes the company a good day's work and his or her best effort, whether the work is stimulating or dull. A duty of loyalty and our best effort are our primary obligations as employees, but what they mean can change. A manager who expects a twentieth-century concept of loyalty in the twenty-first century may be surprised when workers express a sense of entitlement, ask for a raise after six months, or leave for a new job after twelve months. This chapter will explore a wide range of issues from the perspective of what and how employees contribute to the overall success of a business enterprise.

A Duty of Loyalty

Hard work and our best effort likely make sense as obligations we owe an employer. However, loyalty is more abstract and less easily defined. Most workers do not have employment contracts, so there may not be a specific agreement between the two parties detailing their mutual responsibilities. Instead, the common law (case law) of agency in each state is often the source of the rules governing an employment relationship. The usual depiction of duty in common law is the **duty of loyalty**, which, in all fifty states, requires that an employee refrain from acting in a manner contrary to the employer's interest. This duty creates some basic rules employees must follow on the job and provides employers with enforceable rights against employees who violate them.

In general terms, the duty of loyalty means an employee is obligated to render "loyal and faithful" service to the employer, to act with "good faith," and not to compete with but rather to advance the employer's interests.¹ The employee must not act in a way that benefits him- or herself (or any other third party), especially when doing so would create a conflict of interest with the employer.² The common law of most states holds as a general rule that, without asking for and receiving the employer's consent, an employee cannot hold a second job if it would compete or conflict with the first job. Thus, although the precise boundaries of this aspect of the duty of loyalty are unclear, an employee who works in the graphic design department of a large advertising agency in all likelihood cannot moonlight on the weekend for a friend's small web design business. However, employers often grant permission for employees to work in positions that do not compete or interfere with their principal jobs. The graphic designer might work for a friend's catering business, for example, or perhaps as a wedding photographer or editor of a blog for a public interest community group.

LINK TO LEARNING

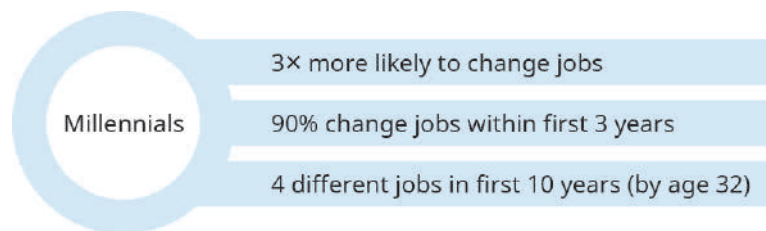
Moonlighting has become such a common phenomenon that the website Glassdoor now has a section reserved for such jobs. The [Glassdoor website has a number of postings for different moonlighting opportunities \(https://openstax.org/l/53moonlighting\)](https://openstax.org/l/53moonlighting) to explore.

What *is* clear is that it is wrong for employees to make work decisions primarily for their own personal gain, rather than doing what is in the employer's best interest. An employee might have the authority to decide which other companies the employer will do business with, for example, such as service vendors that maintain the copiers or clean the offices. What if the employee owned stock in one of those companies or had a relative who worked there? That gives him or her an incentive to encourage doing business with that particular company, whether it would be best for the employer or not.

The degree to which the duty of loyalty exists is usually related to the degree of responsibility or trust an employer places in an employee. More trust equals a stronger duty. For example, when an employee has very extensive authority or access to confidential information, the duty can rise to its highest level, called a fiduciary duty, which is discussed in an earlier chapter.

Differing Concepts of Loyalty

There is no generally agreed-upon definition of an employee's duty of loyalty to his or her employer. One indicator that our understanding of the term is changing is that millennials are three times more likely than older generations to change jobs, according to a *Forbes* Human Resources Council survey ([Figure 7.2](#)).³ About nine in ten millennials (91 percent) say they do not expect to stay with their current job longer than three years, compared with older workers who often anticipated spending ten years or even an entire career with one employer, relying on an implicit social contract between employer and employee that rewarded lifetime employment.



Source: Murdock, P. "The New Reality of Employee Loyalty." *Forbes*. Dec 12, 2017.

Figure 7.2 The data on millennials and job mobility indicate that millennials are more likely to "job hop" than their predecessors. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

The Loyalty Research Center, a consulting firm, defines loyal employees as "being committed to the success of the organization. They believe that working for this organization is their best option . . . and loyal employees do not actively search for alternative employment and are not responsive to offers."⁴ Likewise, Wharton School, University of Pennsylvania, professor Matthew Bidwell says there are two halves to the term: "One piece is having the employer's best interests at heart. The other piece is remaining with the same employer rather than moving on." Bidwell goes on to acknowledge, "There is less a sense that your organization is going

to look after you in the way that it used to, which would lead [us] to expect a reduction in loyalty.”⁵

Why are employees less likely to feel a duty of loyalty to their companies? One reason is that loyalty is a two-way street, a feeling developed through the enactment of mutual obligations and responsibilities. However, most employers do not want to be obligated to their workers in a legal sense; they usually require that almost all workers are employees “at will,” that is, without any long-term employment contract. Neither state nor federal law mandates an employment contract, so when a company says an employee is employed at will, it is sending a message that management is not making a long-term commitment to the employee. Employees may naturally feel less loyalty to an organization from which they believe they can be let go at any time and for any legal reason (which is essentially what at-will employment means). Of course, at-will employment also means the employee can also quit at any time. However, freedom to move is a benefit only if the employee has mobility and a skill set he or she can sell to the highest bidder. Otherwise, for most workers, at-will employment usually works to the employer’s advantage, not the employee’s.

Another reason the concept of loyalty to an organization seems to be changing at all levels is the important role money plays in career decisions. When they see chief executive officers (CEOs) and other managers leaving to work for the highest bidder, subordinates quickly conclude that they, too, ought to look out for themselves, just as their bosses do, rather than trying to build up seniority with the company. Switching jobs can often be a way for employees to improve their salaries. Consider professional sports. For decades professional athletes were tied to one team and could not sell their services to the highest bidder, meaning that their salaries were effectively capped. Finally, after several court decisions (including the Curt Flood reserve clause case involving the St. Louis Cardinals and Major League Baseball),⁶ players achieved some degree of freedom and can now switch employers frequently in an effort to maximize their earning potential.

The same evolution occurred in the entertainment industry. In the early years of the movie business, actors were tied to studios by contracts that prevented them from making movies for any other studio, effectively limiting their earning power. Then the entertainment industry changed as actors gained the freedom to sell their services to the highest bidder, becoming much more highly compensated in the process. Employees in any industry, not just sports and entertainment, benefit from being able to change jobs if their salary at their current job stagnates or falls below the market rate.

Another economic phenomenon affecting loyalty in the private sector was the switch from defined-benefit to defined-contribution retirement plans. In the former, often called a pension, employee benefits are usually sponsored (paid) fully by the employer and calculated using a formula based on length of employment, salary history, and other factors. The employer administers the plan and manages the investment risk, promising the employee a set payout upon retirement. In the defined-contribution plan, however, the employee invests a certain percentage of his or her salary in a retirement fund, often a 401(k) or 403(b) plan, where it is sometimes matched (partially or wholly) by the employer. (These savings plans with their seemingly strange designations are part of the U.S. Internal Revenue Code, and the letter/number combinations indicate subsections of the Code. 401(k) Plans typically are featured in for-profit employment settings and 403(b) plans in nonprofit environments.) Defined-benefit plans reward longevity in the firm, whereas defined-contribution plans reward high earnings over seniority. Thus, with the growth of defined-contribution plans, some reasons for staying with the same employer over time are no longer applicable.

According to PayScale’s Compensation Best Practices Report, the two leading motivators people give for leaving their job are first, higher pay, and second, personal reasons (e.g., family, health, marriage, spousal relocation).⁷ Of course, beyond money, workers seek meaning in their work, and it is largely true that money alone does not motivate employees to higher performance. However, it is a mistake for managers to think money is not a central factor influencing employees’ job satisfaction. Money matters because if employees are

not making enough money to meet their financial obligations or goals, they will likely be looking to for a higher-paying job. And, of course, increasing salary or other benefits can be a way of demonstrating both the company's loyalty to its employees and the role it believes employees' best interests play in its mission—navigating the aforementioned two-way street. For some employees, simply being acknowledged and thanked for their service and good work can go a long way toward sparking their loyalty; for others, more concrete rewards may be necessary.

Finally, many people work for themselves as freelance or contract workers in the new “gig” economy. They may take assignments from one or more companies at a time and are not employees in the traditional sense of the word. Therefore, it seems more reasonable that they would approach work in the same way a certified public accountant or attorney would—as completing a professional job for a client, after which they move on to the next client, always keeping their independent status. We would not expect gig workers to demonstrate employer loyalty when they are not employees.

WHAT WOULD YOU DO?

The Ties That Bind

If building employee loyalty is a challenge for managers and they see their workers leaving for better opportunities, what can they do to change the situation? Some companies focus on team-building activities, company picnics, rock-climbing walls, or zip lines, but do these actually make workers decide to stay with their company for less salary? The answer is usually no. The reality is that salary plays an important role in an employee's decision to move to a new job. Therefore, retention bonuses are a popular and perhaps more successful technique for instilling loyalty. The company provides a payment to an employee contingent on his or her committing to remain at the company for a specific period.

According to a Glassdoor study,⁸ when changing jobs, employees earn an average increase of more than 5 percent in salary alone, not including benefits. Thus, the offer of a salary increase and/or a retention or performance bonus can help turn many would-be former employees into newly loyal ones. The same study found that a 10 percent increase in pay upped the odds that an employee would stay at the company. According to Dr. Andrew Chamberlain, chief economist of Glassdoor, “While it is important to provide upward career paths for workers, a simple job title promotion may not be enough. Maintaining competitive pay is an important part of reducing turnover.”⁹

Of course, a retention bonus may not be enough to keep someone at a job he or she hates, but it might help someone who likes the job to decide to stay. The Society for Human Resource Management believes retention plans should be part of an overall pay strategy, not merely giveaways for tenure.¹⁰ Imagine that your colleague is considering leaving your firm for another company: Your manager has offered him a retention bonus to stay and your colleague is seeking your advice about what to do. What would you advise?

Critical Thinking

- What questions would you ask your colleague to better determine the advice you should give him or her?
- Consider your summer jobs, part-time employment, work-study hours on campus, and internships. What meant more to you—the salary you made or the extent to which you were treated as a real

contributor and not just a line on a payroll ledger? Or a combination of both?

- What lessons do you now draw about reciprocal loyalty between companies and their workers?

Confidentiality

In the competitive world of business, many employees encounter information in their day-to-day work that their employers reasonably expect they will keep confidential. Proprietary (private) information, the details of patents and copyrights, employee records and salary histories, and customer-related data are valued company assets that must remain in-house, not in the hands of competitors, trade publications, or the news media. Employers are well within their rights to expect employees to honor their **duty of confidentiality** and maintain the secrecy of such proprietary material. Sometimes the duty of confidentiality originates specifically from an employment contract, if there is one, and if not, the duty still exists in most situations under the common law of agency.

Most companies do not consider U.S. common law on confidentiality sufficient protection, so they often adopt employment agreements or contracts with employees that set forth the conditions of confidentiality. (Note that such contracts define a one-way obligation, from the employee to the employer, so they do not protect the at-will employee from being terminated without cause.) Typically, an employment agreement will list a variety of requirements. For example, although in most situations the law would already hold that the employer owns copyrightable works created by employees within the scope of their employment (known as *works for hire*), a contract usually also contains a specific clause stating that the company owns any and all such works and assigning ownership of them to the company. The agreement will also contain a patent assignment provision, stating that all inventions created within the scope of employment are owned by or assigned to the company.

LINK TO LEARNING

If one day you might be a freelancer, gig worker, or contractor, watch this [video showing how a nondisclosure agreement can help you protect your ideas \(https://openstax.org/l/53NDA\)](https://openstax.org/l/53NDA) to learn more.

Employers also want to protect their **trade secrets**, that is, information that has economic value because it is not generally known to the public and is kept secret by reasonable means. Trade secrets might include technical or design information, advertising and marketing plans, and research and development data that would be useful to competitors. Often **nondisclosure agreements** are used to protect against the theft of all such information, most of which is normally protected only by the company's requirement of secrecy, not by federal intellectual property law. Federal law generally protects registered trademarks (commercial identifications such as words, designs, logos, slogans, symbols, and *trade dress*, which is product appearance or packaging) and grants creators copyrights (to protect original literary and artistic expressions such as books, paintings, music, records, plays, movies, and software) and patents (to protect new and useful inventions and configurations of useful articles) ([Figure 7.3](#)).



Figure 7.3 Registered trademarks and content covered by patents and copyrights are protected by law, but trade secrets have no official status and so do not enjoy the same level of federal protection. Thus, companies generally protect trade secrets internally, usually with employment agreements or contracts. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

U.S. companies have long used **non-compete agreements** as a way to provide another layer of confidentiality, ensuring that employees with access to sensitive information will not compete with the company during or for some period after their employment there. The stated purpose of such agreements is to protect the company's **intellectual property**, which is the manifestation of original ideas protected by legal means such as patent, copyright, or trademark. To be enforceable, non-compete agreements are usually limited by time and distance (i.e., they are in effect for a certain number of months or years and within a certain radius of the employer's operations). However, some companies have begun requiring these agreements even from mid- and lower-level workers in an attempt to prevent them from changing jobs, including those who have no access to any confidential intellectual property. About 20 percent of the U.S. private-sector workforce, and about one in six people in jobs earning less than \$40,000 a year, are now covered by non-compete agreements.¹¹ The increased use of such agreements has left many employees feeling trapped by their limited mobility.

LINK TO LEARNING

A [template for a typical non-compete agreement \(https://openstax.org/l/53noncompete\)](https://openstax.org/l/53noncompete) can be found at PandaDoc.

An ethical question arises regarding whether this practice is in the best interests of society and its workers, and some states are responding. California enacted a law in 2017 saying that most non-compete agreements are void, holding that although an employee may owe the employer a responsibility not to compete while employed, that duty ceases upon termination of employment.¹² In other words, an employee does not “belong” to a company forever. In California, therefore, a non-compete arrangement that limits employment after leaving the employer is now unenforceable. Does this law reflect the approach that most states will now take? A California company may still legally prohibit its employees from moonlighting during the term of their employment, particularly for a competitor.

CASES FROM THE REAL WORLD

Non-Compete Agreements

After an investigation by then-New York attorney general Eric Schneiderman, fast-food franchisor Jimmy John's announced in 2016 that it would not enforce non-compete agreements signed by low-wage employees that prohibited them from working at other sandwich shops, and it agreed to stop using the agreements in the future. Jimmy John's non-compete agreement had prohibited all workers, regardless of position, from working during their employment and for two years after at any other business that sold "submarine, hero-type, deli-style, pita, and/or wrapped or rolled sandwiches" in a geographic area within two miles of any Jimmy John's shop anywhere in the United States.¹³

Schneiderman said of the agreements, "They limit mobility and opportunity for vulnerable workers and bully them into staying with the threat of being sued." Illinois Attorney General Lisa Madigan had also initiated action, filing a lawsuit that asked the court to strike down such clauses. "Preventing employees from seeking employment with a competitor is unfair to Illinois workers and bad for Illinois businesses," Madigan said. "By locking low-wage workers into their jobs and prohibiting them from seeking better paying jobs elsewhere, the companies have no reason to increase their wages or benefits."¹⁴

Jimmy John's has more than 2,500 franchises in forty-six states, so its agreement meant it would be difficult for a former worker to get a job in a sandwich shop in almost any big city in the United States.

Critical Thinking

- Other than being punitive, what purpose do non-compete agreements serve when low-level employees are required to sign them?
- Suppose an executive chef or vice president of marketing or operations at Jimmy John's or any large sandwich franchise leaves the firm with knowledge of trade secrets and competitive strategies. Should he or she be compelled to wait a negotiated period of time before working for a competitor? Why or why not?
- What is fair to all parties when high-level managers possess unique, sensitive information about their former employer?

Employers may also insert a **nonsolicitation clause**, which protects a business from an employee who leaves for another job and then attempts to lure customers or former colleagues into following. Though these clauses have limitations, they can be effective tools to protect an employer's interest in retaining its employees and customers. However, they are particularly difficult for employees to comply with in relatively closed markets. Sample language for all the clauses we have discussed is found in [Figure 7.4](#).

Non-Compete Clause

The Employee agrees that for a period of one year after the Employee no longer works for the Company, the Employee will not engage in the same or similar activities as were performed for the Company in any business within a 100-mile radius of the Company.

Nonsolicitation of Customers/Employees Clause

The Employee agrees that for a period of two years after the Employee no longer works for the Company, the Employee will not solicit customer, clients, and/or employees of the Company.

Confidentiality/Non-Disclosure Clause

Employee agrees that during employment with the Company and following the termination of such employment for an unlimited term, the Employee shall not misappropriate, divulge, disclose, or make use of any confidential information, intellectual property, or trade secrets.

Figure 7.4 Common clauses found in employment contracts include those restricting competition and solicitation upon termination of the contract, as well as requiring confidentiality during and after employment. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

A final clause an employee might be required to sign is a nondisparagement clause, which prohibits defaming or deliberately running down the reputation of the former employer.

7.2 Loyalty to the Brand and to Customers

Learning Objectives

By the end of this section, you will be able to:

- Describe how employees help build and sustain a brand
- Discuss how employees' customer service can help or hurt a business

A good employment relationship is beneficial to both management and employees. When a company's products or services are legitimate and safe and its employment policies are fair and compassionate, managers should be able to rely on their employees' dedication to those products or services and to their customers. Although no employee should be called upon to lie or cover up a misstep on the part of the firm, every employee should be willing to make a sincere commitment to an ethical employer.

Respecting the Brand

Every company puts time, effort, and money into developing a **brand**, that is, a product or service marketed by a particular company under a particular name. As Apple, Coca-Cola, Amazon, BMW, McDonald's, and creators of other coveted brands know, **branding**—creating, differentiating, and maintaining a brand's image or reputation—is an important way to build company value, sell products and services, and expand corporate goodwill. In the sense discussed here, the term "brand" encompasses an image, reputation, logo, tagline, or specific color scheme that is trademarked, meaning the company owns it and must give permission to others who would legally use it (such as Tiffany's unique shade of blue).

Companies want and expect employees to help in their branding endeavors. For example, according to the head of training at American Express, the company's brand is its product, and its mantra has always been, "Happy employees make happy customers."¹⁵ American Express places significant emphasis on employee satisfaction because it is convinced this strategy helps protect and advance its brand. One company that uses positive employee involvement in branding is the technology conglomerate Cisco, which started a branding

program on social media that reaches out to employees (Figure 7.5). Employees are encouraged to be creative in their brand-boosting posts in the program. The benefit is that prospective job candidates get a peek into Cisco life, and current employees feel the company trusts and values their ideas.¹⁶



Figure 7.5 These Cisco employees, part of a newly formed Virtual Customer Success team in India, help promote the brand and perhaps promote change as well. Women have been underrepresented in STEM careers (science, technology, engineering, math), and this group takes pride in the fact that they are part of a gender-balanced team. This photo was submitted as part of the annual #WeAreCisco #LoveWhereYouWork contest, with the hashtag #womenintech and the photo caption “Sorry, we’re busy making a difference.” (credit: modification of work by Shojana Ravi/Cisco, CC BY 4.0, used with the permission of <https://thenetwork.cisco.com>)

LINK TO LEARNING

Watch this [video explaining the concept of brand loyalty \(https://openstax.org/l/53BrandLoyal\)](https://openstax.org/l/53BrandLoyal) to learn more.

However, protecting the brand can be a special challenge today, thanks to the ease with which customers and even employees can post negative information about the brand on the Internet and social media. Consider these examples in the fast-food industry. A photo posted on Taco Bell’s Facebook page showed an employee licking a row of tacos. A Domino’s Pizza employee can be seen in a YouTube video spitting on food, putting cheese into his nose and then putting that cheese into a sandwich, and rubbing a sponge used for dishwashing on his groin area.¹⁷ On Twitter, a Burger King employee in Japan posted a photo of himself lying on hamburger buns while on duty.

The companies all responded swiftly. A Taco Bell spokesperson said the food was not served to customers and the employee in the photo was fired. The two Domino’s employees behind the videos were fired and faced felony charges and a civil lawsuit; Domino’s said the tainted food was never delivered. According to a Burger King news release, the buns in the photo were waste material because of an ordering mistake and were promptly discarded after the photo was taken; the employee in the photo was fired.

These examples demonstrate how much damage disloyal or disgruntled employees can create, especially on social media. All three companies experienced financial and goodwill losses after the incidents and struggled to restore public trust in their products. The immediate and long-term costs of such incidents are the reason

companies invest in developing brand loyalty among their employees.

According to a *Harvard Business Review* interview with Colin Mitchell, global vice president, McDonald's Brand, McDonald's, good branding requires that a business think of marketing not just to its customers but also to its employees, because they are the "very people who can make the brand come alive for your customers".¹⁸ The process of getting employees to believe in the product, to commit to the idea that the company is selling something worth buying, and even to think about buying it, is called **internal marketing**. Of course, some employees may not want to be the equivalent of a company spokesperson. Is it reasonable to expect an employee to be a kind of roving ambassador for the company, even when off the clock and interacting with friends and neighbors? Suppose employers offer employees substantial discounts on their products or services. Is this an equitable way to sustain reciprocal loyalty between managers and workers? Why or why not?

Internal marketing is an important part of the solution to the problem of employees who act as if they do not care about the company. It helps employees make a personal connection to the products and services the business sells, without which they might be more likely to undermine the company's expectations, as in the three fast-food examples cited in this section. In those cases, it is clear the employees did not believe in the brand and felt hostile toward the company. The most common problem is usually not as extreme. More often it is a lack of effort or "slacking" on the job. Employees are more likely to develop some degree of brand loyalty when they share a common sense of purpose and identity with the company.

LINK TO LEARNING

The [Working Advantage website offers corporate discounts \(https://openstax.org/l/53discount\)](https://openstax.org/l/53discount) to check out. Companies sometimes offer employees significant discounts to encourage them to buy, and support, their products.

Obligations to Customers

As the public's first point of contact with a company, employees are obliged to assist the firm in forming a positive relationship with customers. How well or poorly they do so contributes a great deal to customers' impression of the company. And customers' perceptions affect not only the company but all the employees who depend on its success for their livelihood. Thus, the ethical obligations of an employee also extend to interactions with customers, whom they should treat with respect. Employers can encourage positive behavior toward customers by empowering employees to use their best judgment when working with them.

LINK TO LEARNING

Watch this [video giving a light-hearted take on bad customer service \(https://openstax.org/l/53BadService\)](https://openstax.org/l/53BadService) to learn more.

It may take only one bad customer interaction with a less-than-engaged or committed employee to sour brand

loyalty, no matter how hard a company has worked to build it. In the same way, just one good experience can build up good will.

CASES FROM THE REAL WORLD

Redefining Customers

Sometimes engaged employees go above and beyond in the interest of customer service, even if they have no “customers” to speak of. Kathy Fryman is one such employee. Fryman was a custodian for three decades at a one hundred-year-old school in the Augusta (KY) Independent School District. She was not just taking care of the school building, she was also taking care of the people inside.¹⁹

Fryman fixed doors that would not close, phones that would not ring, and alarms that did not sound when they should. She kept track of keys and swept up dirty floors before Parents’ Night. That was all part of the job of custodian, but she did much more.

Fryman would often ask the nurse how an ill student was doing. She would check with a teacher about a kid who was going through tough times at home. If a teacher mentioned needing something, the next day it would show up on his or her desk. A student who needed something for class would suddenly find it in his or her backpack. Speaking of Fryman, district superintendent Lisa McCrane said, “She just has a unique way of making others feel nurtured, comforted, and cared for.” According to Fryman, “I need to be doing something for somebody.”

Fryman’s customers were not there to buy a product on which she would make a commission. Her customers were students and teachers, parents and taxpayers. Yet she provided the kind of service that all employers would be proud of, the kind that makes a difference to people every day.

Critical Thinking

- Is there a way for a manager to find, develop, and encourage the next Fryman, or is the desire to “do something good for somebody” an inherent trait in some employees that is missing in others?
- What is the appropriate means to reward a worker with Fryman’s level of commitment? Her salary was fixed by school district pay schedules. Should she have been given an extra stipend for service above and beyond the expected? Additional time off with pay? Some other reward?
- Employees who display Fryman’s zeal often do so for their own internal rewards. Others may simply want to be recognized and appreciated for their effort. If you were the superintendent in her district, how would you recognize Fryman? Could she, for example, be invited to speak to new hires about opportunities to render exceptional service?

Employees who treat customers well are assets to the company and deserve to be treated as such. Sometimes, however, customers are rude or disrespectful, creating a challenge for an employee who wants to do a good job. This problem is best addressed by management and the employee working together. In the Pizza Hut case that follows, an employee was placed in a bad situation by customers.

CASES FROM THE REAL WORLD

Is the Customer Always Right?

At an independently owned Pizza Hut franchise in Oklahoma,²⁰ two regular customers made sexually offensive remarks to a female employee named Lockard, who then told her boss she did not like waiting on them. One evening, these customers again entered the restaurant, and her boss instructed Lockard to wait on them. She did, but this time the customers became physically abusive. Although it is the employee's duty to provide good customer service, that does not mean accepting harassment.

Lockard sued her employer, the owner of the franchise, for failing to take her complaints seriously and for making her continue to suffer sexual harassment and assault by customers. The jury ruled in her favor, awarding her \$360,000, and an appeals court upheld the judgment.

Critical Thinking

- Clearly, no employee should expect to be physically assaulted, but how far should an employee be expected to go in the name of customer service? Is taking verbal taunts expected? Why or why not?
- Just as every employee should treat customers and clients with respect, so every employer is ethically—and often legally—obligated to safeguard employees on the job. This includes establishing a workplace atmosphere that is safe and secure for workers. If you were the owner of this Pizza Hut franchise, what protections might you put in place for your employees?

7.3 Contributing to a Positive Work Atmosphere

Learning Objectives

By the end of this section, you will be able to:

- Explain employees' responsibility to treat their peers with respect
- Describe employees' duty to follow company policy and the code of conduct
- Discuss types of workplace violence

You may spend more time with your coworkers than you spend with anyone else, including your family and friends. Thus, your ability to get along with work colleagues can have a significant impact on your life, as well as your attitude toward your job and your employer. All sorts of personalities populate our workplaces, but regardless of their working style, preferences, or quirks, employees owe one another courtesy and respect. That does not mean always agreeing with them, because evaluating a diversity of perspectives on business problems and opportunities is often essential for finding solutions. At the same time, however, we are responsible for limiting our arguments to principles, not personalities. This is what we owe to one another as human beings, as well as to the firm, so worksite arguments do not inflict lasting harm on the people who work there or on the company itself.

Getting Along with Coworkers

An employee who gets along with coworkers can help the company perform better. What can employees do to help create a more harmonious workplace with a positive atmosphere?

One thing you can do is to keep an open mind. You may be wondering as you start a new job whether you will get along with your colleagues as well as you did at your old job. Or, if you did not get along with the people there and were looking for a change, you might fear things will be the same at the new job. Do not make any prejudgments. Get to know a bit about your new coworkers. Accept, or extend, lunch invitations, join weekend activities and office social events, and perhaps join those office traditions that bind long-serving employees and newcomers together in a collaborative spirit.

Another thing you can do is to remember to be kind. Everyone has a bad day every now and then, and if you spot a coworker having one, performing a random act of kindness may make that person's day better. You do not need to be extravagant. Offer to stay late to help the person meet a tight deadline, or bring coffee or a healthy snack to someone working on particularly difficult tasks. Remember the adage, "It's nice to be important, but it's more important to be nice."

For any relationship to succeed, including the relationship between coworkers, the parties must respect each other—and show it. Avoid doing things that might offend others. For example, do not take credit for someone else's work. Do not be narrow minded; when someone brings up a topic such as politics or religion, be willing to listen and tolerate differing points of view.

A related directive is to avoid sexual jokes, stories, anecdotes, and innuendos. You might think it is okay to talk about anything and everything at work, but it is not. Others may not find the topic funny and feel offended, and you may make yourself vulnerable to action by management if such behavior is reported. Your coworkers might be a captive audience, but you should never place them in an awkward position.

Make an effort to get along with everyone, even difficult people. You did not choose your coworkers, and some may be hard to get along with. But professionalism requires that we attempt to establish the best working relationships we can on the job, no matter the opinions we might have about our colleagues. Normally, we might like some of them very much, be neutral about some others, and genuinely dislike still others. Yet our responsibility in the workplace is to respect and act at least civilly toward all of them. We likely will feel better about ourselves as professionals and also live up to our commitments to our companies.

Finally, do not use social media to gossip. Gossiping at work can cause problems anywhere, perhaps especially on social media, so resist the urge to vent online about your coworkers. It makes you appear petty, small, and untrustworthy, and colleagues may stop communicating with you. You may also run afoul of your employer's social media policy and risk disciplinary action or dismissal.

Understanding Personalities

Understanding the various personalities at work can be a complex task, but it is a vital one for developing a sense of collegiality. One technique that may be helpful is to develop your own emotional intelligence, which is the capacity to recognize other people's emotions and also to know and manage your own. One aspect of using emotional intelligence is showing empathy, the willingness to step into someone else's shoes.

LINK TO LEARNING

Do you think you know yourself? Take this [free online personality test \(https://openstax.org/l/53personality\)](https://openstax.org/l/53personality) from IDR Labs; it may tell you something you did not know that you can use to your

benefit at work.

All of us have different **workplace personalities**, which express the way we think and act on the job. There are many such personalities, and none is superior or inferior to another, but they are a way in which we exhibit our uniqueness on the job (Figure 7.6). Some of us lead with our brains and emphasize logic and reason. Others lead with our hearts, always emphasizing mercy over justice in our relationships with others.



Figure 7.6 Which type of personality are you? (credit: Jackson Ceszyk/Flickr, CC BY 4.0)

Employees can also have very different **work styles**, the way in which we are most comfortable accomplishing our tasks at work. Some of us gravitate toward independence and jobs or tasks we can accomplish alone. Others prefer team or project work, bringing us into touch with different personalities. Still others seek a mix of these environments. Some prioritize getting the job done as efficiently as possible, whereas others value the journey of working on the project with others and the shared experiences it brings. There is no right or wrong style, but it benefits any worker to know his or her preferences and something about the work personalities of colleagues. When in the office, the point for any of us individually is to appreciate what motivates our greatest success and happiness on the job.

WHAT WOULD YOU DO?

Personality Test

Imagine you are a department director with twenty-five employees reporting directly to you. Two of them are experts in their fields: You like and respect them individually, as do the others in your department, but they simply cannot get along with each other and so never work together.

How do you resolve this personality clash? You cannot simply insist that the two colleagues cooperate,

because personalities do not change. Still, you have to do your best to establish an atmosphere in which they can least collaborate civilly. Even though managers have no power to change human nature or the personality conflicts that inevitably occur, part of their responsibility is to establish a harmonious working environment, and others will judge you on the harmony you cultivate in your department.

Critical Thinking

Working relationships are extremely important to an employee's job satisfaction. What options would you use to foster a cooperative working relationship in your department?

Reducing Workplace Violence

As recent incidents have shown—for example, the April 2018 shooting at YouTube headquarters in San Bruno, California²¹—workplace violence is a reality, and all employees play a role in helping make work a safe, as well as harmonious place. Employees, in fact, have a legal and ethical duty not to be violent at work, and managers have a duty to prevent or stop violence. The National Institute for Occupational Safety and Health reports that violence at work usually fits into one of four categories: traditional criminal intent, violence by one worker against another, violence stemming from a personal relationship, and violence by a customer.²²

In violence based on traditional criminal intent, the perpetrator has no legitimate relationship to the business or its employees, and often the violence is part of a crime such as robbery or shoplifting. Violence between coworkers occurs when a current or former employee attacks another employee in the workplace. Worker-on-worker deaths account for approximately 15 percent of all workplace homicides. All companies are at risk for this type of violence, and contributing factors include failure to conduct a criminal background check as part of the hiring process.

When the violence arises from problems in a personal relationship, the perpetrator often has a direct relationship not with the business but with the victim, who is an employee. This category of violence accounts for slightly less than 10 percent of all workplace homicides. Women are at higher risk of being victims of this type of violence than men. In the fourth scenario, the violent person has a legitimate relationship with the business, perhaps as a customer or patient, and becomes violent while on the premises. A large portion of customer incidents occur in the nightclub, restaurant, and health care industries. In 2014, about one-fifth of all workplace homicides resulted from this type of violence.²³

Codes of Conduct

Companies have a right to insist that their employees, including managers, engage in ethical decision-making. To help achieve this goal, most businesses provide a written code of ethics or code of conduct for all employees to follow. These cover a wide variety of topics, from workplace romance and sexual harassment to hiring and termination policies, client and customer entertainment, bribery and gifts, personal trading of company shares in any way that hints of acting on insider knowledge of the company's fortunes, outside employment, and dozens of others. A typical code of conduct, regardless of the company or the industry, will also contain a variety of standard clauses, often blending legal compliance and ethical considerations ([Table 7.1](#)).

Sample Code of Conduct

Compliance with all laws	Employees must comply with all laws, including bribery, fraud, securities, environmental, safety, and employment laws.
Corruption and fraud	Employees must not accept certain types of gifts and hospitality from clients, vendors, or partners. Bribery is prohibited in all circumstances.
Conflict of interest	Employees must disclose and/or avoid any personal, financial, or other interests that might influence their ability to perform their job duties.
Company property	Employees must treat the company's property with respect and care, not misuse it, and protect company facilities and other material property.
Cybersecurity and digital devices policy	Employees must not use company computer equipment to transfer illegal, offensive, or pirated material, or to visit potentially dangerous websites that might compromise the safety of the company network or servers; employees must respect their duty of confidentiality in all Internet interactions.
Social media policy	Employees may [or may not] access personal social media accounts at work but are expected to act responsibly, follow company policies, and maintain productivity.
Sexual harassment	Employees must not engage in unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Behaviors such as conditioning promotions, awards, training, or other job benefits upon acceptance of unwelcome actions of a sexual nature are always wrong. ²⁴
Workplace respect	Employees must show respect for their colleagues at every level. Neither inappropriate nor illegal behavior will be tolerated.

Table 7.1

LINK TO LEARNING

Exxon Mobil's Code of Conduct is typical of that of most large companies. Read [Exxon Mobil's code of conduct \(https://openstax.org/l/53Exxon\)](https://openstax.org/l/53Exxon) on their website, and note that it demands ethical conduct at every level of the organization. Exxon expects its leadership team to model appropriate behavior for all employees. Decide whether, if you were an Exxon employee, you would find the code understandable and clear regarding what is allowed and what is not. Still thinking as an employee, identify the section of the code you think is most important for you, and explain why.

Two areas that deserve special mention are cybersecurity and harassment. Recent news stories have highlighted the hacking of electronic tools such as computers and databases, and employees and managers can indirectly contribute to such data breaches through unauthorized web surfing, sloppy e-mail usage, and other careless actions. Large companies such as Equifax, LinkedIn, Sony, Facebook, and JP Morgan Chase have

suffered the theft of customer information, leading to loss of consumer confidence; sometimes large fines have been levied on companies. Employees play a part in preventing such breaches by strictly following company guidelines about data privacy and confidentiality, the use and storage of passwords, and other safeguards that limit access to only authorized users.

LINK TO LEARNING

For more on recent data breaches, watch a couple of videos. Watch this [video about how J.P. Morgan Chase's \\$13 billion fine was the largest in history \(https://openstax.org/l/53JPMorgan\)](https://openstax.org/l/53JPMorgan) from *CBS Evening News*. Also watch this [video about how the Sony PlayStation was hacked and data was stolen from 77 million users \(https://openstax.org/l/53PlayStation\)](https://openstax.org/l/53PlayStation) from *CBS Early*.

We are also witnessing an increased level of public awareness about harassment in the workplace, particularly because of the #MeToo movement that followed revelations in 2017 and 2018 of years of sexual predation by powerful men in Hollywood and Washington, DC, as well as across workplaces of all kinds, including in sports and the arts. A victim of sexual harassment can be a man or a woman, and/or the same sex as the harasser. The harasser can be a supervisor, coworker, other employee, officer/director, intern, consultant, or nonemployee. Whatever the situation, harassing and threatening behavior is wrong (and sometimes criminal) and should always be reported.

7.4 Financial Integrity

Learning Objectives

By the end of this section, you will be able to:

- Describe an employee's responsibilities to the employer in financial matters
- Define insider trading
- Discuss bribery and its legal and ethical consequences

Employees may face ethical dilemmas in the area of finance, especially in situations such as bribery and insider trading in securities. Such dubious "profit opportunities" can offer the chance of realizing thousands or millions of dollars, creating serious temptation for an employee. However, insider trading and bribery are serious violations of the law that can result in incarceration and large fines.

Insider Trading

The buying or selling of stocks, bonds, or other investments based on nonpublic information that is likely to affect the price of the security being traded is called **insider trading**. For example, someone who is privy to information that a company is about to be taken over, which will cause its stock price to rise when the information becomes public, may buy the stock before it goes up in order to sell it later for an enhanced profit. Likewise, someone with inside information about a coming drop in share price may sell all his or her holdings at the current price before the information is announced, avoiding the loss other shareholders will suffer when the price falls. Although insider trading can be difficult to prove, it is essentially cheating. It is illegal, unethical, and unfair, and it often injures other investors, as well as undermining public confidence in the stock market.

Insider trading laws are somewhat complex. They have developed through federal court interpretations of Section 10(b)5 of the Securities Exchange Act of 1934, as well as through actions by the U.S. Securities and Exchange Commission (SEC). The laws identify several kinds of violations. These include trading by an insider (generally someone who performs work for the company) who possesses significant confidential information relevant to the valuation of the company's stock, and trading by someone outside of the company who is given this sort of information by an insider or who obtains it inappropriately. Even being the messenger (the one communicating material nonpublic information to others on behalf of someone else) can be a legal violation.

The concept of an "insider" is broad and includes officers, directors, and employees of a company issuing securities. A person can even constitute what is called a "temporary insider" if he or she temporarily assumes a unique confidential relationship with a firm and, in doing so, acquires confidential information centered on the firm's financial and operational affairs. Temporary insiders can be investment bankers, brokers, attorneys, accountants, or other professionals typically thought of as outsiders, such as newspaper and television reporters.

A famous case of insider trading, *Securities and Exchange Commission v. Texas Gulf Sulphur Co.* (1968), began with the discovery of the Kidd Mine and implicated the employees of Texas mining company.²⁵ When first notified of the discovery of a large and very valuable copper deposit, mine employees bought stock in the company while keeping the information secret. When the information was released to the public, the price of the stock went up and the employees sold their stock, making a significant amount of money. The SEC and the Department of Justice prosecuted the employees for insider trading and won a conviction; the employees had to give back all the money they had made on their trades. Insider trading cases are often highly publicized, especially when charges are brought against high-profile figures.

ETHICS ACROSS TIME AND CULTURES

Insider Trading and Fiduciary Duty

One of the most famous cases of insider trading implicated Michael Milken, Dennis Levine, and Martin Siegel, all executives of Drexel Burnham Lambert (DBL), and the company itself.²⁶ Ivan Boesky, also accused, was an arbitrageur, an outside investor who bet on corporate takeovers and appeared to be able to uncannily anticipate takeover targets, buy their stock ahead of time, and earn huge profits. Everyone wondered how; the answer was that he cheated. Boesky went to the source—the major investment banks—to get insider information. He paid Levine and Siegel to give him pretakeover details, an illegal action, and he profited enormously from nearly every major deal in the merger-crazy 1980s, including huge deals involving oil companies such as Texaco, Getty, Gulf, and Chevron.

The SEC started to become suspicious after receiving a tip that someone was leaking information. Investigators discovered Levine's secret Swiss bank account, with all the money Boesky had paid him. Levine then gave up Boesky in a plea deal; the SEC started watching Boesky and subsequently caught Siegel and Milken.

The penalties were the most severe ever given at the time. Milken, the biggest catch of all, agreed to pay \$200 million in government fines, \$400 million to investors who had been hurt by his actions, and \$500 million to DBL clients—for a grand total of \$1.1 billion. He was sentenced to ten years in prison and

banned for life from any involvement in the securities industry. Boesky received a prison sentence of 3.5 years, was fined \$100 million, and was permanently barred from working with securities. Levine agreed to pay \$11.5 million and \$2 million more in back taxes; he too was given a lifetime ban and was sentenced to two years in prison.

Milken and Levine violated their financial duties to their employer and the company's clients. Not only does insider trading create a public relations nightmare, it also subjects the company to legal liability. DBL ended up being held liable in civil lawsuits due to the actions of its employees, and it was also charged with violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act) and ultimately failed, going bankrupt in 1990.

(As a note of interest regarding the aftermath of all of this for Milken, he has tried to redeem his image since his incarceration. He resolutely advises others to avoid his criminal acts and has endowed some worthy causes in Los Angeles.)

Critical Thinking

- Employers in financial services must have stringent codes of professional behavior for their employees to observe. Even given such a code, how should employees honor their fiduciary duty to safeguard the firm's assets and treat clients equitably? What mechanisms would you suggest for keeping employees in banking, equities trading, and financial advising within the limits of the law and ethical behavior?
- This case dominated the headlines in the 1980s and the accused in this case were all severely fined and received prison sentences. How do you think this case might be treated today?
- Should employees in these industries be encouraged or even required to receive ethical certification from the state or from professional associations? Why or why not?

Bribery and the Foreign Corrupt Practices Act

Another temptation that may present itself to employees is the offer of a bribe. A **bribe** is a payment in some material form (cash or noncash) for an act that runs counter to the legal or ethical culture of the work environment. Bribery constitutes a violation of the law in all fifty U.S. states, as well as of a federal law that prohibits bribery in international transactions, the Foreign Corrupt Practices Act. Bribery generally injures not only individuals but also competitors, the government, and the free-market system as a whole. Of course, often the bribe is somewhat less obvious than an envelope full of money. It is important, therefore, to understand what constitutes a bribe.

Numerous factors help establish the ethics (and legality) of gift giving and receiving: the value of the gift, its purpose, the circumstances under which it is given, the position of the person receiving it, company policy, and the law. Assuming an employee has decision-making authority, the company wants and has the right to expect him or her to make choices in *its* best interest, not the employee's own self-interest. For example, assume an employee has the authority to buy a copy machine for the company. The employer wants to get the best copy machine for the best price, taking into account quality, service, warranties, and other factors. But what if the employee accepts a valuable gift card from a vendor who sells a copy machine with higher operating and maintenance charges, and then places the order with that vendor. This is clearly not in the best interests of the employer. It constitutes a failure on the part of the employee to follow ethical and legal rules, and, in all likelihood, company policy as well. If a company wants its employees always to do the right thing, it must have

policies and procedures that ensure the employees know what the rules are and the consequences for breaking them.

A gift may be only a well-intentioned token of appreciation, but the potential for violating company rules (and the law) is still present. A well-written and effectively communicated gift policy provides guidance to company employees about what is and is not appropriate to accept from a customer or vendor and when. This policy should clearly state whether employees are allowed to accept gifts on or outside the work premises and who may give or accept them. If gifts are allowed, the gift policy should define the acceptable value and type, and the circumstances under which an employee may accept a gift.

When in doubt about whether the size or value of a gift renders it impossible for an employee to accept it, workers should be advised to check with the appropriate officer or department within their company. Be it an “ethics hotline” or simply the human resources department, wise firms provide an easy protocol for employees to follow in determining what falls within and without the protocols for accepting gifts.

As an example of a gift policy, consider the federal government’s strict rules.²⁷ A federal employee may not give or solicit a contribution for a gift to an official superior and may not accept a gift from an employee receiving less pay if that employee is a subordinate. On annual occasions when gifts are traditionally given, such as birthdays and holidays, an employee may give a superior a gift valued at less than \$10. An employee may not solicit or accept a gift given because of his or her official position, or from a prohibited source, including anyone who has or seeks official action or business with the agency. In special circumstances such as holidays, and unless the frequency of the gifts would appear to be improper, an employee generally may accept gifts of less than \$20. Gifts of entertainment, such as expensive restaurant meals, are also restricted. Finally, gifts must be reported when their total value from one source exceeds \$390 in a calendar year. Some companies in the private sector follow similar rules.

Bribery presents a particular ethical challenge for employees in the international business arenas. Although every company wants to land lucrative contracts around the world, most expect their employees to follow both the law and company policy when attempting to consummate such deals. The U.S. law prohibiting bribery in international business dealings is the **Foreign Corrupt Practices Act (FCPA)**, which is an amendment to the Securities and Exchange Act of 1934, one of the most important laws promoting transparency in corporate governance. The FCPA dates to 1977 and was amended in 1988 and 1998. Its main purpose is to make it illegal for companies and their managers to influence or bribe foreign officials with monetary payments or rewards of any kind in an attempt to get or keep business opportunities outside the United States. The FCPA is enforced through the joint efforts of the SEC and the Department of Justice.²⁸ It applies to any act by U.S. businesses, their representatives, foreign corporations whose stock is traded in U.S. markets, and all U.S. citizens, nationals, or residents acting in furtherance of a foreign corrupt practice, whether they are physically present in the United States or not (this is called the nationality principle). Antibribery law is a serious issue for companies with overseas business and cross-border sales. Any companies or individuals convicted of these activities may pay significant fines, and individuals can face prison time.

The FCPA prohibits an agent of any company incorporated in the United States from extending a bribe to a foreign government official to achieve a business advantage in that country, but it does not specifically prohibit the extension of a bribe to a private officer of a nongovernmental company in a foreign country. The definition of a foreign government official can be expansive; it includes not only those working directly for the government but also company officials if the company is owned or operated by the government. An exception is made for “facilitating or grease payments,” small amounts of money paid to low-level government workers in an effort to speed routine tasks like processing paperwork or turning on electricity, but not to influence the granting of a contract.

Illegal payments need not be cash; they can include anything of value such as gifts and trips. For example, BHP Billiton, a U.S. energy company, and GlaxoSmithKline, a U.K. pharmaceutical company, were each fined \$25 million for buying foreign officials tickets to the 2008 Olympic Games in Beijing, China.²⁹ Fines for violations like these can be large and can include civil penalties as well as forfeited profits. For example, Telia, a Swedish telecommunications provider whose shares are traded on Nasdaq, recently agreed to pay nearly a billion dollars (\$965 million) in a settlement to resolve FCPA violations that consisted of using bribery to win business in Uzbekistan.³⁰

LINK TO LEARNING

The [SEC website](https://openstax.org/l/53FCPA) provides an interactive list of the SEC's FCPA enforcement actions by calendar year and company name (<https://openstax.org/l/53FCPA>) for more information. Click on *Telia* to read more details on the case cited in the preceding paragraph. Do you think the penalty was too harsh, or not harsh enough? Why?

The potential effect of laws such as the FCPA that impose ethical duties on employees and the companies they work for is often debated. Although some believe the FCPA disadvantages U.S. firms competing in foreign markets, others say it is the backbone of an ethical free enterprise system. The argument against strong enforcement of the FCPA has some merit according to managers in the field, and there is a general sense that illegal or unethical conduct is sometimes necessary for success. An attorney for energy-related company Cinergy summed up the feelings of many executives: "Shame on the Justice Department's myopic view and inability to understand the realities of the world."³¹ Some nations consider business bribery to be culturally acceptable and turn a blind eye to such activities.

The argument in favor of FCPA enforcement has its supporters as well, who assert that the law not only covers the activities of U.S. companies but also levels the playing field because of its broad jurisdiction over foreign enterprises and their officials. The fact is that since the United States passed the FCPA, other nations have followed suit. The 1997 Organization for Economic Cooperation and Development (OECD) Anti-Bribery Convention has been instrumental in getting its signatories (the United Kingdom and most European Union nations) to enact stricter antibribery laws. The United Kingdom adopted the Bribery Act in 2010, Canada adopted the Corruption of Foreign Officials Act of 1999, and European Union nations have done the same. There is also the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which has forty-three signatories, including all thirty-five OECD countries and eight other countries.

Companies and employees engaging in transactions in foreign markets face an increased level of regulatory scrutiny and are well served if they put ethics policies in place and enforce them. Companies must train employees at all levels to follow compliance guidelines and rules, rather than engaging in illegal conduct such as "under the table" and "off the books" payments ([Figure 7.7](#)).



Figure 7.7 “Under the table” and “off the books” are terms applied to payments that are really bribes.
(credit: modification of “Graft for Everyone!” by Chris Potter/Flickr, CC BY 2.0)

Ethical Leadership

Of course, bribery is just one of many ethical dilemmas an employee might face in the workplace. Not all such dilemmas are governed by the clear-cut rules generally laid out for illegal acts such as bribery. Employees may find themselves being asked to do something that is legal but not considered ethical. For example, an employee might receive confidential proprietary knowledge about another firm that would give his or her firm an unfair competitive advantage. Should the employee act on this information?

WHAT WOULD YOU DO?

Should You Act on Information If You Have Doubts?

Assume you are a partner in a successful computer consulting firm bidding for a contract with a large insurance company. Your chief rival is a firm that has usually offered services and prices similar to yours. However, from a new employee who used to work for that firm, you learn that it is unveiling a new competitive price structure and accelerated delivery dates, which will undercut the terms you had been prepared to offer the insurance company. Assume you have verified that the new employee is not in violation of any non-compete or nondisclosure agreement and therefore the information was not given to you illegally.

Critical Thinking

Would you change prices and delivery dates to beat your rival? Or would you inform both your rival and potential customer of what you have learned? Why?

Most companies say they want all employees to obey the law and make ethical decisions. But employees typically should not be expected to make ethical decisions based just on gut instinct; they need guidance, training, and leadership to help them navigate the maze of grey areas that present themselves daily in

business. This guidance can be provided by the company through standard setting and the development of ethical codes of conduct and policies. Senior managers modeling ethical behavior and so leading by direct example also provide significant direction.

7.5 Criticism of the Company and Whistleblowing

Learning Objectives

By the end of this section, you will be able to:

- Outline the rules and laws that govern employees' criticism of the employer
- Identify situations in which an employee becomes a whistleblower

This chapter has explained the many responsibilities employees owe their employers. But workers are not robots. They have minds of their own and the freedom to criticize their bosses and firms, even if managers and companies do not always welcome such criticism. What kind of criticism is fair and ethical, what is legal, and how should a whistleblowing employee be treated?

Limiting Pay Secrecy

For decades, most U.S. companies enforced **pay secrecy**, a policy that prohibits employees from disclosing or discussing salaries among themselves. The reason was obvious: Companies did not want to be scrutinized for their salary decisions. They knew that if workers were aware of what each was paid, they would question the inequities that pay secrecy kept hidden from them.

Recently, the situation has begun to change. Ten states have enacted new laws banning employers from imposing pay secrecy rules: California, Colorado, Illinois, Louisiana, Maine, Michigan, Minnesota, New Hampshire, New Jersey, and Vermont.³² The real game changer came in 2012, when multiple decisions by the National Labor Relations Board (NLRB) and various federal courts made it clear that most pay secrecy policies are unenforceable and violate federal labor law (National Labor Relations Act, 29 U.S.C. § 157-158).³³ Generally speaking, labor law lends employees the right to engage in collective activities, including that of discussing with each other the specifics of their individual employment arrangements, which includes how much they are paid. Moreover, the applicable sections of the 1935 National Labor Relations Act (NLRA) apply to union and non-union employees, so there is no exception made for companies whose employees are non-unionized, meaning the law protects all workers. In 2014, President Barack Obama issued an executive order banning companies that engaged in federal contracting from prohibiting such salary discussions.³⁴

Opening up the discussion of pay acknowledges the growing desire of employees to be well informed and to have the freedom to question or criticize their company. If employees cannot talk about something at work because they think it will make their boss angry, where do they go instead? Social media can be a likely answer. Protections generally extend to salary discussions on Facebook or Twitter or Instagram; Section 7 of the NLRA protects two or more employees who act together or discuss improving their terms and conditions of employment in person or online, just as it does in other settings.

Speaking Out on Social Media

Does the First Amendment protect employees at work who criticize their boss or their company? Generally, no. That answer may surprise those who believe that the First Amendment protects all speech. It does not. The Bill

of Rights was created to protect citizens from an overreaching government, not from their employer. The First Amendment reads as follows:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The key words are “Congress shall make no law,” meaning the content of speech is something the government and politicians cannot control with laws or policies. However, this right of free speech is generally not applicable to the private sector workplace and does not cover criticism of your employer.

Does that mean an employee can be fired for criticizing the company or boss? Yes, under most circumstances. Therefore, if someone posts a message on social media that says, “My boss is a jerk” or “My company is a terrible place to work,” the likelihood is that the person can be fired without any recourse, assuming he or she is an employee at will (see the discussion of at-will employment earlier in this chapter). Unless the act of firing constitutes a violation under federal law, such as Title VII of the Civil Rights Act of 1964, the speech is not protected speech, and thus the speaker (the employee) is not protected.

At some point, all of us may get angry with our companies or supervisors, but we still have a duty to keep our disputes in-house and not make public any situations we are attempting to resolve internally. Employers typically are prohibited from discussing human resource matters relating to any specific employees. Employees, too, should keep complaints confidential unless and until crimes are charged or civil suits are filed.

CASES FROM THE REAL WORLD

Adrian Duane and IXL Learning

Adrian Duane had worked for IXL, a Silicon Valley educational technology company,³⁵ for about a year when he got into a dispute with his supervisor over Duane’s ability to work flexible hours after he returned from medical leave following transgender surgery.

Duane posted a critical comment on Glassdoor.com after he said his supervisor refused to accommodate a scheduling request. Duane’s critique said, in part: “If you’re not a family-oriented white or Asian straight or mainstream gay person with 1.7 kids who really likes softball—then you’re likely to find yourself on the outside. . . . Most management do not know what the word ‘discrimination’ means, nor do they seem to think it matters.”³⁶

According to court documents, Paul Mishkin, IXL’s CEO, confronted Duane with a printout of the Glassdoor review during a meeting about his complaints, at which time IXL terminated Duane. IXL claimed the derogatory post showed “poor judgment and ethical values.” Security had already cleared out Duane’s desk and boxed his personal effects, and he was escorted from the premises. According to IXL, the company had granted Duane’s requests for time off or modified work schedules and welcomes all individuals equally regardless of gender identity.

The NLRB heard Duane’s case. Judge Gerald M. Etchingham said he did not believe the post was part of a concerted or group action among Duane’s fellow employees at the company, and therefore it was not protected under the NLRA, because it was not an attempt to improve collective terms and conditions of employment. Furthermore, Etchingham said Duane’s post was more like “a tantrum” and “childish

ridicule” of his employer rather than speech protected under Section 7 of the NLRA. In other words, this was not an attempt to stimulate discussion but rather an anonymous one-way (and one-time) post. “Here, Duane’s posting on Glassdoor.com was not a social media posting like Facebook or Twitter. Instead, Glassdoor.com is a website used by respondent and prospective employees as a recruiting tool to recruit prospective employees.”³⁷

The NLRB decision is an interesting step in the development of the law as the NLRB tries to apply the NLRA’s protections to employee use of social media. Duane has a pending Equal Employment Opportunity Commission lawsuit alleging employment discrimination under Title VII of the Civil Rights Act of 1964.

Critical Thinking

- What ethical and legal obligations do employees have to refrain from badmouthing their employers in a fit of pique, especially on the firm’s own website?
- Should management allow employees to criticize the company without fear of retaliation? Could management benefit from allowing such criticism? Why or why not?

The rules related to social media are evolving, but applicable laws do not generally distinguish between sites or locations in which someone might criticize an employer, so criticism of the boss remains largely unprotected speech. As discussed earlier, employees can go online and post information about wages, hours, and working conditions, and that speech is protected by federal statute. So, although some general complaints against employers are not protected under the First Amendment, they may be protected under the NLRA (because arguably they may be related to terms and conditions of employment). However, most courts agree that statements personally critical of the boss or the company on a basis other than wages and working conditions are not protected. Obviously, there is no protection when employees post false or misleading information on social media in an attempt to harm the company’s reputation or that of management.

Whistleblowing: Risks and Rewards

The act of **whistleblowing**—going to an official government agency and disclosing an employer’s violation of the law—is different from everyday criticism. In fact, whistleblowing is largely viewed as a public service because it helps society reduce bad workplace behavior. Being a whistleblower is not easy, however, and someone inclined to act as one should expect many hurdles. If a whistleblower’s identity becomes known, his or her revelations may amount to career suicide. Even if they keep their job, whistleblowers often are not promoted, and they may face resentment not only from management but also from rank-and-file workers who fear the loss of their own jobs. Whistleblowers may also be blacklisted, making it difficult for them to get a job at a different firm, and all as a result of doing what is ethical.

Blowing the whistle on your employer is thus a big decision with significant ramifications. However, most employees do not want to cover up unethical or illegal conduct, nor should they. When should employees decide to blow the whistle on their boss or company? Ethicists say it should be done with an appropriate motive—to get the company to comply with the law or to protect potential victims—and not to get revenge on a boss at whom you are angry. Of course, even if an employee has a personal revenge motive, if the company actively is breaking the law, it is still important that the wrongdoing be reported. In any case, knowing when and how to blow the whistle is a challenge for an employee wanting to do the right thing.

The employee should usually try internal reporting channels first, to disclose the problem to management

before going public. Sometimes workers mistakenly identify something as wrongdoing that was not wrongdoing after all. Internal reporting gives management a chance to start an investigation and attempt to rectify the situation. The employee who goes to the government should also have some kind of hard evidence that wrongful actions have occurred; the violation should be serious, and blowing the whistle should have some likelihood of stopping the wrongful act.

Under many federal laws, an employer cannot retaliate by firing, demoting, or taking any other adverse action against workers who report injuries, concerns, or other protected activity. One of the first laws with a specific whistleblower protection provision was the Occupational Safety and Health Act of 1970. Since passage of that law, Congress has expanded whistleblower authority to protect workers who report violations of more than twenty different federal laws across various topics. (There is no all-purpose whistleblower protection; it must be granted by individual statutes.)

A sample of the specific laws under which whistleblowing employees are protected can be found in the environmental area, where it is in the public interest for employees to report violations of the law to the authorities, which, in turn, helps the average citizen concerned about clean air and water. The Clean Air Act protects any employee reporting air emission violations from area, stationary, and mobile sources from any retaliation for such reporting. The Water Pollution Control Act similarly protects from retaliation any employee who reports alleged violations relating to discharge of pollutants into water.

Without the help of employees who are “on the ground” and see the violations occur, it could be difficult for government regulators to always find the source of pollution. Even when whistleblowers are not acting completely altruistically, their revelations may still be true and worthy of being brought to the public’s attention. Thus, in such situations, the responsible employee becomes a steward of the public interest, and we all should want whistleblowers to come forward. Yet not all whistleblowers are white knights, and not all their firms are evil dragons worthy of being slain.

LINK TO LEARNING

Go to this [U.S. Department of Labor website that lists all the laws under which whistleblowers have protection \(https://openstax.org/l/53whistleblower\)](https://openstax.org/l/53whistleblower) to learn more.

Blowing the whistle may bring the employee more than just intrinsic ethical rewards; it may also result in cash. The most lucrative law under which employees can blow the whistle is the False Claims Act (FCA), 31 U.S.C. §§ 3729–3733. This legislation was enacted in 1863, during the American Civil War, because Congress was worried that suppliers of goods to the Union Army might cheat the government. The FCA has been amended many times since then, and today it serves as a leading example of a statutory law that remains important after more than 150 years. The FCA provides that any person who knowingly submits false claims to the government must pay a civil penalty for each false claim, plus triple the amount of the government’s damages. The amount of this basic civil penalty is regularly adjusted by the cost of living, and the current penalty range is from \$5500 to \$11,000.

More importantly for our discussion, the **qui tam provision** of the law allows private persons (called relators) to file lawsuits for violations of the FCA on behalf of the government and to receive part of any penalty imposed. The person bringing the action is a type of a whistleblower, but one who initiates legal action on his or her own rather than simply reporting it to a government agency. If the government believes it is a

worthwhile case and intervenes in the lawsuit, then the relator (whistleblower) is entitled to receive between 15 and 25 percent of the amount the government recovers. If the government thinks winning is a long shot and declines to intervene in the lawsuit, the relator's share increases to 25 to 30 percent.

A few whistleblowers have become rich (and famous, thanks to an ABC News story), with awards ranging in the neighborhood of \$100 million.³⁸ In 2012, a single whistleblower, Bradley Birkenfeld, a former UBS employee, was awarded \$104 million by the Internal Revenue Service (IRS), making him the most highly rewarded whistleblower in history. Birkenfeld also spent time in prison for participating in the tax fraud he reported. In 2009, ten former Pfizer employees were awarded \$102 million for exposing an illegal promotion of prescription medications. John Kopchinski, the original whistleblower and one of the ten, received \$50 million. In another case involving the health care company HCA, two employees who blew the whistle on Medicare fraud ended up receiving a combined total of \$100 million.

It is not just the size of the reward that should get your attention but also the amount of money these employees saved taxpayers and/or shareholders. They turned in companies that were cheating the Centers for Medicare and Medicaid Services (affecting taxpayers), the IRS (affecting government revenues), and private health insurance (affecting premiums). The public saved far more than the reward paid to the whistleblowers.

Incredibly high rewards such as the aforementioned are somewhat unusual, but according to National Whistleblower Center director Stephen Kohn, "Birkenfeld's and Eckard's rewards act like advertisements for the U.S. government's whistleblower programs, which make hundreds of rewards every year."³⁹ The FCA is one of four laws under which whistleblowers can receive a reward; the others are administered by the IRS, the SEC, and the Commodity Futures Trading Commission. Most whistleblowers do not get paid until the lawsuit and all appeals have concluded and the full amount of any monetary penalty has been paid to the government. Many complex cases of business fraud can go on for several years before a verdict is rendered and appealed (or a settlement is reached). An employee whose identity has been disclosed and who has been unofficially blacklisted may not see any reward money for several years.

CASES FROM THE REAL WORLD

Sherron Watkins and Enron

Enron is one of the most infamous examples of corporate fraud in U.S. history. The scandal that destroyed the company resulted in approximately \$60 billion in lost shareholder value. Sherron Watkins, an officer of the company, discovered the fraud and first went to her boss and mentor, founder and chairperson Ken Lay, to report the suspected accounting and financial irregularities. She was ignored more than once and eventually went to the press with her story. Because she did not go directly to the SEC, Watkins received no whistleblower protection. (The Sarbanes-Oxley Act was not passed until after the Enron scandal. In fact, it was Watkins's circumstance and Enron's misdeeds that helped convince Congress to pass the law.⁴⁰)

Now a respected national speaker on the topic of ethics and employees' responsibility, Watkins talks about how an employee should handle such situations. "When you're faced with something that really matters, if you're silent, you're starting on the wrong path . . . go against the crowd if need be," she said in a speech to the National Character and Leadership Symposium, (a seminar to instill leadership and moral qualities in young men and women).

Watkins talks openly about the risk of being an honest employee, something employees should consider when evaluating what they owe their company, the public, and themselves. “I will never have a job in corporate America again. The minute you speak truth to power and you’re not heard, your career is never the same again.”

Enron’s corporate leaders dealt with the looming crisis by a combination of blaming others and leaving their employees to fend for themselves. According to Watkins, “Within two weeks of me finding this fraud, [Enron president] Jeff Skilling quit. We did feel like we were on a battleship, and things were not going well, and the captain had just taken a helicopter home. The fall of 2001 was just the bleakest time in my life, because everything I thought was secure was no longer secure.”

Critical Thinking

- Did Watkins owe an ethical duty to Enron, to its shareholders, or to the investing public to go public with her suspicions? Explain your answer.
- How big a price is it fair to ask a whistleblowing employee to pay?

LINK TO LEARNING

Visit the [National Whistleblower Center website \(https://openstax.org/l/53NWC\)](https://openstax.org/l/53NWC) and learn more about some of the individuals discussed in this chapter who became whistleblowers.

Watch this [video about one of the most famous whistleblowers, Sherron Watkins, former vice president of Enron \(https://openstax.org/l/53Watkins\)](https://openstax.org/l/53Watkins) to learn more.

Sometimes employees, including managers, face an ethical dilemma that they seek to address from within rather than becoming a whistleblower. The risk is that they may be ignored or that their speaking up will be held against them. However, companies should want and expect employees to step forward and report wrongdoing to their superiors, and they should support that decision, not punish it. Sallie Krawcheck, a financial industry executive, was not a whistleblower in either the classical or the legal sense. She went to her boss with her discovery of wrongdoing at work, which means she had no legal protection under whistleblower statutes. Read her story in the following box.

CASES FROM THE REAL WORLD

Sallie Krawcheck and Merrill Lynch

Shortly after Sallie Krawcheck took over as chief of Merrill Lynch’s wealth management division at Bank of America, she discovered that a mutual fund called the Stable Value Fund, a financial product Merrill had sold to customers as an investment for their 401k plans, was not as stable as its name implied. The team at Merrill had made a mistake by managing the fund in a way that assumed a higher risk than was acceptable to its investors, and the fund ended up losing much of its value. Unfortunately, because it was

supposed to be a low-risk fund, the people who had invested in it, and who would suffer most from Merrill's mistakes, were earners of relatively modest incomes, including Walmart employees, who made up the largest group.

According to Krawcheck, she had two options. Option one was to say tough luck to the Stable Value Fund's investors, including the Walmart employees, explaining that all investments carry some degree of risk. Option two was to bail out the investors by pouring money into the fund to increase its value. Krawcheck had already been burned once by trying to be ethical. She had been head of CitiGroup's wealth management division (Smith Barney); in that capacity, she had made a decision to reimburse clients for some of their losses she felt were due to company mistakes. Rather than supporting her decision, however, CitiGroup terminated her, in large part for making the ethical decision rather than the profitable one. Now she was in the same predicament with a new company. Should Krawcheck risk her job again by choosing the ethical act, or should she make a purely financial decision and tell the 401k investors they would have to take the loss?

Krawcheck began talking to people inside and outside the company to see what they thought. Most told her to just keep her head down and do nothing. One "industry titan" told her there was nothing to be done, that everyone knows stable-value funds are not really stable. Unconvinced, Krawcheck took the problem to Bank of America's CEO. He agreed to back her up and put company money into the depleted stable-value funds to prop them up.

Krawcheck opted to be honest and ethical by helping the small investors and felt good about it. "I thought, ethical business was good business," she says. "It came down to my sense of purpose as well as my sense of my industry's purpose; it wasn't about some abstract ethical theorem . . . the answer wasn't that I got into the business simply to make a lot of money. It was because it was a business that I knew could have a positive impact on clients' lives."⁴¹

But the story does not really have a happy ending. Krawcheck writes that she thought at the time she had done the right thing *and* still had her job, a win/win outcome of a very tough ethical dilemma. However, speaking out did come at a cost. Krawcheck lost some important and powerful allies within the company, and although she did not lose her job at that time, she writes "the political damage was done; when that CEO retired, the clock began ticking down on my time at Bank of America, and before long I was 'reorganized out' of that role."⁴²

Critical Thinking

- Could you do what Sallie Krawcheck did and risk being fired a second time? Why or why not?
- Krawcheck went on to start her own firm, Ellevest, specializing in investments for female clients. Why do you think she chose this route rather than moving to another large Wall Street firm?

WHAT WOULD YOU DO?

Underestimating and Overcharging

Suppose you are a supervising engineer at a small defense contractor of about one hundred employees. Your firm had barely been breaking even, but the recent award of a federal contract has dramatically

turned the situation around. Midway through the new project, though, you realize that the principal partners in your firm have been overcharging the Department of Defense for services provided and components purchased. (You discovered this accidentally, and it would be difficult for anyone else to find it out.) You take this information to one of the principals, whom you know well and respect. He tells you apologetically that the overcharges became necessary when the firm seriously underestimated total project costs in its bid on the contract. If the overcharges do not continue, the firm will again be perilously close to bankruptcy.

You know the firm has long struggled to remain financially viable. Furthermore, you have great confidence in the quality of the work your team is providing the government. Finally, you feel a special kinship with nearly all the employees and particularly with the founding partners, so you are loath to take your evidence to the government.

Critical Thinking

What are you going to do? Will you swallow your discomfort because making the overcharges public may very well put your job and those of one hundred friends and colleagues at risk? Would the overall quality of the firm's work on the contract persuade you it is worth what it is charging? Or would you decide that fraud is never permissible, even if its disclosure comes at the cost of the survivability of the firm and the friendships you have within it? Explain your reasoning.



Key Terms

brand a type of product or service marketed by a particular company under a particular name

branding the process of creating, differentiating, and maintaining a particular image and/or reputation for a company, product, or service

bribe a payment in some form (cash or noncash) for an act that runs counter to the legal and ethical culture of the work environment

duty of confidentiality a common-law rule giving an employee responsibility to protect the secrecy of the employer's proprietary information, such as trade secrets, material covered by patents and copyrights, employee records and salary information, and customer data

duty of loyalty a common-law rule that requires an employee to refrain from acting in a manner contrary to the employer's interest

Foreign Corrupt Practices Act an amendment to the Securities and Exchange Act of 1934; its main purpose is to make it illegal for companies and their managers to influence or bribe foreign officials with monetary payments or rewards of any kind in an attempt to get or keep business opportunities outside the United States

insider trading the buying or selling of stocks, bonds, or other investments based on nonpublic information that is likely to favorably affect the price of the security being traded

intellectual property the manifestation of original ideas, protected by legal means such as patent, copyright, or trademark

internal marketing the process of getting employees to believe in the company's product and even to buy it

non-compete agreement a contract clause ensuring that employees will not compete with the company during or after employment there

nondisclosure agreement an agreement to prevent the theft of trade secrets, most of which are protected only by a duty of secrecy and not by federal intellectual property law

nonsolicitation clause an agreement that protects a business from an employee who leaves for another job and then attempts to lure customers or former colleagues away

pay secrecy a policy of some companies to prevent employees from discussing their salary with other workers

qui tam provision the section of the False Claims Act of 1863 that allows private persons to file lawsuits for violations of the act on behalf of the government as well as for themselves and so receive part of any penalty imposed

trade secret a company's technical or design information, advertising and marketing plans, and research and development data that would be useful to competitors

whistleblowing the act of reporting an employer to a governmental entity for violating the law

work style the way and order in which we are most comfortable accomplishing our tasks at work

workplace personality the manner in which we think and act on the job



Summary

7.1 Loyalty to the Company

Although employees' and employers' concepts of loyalty have changed, it is reasonable to expect workers to have a basic sense of responsibility to their company and willingness to protect a variety of important assets such as intellectual property and trade secrets. Current employees should not compete with their employer in a way that would violate conflict-of-interest rules, and former employees should not solicit previous customers

or employees upon leaving employment.

7.2 Loyalty to the Brand and to Customers

Employees have a duty to be loyal to the brand and treat customers well. Internal marketing is one process by which a company instills employee commitment to the brand and builds loyalty in its workforce. This loyalty should be a two-way street, however. If the company wants its employees to treat customers with respect, it must treat them with respect as well.

7.3 Contributing to a Positive Work Atmosphere

Ethical employees accept their role in creating a workplace that is respectful, safe, and welcoming by getting along with coworkers and doing what is best for the company. They also comply with corporate codes of conduct, which cover a wide range of behaviors, from financial dealings and bribery to sexual harassment. In addition, they are alert to any situation in the workplace that could escalate into violence. In short, the employee has a duty to be a responsible person in the job.

7.4 Financial Integrity

Legal and cultural differences may allow bribes in other countries, but bribery and insider trading (which allows someone with private information about securities to profit from that knowledge at the public's expense) are illegal in the United States, as well as unethical. A clear gift policy should be in place to help employees understand when it is acceptable to accept a gift from another employee or an outsider (such as a vendor), and to distinguish gifts from bribes.

7.5 Criticism of the Company and Whistleblowing

Employees should understand that there are limits to what can be posted about their employer online, just as there are limits to what they can say in the workplace, and that the First Amendment generally does not protect such speech. Whistleblowers are protected, and sometimes rewarded, for their willingness to come forward, but they can still face a hostile environment in some situations. Employees should not use whistleblowing as an attempt to get back at a boss or employer they do not like; rather, they should use it as a means to stop serious wrongdoing.



Assessment Questions

1. The common law concept that requires an employee to render loyal and faithful service to the employer is _____.
 - A. the duty of confidentiality
 - B. a non-compete agreement
 - C. the duty of loyalty
 - D. trade secret protection
2. An employee who works in the graphic design department of a large advertising agency most likely cannot moonlight after business hours for a friend's _____.
 - A. bakery business
 - B. web design business
 - C. construction business
 - D. landscaping design business

3. True or false? All fifty states require that an employee refrain from acting in a manner contrary to the employer's interest.
4. Based on a non-compete agreement, what should the employee avoid creating with the employer?
5. What duty requires an employee to maintain the secrecy of proprietary material, such as trade secrets, intellectual property, and customer data?
6. Which of the following is especially important for developing and maintaining employee loyalty to the brand?
 - A. empowerment
 - B. engagement
 - C. commitment
 - D. dedication
7. Efforts to get employees to believe in the product, to commit to the idea that the company is selling something worth buying, and even to think about buying it are part of _____.
 - A. brand loyalty
 - B. internal marketing
 - C. employee engagement
 - D. company identity
8. True or false? Employees are more likely to develop some degree of brand loyalty when they have a common sense of purpose and identity with the company.
9. Why should employees care about the way they treat customers?
10. A patient becomes violent on hospital premises after being turned down for the clinical trial of a new drug therapy. This scenario fits which of the following workplace violence categories?
 - A. traditional criminal intent
 - B. violence by one worker against another
 - C. violence stemming from a personal relationship
 - D. violence by a customer
11. Understanding the various personalities at work can be a complex task, but it is an important one for developing which of the following?
 - A. collegiality
 - B. emotional intelligence
 - C. empathy
 - D. personality harmony
12. True or false? Emotional intelligence is a willingness to step into someone else's shoes.
13. Regardless of their working style, preferences, or quirks, what do employees owe one another?
14. What are the four categories of violence at work, according to the National Institute for Occupational Safety and Health (NIOSH)?

- 15.** The buying or selling of stocks, bonds, or other investments based on nonpublic information that is likely to favorably affect the price of the security being traded is which of the following?
- A. insider trading
 - B. bribery
 - C. illegal transaction
 - D. manipulation
- 16.** A payment in some form (cash or noncash) for an act that runs counter to the legal or ethical culture of the work environment is called ____.
- A. insider trading
 - B. bribery
 - C. illegal transaction
 - D. manipulation
- 17.** True or false? Because legal and cultural differences allow bribes in some other countries, U.S. firms and their employees are permitted to pay them.
- 18.** Bribery generally injures individuals and which other entities?
- 19.** List the factors that help establish the ethics (and legality) of gift giving and receiving.
- 20.** Going to an official government agency and disclosing an employer's violation of the law is ____.
- A. insider trading
 - B. whistleblowing
 - C. free speech expression
 - D. tattle telling
- 21.** True or false? Most U.S. companies prohibit employees from disclosing or discussing salaries among themselves.
- 22.** True or false? The First Amendment does not protect employees at work who criticize their boss or their company.
- 23.** What kind of information can employees post online under the protection of federal statute?
- 24.** What is typically not an appropriate motive for reporting the employer to authorities, unless the company is breaking the law?
- 25.** What should the employees usually try first before going public with an accusation that their company may be breaking the law?



Endnotes

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Recognizing and Respecting the Rights of All

Figure 8.1 The globalization of the economy highlights one of the advantages of a diverse workforce that can interact effectively with customers all over the world. (credit outside, clockwise from top left: modification of “GenoPheno” by Cory Zanker/Flickr, CC BY 4.0; credit: modification of “Look at that!” by Gabriel Rocha/Flickr, CC BY 2.0; credit: modification of “Eyes” by “Dboybaker”/Flickr, CC BY 2.0; credit: modification of “doin’ work” by Nick Allen/Flickr, CC BY 2.0; credit: modification of “Man Young Face” by “gentlebeatz”/Pixabay, CC 0; credit: modification of “Training” by Cory Zanker/Flickr, CC BY 4.0; credit: modification of “los bolleros” by Agustín Ruiz/Flickr, CC BY 2.0; credit: modification of “Pithorgarh to Dharchulha on Nepal Border in Uttarakhand India (158)” by “rajkumar1220”/Flickr, CC BY 2.0; credit: modification of “mother and child” by Peter Shanks/Flickr, CC BY 2.0; credit: modification of “Afghan women at a textile factory in Kabul” by Andrea Salazar/Wikimedia Commons, Public Domain; credit: modification of “Open kitchen” by Dennis Wong/Flickr, CC BY 2.0; credit middle left: modification of “Begging for the photographer” by Pedro Ribeiro Simões/Flickr, CC BY 2.0; credit middle right: modification of “Calling it a day” by Staffan Scherz/Flickr, CC BY 2.0)

Chapter Outline

- 8.1 Diversity and Inclusion in the Workforce
- 8.2 Accommodating Different Abilities and Faiths
- 8.3 Sexual Identification and Orientation
- 8.4 Income Inequalities
- 8.5 Animal Rights and the Implications for Business



Introduction

Effective business managers in the twenty-first century need to be aware of a broad array of ethical choices they can make that affect their employees, their customers, and society as a whole. What these decisions have in common is the need for managers to recognize and respect the rights of all.

Actively supporting human diversity at work, for instance, benefits the business organization as well as society

on a broader level (Figure 8.1). Thus, ethical managers recognize and accommodate the special needs of some employees, show respect for workers' different faiths, appreciate and accept their differing sexual orientations and identification, and ensure pay equity for all. Ethical managers are also tuned in to public sentiment, such as calls by stakeholders to respect the rights of animals, and they monitor trends in these social attitudes, especially on social media.

How would you, as a manager, ensure a workplace that values inclusion and diversity? How would you respond to employees who resisted such a workplace? How would you approach broader social concerns such as income inequality or animal rights? This chapter introduces the potential impacts on business of some of the most pressing social themes of our time, and it discusses ways managers can respect the rights of all *and* improve business results by choosing an ethical path.

8.1 Diversity and Inclusion in the Workforce

Learning Objectives

By the end of this section, you will be able to:

- Explain the benefits of employee diversity in the workplace
- Discuss the challenges presented by workplace diversity

Diversity is not simply a box to be checked; rather, it is an approach to business that unites ethical management and high performance. Business leaders in the global economy recognize the benefits of a diverse workforce and see it as an organizational strength, not as a mere slogan or a form of regulatory compliance with the law. They recognize that diversity can enhance performance and drive innovation; conversely, adhering to the traditional business practices of the past can cost them talented employees and loyal customers.

A study by global management consulting firm McKinsey & Company indicates that businesses with gender and ethnic diversity outperform others. According to Mike Dillon, chief diversity and inclusion officer for PwC in San Francisco, “attracting, retaining and developing a diverse group of professionals stirs innovation and drives growth.”¹ Living this goal means not only recruiting, hiring, and training talent from a wide demographic spectrum but also including all employees in every aspect of the organization.

Workplace Diversity

The twenty-first century workplace features much greater diversity than was common even a couple of generations ago. Individuals who might once have faced employment challenges because of religious beliefs, ability differences, or sexual orientation now regularly join their peers in interview pools and on the job. Each may bring a new outlook and different information to the table; employees can no longer take for granted that their coworkers think the same way they do. This pushes them to question their own assumptions, expand their understanding, and appreciate alternate viewpoints. The result is more creative ideas, approaches, and solutions. Thus, diversity may also enhance corporate decision-making.

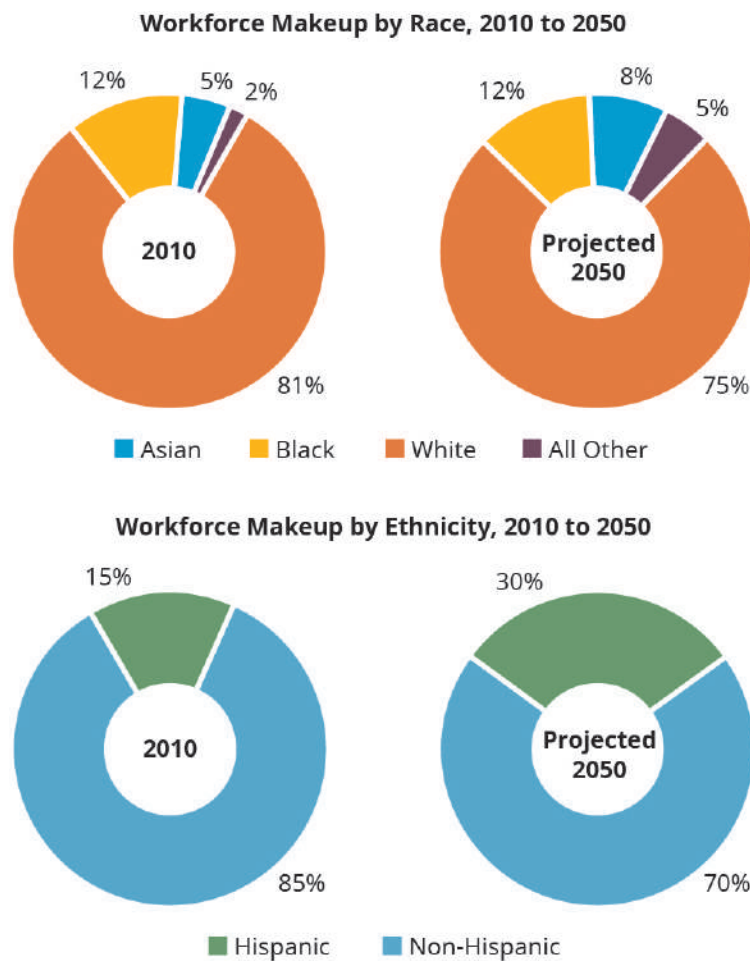
Communicating with those who differ from us may require us to make an extra effort and even change our viewpoint, but it leads to better collaboration and more favorable outcomes overall, according to David Rock, director of the Neuro-Leadership Institute in New York City, who says diverse coworkers “challenge their own and others’ thinking.”² According to the Society for Human Resource Management (SHRM), organizational diversity now includes more than just racial, gender, and religious differences. It also encompasses different thinking styles and personality types, as well as other factors such as physical and cognitive abilities and sexual

orientation, all of which influence the way people perceive the world. “Finding the right mix of individuals to work on teams, and creating the conditions in which they can excel, are key business goals for today’s leaders, given that collaboration has become a paradigm of the twenty-first century workplace,” according to an SHRM article.³

Attracting workers who are not all alike is an important first step in the process of achieving greater diversity. However, managers cannot stop there. Their goals must also encompass **inclusion**, or the engagement of all employees in the corporate culture. “The far bigger challenge is how people interact with each other once they’re on the job,” says Howard J. Ross, founder and chief learning officer at Cook Ross, a consulting firm specializing in diversity. “Diversity is being invited to the party; inclusion is being asked to dance. Diversity is about the ingredients, the mix of people and perspectives. Inclusion is about the container—the place that allows employees to feel they belong, to feel both accepted and different.”⁴

Workplace diversity is not a new policy idea; its origins date back to at least the passage of the Civil Rights Act of 1964 (CRA) or before. Census figures show that women made up less than 29 percent of the civilian workforce when Congress passed Title VII of the CRA prohibiting workplace discrimination. After passage of the law, gender diversity in the workplace expanded significantly. According to the U.S. Bureau of Labor Statistics (BLS), the percentage of women in the labor force increased from 48 percent in 1977 to a peak of 60 percent in 1999. Over the last five years, the percentage has held relatively steady at 57 percent. Over the past forty years, the total number of women in the labor force has risen from 41 million in 1977 to 71 million in 2017.⁵ The BLS projects that the number of women in the U.S. labor force will reach 92 million in 2050 (an increase that far outstrips population growth).

The statistical data show a similar trend for African American, Asian American, and Hispanic workers ([Figure 8.2](#)). Just before passage of the CRA in 1964, the percentages of minorities in the official on-the-books workforce were relatively small compared with their representation in the total population. In 1966, Asians accounted for just 0.5 percent of private-sector employment, with Hispanics at 2.5 percent and African Americans at 8.2 percent.⁶ However, Hispanic employment numbers have significantly increased since the CRA became law; they are expected to more than double from 15 percent in 2010 to 30 percent of the labor force in 2050. Similarly, Asian Americans are projected to increase their share from 5 to 8 percent between 2010 and 2050.



Source: Toossi, Mitra. "Projections of the Labor Force to 2050: A Visual Essay." *Monthly Labor Review*. Oct. 2012. Data from U.S. Bureau of Labor Statistics.

Figure 8.2 There is a distinct contrast in workforce demographics between 2010 and projected numbers for 2050. (credit: attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Much more progress remains to be made, however. For example, many people think of the technology sector as the workplace of open-minded millennials. Yet Google, as one example of a large and successful company, revealed in its latest diversity statistics that its progress toward a more inclusive workforce may be steady but it is very slow. Men still account for the great majority of employees at the corporation; only about 30 percent are women, and women fill fewer than 20 percent of Google's technical roles ([Figure 8.3](#)). The company has shown a similar lack of gender diversity in leadership roles, where women hold fewer than 25 percent of positions. Despite modest progress, an ocean-sized gap remains to be narrowed. When it comes to ethnicity, approximately 56 percent of Google employees are white. About 35 percent are Asian, 3.5 percent are Latino, and 2.4 percent are black, and of the company's management and leadership roles, 68 percent are held by whites.⁷

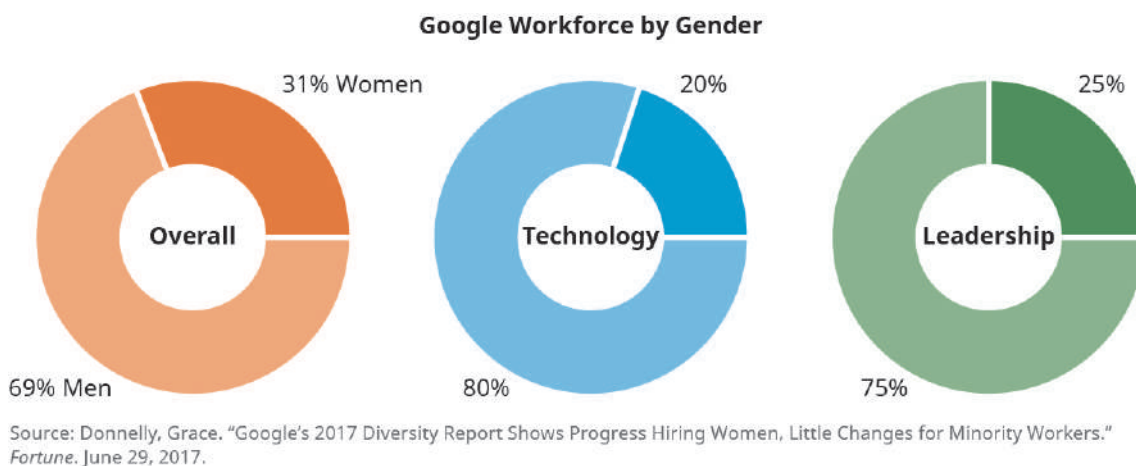


Figure 8.3 Google is emblematic of the technology sector, and this graphic shows just how far from equality and diversity the industry remains. (credit: attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Google is not alone in coming up short on diversity. Recruiting and hiring a diverse workforce has been a challenge for most major technology companies, including Facebook, Apple, and Yahoo (now owned by Verizon); all have reported gender and ethnic shortfalls in their workforces.

The Equal Employment Opportunity Commission (EEOC) has made available 2014 data comparing the participation of women and minorities in the high-technology sector with their participation in U.S. private-sector employment overall, and the results show the technology sector still lags.⁸ Compared with all private-sector industries, the high-technology industry employs a larger share of whites (68.5%), Asian Americans (14%), and men (64%), and a smaller share of African Americans (7.4%), Latinos (8%), and women (36%). Whites also represent a much higher share of those in the executive category (83.3%), whereas other groups hold a significantly lower share, including African Americans (2%), Latinos (3.1%), and Asian Americans (10.6%). In addition, and perhaps not surprisingly, 80 percent of executives are men and only 20 percent are women. This compares negatively with all other private-sector industries, in which 70 percent of executives are men and 30 percent women.

Technology companies are generally not trying to hide the problem. Many have been publicly releasing diversity statistics since 2014, and they have been vocal about their intentions to close diversity gaps. More than thirty technology companies, including Intel, Spotify, Lyft, Airbnb, and Pinterest, each signed a written pledge to increase workforce diversity and inclusion, and Google pledged to spend more than \$100 million to address diversity issues.⁹

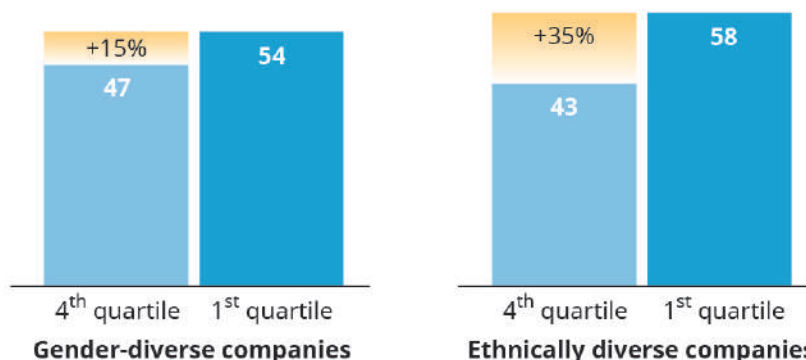
Diversity and inclusion are positive steps for business organizations, and despite their sometimes slow pace, the majority are moving in the right direction. Diversity strengthens the company's internal relationships with employees and improves employee morale, as well as its external relationships with customer groups. Communication, a core value of most successful businesses, becomes more effective with a diverse workforce. Performance improves for multiple reasons, not the least of which is that acknowledging diversity and respecting differences is the ethical thing to do.¹⁰

Adding Value through Diversity

Diversity need not be a financial drag on a company, measured as a cost of compliance with no return on the

investment. A recent McKinsey & Company study concluded that companies that adopt diversity policies do well financially, realizing what is sometimes called a **diversity dividend**. The study results demonstrated a statistically significant relationship of better financial performance from companies with a more diverse leadership team, as indicated in [Figure 8.4](#). Companies in the top 25 percent in terms of gender diversity were 15 percent more likely to post financial returns above their industry median in the United States. Likewise, companies in the top 25 percent of racial and/or ethnic diversity were 35 percent more likely to show returns exceeding their respective industry median.¹¹

Likelihood of Financial Performance above Industry Median by Company Diversity Quartile



Source: Hunt, Vivian, Dennis Layton, and Sara Prince. McKinsey & Company. "Why Diversity Matters." Feb 2, 2015.

Figure 8.4 Companies with gender and ethnic diversity generally outperform those without it. (credit: attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

These results demonstrate a positive correlation between diversity and performance, rebutting any claim that affirmative action and other such programs are social engineering that constitutes a financial drag on earnings. In fact, the results reveal a negative correlation between performance and lack of diversity, with companies in the bottom 25 percent for gender and ethnicity or race proving to be statistically less likely to achieve above-average financial returns than the average companies. Non-diverse companies were not leaders in performance indicators. Positive correlations do not equal causation, of course, and greater gender and ethnic diversity do not automatically translate into profit. Rather, as this chapter shows, they enhance creativity and decision-making, employee satisfaction, an ethical work environment, and customer goodwill, all of which, in turn, improve operations and boost performance.

Diversity is not a concept that matters only for the rank-and-file workforce; it makes a difference at all levels of an organization. The McKinsey & Company study, which examined twenty thousand firms in ninety countries, also found that companies in the top 25 percent for executive and/or board diversity had returns on equity more than 50 percent higher than those companies that ranked in the lowest 25 percent. Companies with a higher percentage of female executives tended to be more profitable.¹²

LINK TO LEARNING

Read the [working paper "Is Gender Diversity Profitable? Evidence from a Global Survey,"](https://openstax.org/l/53Peterson) from the [Peterson Institute for International Economics \(https://openstax.org/l/53Peterson\)](https://openstax.org/l/53Peterson) for a closer look at the profitability of gender diversity.

Achieving equal representation in employment based on demographic data is the ethical thing to do because it represents the essential American ideal of equal opportunity for all. It is a basic assumption of an egalitarian society that all have the same chance without being hindered by immutable characteristics. However, there are also directly relevant business reasons to do it. More diverse companies perform better, as we saw earlier in this chapter, but why? The reasons are intriguing and complex. Among them are that diversity improves a company's chances of attracting top talent and that considering all points of view may lead to better decision-making. Diversity also improves customer experience and employee satisfaction.

To achieve improved results, companies need to expand their definition of diversity beyond race and gender. For example, differences in age, experience, and country of residence may result in a more refined global mind-set and cultural fluency, which can help companies succeed in international business. A salesperson may know the language of customers or potential customers from a specific region or country, for example, or a customer service representative may understand the norms of another culture. Diverse product-development teams can grasp what a group of customers may want that is not currently being offered.

Resorting to the same approaches repeatedly is not likely to result in breakthrough solutions. Diversity, however, provides usefully divergent perspectives on the business challenges companies face. New ideas help solve old problems—another way diversity makes a positive contribution to the bottom line.

The Challenges of a Diverse Workforce

Diversity is not always an instant success; it can sometimes introduce workplace tensions and lead to significant challenges for a business to address. Some employees simply are slow to come around to a greater appreciation of the value of diversity because they may never have considered this perspective before. Others may be prejudiced and consequently attempt to undermine the success of diversity initiatives in general. In 2017, for example, a senior software engineer's memo criticizing Google's diversity initiatives was leaked, creating significant protests on social media and adverse publicity in national news outlets.¹³ The memo asserted "biological causes" and "men's higher drive for status" to account for women's unequal representation in Google's technology departments and leadership.

Google's response was quick. The engineer was fired, and statements were released emphasizing the company's commitment to diversity.¹⁴ Although Google was applauded for its quick response, however, some argued that an employee should be free to express personal opinions without punishment (despite the fact that there is no right of free speech while at work in the private sector).

In the latest development, the fired engineer and a coworker filed a class-action lawsuit against Google on behalf of three specific groups of employees who claim they have been discriminated against by Google: whites, conservatives, and men.¹⁵ This is not just the standard "reverse discrimination" lawsuit; it goes to the heart of the culture of diversity and one of its greatest challenges for management—the backlash against change.

In February 2018, the National Labor Relations Board ruled that Google's termination of the engineer did not violate federal labor law¹⁶ and that Google had discharged the employee only for inappropriate but unprotected conduct or speech that demeaned women and had no relationship to any terms of employment. Although this ruling settles the administrative labor law aspect of the case, it has no effect on the private wrongful termination lawsuit filed by the engineer, which is still proceeding.

Yet other employees are resistant to change in whatever form it takes. As inclusion initiatives and considerations of diversity become more prominent in employment practices, wise leaders should be prepared to fully explain the advantages to the company of greater diversity in the workforce as well as making the

appropriate accommodations to support it. Accommodations can take various forms. For example, if you hire more women, should you change the way you run meetings so everyone has a chance to be heard? Have you recognized that women returning to work after childrearing may bring improved skills such as time management or the ability to work well under pressure? If you are hiring more people of different faiths, should you set aside a prayer room? Should you give out tickets to football games as incentives? Or build team spirit with trips to a local bar? Your managers may need to accept that these initiatives may not suit everyone. Adherents of some faiths may abstain from alcohol, and some people prefer cultural events to sports. Many might welcome a menu of perquisites (“perks”) from which to choose, and these will not necessarily be the ones that were valued in the past. Mentoring new and diverse peers can help erase bias and overcome preconceptions about others. However, all levels of a company must be engaged in achieving diversity, and all must work together to overcome resistance.

LINK TO LEARNING

Read this [article for strategies on overcoming gendered meeting dynamics in the workplace](https://openstax.org/l/53meetings) (<https://openstax.org/l/53meetings>) from the *Harvard Business Review*.

CASES FROM THE REAL WORLD

Companies with Diverse Workforces

Texas Health Resources, a Dallas-area healthcare and hospital company, ranked No. 1 among *Fortune*’s Best Workplaces for Diversity and No. 2 for Best Workplaces for African Americans.¹⁷ Texas Health employs a diverse workforce that is about 75 percent female and 40 percent minority. The company goes above and beyond by offering English classes for Hispanic workers and hosting several dozen social and professional events each year to support networking and connections among peers with different backgrounds. It also offers same-sex partner benefits; approximately 3 percent of its workforce identifies as LGBTQ (lesbian, gay, bisexual, transgender, queer or questioning).

Another company receiving recognition is Marriott International, ranked No. 6 among Best Workplaces for Diversity and No. 7 among Best Workplaces for African Americans and for Latinos. African American, Latino, and other ethnic minorities account for about 65 percent of Marriott’s 100,000 employees, and 15 percent of its executives are minorities. Marriott’s president and CEO, Arne Sorenson, is recognized as an advocate for LGBTQ equality in the workplace, published an open letter on LinkedIn expressing his support for diversity and entreating then president-elect Donald Trump to use his position to advocate for inclusiveness. “Everyone, no matter their sexual orientation or identity, gender, race, religion disability or ethnicity should have an equal opportunity to get a job, start a business or be served by a business,” Sorenson wrote. “Use your leadership to minimize divisiveness around these areas by letting people live their lives and by ensuring that they are treated equally in the public square.”¹⁸

Critical Thinking

Is it possible that Texas Health and Marriott rank highly for diversity because the hospitality and

healthcare industries tend to hire more women and minorities in general? Why or why not?

8.2 Accommodating Different Abilities and Faiths

Learning Objectives

By the end of this section, you will be able to:

- Identify workplace accommodations often provided for persons with differing abilities
- Describe workplace accommodations made for religious reasons

The traditional definition of diversity is broad, encompassing not only race, ethnicity, and gender but also religious beliefs, national origin, and cognitive and physical abilities as well as sexual preference or orientation. This section examines two of these categories, religion and ability, looking at how an ethical manager handles them as part of an overall diversity policy. In both cases, the concept of **reasonable accommodation** means an employer must try to allow for differences among the workforce.

Protections for People with Disabilities

In the United States, the Americans with Disabilities Act (ADA), passed in 1990, stipulates that a person has a disability if he or she has a physical or mental impairment that reduces participation in “a major life activity,” such as work. An employer may not discriminate in offering employment to an individual who is diagnosed as having such a disability. Furthermore, if employment is offered, the employer is obliged to make reasonable accommodations to enable him or her to carry out normal job tasks. Making reasonable accommodations may include altering the physical workplace so it is readily accessible, restructuring a job, providing or modifying equipment or devices, or offering part-time or modified work schedules. Other accommodations could include providing readers, interpreters, or other necessary forms of assistance such as an assistive animal ([Figure 8.5](#)). The ADA also prohibits discriminating against individuals with disabilities in providing access to government services, public accommodations, transportation, telecommunications, and other essential services.¹⁹



Figure 8.5 A person with a service dog can usually perform all the essential function of the job, with some assistance. (credit: "DSC_004" by Aberdeen Proving Ground/Flickr, CC BY 2.0)

Access and accommodation for employees with physical or mental disabilities are good for business because they expand the potential pool of good workers. It is also ethical to have compassion for those who want to work and be contributing members of society. This principle holds for customers as well as employees. Recognizing the need for protection in this area, the federal government has enacted several laws to provide it. The Disability Rights Division of the U.S. Department of Justice lists ten different federal laws protecting people with disabilities, including not only the ADA but also laws such as the Rehabilitation Act, the Air Carrier Access Act, and the Architectural Barriers Act.

LINK TO LEARNING

The EEOC is the primary federal agency responsible for enforcing the ADA (as well as Title VII of the Civil Rights Act of 1964, mentioned earlier in the chapter). It hears complaints, tries to settle cases through administrative action, and, if cases cannot be settled, works with the Department of Justice to file lawsuits against violators. Visit the [EEOC website \(https://openstax.org/l/53EEOC\)](https://openstax.org/l/53EEOC) to learn more.

A key part of complying with the law is understanding and applying the concept of *reasonableness*: “An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can show that the accommodation would be an **undue hardship**—that is, that it would require significant difficulty or expense.”²⁰

The law does not require an employee to refer to the ADA or to “disability” or “reasonable accommodation” when requesting some type of assistance. Managers need to be able to recognize the variety of ways in which a request for an accommodation is communicated. For example, an employee might not specifically say, “I need a reasonable accommodation for my disability” but rather, “I’m having a hard time getting to work on time because of the medical treatments I’m undergoing.” This example demonstrates a challenge employers may face under the ADA in properly identifying requests for accommodation.

CASES FROM THE REAL WORLD

The ADA and Verizon Attendance Policy

Managers are usually sticklers about attendance, but Verizon recently learned an expensive lesson about its mandatory attendance policies from a 2011 class action lawsuit by employees and the EEOC. The suit asserted that Verizon denied reasonable accommodations to several hundred employees, disciplining or firing them for missing too many days of work and refusing to make exceptions for those whose absences were caused by their disabilities. According to the EEOC, Verizon violated the ADA because its no-fault attendance policy was an inflexible and “unreasonable” one-size-fits-all rule.

The EEOC required Verizon to pay \$20 million to settle the suit, the largest single disability discrimination settlement in the agency’s history. The settlement also forced Verizon to change its attendance policy to include reasonable accommodations for persons with disabilities. A third requirement was that Verizon provide regular training on ADA requirements to all managers responsible for administering attendance policies.

Critical Thinking

- What are some specific rules that would fit within a fair and reasonable attendance policy?
- How would you decide whether an employee was taking advantage of an absenteeism policy?

Managing Religious Diversity in the Workplace

Title VII of the CRA, which governs nondiscrimination, applies the same rules to the religious beliefs (or nonbeliefs) of employees and job applicants as it does to race, gender, and other categories. The essence of the law mandates four tenets that all employers should follow: nondiscrimination, nonharassment, nonretaliation, and reasonable accommodation.

Regulations require that an employee notify the employer of a bona fide religious belief for which he or she wants protection, but the employee need not expressly request a specific accommodation. The employer must consider all possible accommodations that do not require violating the individual’s beliefs and/or practices, such as allowing time off ([Figure 8.6](#)). However, the accommodation need not pose undue hardship on the firm, in terms of either scheduling or financial sacrifice. The employer must present proof of hardship if it decides it cannot offer an accommodation.



Figure 8.6 This calendar shows the significant number of holidays and observances an employer must consider with regard to time-off policies, including holidays of the three major religions, secular days, and other traditional days off. It may be a challenge to give everyone all preferred days off. (credit: modification of “2019 Calendar” by “Firkin”/openclipart, Public Domain)

Some cases of accommodation are based on cultural heritage rather than religion.

WHAT WOULD YOU DO?

Can Everyone's Wishes Be Accommodated?

You are a manager in a large Texas-based oil and gas company planning an annual summer company picnic and barbecue on the weekend of June 19. The oil industry has a long tradition of outdoor barbecues, and this one is a big morale-building event. However, June 19 is “Juneteenth,” the day on which news of the Emancipation Proclamation reached slaves in Texas in 1865. Several African American employees always attend the barbecue event and are looking forward to it, but they also want to celebrate Emancipation Day, rich in history and culture and accompanied by its own official event. The picnic date cannot be easily rescheduled because of all the catering arrangements that had to be made.

Critical Thinking

- Is there a way to permit some employees to celebrate both occasions without inconveniencing

others who will be attending only one?

- What would you do as the manager, keeping in mind that you do not want to offend anyone?

Reasonable accommodation may require more than just a couple of hours off to go to weekly worship or to celebrate a holiday. It may extend to dress and uniform requirements, grooming rules, work rules and responsibilities, religious expression and displays, prayer or meditation rooms, and dietary issues.

LINK TO LEARNING

The Sikh faith dates to roughly the fourteenth century in India. Its practitioners have made their way to many Western nations, including the United Kingdom, Canada, Italy, and the United States. Sikhs in the West have experienced discrimination due to the distinctive turbans adult males wear, which are sometimes mistaken for Islamic apparel. Men are also required to wear a dagger called a *kirpan*. California law permits religious observers to wear a sheathed dagger openly, but not hidden away. Watch this [video showing a San Joaquin County Sheriff's sergeant explaining the accommodation given to Sikhs to wear a kirpan in public \(https://openstax.org/l/53kirpan\)](https://openstax.org/l/53kirpan) to learn more. How comfortable are you with permitting daggers to be carried openly in the workplace?

The law also protects those who do not have traditional beliefs. In *Welsh v. United States* (1970), the Supreme Court ruled that any belief occupying “a place parallel to that filled by the God of those admittedly qualifying for the exception” is covered by the law.²¹ A nontheistic value system consisting of personal, moral, or ethical beliefs that is sincerely held with the strength of traditional religious views is deserving of protection. Protected individuals need not have a religion; indeed, if atheist or agnostic, they may have no religion at all. Religion has become a hot-button issue for some political groups in the United States. Religious tolerance is the official national policy enshrined in the Constitution, but it has come under attack by some who want to label the United States an exclusively Christian nation.

CASES FROM THE REAL WORLD

The Abercrombie & Fitch Religious Discrimination Case

The U.S. Supreme Court, in a 2015 case involving Abercrombie & Fitch, ruled that that “an employer may not refuse to hire an applicant for work if the employer was motivated by avoiding the need to accommodate a religious practice,” and that doing so violates the prohibition against religious discrimination contained in the CRA of 1964, Title VII. According to the EEOC general counsel David Lopez, “This case is about defending the American principles of religious freedom and tolerance. This decision is a victory for our increasingly diverse society.”²²

The case arose when, as part of her Muslim faith, a teenage girl named Samantha Elauf wore a hijab (headscarf) to a job interview with Abercrombie & Fitch. Elauf was denied a job because she did not

conform to the company's "Look Policy," which Abercrombie claimed banned head coverings. Lauf filed a complaint with the EEOC alleging religious discrimination, and the EEOC, in turn, filed suit against Abercrombie & Fitch, alleging it refused to hire Lauf because of her religious beliefs and failed to accommodate her by making an exception to its "Look Policy."

"I was a teenager who loved fashion and was eager to work for Abercrombie & Fitch," said Lauf. "Observance of my faith should not have prevented me from getting a job. I am glad that I stood up for my rights, and happy that the EEOC was there for me and took my complaint to the courts. I am grateful to the Supreme Court for the decision and hope that other people realize that this type of discrimination is wrong and the EEOC is there to help."²³

Critical Thinking

- Does a retail clothing store have an interest in employee appearance that it can justify in terms of customer sales?
- Does it matter to you what a sales associate looks like when you shop for clothes? Why or why not?

8.3 Sexual Identification and Orientation

Learning Objectives

By the end of this section, you will be able to:

- Explain how sexual identification and orientation are protected by law
- Discuss the ethical issues raised in the workplace by differences in sexual identification and orientation

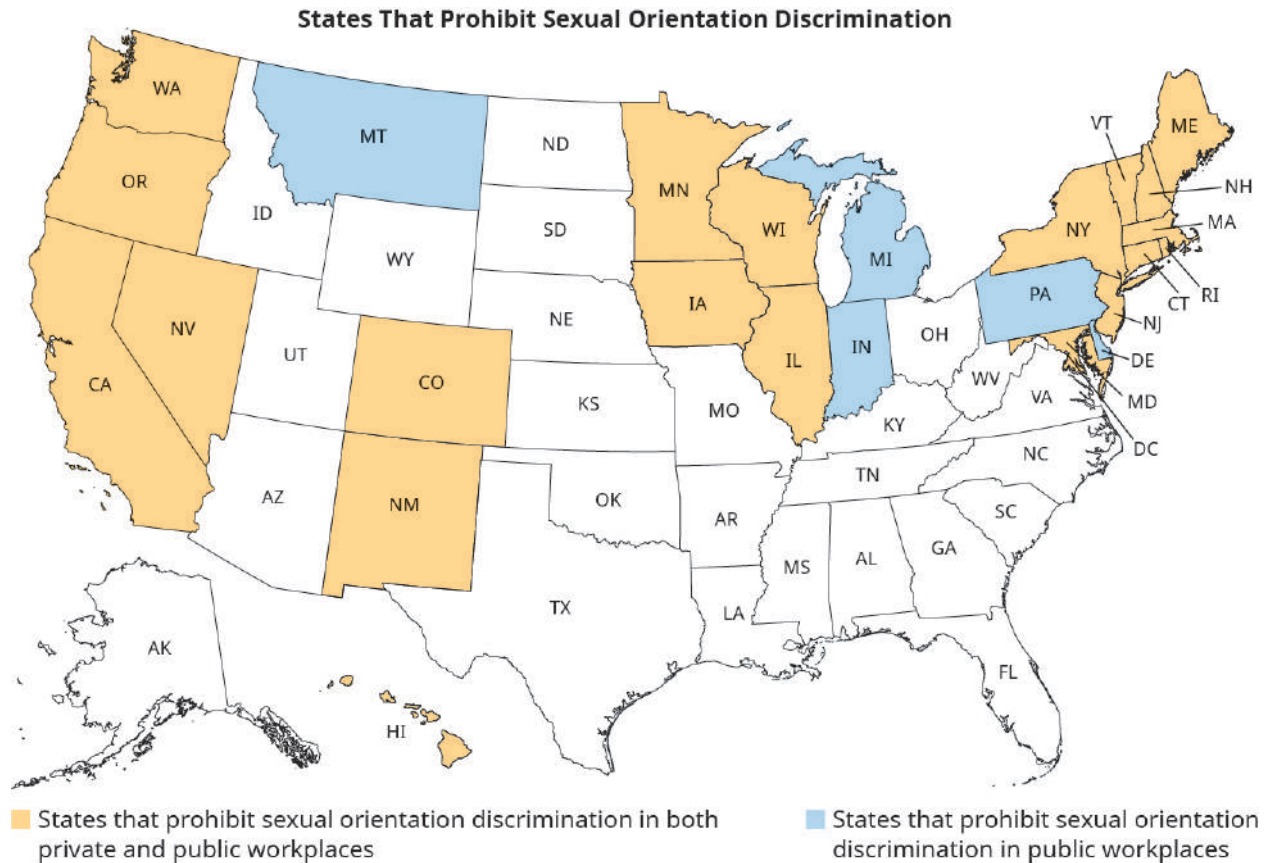
As society expands its understanding and appreciation of sexual orientation and identity, companies and managers must adopt a more inclusive perspective that keeps pace with evolving norms. Successful managers are those who willing to create a more welcoming work environment for all employees, given the wide array of sexual orientations and identities evident today.

Legal Protections

Workplace discrimination in this area means treating someone differently solely because of his or her sexual identification or sexual orientation, which can include, but is not limited to, identification as gay or lesbian (homosexual), bisexual, transsexual, or straight (heterosexual). Discrimination may also be based on an individual's association with someone of a different sexual orientation. Forms that such discrimination may take in the workplace include denial of opportunities, termination, and sexual assault, as well as the use of offensive terms, stereotyping, and other harassment.

Although the U.S. Supreme Court ruled in *United States v. Windsor* (2013) that Section 3 of the 1996 Defense of Marriage Act (which had restricted the federal interpretations of "marriage" and "spouse" to opposite-sex unions) was unconstitutional, and guaranteed same-sex couples the right to marry in *Obergefell v. Hodges* (2015),²⁴ marital status has little or no direct applicability to the circumstances of someone's employment. In terms of legal protections at work, the LGBTQ community is at a disadvantage because Title VII of the CRA does not address sexual orientation and federal law does not prohibit discrimination based on this characteristic. As of January 2018, twenty states prohibit sexual orientation discrimination in private and public workplaces and five more states prohibit sexual orientation discrimination only in public workplaces, not

private (Figure 8.7).²⁵



Source: "Sexual Orientation Discrimination in the Workplace." FindLaw.
<http://employment.findlaw.com/employment-discrimination/sexual-orientation-discrimination-in-the-workplace.html>.

Figure 8.7 State law in the United States varies in terms of protections and guarantees extended to LGBTQ employees of private companies. The geographic locations granting protection are clustered around the states that tend to vote for the Democratic party in national elections, with very little protection in the Great Plains or South. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

In those states that do not have applicable state laws, employees risk adverse employment action simply for their LGBTQ status or for being married to a same-sex partner. Although legislation to address these circumstances has been introduced in Congress in previous sessions, none of the bills has yet passed. For example, a proposed law named the Equality Act is a federal LGBTQ nondiscrimination bill that would provide protections for LGBTQ individuals in employment, housing, credit, and education. But unless and until it passes, it remains up to the business community to provide protections consistent with those provided under federal law for other employees or applicants.

Ethical Considerations

In the absence of a specific law, LGBTQ issues present a unique opportunity for ethical leadership. Many companies choose to do the ethically and socially responsible thing and treat all workers equally, for example, by extending the same benefits to same-sex partners that they extend to heterosexual spouses. Ethical leaders are also willing to listen and be considerate when dealing with employees who may still be coming to an understanding of their sexual identification.

Financial and performance-related considerations come into play as well. Denver Investments recently analyzed the stock performance of companies before and after their adoption of LGBTQ-inclusive workplace policies.²⁶ The number of companies outperforming their peers in various industries increased after companies adopted LGBTQ-inclusive workplace policies. Once again, being ethical does not mean losing money or performing poorly.

In fact, states that have passed legislation considered anti-LGBTQ by the wider U.S. community, such as the Religious Freedom Restoration Act in Indiana or North Carolina's H.B. 2, the infamous "bathroom bill" that would require transgender individuals to use the restroom corresponding with their birth certificate, have experienced significant economic pushback. These states have seen statewide and targeted boycotts by consumers, major corporations, national organizations such as the National Collegiate Athletic Association, and even other cities and states.²⁷ In 2016, in response to H.B. 2, nearly seventy large U.S. companies, including American Airlines, Apple, DuPont, General Electric, IBM, Morgan Stanley, and Wal-Mart, signed an amicus ("friend of the court") brief in opposition to the unpopular North Carolina bill.²⁸ Indiana's Religious Freedom Restoration Act evoked a similar backlash in 2015 and public criticism from U.S. businesses.

To assess LGBTQ equality policies at a corporate level, the Human Rights Campaign foundation publishes an annual Corporate Equality Index (CEI) of approximately one thousand large U.S. companies and scores each on a scale of 0 to 100 on the basis of how LGBTQ-friendly its benefits and employment policies are ([Figure 8.8](#)). More than six hundred companies recently earned a perfect score in the 2018 CEI, including such household names as AT&T, Boeing, Coca-Cola, Gap Inc., General Motors, Johnson & Johnson, Kellogg, United Parcel Service, and Xerox.²⁹

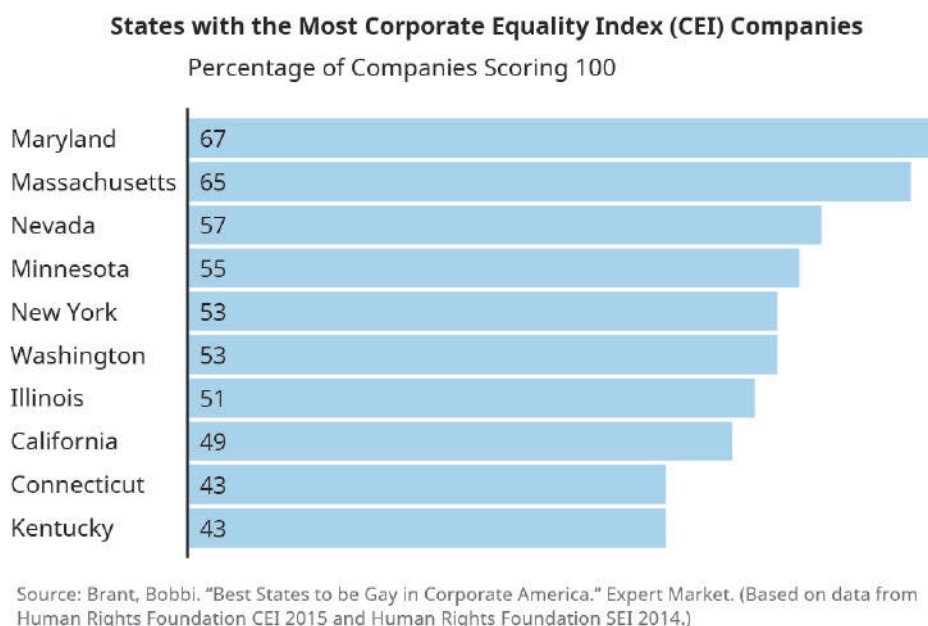


Figure 8.8 The Human Rights Campaign Foundation publishes an annual Corporate Equality Index to assess the LGBTQ equality policies of major U.S. corporations. A perfect score on the index is 100. These are the ten states with the highest percentages of "100 score" companies as of 2014–2015. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

LINK TO LEARNING

Read the [Human Rights Campaign's 2018 report \(https://openstax.org/l/53HRC\)](https://openstax.org/l/53HRC) for more on the Human Rights Campaign's CEI and its criteria.

Another organization tracking LGBTQ equality and inclusion in the workplace is the National LGBT Chamber of Commerce, which issues third-party certification for businesses that are majority-owned by LGBT individuals. There are currently more than one thousand LGBT-certified business enterprises across the country, although California, New York, Texas, Florida, and Georgia account for approximately 50 percent of them. Although these are all top-ranked states for new business startups in general, they are also home to multiple Fortune 500 companies whose diversity programs encourage LGBT-certified businesses to become part of their supply chains. Examples of large LGBT-friendly companies with headquarters in these states are American Airlines, JPMorgan Chase, SunTrust Bank, and Pacific Gas & Electric.

8.4 Income Inequalities

Learning Objectives

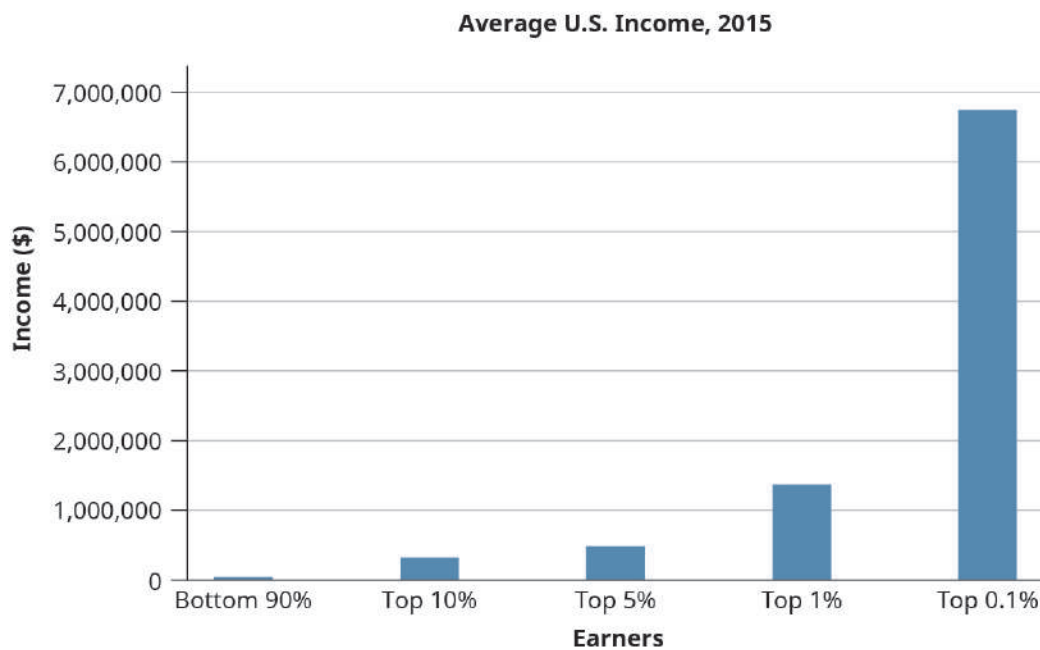
By the end of this section, you will be able to:

- Explain why income inequality is a problem for the United States and the world
- Analyze the effects of income inequality on the middle class
- Describe possible solutions to the problem of income inequality

The gap in earnings between the United States' affluent upper class and the rest of the country continues to grow every year. The imbalance in the distribution of income among the participants of an economy, or **income inequality**, is an enormous challenge for U.S. businesses and for society. The middle class, often called the engine of growth and prosperity, is shrinking, and new ethical, cultural, and economic problems are following from that change. Some identify income inequality as an ethical problem, some as an economic problem. Perhaps it is both. This section will address income inequality and the way it affects U.S. businesses and consumers.

The Middle Class in the United States

Data collected by economic researchers at the University of California show that income disparities have become more pronounced over the past thirty-five years, with the top 10 percent of income earners averaging ten times as much income as the bottom 90 percent, and the top 1 percent making more than forty times what the bottom 90 percent does.³⁰ The percentage of total U.S. income earned by the top 1 percent increased from 8 percent to 22 percent during this period. [Figure 8.9](#) indicates the disparity as of 2015.



Source: Saez, Emmanuel. "Income and Wealth Inequality: Evidence and Policy Implications." *Contemporary Economic Policy* 35, no. 1 (Jan 2017): 7–25.

Figure 8.9 The 2015 data show the significant income disparity existing in the United States today—a gap that has increased significantly since 1980. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

The U.S. economy was built largely on the premise of an expanding and prosperous middle class to which everyone had a chance of belonging. This ideal set the United States apart from other countries, in its own eyes and those of the world. In the years after World War II, the GI Bill and returning prosperity provided veterans with money for education, home mortgages, and even small businesses, all of which helped the economy grow. For the first time, many people could afford homes of their own, and residential home construction reached record rates. Families bought cars and opened credit card accounts. The culture of the middle class with picket fences, backyard barbecues, and black-and-white televisions had arrived. Television shows such as *Leave it to Beaver* and *Father Knows Best* reflected the “good life” desired by many in this newly emerging group. By the mid-1960s, middle-class wage earners were fast becoming the engine of the world’s largest economy.

The middle class is not a homogenous group, however. For example, split fairly evenly between Democratic and Republican parties, the middle class helped elect Republican George W. Bush in 2004 and Democrat Barack Obama in 2008 and 2012. And, of course, a suburban house with a white picket fence represents a consumption economy, which is not everyone’s idea of utopia, nor should it be. More importantly, not everyone had equal access to this ideal. But one thing almost everyone agrees on is that a *shrinking* middle class is not good for the economy. Data from the International Monetary Fund indicate the U.S. middle class is going in the wrong direction.³¹ Only one-quarter of 1 percent of all U.S. households have moved up from the middle- to the upper-income bracket since 2000, while twelve times that many have slid to the lower-income bracket. That is a complete reversal from the period between 1970 and 2000, when middle-income households were more likely to move up than down. According to *Business Insider*, the U.S. middle class is “hollowing out, and it’s hurting U.S. economic growth.”³²

Not only has the total wealth of middle-income families remained flat ([Figure 8.10](#)) but the overall percentage

of middle-income households in the United States has shrunk from almost 60 percent in 1970 to only 47 percent in 2014, a very significant drop. Because consumers of comfortable means are a huge driver of the U.S. economy, with their household consumption of goods and services like food, energy, and education making up more than two-thirds of the nation's gross domestic product (GDP), the downward trend is an economic challenge for corporate America and the government. Business must be part of the solution. But exactly what can U.S. companies do to help address income inequality?

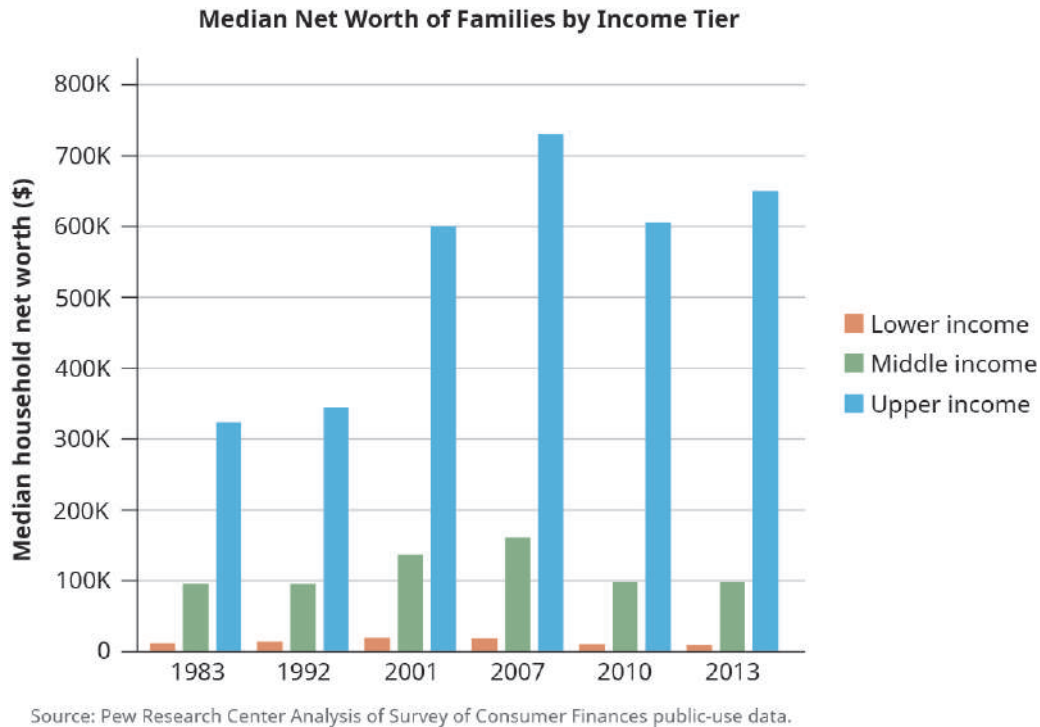


Figure 8.10 Lower- and middle-class wealth has remained stagnant or shrunk for the past thirty-five years while upper-class wealth has doubled. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Addressing Income Inequality

Robert Reich was U.S. Secretary of Labor from 1993 to 1997 and served in the administrations of three presidents (Gerald Ford, Jimmy Carter, and Bill Clinton). He is one of the nation's leading experts on the labor market and the economy and is currently the chancellor's professor of Public Policy at University of California, Berkeley, and a senior fellow at the Blum Center for Developing Economies. Reich recently told this story: "I was visited in my office by the chairman of one of the country's biggest high-tech firms. He wanted to talk about the causes and consequences of widening inequality and the shrinking middle class, and what to do about it." Reich asked the chairman why he was concerned. "Because the American middle class is the core of our customer base. If they can't afford our products in the years ahead, we're in deep trouble."³³

Reich is hearing a similar concern from a growing number of business leaders, who see an economy that is leaving out too many people. Business leaders know the U.S. economy cannot grow when wages are declining, nor can their businesses succeed over the long term without a growing or at least a stable middle class. Other business leaders, such as Lloyd Blankfein, CEO of Goldman Sachs, have also said that income inequality is a negative development. Reich quoted Blankfein: "It is destabilizing the nation and is responsible for the divisions in the country . . . too much of the GDP over the last generation has gone to too few of the people."³⁴

Some business leaders, such as Bill Gross, chair of the world's largest bond-trading firm, suggest raising the federal minimum wage, currently \$7.25 per hour for all employers doing any type of business in interstate commerce (e.g., sending or receiving mail out of state) or for any company with more than \$500,000 in sales. Many business leaders and economists agree that a higher minimum wage would help address at least part of the problem of income inequality; industrialized economies function best when income inequality is minimal, according to Gross and others who advocate for policies that bring the power of workers and corporations back into balance.³⁵ A hike in the minimum wage affects middle-class workers in two ways. First, it is a direct help to those who are part of a two-earner family at the lower end of the middle class, giving them more income to spend on necessities. Second, many higher-paid workers earn a wage that is tied to the minimum wage. Their salaries would increase as well.

Without congressional action to raise the minimum wage, states have taken the lead, along with businesses that are voluntarily raising their own minimum wage. Twenty-nine states have minimum wages that exceed the federal rate of \$7.25 per hour. Costco, T.J. Maxx, Marshalls, Ikea, Starbucks, Gap, In-and-Out Burger, Whole Foods, Ben & Jerry's, Shake Shack, and McDonalds have also raised minimum wages in the past two years. Target recently announced a rise in its minimum wage to eleven dollars per hour, and banks, including Wells Fargo, PNC Financial Services, and Fifth Third Bank, announced a fifteen-dollar minimum wage.³⁶

LINK TO LEARNING

Go to the [National Conference of State Legislatures website for information about various laws in each state \(https://openstax.org/l/53MinimumWage\)](https://openstax.org/l/53MinimumWage) and to look up the minimum wage law in your state.

The American Sustainable Business Council, in conjunction with Business for a Fair Wage, surveyed more than five hundred small businesses, and the results were surprising. A clear majority (58%–66%, depending on region) supported raising the minimum wage to at least ten dollars per hour.³⁷ Business owners were not simply being ethical; most understand that their business would benefit from an increase in consumers' purchasing power, and that this, in turn, would help the general economy. Frank Knapp, CEO of the South Carolina Small Business Chamber of Commerce representing five thousand business owners, said a higher minimum wage "will put more money in the hands of 300,000 South Carolinians who make less than ten dollars per hour and they will spend it here in our local economies. This minimum wage increase will also benefit another 150,000 employees who will have their wages adjusted. The resulting net \$500 million increase in state GDP will be good for small businesses and good for the economy of South Carolina."³⁸

In addition to paying a higher wage, businesses can help workers move to, or stay in, the middle class in other ways. For decades, some companies have hired many full-time workers as independent contractors because it saves them money on a variety of employee benefits they do not have to offer as a result. However, that practice shifts the burden to the workers, who now have to pay the full cost of their health insurance, workers' compensation, unemployment benefits, time off, and payroll taxes. A recent Department of Labor study indicates that employer costs for employee compensation averaged \$35.64 per hour worked in September 2017; wages and salaries averaged \$24.33 per hour worked and accounted for 68 percent of these costs, whereas benefit costs averaged \$11.31 and accounted for the remaining 32 percent.³⁹ That means if employees on the payroll were paid as independent contractors, their pay would effectively be about one-third less, assuming they purchased benefits on their own. The 30 percent difference companies save by hiring independent contractors is often the margin between being in the middle class and falling below it.

ETHICS ACROSS TIME AND CULTURES

Falling Out of the Middle Class

Imagine a child living in a house with no power for lights, heat, or cooking, embarrassed to invite friends over to play or study, and not understanding what happened to a once-normal life. This is a story many middle-class families in the United States think could happen only to someone else, never to them. However, an HBO documentary entitled *American Winter* suggests the opposite is true; many seemingly solid middle-class families can slip all too easily into the lower class, into poverty, in houses that are dark with empty refrigerators.

The film, set in Portland, Oregon, tells the story of an economic tragedy. Families that were once financially stable are now barely keeping their heads above water. A needed job was outsourced or given to an independent contractor, or a raise failed to come even as necessities kept getting more expensive. The families had to try to pay for healthcare or make a mortgage payment when their bank account was overdrawn. Once-proud middle-class workers talk about the shame of having to ask friends for help or turn to public assistance as a last resort. The fall of the U.S. middle class is more than a line on an economic chart; it is a cold reality for many families who never saw it coming.

Critical Thinking

- Does a company have an ethical duty to find a balance between remaining profitable and paying all workers a decent living wage? Why or why not? Who decides what constitutes a fair wage?
- How would you explain to a board of directors your decision to pay entry-level workers a higher wage than required by law?

Yet sympathy for raising the minimum wage at either the federal or state level to sustain the middle class or reduce poverty in general has not been unanimous. Indeed, some economists have questioned whether a positive correlation exists between greater wages and a lowering of the poverty rate. Representative of such thought is the work of David Neumark, an economist at the University of California, Irvine, and William L. Wascher, a long-time economic researcher on the staff of the Board of Governors of the Federal Reserve System. They argue that, however well-meaning such efforts might be, simply raising the minimum wage can be counterproductive to driving down poverty. Rather, they maintain, the right calculus for achieving this goal is much more complex. As they put it, “we are hard-pressed to imagine a compelling argument for a higher minimum wage when it neither helps low-income families nor reduces poverty.” Instead, the federal and state governments should consider a series of steps, such as the Earned Income Tax Credit, that would be more effective in mitigating poverty.⁴⁰

Pay Equity as a Corollary of Income Equality

The issue of income inequality is of particular significance as it relates to women. According to the World Economic Forum (WEF), gender inequality is strongly associated with income inequality.⁴¹ The WEF studied the association between the two phenomena in 140 countries over the past twenty years and discovered they are linked virtually everywhere, not only in developing nations. The issue of pay discrimination is addressed elsewhere in this textbook; however, the issue merits mention here as a part of the bigger picture of equality in the workplace. Adding to the disparity in income between men and women is the reality that many women

are single mothers with dependent children and sometimes grandchildren. Hence, any reduction in their earning power has direct implications for their dependents, too, constituting injustice to multiple generations.

According to multiple studies, including those by the American Association of University Women and the Pew Research Center, on average, women are paid approximately 80 percent of what men are paid.⁴² Laws that attempt to address this issue have not eradicated the problem. A recent trend is to take legislative action at the state rather than the federal level. A New Jersey law, for example, was named the Diane B. Allen Equal Pay Act to honor a retired state senator who experienced pay discrimination.⁴³ It will be the strongest such law in the country, allowing victims of discrimination to seek redress for up to six years of underpayment, and monetary damages for a prevailing plaintiff will be tripled.

The most significant part of the law, however, is a seemingly small change in wording that will have a big impact. Rather than requiring “equal pay for equal work,” as does the federal law and most state laws aimed at the gender wage gap, the Diane B. Allen Equal Pay Act will require “equal pay for substantially similar work.” This means that if a New Jersey woman has a different title than her male colleague but performs the same kinds of tasks and has the same level of responsibility, she must be paid the same. The new law recognizes that slight differences in job titles are sometimes used to justify pay differences but in reality are often arbitrary.

Minnesota recently passed a similar law, but it applies only to state government employees, not private-sector workers. It mandates that women be paid the same for comparable jobs and analyzes the work performed on the basis of how much knowledge, problem solving, and responsibility is required, and on working conditions rather than merely on job titles.

Ethical business managers will see this trend as an effort to address an ethical issue that has existed for well over a century and will follow the lead of states such as New Jersey and Minnesota. A company can help solve this problem by changing the way it uses job titles and creating a compensation system built on the ideas behind these two laws, which focus on job characteristics and not titles.

8.5

Animal Rights and the Implications for Business

Learning Objectives

By the end of this section, you will be able to:

- Explain rising concerns about corporate treatment of animals
- Explain the concept of agribusiness ethics
- Describe the financial implications of animal ethics for business

Ethical questions about our treatment of animals arise in several different industries, such as agriculture, medicine, and cosmetics. This section addresses these questions because they form part of the larger picture of the way society treats all living things—including nonhuman animals as well as the environment. All states in the United States have some form of laws to protect animals; some violations carry criminal penalties and some carry civil penalties. Consumer groups and the media have also applied pressure to the business community to consider animal ethics seriously, and businesses have discovered money to be made in the booming business of pets. Of course, as always, we should acknowledge that culture and geography influence our understanding of ethical issues at a personal and a business level.

A Brief History of the Animal Rights Movement

Rhode Island, along with Boulder, Colorado, and Berkeley, California, led the way in enacting legislation recognizing individuals as guardians, not owners, of their animals, thus giving animals legal status beyond being just items of property. Many U.S. colleges now teach courses on animal rights law, there is strong support for granting fundamental legal rights to animals, and some attorneys, scientists, and ethicists dedicate their careers to animal rights.

The animal movement started in the late nineteenth century when the American Society for the Prevention of Cruelty to Animals (ASPCA) was formed, along with the American Humane Association. The American Welfare Institute and the Humane Society of the United States (HSUS) were established in the 1950s. The first federal animal protection law, the Humane Slaughter Act, was passed in the 1950s to avoid unnecessary suffering to farm animals (ten billion of which are killed every year). The most important U.S. law forbidding cruelty to animals in laboratory settings was enacted in 1966; the Animal Welfare Act requires basic humane conditions to be maintained for animals in testing facilities. Finally, in the 1970s and 1980s, the modern animal rights social movement emerged. It has led to an increased awareness of animal ethics by consumers and businesses.

However, despite significant progress, research using animals for product testing continues to be controversial in the United States, particularly because improved technology has offered humane and effective alternatives. The use of animals in biomedical research has drawn slightly less negative reaction than in consumer product testing, because of the more critical nature of the research. Though animal welfare laws have ameliorated some of the pain of animals used in biomedical research, ethical concerns remain, and veterinarians and physicians are demanding change, as are animal rights groups and policy and ethics experts. Increased integration of ethics in business conduct is operating alongside the desire to recognize **animal rights**, the entitlement of nonhuman animals to ethical treatment.

The Ethics of What We Eat

Concern for the welfare of animals beyond pets brings us to the agribusiness industry. This is where groups such as the ASPCA and HSUS have been particularly active. Agribusiness is a huge industry that provides us with the food we eat, including plant-based and animal-based foodstuffs. The industry has changed significantly over the past century, evolving from one consisting primarily of family and/or small businesses to a much larger one dominated mostly by large corporations. Aspects of this business with relevant and interrelated ethical questions range from ecology, animal rights, and economics to food safety and long-term sustainability ([Figure 8.11](#)). To achieve a high level of sustainability in the world's food supply chain, all stakeholders—the political sector, the business sector, the finance sector, the academic sector, and the consumer—must work in concert to achieve an optimal result, and a cost-benefit analysis of ethics in the food industry should include a recognition of all their concerns.



Figure 8.11 Each of the ethical considerations relating to agribusiness is interdependent with the others. For example, safe food production is a responsible use of natural resources, and consumers want to make informed choices based on responsible animal husbandry. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Experts predict that for us to meet the food needs of the world’s population, we will need to double food production over the next fifty years. Given this, a high priority in the agribusiness industry ought to be to meet this demand for food at a reasonable price with products that are not a threat to human health and safety, animal health, or the limited resources in Earth’s environment. However, to do so requires attention to factors such as soil and surface water conservation and protection of natural land and water areas. Furthermore, the treatment of animals by everyone in the livestock chain (e.g., livestock farmers, dealers, fish farmers, animal transporters, slaughterhouses) must be appropriate for a society with high legal and ethical standards.

The food chain can be truly sustainable only when it safeguards the social welfare and living environment of the people working in it. This means eliminating corruption, human rights violations (including forced labor and child labor), and poor working conditions. We must also encourage and empower consumers to make informed choices, which includes enforcing labeling regulations and the posting of relevant and accurate dietary information.

Finally, an analysis of the food supply chain must also include an awareness of people’s food needs and preferences. For example, the fact that growing numbers of consumers are adopting vegetarian, vegan, gluten-free, or non-genetically modified organism diets is now apparent at responsive restaurants, grocery stores, and employer-provided cafés. For many, the ethical treatment of animals remains a philosophic issue; however, some rules about what foods are morally acceptable and how they are prepared for consumption (e.g., halal or kosher) are also grounded in faith, so animal rights have religious implications, too.

All in all, consumers’ growing ethical sensitivity about what we eat could ultimately transform agribusiness. More acreage might be assigned to growing fruits and vegetables relative to those given over to livestock grazing, for instance. Or revelations about slaughterhouse processes may reduce our acceptance of the ways in which meat is processed for consumption. The economic consequences for agribusiness of such changes

are difficult to underestimate.

LINK TO LEARNING

Peter Singer is an Australian-born philosopher who has teaching appointments at Princeton University and Monash University in Australia. His book *Animal Liberation*, originally published in 1975 but revised many times since, serves as a sort of bible for the animal rights movement. Yet Singer is highly controversial because he argues that some humans have fewer cognitive skills than some animals. Therefore, if we determine what we eat on the basis of sentience (the ability to think and/or feel pain), then many animals we eat should be off limits. Watch [Singer's talk, "The Ethics of What We Eat," which was recorded at Williams College in December 2009 \(https://openstax.org/l/53PeterSinger\)](https://openstax.org/l/53PeterSinger) as an introduction to Singer's philosophy.

The Use of Animals in Medical and Cosmetic Research

Viewpoints about animals used in medical research are changing in very significant ways and have resulted in a variety of initiatives seeking alternatives to animal testing. As an example, in conjunction with professionals from human and veterinary medicine and the law, the Yale University Hastings Program in Ethics and Health Policy, a bioethics research institute, is seeking alternatives to animal testing that focus on animal welfare.

Animals such as monkeys and dogs are used in medical research ranging from the study of Parkinson disease to toxicity testing and studies of drug interactions and allergies. There is no question that medical research is a valuable and important practice. The question is whether the use of animals is a necessary or even best practice for producing the most reliable results. Alternatives include the use of patient-drug databases, virtual drug trials, computer models and simulations, and noninvasive imaging techniques such as magnetic resonance imaging and computed tomography scans.⁴⁴ Other techniques, such as microdosing, use humans not as test animals but as a means to improve the accuracy and reliability of test results. In vitro methods based on human cell and tissue cultures, stem cells, and genetic testing methods are also increasingly available.

As for consumer product testing, which produces the loudest outcry, the Federal Food, Drug, and Cosmetic Act does not require that animal tests be conducted to demonstrate the safety of cosmetics. Rather, companies test formulations on animals in an attempt to protect themselves from liability if a consumer is harmed by a product. However, a significant amount of new research shows that consumer products such as cosmetics can be accurately tested for safety without the abuse of animals. Some companies may resist altering their methods of conducting research, but a growing number are now realizing that their customers are demanding a change.

Regulating the Use of Animals in Research and Testing

Like virtually every other industrialized nation, the United States permits medical experimentation on animals, with few limitations (assuming sufficient scientific justification). The goal of any laws that exist is not to ban such tests but rather to limit unnecessary animal suffering by establishing standards for the humane treatment and housing of animals in laboratories.

As explained by Stephen Latham, the director of the Interdisciplinary Center for Bioethics at Yale,⁴⁵ possible legal and regulatory approaches to animal testing vary on a continuum from strong government regulation and monitoring of all experimentation at one end, to a self-regulated approach that depends on the ethics of the researchers at the other end. The United Kingdom has the most significant regulatory scheme, whereas Japan uses the self-regulation approach. The U.S. approach is somewhere in the middle, the result of a gradual blending of the two approaches.

A movement has begun to win legal recognition of chimpanzees as the near-equivalent of humans, therefore, as “persons” with legal rights. This is analogous to the effort called environmental justice, an attempt to do the same for the environment (discussed in [the section on Environmental Justice in Three Special Stakeholders: Society, the Environment, and Government](#)). A nonprofit organization in Florida, the Nonhuman Rights Project, is an animal advocacy group that has hired attorneys to present a theory in court that two chimpanzees (Tommy and Kiko) have the legal standing and right to be freed from cages to live in an outdoor sanctuary ([Figure 8.12](#)). In this case, the attorneys have been trying for years to get courts to grant the chimps habeas corpus (Latin for “you shall have the body”), a right people have under the U.S. Constitution when held against their will. To date, this effort has been unsuccessful.⁴⁶ The courts have extended certain constitutional rights to corporations, such as the First Amendment right to free speech (in the 2010 *Citizens United* case). Therefore, some reason, a logical extension of that concept would hold that animals and the environment have rights as well.



Figure 8.12 This is Tommy the Chimpanzee’s “home,” a stretch of the word by any definition. The question in the court case brought on behalf of Tommy and Kiko, another chimpanzee, is whether animals should have the right of habeas corpus to be freed from involuntary confinement. (credit: From the film *Unlocking The Cage*. Directed by Chris Hegedus and D A Pennebaker. Copyrighted © 2015 Pennebaker Hegedus Films, Inc. All Rights Reserved. Used with permission.)

In cosmetic testing, the United States has relatively few laws protecting animals, whereas about forty other nations have taken more direct action. In 2013, the European Union banned animal testing for cosmetics and the marketing and sale of cosmetics tested on animals. Norway and Switzerland passed similar laws. Outside Europe, a variety of other nations, including Guatemala, India, Israel, New Zealand, South Korea, Taiwan, and Turkey, have also passed laws to ban or limit cosmetic animal testing. U.S. cosmetic companies will not be able to sell their products in any of these countries unless they change their practices. The Humane Cosmetics Act has been introduced but not yet passed by Congress. If enacted, it would end cosmetics testing on animals in the United States and ban the import of animal-tested cosmetics.⁴⁷ However, in the current antiregulatory environment, passage seems unlikely.

CASES FROM THE REAL WORLD

Beagles Freedom Project

Beagles are popular pets because—like most dogs—they are people pleasers, plus they are obedient and easy to care for ([Figure 8.13](#)). These same qualities make them the primary breed for animal testing: ninety-six percent of all dogs used in testing are beagles, leading animal-rights groups like the Beagle Freedom Project to make rescuing them a priority.⁴⁸ Even animal activists have to compromise to make progress, however, as the director of Beagle Freedom explains: “We have a policy position against animal testing. We don’t like it philosophically, scientifically, even personally. . . . But that doesn’t mean we can’t find common ground, a common-sense solution, to bridge two sides of a very controversial and polarizing debate, which is animal testing, and find this area in the middle where we can get together to help animals.”⁴⁹



Figure 8.13 Through local events such as this one in Redondo Beach, California, the Beagle Freedom Project aims to raise awareness of the conditions prevalent for many dogs used in laboratory experimentation. (credit: modification of “JennyOetzell_46150” by “TEDxRB”/Flickr, CC BY 2.0)

Dogs used as subjects in laboratory experiments live in stacked metal cages with only fluorescent light, never walk on grass, and associate humans with pain. In toxicology testing, they are exposed to toxins at increasing levels to determine at what point they become ill. Before a beagle can be rescued, the laboratory has to agree to release it, which can be a challenge. If the laboratory is willing, the Beagle Freedom Project still has to negotiate, which usually means paying for all costs, including veterinary care and transportation, and absolving the laboratory of all liability, and then find the dog a home.

Alternatives to testing on beagles include three-dimensional human-skin-equivalent systems and a variety of advanced computer-based models for measuring skin irritation, for instance. According to the New England Anti-Vivisection Society, nonanimal tests are often more cost-effective, practical, and expedient; some produce results in a significantly shorter time.⁵⁰

Critical Thinking

Why have U.S. cosmetics companies continued to use beagles for testing when there are more humane alternatives at lower costs?

According to the Humane Society of the United States, a more realistic alternative approach is to develop nonanimal tests that could provide more human safety data, including information about cancer and birth defects related to new products. Consumer pressure can also influence change. If consumer purchases demonstrate a preference for cruelty-free cosmetics and support ending cosmetics animal testing, businesses will get the message. Almost one hundred companies have already ceased testing cosmetics on animals, including The Body Shop, Burt's Bees, E.L.F. Cosmetics, Lush, and Tom's of Maine. Lists of such firms are maintained by People for the Ethical Treatment of Animals and similar organizations.⁵¹

LINK TO LEARNING

Cruelty Free International is an organization working to end animal experiments worldwide. It provides information about products that are not tested on animals in an effort to help consumers become more aware of the issues. Take a look at the [Cruelty Free International website \(https://openstax.org/l/53CrueltyFree\)](https://openstax.org/l/53CrueltyFree) to learn more.

Companies will be wise to adapt to the increasing level of public awareness and consumer expectations, not least because U.S. culture now incorporates pets in almost every aspect of life. Dogs, cats, and other animals function as therapy pets for patients and those experiencing stress; an Uber-style dog service will bring dogs to work or school for a few minutes of companionship. Pets visit hospitals and act as service animals, appearing in restaurants, campuses, and workplaces where they would have been prohibited as recently as ten years ago. According to the American Pet Products Association (APPA), a trade group, two-thirds of U.S. households own a pet, and pet industry sales have tripled in the past fifteen years.⁵² The APPA estimates U.S. spending on pets will reach almost \$70 billion a year by 2018.

"People are fascinated by pets. We act and spend on them as if they were our children," says New York University sociology professor Colin Jerolmack, who studies animals in society.⁵³ As people increasingly want to include pets in all aspects of life, new and different industries have emerged and will continue to do so, such as tourism centered on the presence of pets and retail opportunities such as health insurance for animals, upscale stores, and new products specifically tailored for pets. With interest in pets at an all-time high, businesses cannot ignore the trend, either in terms of revenue to be earned or in terms of the ethical treatment of their fellow animals in laboratories.



Key Terms

animal rights the entitlement of nonhuman animals to ethical treatment

diversity dividend the financial benefit of improved performance resulting from a diverse workforce

inclusion the engagement of all employees in the corporate culture

income inequality the unequal distribution of income among the participants of an economy

reasonable accommodation a change or adjustment to a job or other aspect of the work environment that permits an employee with a disability or other need to perform that job

undue hardship a difficulty or expense to the firm significant enough that reasonable accommodation may not be required



Summary

8.1 Diversity and Inclusion in the Workforce

A diverse workforce yields many positive outcomes for a company. Access to a deep pool of talent, positive customer experiences, and strong performance are all documented positives. Diversity may also bring some initial challenges, and some employees can be reluctant to see its advantages, but committed managers can deal with these obstacles effectively and make diversity a success through inclusion.

8.2 Accommodating Different Abilities and Faiths

To accommodate religious beliefs, the absence of formal religious faith, or disabilities, businesses should make every reasonable accommodation they can to allow workers to contribute to the company. This may require scheduling flexibility, the use of special devices, or simply an understanding manager.

8.3 Sexual Identification and Orientation

Although about half the states prohibit sexual orientation discrimination in private and public workplaces and a few do so in public workplaces only, federal law does not. Successful companies will not only follow the applicable law but also develop ethical policies to send a clear message that they are interested in job skills and abilities, not sexual orientation or personal life choices.

8.4 Income Inequalities

Income inequality has grown sharply while the U.S. middle class, though vital to economic growth, has continued to shrink. Currently, the federal minimum wage is \$7.25 per hour, and many states simply follow the federal lead in establishing their own minimums. Though some economists dispute the existence of a simple, direct link between a shrinking middle class and governmental failure to raise the minimum wage at a sufficiently rapid pace, no one denies that businesses themselves could take the lead here by paying a higher minimum wage. Companies also can commit to hire workers as employees rather than as independent contractors and pay the cost of their benefits, and to pay women the same as men for similar work.

8.5 Animal Rights and the Implications for Business

Mainstream businesses from pharmaceutical and medical companies to grocers and restaurants must all consider the growing public awareness of the ethical treatment of nonhuman animals. This evolving concern has particular consequences for agribusiness in terms of what creatures we consider appropriate to cultivate and eat. Cosmetic companies are increasingly subject to legislative mandates in the global marketplace and to consumer pressure at home to adopt ethical policies with regard to animal testing. An aware consuming

public can continue to force improvements in our treatment of animals.



Assessment Questions

1. Diversity and inclusion at all levels of a private-sector company is _____.
 - A. mandated by federal law
 - B. the approach preferred by many companies
 - C. required by state law in thirty states
 - D. contrary to the company's fiduciary duty to stockholders
2. Google _____.
 - A. has the most diverse workforce of any major U.S. company
 - B. uses a strict quota system in its hiring practices
 - C. is similar to other technology companies, most of which lag on diversity
 - D. promotes women at higher rates than men
3. True or false? Diversity programs may fail due to resistance from employees within a company.
4. Studies have been conducted on the financial performance of companies with high levels of diversity. Briefly discuss the results of such studies.
5. Since the passage of federal laws such as the Civil Rights Act of 1964, the percentage of women in leadership positions has improved but not reached parity with that of men. Briefly discuss the percentage of women in leadership positions in different industries and what might be some of the benefits of improving the representation of women.
6. The primary law prohibiting religious discrimination in the private sector workplace is _____.
 - A. the First Amendment of the Constitution
 - B. state law
 - C. Title VII of the Civil Rights Act
 - D. the Declaration of Independence
7. If an ADA accommodation is significantly expensive, _____.
 - A. the courts may rule that it is not reasonable
 - B. the courts may rule that it must be provided anyway
 - C. the EEOC guidelines do not apply
 - D. the federal government must subsidize the expense
8. True or false? There are no similarities between legal protections in the workplace for religion and disability.
9. The primary law prohibiting discrimination against disabled workers is the ADA. What is its main requirement?
10. Religious apparel and/or appearance are protected under Title VII's umbrella of religious nondiscrimination. Give an example.

11. Are individual states allowed to have laws protecting LGBTQ applicant or employee rights?
 - A. Yes, but it is not really necessary because federal law already protects them.
 - B. No, because it would violate federal law, which prohibits it.
 - C. Yes, some states extend this protection because there is no law at the federal level.
 - D. No, because the Supreme Court ruling in *Obergefell v. Hodges* now protects these rights.
12. True or false? Title VII of the Civil Rights Act prohibits discrimination based on sexual orientation.
13. Federal law does not currently protect LGBTQ applicants from discrimination in hiring. Are there any applicable state laws that do so?
14. Though federal law does not mandate it, do some companies nevertheless allow LGBTQ employees to extend insurance coverage to partners?
15. As of 2018, the current federal minimum wage is _____.
 - A. \$7.25 per hour
 - B. \$10 per hour
 - C. \$12.50 per hour
 - D. \$15 per hour
16. The middle class in the United States _____.
 - A. has steadily increased every year since World War II
 - B. has steadily declined every year since 1990
 - C. shows a significant decline since 2000
 - D. has grown since the recession of 2008
17. True or false? The percentage of income earned by the top 1 percent of households in the United States has more than doubled since the early 1980s.
18. Hiring a worker as an independent contractor saves an employer about 30 percent of the cost of an employee in benefits. Identify one or two of these benefits.
19. Do some states have laws mandating a higher wage than the federal minimum?
20. Laws protecting animal rights in cosmetic testing are _____.
 - A. more advanced in the United States than in the European Union
 - B. more advanced in the European Union than in the United States
 - C. more advanced in Asia than in the United States
 - D. more advanced in Asia than in the European Union
21. Alternatives to animal testing for cancer drugs _____.
 - A. do not exist
 - B. exist but are prohibitively expensive
 - C. exist and are not any more expensive than animal testing
 - D. exist and are far cheaper than animal testing
22. True or false? Cosmetics manufacturing is an area where testing with synthetic human skin is an acceptable substitute for animal testing.
23. True or false? There are not yet viable alternatives to animal testing in medical research.
24. Generally, Europe has more restrictions on animal testing than does the United States. How does this affect U.S. companies?



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