

# Instructor's Manual

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## HR 2

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## CHAPTER 1

# The Nature of Human Resource Management

### LEARNING OBJECTIVES

After studying this chapter, the student should be able to:

1. Describe contemporary human resource perspectives.
2. Trace the evolution of the human resource function in organizations.
3. Identify and discuss the goals of human resource management.
4. Discuss the setting for human resource management.
5. Discuss the job of human resource managers from the perspectives of professionalism and careers.

### CHAPTER OUTLINE

#### Opening Case: Their Most Precious Resource...

Companies such as Southwest Airlines, Whole Foods, The Container Store, and Google are successful because they invest important resources in the effective management of human resources. Part of this effective management approach includes making employees feel valued and appreciated by the organization. This in turn results in enhanced motivation, retention, and corporate reputation as well as building rare and valuable human resources competitors cannot easily replicate. This approach also involves developing unique organizational relationships with employees in a way that makes the workplace an enjoyable environment. Consequently, all of these companies have enjoyed enormous economic success and are considered to be best employers of choice by current and potential workers.

#### Introduction

All organizations strive to achieve their goals by combining various resources into goods and services that are of value to customers.

Managers are beginning to look at less tangible resources as the most critical for gaining a competitive advantage. For instance, knowledge-based resources include information about consumers and the firm's competitive environment which can be used to assist managers in making decisions, solve problems, and develop competitive strategies.

Experts in the field have come to recognize that no set of resources is more vital to an organization's success than its human resources.

An organization's **human resources** are the people it employs to carry out various jobs, tasks, and functions in exchange for wages, salaries, and other rewards. **Human resource management** refers to the comprehensive set of managerial activities and tasks concerned with developing and maintaining a qualified workforce in ways that contribute to organizational effectiveness. Effective human resource management is becoming a vital strategic concern for most organizations today.

I. **Contemporary Human Resource Management Perspectives**

- A. The first major legislation indicating the increased importance of human resource management was the 1964 Civil Rights Act. This act prohibits discrimination on the basis of race, color, religion, sex, or national origin.
- B. However, managers realize that human resource management has a profound effect on an organization's performance, and so the function has grown to have the same importance as other functions.
- C. Most firms now use the term *human resource management* to better reflect the strategic role of people management in companies; however, some firms have created unique titles for human resource managers such as chief knowledge officer.

**HR in the 21<sup>st</sup> Century**

The United States faces a future worker gap and a skills gap according to labor expert James E. Oesterreicher. The anticipated shortage of workers expected within the next few years can be attributed to retiring baby boomers; fewer young workers entering the labor pool; no source of new workers such as the women, welfare recipients, and immigrants that entered the workforce in the 1990s; and an increasing desire for more leisure and family time.

Employers will have to adjust to these changes. They may find they need to offer incentives to attract applicants and work to increase their retention strategies in order to hold on to valued workers. Workers can prepare for these changes by seeking increased education especially in professional or technical areas.

- D. The 1980s and 1990s brought changes to the human resource management function in response to firms' going out of business, a wave of mergers and acquisitions, and an era of downsizing, rightsizing, and reengineering that caused worker displacement and increased the use of **outsourcing** in human resource activities. **Outsourcing** is the process of hiring outside firms to handle basic human resource management functions, presumably more efficiently than the organization.
- E. Outsourcing can be an important competitive weapon for organizations, but not all functions can be outsourced for competitive advantage. It is critical for a firm to retain any function that is either of strategic importance or can lead to some advantage because of the firm's expertise at the function.
- F. The trends that changed the HR function continue today, such as mergers and acquisitions, which now are often between two firms in different countries. The post-affirmative action legal climate for human resources is becoming more complex. A rise in terrorism has made security more difficult too.

II. **Evolution of the Human Resource Function**

The industrial revolution sparked business growth and expansion. Large-scale business operations created the need for professional managers.

The first serious study of management practice, set during the early years of the twentieth century, was based on **scientific management**. Scientific management, one of the earliest approaches to management, was concerned with structuring individual jobs to maximize efficiency and productivity. The major proponents of scientific management were Frederick Taylor and Frank and Lillian Gilbreth. They often used time-and-motion studies to teach workers how to perform each task of their job. This approach helped augment the concepts of assembly-line production,

division of labor, and economies of scale that gave birth to the large businesses in the twentieth century.

#### A. Origins of the Human Resource Function

1. Rapidly expanding companies in the early 1900s created new specialized units to hire new employees and to help manage the existing workforce. The emergence of large labor unions such as the United Auto Workers and the passage of the Fair Labor Standards Act in 1938, which established a minimum wage and the National Labor Relations Act in 1935, which dealt with unionization procedures made it imperative for businesses to have managers represent the interests of business to organized labor and to administer the emerging set of laws and regulations governing labor practices.
2. The work of Darwin in individual differences and that of Binet and Simon in intelligence testing (used in WWI) provided new tools to manage employment processes.
3. By 1923, *Personnel Management*, a book by Scott and Clothier, was spelling out how to match a person's skills and aptitudes with job requirements.
4. The **human relations era**, which supplanted scientific management as the dominant approach to management during the 1930s, emerged following the **Hawthorne studies** in the early 1930s.
  - a) Between 1927 and 1932, the Western Electric Company sponsored a major research program at its Hawthorne plant near Chicago. The research was conducted by Roethlisberger and Mayo. This study explored how human behavior was recognized to relate to worker performance.
  - b) Abraham Maslow's **hierarchy of human needs** and Douglas McGregor's **Theory X** and **Theory Y** were popularized at this time and grew from the HR movement.

#### B. Personnel Management

1. During the 1930s and 1940s, specialized units gradually became known as **personnel departments**, which were self-contained and dealt with basic human resource activities such as hiring, pay, and benefits.
2. **Personnel management**, a new type of management function, grew from the recognition that human resources needed to be managed. It became a new type of management function, mainly concerned with hiring first-line employees and was directed by the **personnel manager** who ran the personnel department.
3. During World War II, psychologists were consulted to help develop selection tests to assess individual skills, interests, and abilities in order to optimize the fit between individuals and jobs.
4. Wartime lessons in personnel testing were adapted for use in private industry in the 1950s, and companies also began to experiment with more sophisticated reward and incentive systems.
5. The personnel manager's job also became more complex as the power of labor unions increased and government legislation expanded.
6. As late as the 1970s, personnel management was seen as a routine clerical and bookkeeping function.
7. The Civil Rights Act of 1964 increased the importance of fully understanding the legal context of human resource management, and subsequent amendments, executive orders, and legal decisions made hiring and promotion more complex.

C. **Human Resource Management in the Electronic Age**

Technology has had a dramatic impact on human resource management.

1. Automated systems for measurement have made such tasks easier.
2. Computers and the Internet have affected the management of human resources and the delivery of HR systems. Online job analysis, Web-based recruiting, online testing and training, and employee access to information through the Internet have revolutionized human resource management.
3. While the overall impact has been to make tasks easier, new challenges are also presented, including new issues of ethics and privacy.
4. It is unclear whether new technologies have increased the effectiveness of human resources.
5. As organizations become more technologically complex, their need for specialized employees grows. **Knowledge workers** are employees whose jobs are primarily concerned with the acquisition and application of knowledge. They contribute to an organization through what they know and how they can apply what they know.

D. **Emerging Human Resource Challenges**

1. The economic downturn has generated some challenges such as job loss and corporate reorganization.
2. HR professionals must determine how to effectively manage downsizing, outplacement, and employee integration after mergers and acquisitions.
3. Other issues that challenge HR executives include managing employee stress driven by workplace uncertainty, increased government oversight and regulation, and the importance of social responsibility and environmental awareness.
4. These changes will likely increase the degree to which HR professionals influence the management of companies.

III. **Goals of Human Resource Management**

Exhibit 1.1 Goals of Human Resource Management illustrates the four basic goals of human resource management today.

A. **Facilitating Organizational Competitiveness**

1. All organizations have a general set of goals and objectives that they try to accomplish.
2. The organization needs to employ individuals most able to help accomplish its goals and help it remain competitive.
3. The human resource management function must have a basic goal of clearly understanding how the organization competes, the kinds of human resources necessary to promote its ability to compete, and the most appropriate methods for attracting and developing those human resources.

B. **Enhancing Productivity and Quality**

1. **Productivity** is an economic measure of efficiency that summarizes and reflects the value of outputs created by an individual, organization, industry, or economic system relative to the value of inputs used to create them.
2. **Quality** is the total set of features and characteristics of a product or service that bears on its ability to satisfy stated or implied needs.

3. Most managers of today realize that productivity and quality usually go hand-in-hand, that is to say, improving quality almost always increases productivity.
4. Improving productivity and quality takes a major and comprehensive approach that relies heavily on human resource management in areas such as selection, training and development, and rewards.
5. HRM also has the goal of helping to enhance productivity and quality through different activities and tasks.

**C. Complying with Legal and Social Obligations**

1. Organizations must stay within the relevant legal boundaries in dealing with employees or risk huge financial penalties, negative publicity, and damage to internal corporate culture.
2. More organizations recognize their social obligation beyond minimum activities needed to comply with legal regulations. Organizations are responding to pressure to make corporate social responsibility an important goal.

**D. Promoting Individual Growth and Development**

1. Many organizations go beyond offering basic job-related training and development by offering basic English, mathematics, or science courses as well as career development and mentoring programs.
2. Organizations may offer programs in areas that do not directly relate to job responsibilities, such as stress management, wellness and fitness, and personal financial planning.
3. More firms are seeing human resource management as part of the psychological contract they have with employees. A psychological contract is the overall set of expectancies held by the employee with regard to what he or she will contribute to the organization and that are held by the organization with regard to what it will provide to the individual in return.

**IV. The Setting for Human Resource Management**

Traditionally, all HR activities resided in a separate department, but this model is becoming rare. Instead, HR activities are carried out by both line and staff managers.

**A. Human Resource Management as a Staff Versus Line Function**

1. The Traditional Distinction Between Staff and Line Functions
  - a) Traditionally, **line managers** were those directly responsible for creating goods and services and their contributions could be directly assessed in terms of their impact on the organization's bottom line.
  - b) **Staff managers** were responsible for an indirect or support function such as legal, accounting, or human resources that supported line management's efforts to achieve organizational goals and objectives.
2. A Modern View of Staff and Line Functions
  - a) Today, many organizations have blurred this distinction through new forms of organizational design and smaller staff units, where line managers often have the responsibility for human resource management.
  - b) The human resource department is usually given primary responsibility for certain functions, including legal compliance, recruiting, compensation and

benefits, performance appraisal design, basic training and development, incentive- and performance-based reward systems, discipline and grievance systems, and labor relations.

- c) In some cases, human resource managers provide services only in areas where their department can excel above outsiders. In other cases, HR is more of a consulting function that must sell its services to line managers.
- d) The human resource department is also responsible for coordinating the various human resource activities and for ensuring that they are consistent with corporate strategy. This includes coordinating the efforts of outside vendors, if they are used.

#### B. **The Human Resource Department in Smaller Versus Larger Organizations**

1. In smaller organizations, operating managers handle basic human resource functions.
  - a) Franchised operations may be partly directed by the home office in the areas of wages, performance appraisal, and payroll.
  - b) In independent businesses, the owner or general manager will handle human resource duties while payroll and other basic administrative activities may be subcontracted out to local providers.
  - c) Very small organizations are exempt from many legal regulations.
2. In larger organizations, a separate human resource unit becomes a virtual necessity.
  - a) At 200 to 250 employees, a human resource department is usually established, typically staffed by one full-time manager and a secretary.
  - b) As the organization grows, more help will be needed and specialized units within the human resource department will likely handle human resource functions. Exhibit 1.2, The Human Resource Management Function shows how the human resource function is structured at a very large employer.

#### C. **The Human Resource Management System**

1. As illustrated in Exhibit 1.3, A Systems View of Human Resource Management, the **human resource management system** is an integrated and interrelated approach to managing human resources which fully recognizes the interdependence among the various tasks and functions that must be performed.
2. Human resource management can also be conceptualized as a subsystem within the more general organizational system, where functional subsystems (such as finance, operations, and marketing) affect one another within the broader strategic context.
3. Increasing globalization reinforces the systems view of human resource management, because human resource managers must consider domestic similarities and differences in different countries as well as the role of international assignments and experiences in managing human resources.
4. Utility analysis, the attempt to measure, in more objective terms, the impact and effectiveness of human resource management practices in terms of metrics such as a firm's financial performance, shows how HR contributes to the organization's bottom line. It is also the responsibility of a human resource department to develop these metrics and apply them to all HRM activities undertaken on behalf of the organization.

#### V. **Human Resource Managers**

Human resource managers have a variety of backgrounds, experiences, and career objectives. They need to understand many specialized areas in human resources and should also possess management, conceptual, diagnostic, and analytical skills. They should understand other

functional areas as well as business and corporate strategy concepts. Thus, education and experience are necessary for success. Exhibit 1.4, Human Resource Management as a Center for Expertise, captures these ideas.

**A. Professionalism and Human Resource Management**

1. The field of human resource management has a recognized knowledge base and a generally understood way of doing business.
2. The human resource function has gained importance and more organizations are including a stint in human resources in employees' career paths to the top of the organization. HR departments are being viewed as cost centers with the goal of providing clear and measurable financial benefits to the organization, and the salaries of HR managers are rising.
3. Many human resource managers belong to the professional association called (the Society for Human Resource Management (SHRM), which has created the Human Resource Certification Institute (HRCI) to provide professional accreditation to human resource managers through the use of tests and professional experience. HRCI currently offers three core certifications: the Professional in Human Resources (PHR), Senior Professional in Human Resources (SPHR) and Global Professional in Human Resources (GPHR).

**B. Careers in Human Resource Management**

1. One way to enter the profession is by earning a degree in human resource management and then seeking employment as a human resource manager at a small organization or as a human resource specialist at a large organization.
2. Another route to human resource management is through line management and a rotation into the human resource function.

## **Closing Case: Enterprise Builds On People**

### **Case summary**

Enterprise Rent-A-Car has developed a niche in the rental car business. It avoids the highly competitive airport market, instead focusing on individuals whose own cars are being repaired, who are driving on vacation, or who need an extra car for a few days. Enterprise locates in downtown and suburban areas and offers pickup and delivery service. Enterprise also negotiates exclusive contract arrangements with local insurance agencies. In recent years, Enterprise has started to expand its market base by opening airport locations to compete with Avis and Hertz as well as expansion into international markets such as Ireland, France, Germany, and the United Kingdom.

A key success factor for Enterprise is its human resource strategy. It targets new hires that were typically in the bottom half of their college graduating class and who were athletes or were actively involved in campus social activities. Enterprise feels that these employees will have good social skills and competitiveness, while having demonstrated intelligence and motivation by earning a college degree. Entry-level employees are expected to work extremely hard for low pay. However, these college grads may have had few other job options upon graduation. Enterprise promotes exclusively from within to motivate lower-level employees to stay with the company.



## Case Questions

1. *Would Enterprise's approach to human resource management work in other industries?*

Enterprise's approach may work in other industries in which social skills and sales ability are important, particularly when the sales process for the product or service is relatively straightforward. Automobile dealerships, plumbing supplies, retail clothing outlets, cellular phone sales—any organization that requires new employees to use personal selling skills while rewarding them for reaching sales goals may be an appropriate setting.

2. *Does Enterprise face any risks from its human resource strategy?*

Risks could include:

- Too little emphasis on higher-ranked graduates who may be better-performing employees
- Limiting the number and quality of employees available for promotion by promoting from within
- Emphasizing social skills and competitiveness to the exclusion of other important employee attributes such as teamwork skills, cognitive ability, creativity, problem-solving skills, and so on
- Encouraging excessively high turnover, which will be very costly and result from long hours and low pay

3. *Would you want to work for Enterprise? Why or why not?*

Answers will vary and will depend on the individual student's personality, background, needs and values, career goals, and other factors. Students may relate their own GPAs and class rankings, social activities, and athletic experience to support their opinions.

**The following items appear on the in-text Instructor Prep Cards. These notes and suggested talking points should help you conduct these exercises with your students.**

## Discussion Questions

1. *Identify five examples of human resources in your college or university.*

Students will identify a variety of activities. Examples may include recruiting or hiring new faculty, training classes offered to employees, employee health or wellness fairs, job security (i.e., tenure), faculty or staff pay issues, grievance and discipline issues that have been publicized, and benefits offered to employees such as medical or dental insurance.

2. *Summarize the evolution of the human resource function in organizations.*

The industrial revolution in the eighteenth century sparked business growth and expansion, with a resulting emergence of management as a profession.

Scientific management (early 1900s) brought about the study of structuring jobs to maximize efficiency and productivity.

In the early twentieth century, large organizations continued to grow even more, and therefore needed to hire more and more workers. They created specialized units (i.e., employment departments) to hire and manage their workforce.

Individual differences among people were recognized by Darwin, Binet, and Simon, leading to the first intelligence tests used during World War I. By 1923, the book *Personnel Management* was being used to match a person's skills and aptitudes with job requirements.

The human relations era emerged, primarily due to the Hawthorne studies (1927 to 1932).

Maslow's hierarchy of needs and McGregor's Theory X and Theory Y, which focused attention on worker satisfaction and productivity, were popularized.

Personnel management was well established as an administrative function by the 1930s and 1940s.

World War II brought psychological testing of employees.

The Civil Rights Act of 1964 made human resource management more complex.

In the 1970s, human resources were becoming increasingly recognized as an important and strategic part of the organization.

People (or human resources) are now seen as an organization's most valuable resource.

Technological advancements and changing social and business environments are causing the evolution of the human resource management function.

3. *Summarize the basic ideas underlying the human resource management system concept.*

Human resource activities are not self-contained, but instead are highly interrelated and impact one another. Human resource managers should consider the interrelatedness of human resource activities when designing or redesigning particular human resource processes. Further, human resource management is part of a larger organizational system where functional activities affect each other. The organization can even be conceptualized as part of a larger global system, impacted by societal similarities and differences across country borders.

4. *What are the goals of human resource management?*

The four goals given in Chapter 1 are facilitating organizational competitiveness, enhancing productivity and quality, complying with legal and social obligations, and promoting individual growth and development.

5. *Who is responsible for human resource management?*

In contemporary organizations, human resource management responsibilities are shared. Human resource managers and staff within the human resource department may carry out the majority of human resource activities or may serve as human resource advisers to others within the organization. Operational managers often carry out many human resource activities such as hiring, salary determination, training needs assessment, and performance management. Self-managed teams may even be given responsibility for the human resource activities associated with their own work teams. Organizational executives, especially human resource executives, are responsible for the strategic aspects of human resource management.

6. *Why do you think human resource management (or personnel) was previously held in such low esteem in many organizations?*

Human resource management is a relatively new profession as well as field of study that has limited research to draw from. Organizations themselves were a new phenomenon in the late nineteenth and early twentieth centuries. Therefore, human resource management as a profession did not have until recently the time and ability to establish itself by demonstrating its value to the organization. Furthermore, early personnel activities included mundane tasks such as payroll and benefits administration, which were not held in high regard as important activities.

The rise of human resource management as a viable contributor to the organization's bottom line seems to coincide with the increase in laws and regulations governing human resource activities beginning in the early 1960s. Human resource managers gained importance and legitimacy as they were called on to keep organizations within legal guidelines.

7. *Do you think human resource management would have become more important even if laws such as the 1964 Civil Rights Act had never been passed? Why or why not?*

Students' answers will vary. However, it is likely that human resource management would still have risen in importance due to an increasing amount of research stemming from the human relations movement (i.e., the Maslow, McGregor, and Hawthorne studies). It is well recognized that employee attitudes and behaviors have a large effect on individual, group, and organizational productivity. Therefore, it is possible that human resource management would still have gained importance, although the focus would be less on legal aspects and more on behavioral aspects of human resource management

8. *Identify several consequences of an organization's failure to recognize that its human resource management practices make up an interrelated system.*

Examples will vary. A compensation system may be redesigned, encouraging ineffective employee behaviors that are at odds with specified job characteristics. A performance appraisal system may be changed without recognizing the need to change the rewards system as well, to encourage appropriate performance. A hiring process may be changed without consulting legal guidelines, resulting in a lawsuit against the organization.

9. *Do you think some human resource management goals are more important than others? Why or why not? What implications might be drawn if a particular manager felt that certain goals were indeed more important than others?*

According to the text, the four goals of human resource management are: facilitating organizational competitiveness, enhancing productivity and quality, complying with legal and social obligations, and promoting individual growth and development. It seems reasonable to assume that students may find some goals more relevant or important than others, according to their individual needs, values, experiences, chosen major, and so on.

If a manager felt that certain goals were more important than others, it could imply that the manager is focusing on what he or she "knows" in terms of functional expertise, professional experience, or organizational understanding. For example, a manager with a production background may find that productivity and quality are most important to organizational competitiveness, while a human resource manager may believe that individual growth and development are most important. The implication for the organization is that if some goals are emphasized while others are ignored, this could violate the concept of human resource management as a system. Emphasizing productivity while ignoring the importance of legal and social obligations could result in legal problems or a poor organizational reputation. Overemphasis on individual growth and development could negatively impact the organizational bottom line by ignoring competitiveness requirements. It is probably best to take a balanced approach to the human resource management goals.

10. *Do you think it might be possible for a large company today to function without a human resource department?*

It is possible, but not likely. As human resource issues become increasingly important and complex, it is necessary to have one or more experts dedicated to the human resource function within the organization. In theory, an organization could outsource its entire human resource department. However, the organizations being outsourced to would not have the strategic

knowledge of the organization. This would negatively impact the effectiveness of human resource programs and policies in supporting strategic imperatives of the organization.

## Ethical Dilemmas in HR Management

### Scenario Summary

As a top human resource executive in a large, privately held company, you are responsible for compensation and benefits. The firm's owners are satisfied with financial performance. Your boss takes little interest in specific human resource issues, as long as things are going well. The high quality of management in your firm is recognized. You have been researching outsourcing opportunities and have found that the company could achieve modest savings by outsourcing compensation and benefits. You feel an obligation to consider this action, although fifteen employees may lose their jobs and your position would be diminished in importance as a result of the action. What do you do?

### Questions

1. *What are the ethical issues in this situation?*
  - What is one's responsibility to self versus one's responsibility to the organization?
  - If the owners are satisfied, should anything be changed?
  - Fifteen employees could be laid off and the company has not resorted to layoffs in twenty years.
  - What is the relative importance of financial performance versus the fair treatment of employees?
2. *What are the basic arguments for and against outsourcing in this situation?*

For:

  - Modest cost savings
  - Reduced administrative burden
  - Focus on core human resource competencies

Against:

  - Layoff of fifteen employees
  - Loss of focus on strategic aspects of compensation and benefits
3. *What do you think most managers would do? What would you do?*

Some students may say that most managers would keep quiet so that their jobs would not be diminished but would retain their importance. If the owners are satisfied with the firm's performance, and the immediate boss is not asking for changes, why rock the boat? Owners are also concerned with employee job security, so a manager could justify his or her decision not to introduce the idea because employee jobs would be protected. Additionally, modest cost savings in the short run may not translate into long-term cost savings.

Some students may say that managers would go ahead and introduce the idea of outsourcing some components of human resources. By saving the company money, a manager could earn credit for a good idea. This may enhance the manager's career with the company in the future.

## Assignment

This is an excellent exercise to get students thinking about the relationship of human resource management to their chosen majors and subsequent career paths. Many students will not have considered human resource management as a career option. Students should be encouraged to explain their answers to the exercise questions by using information about the field of human resource management from Chapter 1.

This exercise will take 50 to 90 minutes, depending on the amount of class time that the instructor is able or willing to devote to it. The instructor should tell the class that the amount of time for this exercise is limited. Groups should be made aware of the amount of time allotted to each step and should be encouraged to allow each group member a fair chance to provide input.

**Step 1 (5 minutes):** The instructor should divide the class into groups of four to five members. Members should introduce themselves to one another if necessary.

**Step 2 (5 minutes):** Each group member should write his or her major and career objectives on a sheet of paper. These sheets should then be placed in a central location so that all group members can view them.

**Step 3 (15 to 30 minutes):** Groups should then respond to each of the questions provided in the exercise. The exercise will be more effective if adequate time is allotted for group discussion during this step.

1. *How does HRM affect each academic major and set of career objectives represented in the group?*

Human resource management affects each student's academic major and set of career objectives in that human resource management applies to any job in any organization. The design of human resource practices such as recruiting, hiring, compensation, performance appraisal, or labor relations may differ according to the type of organization and type of job. However, the fact remains that all employees experience and are influenced by human resource management.

2. *How would group members feel about starting their careers in a human resource department?*

Answers will vary. Students may find human resource management very appealing or not at all appealing. They have very little information at this point about entry-level human resource positions on which to base their opinions. They may find they have more questions than definite answers this early in the course.

3. *How would group members feel about taking a position in human resources later in their careers?*

Answers will vary. Students may cite the increasing importance and strategic role of human resource management, which may make human resource management as a later career choice more exciting and interesting to consider.

4. *What specific skills and abilities do group members believe are most important for someone who wants to work in human resources?*

Answers will vary. Students may cite skills and abilities such as a degree in human resource management, familiarity with human resource management's body of knowledge, managerial skills, understanding the various functional areas, analytical skills, and problem-solving skills.

5. *What will group members expect from the human resource department at the organization where they begin their careers?*

Answers will vary. Students may expect fair and ethical treatment, responsible and legal human resource practices, good communication about human resource management policies and procedures, responsiveness, openness, and so on.

**Step 4 (15 to 30 minutes):** Each group will select a representative to summarize the group's responses either verbally or in writing. If responses are shared verbally, the instructor should only serve as a facilitator at this point by clarifying unclear points or concepts. The instructor should avoid providing extensive comments or value judgments, so that this step may be completed in an efficient manner.

**Step 5 (10 to 20 minutes):** If time permits, allow the groups to reconvene and discuss areas of agreement and disagreement both within and between the groups.

## CHAPTER 2

# The Legal Environment

### LEARNING OBJECTIVES

After studying this chapter, the student should be able to:

1. Describe the legal context of human resource management.
2. Identify key laws that prohibit discrimination in the workplace and discuss equal employment opportunity.
3. Discuss legal issues in compensation, labor relations, and other areas in human resource management.
4. Discuss the importance to an organization of evaluating its legal compliance.

### CHAPTER OUTLINE

#### Opening Case: Managers in Name Only?

Although the Fair Labor Standards Act requires employers to pay time and a half to workers who work more than forty hours a week, salaried managers, administration, and professionals are exempt from the rule. RadioShack, the Chicago Police Department, and Verizon all have faced accusations of requiring employees/managers to work very long hours( up to sixty-five hour workweeks) without overtime pay, claiming those employees are exempt. Workers of these and other companies have filed lawsuits demanding payment for work performed.

The court system has rendered favorable verdicts for such workers as the \$29.9 million settlement involving RadioShack indicates. As the nature of work changes and as jobs shift from manufacturing to service, the lines between different kinds of work have become blurred. Today it is no longer entirely clear who is a manager or what their specific duties entail.

#### Introduction

This chapter is devoted to the legal environment of human resource management. Managing within the complex legal environment that affects human resource practices requires a full understanding of that legal environment and the ability to ensure that others within the organization understand it as well.

##### I. **The Legal Context of Human Resource Management**

The legal context of human resource management is affected by laws passed by legislative bodies, by social change, and by judicial rulings that interpret the laws. The regulatory environment is quite complex and affects different areas within the HRM process.

##### A. **The Regulatory Environment of Human Resource Management**

Regulation consists of three steps: creation of the new regulation, enforcement, and implementation in organizations.

1. Regulation can come in the form of new laws or statutes enacted at the local, state, or federal level, but most start at the national level.
2. Enforcement of regulations is conducted by an assigned agency such as the Department of Labor or an agency created by the statute itself. To be effective, an enforcing agency must have an appropriate degree of power.
3. Organizations and managers must implement and follow the guidelines that the government has passed, which can be confusing, complex, and time consuming.

## II. Equal Employment Opportunity

Almost all areas of the employment relationship are regulated, from hiring to appraisal to termination or retirement. Virtually every law and statute governing employment relationships is attempting to ensure equal employment opportunity in some way. Exhibit 2.1, Legal Regulation of Human Resource Management, illustrates equal employment opportunity intended to protect individuals from illegal discrimination and is the most fundamental and far-reaching area of the legal regulation of human resource management.

Legal regulation of human resource management began with the Thirteenth and Fourteenth Amendments to the U.S. Constitution, which abolish slavery and require states to provide equal protection to all of their residents. The Reconstruction Civil Rights Acts of 1866 and 1871 extended these protections.

### A. Discrimination and Equal Employment Opportunity

It is important to note that discrimination per se is legal, as long as it is based on job-related differences between workers. **Illegal discrimination** results from behavior that causes members of a protected class to be unfairly differentiated from others. Exhibit 2.2, Forms of Illegal Discrimination, identifies the types of discrimination discussed below.

#### 1. Title VII of the Civil Rights Act of 1964

- a) This act prohibits discrimination in a broad range of employment actions when it is based on race, color, sex, religion, or national origin. The law applies to every aspect of the employment relationship, including hiring, compensation, employment terms, working conditions, and opportunities for advancement. It is considered the most significant single piece of legislation specifically affecting the legal context of human resource management to date.
- b) Employers which have fifteen or more workers working twenty or more weeks a year and which participate in interstate commerce are covered by Title VII. Also covered are state and local governments, employment agencies, and labor organizations.
- c) Another provision of Title VII created the Equal Employment Opportunity Commission (EEOC) to enforce the act.

#### 2. Disparate treatment is an act prohibited by Title VII. It is considered a form of discrimination and occurs when organizations intentionally treat employees or applicants differently because of their race, color, sex, religion, national origin, age, or disability status.

- a) To prove discrimination, the worker must demonstrate that the organization considered the individual's status in making an employment-related decision.
- b) **Bona fide occupational qualification (BFOQ)** is the rare exception when sex, religion, age, and national origin affect job performance and therefore can be used as a qualification for employment. A bona fide occupational qualification states that a condition like race, sex, or other personal characteristic legitimately affects a person's ability to perform the job and therefore, can be used as a legal requirement for selection. To claim a BFOQ exemption, the organization must show that the differential treatment is not just a preference but is a **business**



**necessity**—a practice that is important for the safe and efficient operation of the business. This means that a BFOQ based on customer or client preference cannot be used in hiring practices.

3. **Disparate impact** is another act outlawed by Title VII. It occurs when the use of a supposedly neutral employment practice excludes a protected group from employment opportunities. This argument is the most common for charges of discrimination brought under the Civil Rights Act.
  - a) *Griggs v. Duke Power Company* is a landmark case that prohibited this type of discrimination, previously overlooked by Congress.
  - b) Intent is not a required element of a prima facie case of disparate impact. All the employee must do is show disparate impact and then the burden shifts to the employer to prove the business necessity of the qualification.
  - c) The **four-fifths rule** suggests that disparate impact exists if a selection criterion results in a selection rate for a protected class that is less than 80 percent of the majority group's.
  - d) One method for demonstrating disparate impact is **geographical comparisons** in which the presence of protected class employees in a company's workforce is compared with the presence of qualified members of that protected class in the geographical area from which the company draws applicants. Choice of an appropriate geographical area depends on the position itself.
  - e) Another method of determining disparate impact is the **McDonnell-Douglas test**, named for a Supreme Court ruling in *McDonnell-Douglas v. Green*. Disparate impact is assumed to occur when the following four tests are met: applicant is a member of a protected class, applicant is qualified, applicant was turned down for a job, and the company sought other applicants with the same qualifications.
4. **Pattern or practice discrimination** is also outlawed by Title VII. It consists of discrimination against all members of a protected class, rather than discrimination against just one member of the class.
5. **Retaliation** against employees for either opposing or participating in a perceived illegal employment practice is also illegal under Title VII.
6. Employers can best defend themselves against charges of illegal acts by showing that the person who did receive the employment opportunity is the person who was best qualified or most likely to perform best on the job.

#### B. Protected Classes in the Workforce

A protected class consists of all individuals who share one or more common characteristics as indicated by that law. The most common characteristics used to define a **protected class** include race, color, religion, gender, age, national origin, disability status, and status as a military veteran.

#### C. Affirmative Action and Reverse Discrimination

1. **Affirmative action** refers to positive steps taken by an organization to seek qualified employees from underrepresented groups in the workforce. Affirmative action can be undertaken voluntarily by an organization or it can be a court-ordered remedy to counteract the effects of past discrimination.
  - a) The first element of an affirmative action program is the **utilization analysis**, which compares the race, sex, and ethnic composition of the employer's workforce with that of the available labor supply. When the percentages vary considerably, then a group is underutilized.

- b) Next, an organization develops goals and a timetable for balancing the workforce. A goal is more flexible than a quota, but overall the goal should be to reduce discrimination over time.
  - c) Finally, an organization develops specific action steps to reduce underutilization, such as communicating job openings to underrepresented classes, removing barriers to opportunity for underrepresented classes, and so on.
2. **Reverse discrimination** refers to any practice that has a disparate impact on members of nonprotected classes, typically on white males.
- a) This area of employment law is complex, and Supreme Court rulings have both outlawed reverse discrimination and supported the rights of employers to use reasonable means to undo the effects of past discrimination.
  - b) As the Supreme Court appears to be moving toward the right politically, it seems likely that its rulings will more often support the rights of members of nonprotected classes.
  - c) The case of *Ricci v. Stefano*, 2009 is a more recent case dealing with the area of reverse discrimination.

## HR in the 21<sup>st</sup> Century

The unsavory behavior known as workplace bullying affects 54 million working people or 37% of the workforce today according to the Workplace Bullying Institute. This form of bullying is actually a form of aggression that is intended to intimidate, offend, or degrade a particular person or group of people. It is also a pattern of aggression involving repeated incidents or instances of certain behavior.

The victims of workplace bullying describe feeling beaten, abused, broken, maimed, and character assassinated. According to a psychologist who's studied the effects of workplace bullying, "There's no question that unrelenting, daily hostilities" in the workplace ". . . can be on a par with torture" and that "repeated and severe bullying can cause psychological trauma." This is a very real problem in the workplace and human resource managers must be prepared to handle it.

### D. Sexual Harassment at Work

Sexual harassment is defined by the EEOC as unwelcome sexual advances in the work environment. The employer is responsible for changing the environment by warning, reprimanding, or perhaps firing the harasser.

1. One type of sexual harassment is **quid pro quo harassment**, in which the harasser offers to exchange something of value for sexual favors.
2. A more subtle type of sexual harassment is the creation of a **hostile work environment**, stemming from a corporate culture that is punitive toward people of a different gender. This may occur, for example, from the use of off-color language or the display of inappropriate photographs.
3. Sexual harassment occurs even if an employee does not complain and is not threatened with or does not experience any economic penalties.
4. Sexual harassment is most often reported as males harassing females, but can occur as females harassing males or between two persons of the same sex.
5. Various cases related to the variety of types of sexual harassment have received court rulings. These cases include *Meritor Savings Bank v. Vinson*; *Harris v. Forklift Systems*; *Scott v. Sears Roebuck*; and *Oncala v. Sundowner*.

E. **Other Equal Employment Opportunity Legislation**

1. The **Lilly Ledbetter Fair Pay Act of 2009** corrected the time aspect and states that the clock for limitation begins with each paycheck – making it easier for employees to bring charges of discrimination. The new law also applies the same time table to cases involving age discrimination or discrimination based on disability.
2. The **Equal Pay Act of 1963** requires that men and women receive equal pay for equal work. Differences in pay can occur if the reasons for the differences are job related, such as longer work experience.
3. The **Age Discrimination and Employment Act (ADEA)** prohibits discrimination on the basis of age against applicants and employees who are forty and over. Employers were giving preference to younger workers, who could be paid less and would be expected to have a longer career history with the organization. This act has outlawed most mandatory retirements. The number of lawsuits under this act has declined in recent years. This was initially passed in 1967 and amended in 1986.
4. The **Pregnancy Discrimination Act of 1978** gives pregnant women protection against discrimination based solely on their pregnancy. Pregnant women have the right to keep their jobs as long as they are able to work and to return to their jobs if the employer allows workers to return after other types of leave.
5. The **Civil Rights Act of 1991** was passed as a direct amendment to Title VII of the Civil Rights Act of 1965 and amends the act of 1964 by making disparate impact cases easier to prove. It also provides for punitive damages in cases of intentional discrimination and for jury trials when punitive damages are sought. Employees of U.S. companies who are working overseas are also protected by this act. This Act also includes the Glass Ceiling Act, which established a commission to investigate practices limiting the access of protected class members (especially women) to the top levels of management in organizations.
6. The **Americans with Disabilities Act of 1990 (ADA)** defines those who are considered disabled and protects them from a wide range of employment discrimination. It requires that employers make reasonable accommodations for disabilities except when the accommodation imposes an undue hardship on the employer.
  - a) Disabilities include blindness, deafness, paralysis, loss of a limb, cancer and other diseases such as HIV and AIDS, mental or emotional illnesses, mental retardation, and learning disabilities. The Supreme Court has ruled that substance abuse problems, dental problems, obesity, allergies, and other non-work-related characteristics are not covered by the ADA.
  - b) Reasonable accommodation might include the choice of job assignments, the redesign of job tasks, or the use of special equipment, such as large-type computer displays for the visually impaired or the installation of ramps for individuals who use wheelchairs.
  - c) If the disability can be corrected or overcome by medication or other means, then the employer does not have to provide accommodation.
  - d) Determination of who is disabled, what types of accommodation would benefit the worker, how to implement the changes, and who should bear the cost are complex issues that require a great deal of expertise from human resource managers.
  - e) In September 2008, President Bush signed into law the new **Americans with Disabilities Amendments Act**. This broadened the definition of disability for the ADA and included additional disabilities to include multiple sclerosis and cancer.

7. The **Family and Medical Leave Act of 1993** requires employers of fifty or more employees to provide up to twelve weeks of unpaid leave per year for certain family emergencies and to provide the employee with the same or a comparable position when they return to work.
  - a) Employers must continue health insurance while the employee is on leave, provided the employee does in fact return to work.
  - b) One exception to this act is that organizations can identify key employees, whose jobs are so critical that granting leave would cause serious harm to the company.
  - c) Another exception is employees who have not worked an average of at least twenty-five hours per week for the previous twelve months.
  - d) The FMLA was amended in 2009 with the passage of the Supporting Military Families Act, which mandates emergency leave for all covered active-duty members.
8. There are a variety of laws that impact federal contractors, which include both banking institutions and universities.
  - a) **Executive Order 11246** requires federal contractors receiving \$50,000 or more to have affirmative action plans to increase the employment of protected groups.
  - b) **Executive Order 11478** requires the federal government and all of its contractors doing \$10,000 or more of business with the government to base all employment policies on merit and fitness and specifies that race, color, sex, religion, and national origin should not be considered.
  - c) The **Vocational Rehabilitation Act of 1973** requires federal contractors receiving \$2,500 or more to engage in affirmative action for disabled individuals.
  - d) The **Vietnam Era Veterans' Readjustment Act of 1974** requires contractors to have an affirmative action program for those serving in the armed forces between 1964 and 1975.

#### F. **Enforcing Equal Employment Opportunity**

1. The Equal Employment Opportunity Commission (EEOC) was created to enforce certain civil-rights-related employment legislation. It provides the following three services:
  - a) The EEOC receives complaints from alleged victims of discrimination, investigates the complaints, and attempts to resolve them.
    - (1) If the EEOC finds that discrimination has not occurred or that there is not enough evidence to pursue a suit, the individual is free to sue the employer in federal court.
    - (2) If the EEOC finds that discrimination has occurred, it first attempts a mutually satisfactory resolution to the problem, called a *consent decree*. If it cannot reach consent with the employer, it can either sue the company itself or aid the complaining individual in pursuing a lawsuit.
    - (3) The EEOC gives high priority to claims that appear to have merit and even higher priority to claims that have merit and may involve many individual claimants.
  - b) The EEOC monitors the hiring practices of all U.S. businesses with more than 100 workers and watches for patterns of discrimination against protected groups.
  - c) The EEOC develops and issues guidelines to assist employers in complying with the law.
2. The Office of Federal Contract Compliance Procedures (OFCCP) has the responsibility for overseeing federal government contracts with private vendors who have more than \$50,000 worth of federal contracts. The OFCCP conducts yearly audits of contractors and notifies the EEOC of any violations.

3. Exhibit 2.3, Investigating and Resolving a Discrimination Complaint, depicts the basic steps that an individual may take when that person thinks he or she has experienced discrimination in the workplace.

### III. Other Areas of Human Resource Regulation

#### A. Legal Perspectives on Compensation and Benefits

1. **The Fair Labor Standards Act (FLSA)**, passed in 1938, is a comprehensive act that regulates minimum wages, overtime, and child labor. The first minimum wage was \$.25 per hour.
2. The FLSA allows firms to hire workers less than twenty years of age at 85 percent of the minimum wage for up to ninety days, to encourage the hiring of young trainees.
3. The FLSA defines the workweek in the United States as forty hours per week. Overtime must be paid at time and a half pay.
4. The FLSA covers workers who are nonexempt, or paid on an hourly basis. Exempt employees are salaried professionals who are not covered by the FLSA.
5. Child labor laws covered in the FLSA limit the number of hours that persons under sixteen can work and restrict them from most work destined for interstate commerce. Persons between sixteen and eighteen cannot be employed in certain types of hazardous occupations, such as mining.
6. The FLSA was amended by President Bush and this brought about an increase in the minimum wage to \$7.25 per hour effective July 2009.
7. Table 2.1, Minimum Wage History, identifies the changes the minimum wage rate has undergone since 1938.
8. The **Employee Retirement Income Security Act of 1974 (ERISA)** does not require that employers provide retirement benefits for employees, but it protects the benefits to which they are entitled.

#### B. Legal Perspectives on Labor Relations

1. **The National Labor Relations Act, or Wagner Act**, was passed in 1935 to control and legislate collective bargaining between organizations and labor unions, granting significant rights to workers and unions.
2. The **Taft-Hartley Act** of 1947 and the **Landrum-Griffin Act** of 1959 regulate union actions and their internal affairs in a way that puts them on an equal footing with management and organizations. The Taft-Hartley Act also created the National Labor Relations Board.
3. Collective bargaining is the process used to negotiate a labor contract between a union and management.
4. It is an unfair labor practice for either labor or management to refuse to bargain collectively in good faith.
5. The proposed **Employee Free Choice Act** (also known as the Union Relief Act of 2009) would drop the secret ballot vote required to certify unions as bargaining units within organizations.

#### C. Employee Safety and Health

1. The **Occupational Safety and Health Act of 1970 (OSHA)** requires employers directly affecting interstate commerce to provide a workplace free of recognized hazards that are likely to cause death or serious harm.
2. OSHA is enforced by the Department of Labor, which conducts surprise inspections and issues citations for serious violations of the act.

**D. Drugs in the Workplace**

1. The **Drug-Free Workplace Act of 1988** was passed to reduce the use of illegal drugs in the workplace, especially for government employees and contractors, truck drivers, and workers at nuclear reactors.
2. Drug testing is quite widespread, although there is no evidence that it is effective in reducing drug use on the job.
3. Moreover, drug testing raises privacy concerns for employees. Companies often test all employees, not just those with suspected substance abuse problems. Also, do companies have the right to monitor employee behavior while not at work (as drug testing would imply)?
4. Furthermore, drug testing is very unreliable, with a large number of false positive results.

**E. Plant Closings and Employee Rights**

1. The **Worker Adjustment and Retraining Notification (WARN) Act of 1988** requires employers with more than 100 employees to provide at least sixty days' notice of intent to lay off 50 or more workers or close a facility.
2. The penalty is one day's pay plus benefits for each laid-off employee for each day that notice should have been given. However, exceptional circumstances are taken into account; employers were not penalized in the days following September 11, 2001, for example.

**F. Privacy Issues at Work**

1. The **Privacy Act of 1974** applies only to federal employees, but has affected the writing of several states' laws. It allows workers to review their employment files for accuracy.
2. Today, new privacy issues include monitoring of employee email and more.
3. The **Genetic Information Nondiscrimination Act (GINA)** prohibits companies from compiling genetic-based information about individual workers (i.e., history of family diseases).
3. The **Patriot Act** has given the government additional latitude to track terrorist activities, which has caused more concern over the invasion of individual privacy.

**IV. Evaluating Legal Compliance**

The assurance of compliance with the law can best be achieved through a three-step process.

- A. Managers must have a clear understanding of the laws that govern every aspect of human resource management.
- B. Organizations should rely on their own legal and human resource staffs to answer questions and to periodically review procedures.
- C. Organizations should engage in external legal audits of their human resource management procedures.

## Closing Case

### Case Summary

In 2011 nearly 13,000 charges of sexual harassment were filed with the U.S. Equal Employment Opportunity Commission. Eighty-four percent of these charges were brought about by women. According to researcher Debbie Dougherty, power is the common answer as to why sexual harassment - especially of women - occurs in the workplace.

Researcher Heather McLaughlin states the findings of another study, "...provides the strongest evidence to date supporting the theory that sexual harassment is less about sexual desire than about control and domination." Regardless of the explanation given for why sexual harassment occurs in the workplace, it is a situation that must be handled quickly. Not only can sexual harassment be quite costly to firms through court actions and lawsuits, it can be emotionally devastating to victims of such an offense.

### Case Questions

1. *In light of the research discussed in this case, in your opinion how should sexual harassment be punished?*

Opinions will vary regarding the punishment of sexual harassment. A suggested response may include requiring the person accused of this action to be removed from employment completely with the organization and face appropriate legal repercussions. Another response may suggest the offending individual be required to undergo specific training and counseling on the subject of sexual harassment. That individual should be removed from a supervisory capacity and his or her actions with other workers subject to intense scrutiny from organizational managers.

1. *What legal protection, if any, should exist to protect an innocent individual from false charges of sexual harassment?*

Various responses are to be expected. A sample perspective may include that substantial proof must be provided to show the accused actually was guilty of sexual harassment. A thorough investigation should be conducted before charges are acted upon. No organization or legal entity should take the word of an individual accusing another person of sexual harassment without proof of that person's guilty being obtained. A false accusation can negatively impact the wrongfully accused person's life. It must be remembered the law states "innocent until proven guilty."

2. *Is sexual harassment always a clearly defined event? Are there circumstances when it might be subjective? If so, how should this be handled?*

Varied responses are to be expected. Sexual harassment may be difficult to identify clearly as it sometimes is a matter of individual perspective. For instance what one individual may find offensive, vulgar, and rude another individual may find tolerable or even funny. Organizations can best assist employees with identifying and avoiding sexual harassment by providing adequate training on the subject to all employees. They need to have a clear company policy on the matter indicating what is not tolerated. The more information individuals have on the subject, the better the understanding of this very difficult subject.

**The following items appear on the in-text Instructor Prep Cards. These notes and suggested talking points should help you conduct these exercises with your students.**

## Discussion Questions

1. *Describe the process through which the legal context of human resource management is created.*

The legal context of human resource management is shaped by a variety of forces. Congress identifies an area of employment relationship that could be improved by legislation. It passes a statute and often creates an agency to enforce the statute. The agency issues regulations further defining the statute and federal courts apply the body of law to actual circumstances.

2. *Summarize the role of the Thirteenth and Fourteenth Amendments to the U.S. Constitution in equal employment opportunity.*

The Thirteenth Amendment, abolishing slavery, was the beginning of the long road toward equal employment opportunity for African-American citizens of the United States. The Fourteenth Amendment passed in 1868, making it illegal for government to take the life, liberty, or property of individuals without due process of law, specifically prohibits a state from denying equal protection to its residents. The Reconstruction Civil Rights Acts of 1866 and 1871 granted all persons the same property rights, as well as the right to sue in federal courts if they are deprived of their civil rights. These laws, enacted in the nineteenth century, are the basis for federal court actions that have resulted in new major laws and related regulations passed by Congress in the twentieth century. Today equal employment opportunities are granted, by law, to all U.S. citizens regardless of their race, color, religion, gender, age, national origin, disability status, or status as a military veteran.

3. *What is illegal discrimination? What is legal discrimination?*

Discrimination is the failure to treat people equally. The law requires that employers treat people equally with respect to certain factors such as race, color, religion, gender, national origin, age, and disability. Obviously, the law cannot require that employers treat everyone equally because differences between workers may affect their productivity. Employers can legally discriminate in employment decisions with respect to education, skill level, appearance, experience, sexual orientation (in many states), and ability as long as such factors are not used indirectly to discriminate on forbidden factors.

4. *Identify and summarize the various forms of illegal discrimination.*

Disparate treatment is intentionally treating employees or applicants differently because of their race, color, sex, religion, national origin, age, or disability status. Bona fide occupational qualifications are rare exceptions when sex, religion, age, or national origin can be used as a qualification for employment.

A job qualification is said to have a disparate impact when the passing rate of members of protected groups is less than four-fifths of the majority group's. *Griggs v. Duke Power Company* is a landmark case that prohibited this type of discrimination which had been overlooked by Congress. Intent is not a required element of the prima facie case of disparate impact. Once the prima facie case of disparate impact has been demonstrated by the claimant, the burden shifts to the employer to prove the business necessity of the qualification.

Pattern or practice discrimination is discrimination against all members of a protected class.



It is illegal for an employer to retaliate against employees for either opposing a perceived illegal employment practice or participating in a proceeding that is related to an alleged employment practice.

5. *Identify and summarize five major laws that deal with equal employment opportunity.*

Title VII of the Civil Rights Act of 1964 prohibits discrimination in a broad range of employment actions on the basis of race, color, sex, religion, or national origin.

Executive Order 11246 requires federal contractors receiving \$10,000 or more to have affirmative action plans to increase the employment of protected groups.

Executive Order 11478 requires the federal government to base all of its own employment policies on merit and fitness and specifies that race, color, sex, religion, and national origin should not be considered.

The Equal Pay Act of 1963 requires that men and women receive equal pay for equal work.

The Age Discrimination in Employment Act prohibits discrimination on the basis of age against applicants and employees who are forty and over.

The Vocational Rehabilitation Act of 1973 requires federal contractors receiving more than \$2,500 a year to engage in affirmative action for disabled individuals.

The Vietnam Era Veterans' Readjustment Act of 1974 requires federal contractors to have an affirmative action program for those serving in the armed forces between 1964 and 1975.

The Pregnancy Discrimination Act of 1978 gives pregnant women protection against discrimination based solely on their pregnancy.

The Civil Rights Act of 1991 makes disparate impact cases easier to prove; it also provides for punitive damages in cases of intentional discrimination and for jury trials when compensatory or punitive damages are sought.

The Americans with Disabilities Act of 1990 defines those who are considered disabled and protects them from a wide range of employment discrimination. It requires that employers make reasonable accommodations for disabilities except when the accommodation imposes an undue hardship on the employer.

The Family and Medical Leave Act of 1993 requires employers of fifty or more employees to provide up to twelve weeks of unpaid leave per year for certain family emergencies.

6. *Why is most employment regulation passed at the national level, as opposed to the state or local level?*

States and localities compete with each other in attracting businesses. Laws and regulations that restrict the freedom of employers may be viewed as undesirable and result in a competitive disadvantage. Hence, it is unlikely all localities would voluntarily choose to pass such laws. If employment laws are passed at the federal level, they are applied evenly throughout all jurisdictions, so they do not affect competition among domestic businesses. However, excessive regulations at the federal level could affect the ability of domestic companies to compete with less regulated foreign competitors.

7. *Which equal employment opportunity laws will likely affect you most directly when you finish school and begin to look for employment?*

If you are a member of a protected group, you may be encouraged by the fact that employers must treat you with a blind eye toward your race, color, sex, religion, national origin, or disability. Executive Order 11246 may provide an opportunity with a federal contractor through affirmative

action. If you are a white male without a disability, you may find a few less opportunities because of preferential treatment by employers with legally permissible affirmative action programs.

8. *Which equal employment opportunity law do you think is most critical? Which do you think is least critical today?*

Students will answer this question from their own perspective. It would be interesting if age discrimination were listed as the least critical, since for most students it is probably the farthest factor from their minds.

9. *Which equal employment opportunity law do you think is the most difficult to obey? Which do you think is easiest to obey?*

The laws that are the most difficult to obey are the ones that are the least clear. The Americans with Disabilities Act has been in effect for only about ten years, so the law is still evolving. Federal courts are still defining “disability” and what accommodations employers must reasonably make. Although courts occasionally change the burdens of proof, Title VII and the Age Discrimination in Employment Act have been around for over thirty years and have been interpreted fairly consistently by courts. Conversely, the laws that are easiest to obey are those that are most clear, such as the minimum wage law or child labor regulations.

10. *In the case of a conflict between a legal and an ethical consequence of a human resource decision, which do you think should take precedence?*

A person cannot justify breaking the law by reference to ethical behavior. However, it is rare that an act that is ethical is illegal, so it is not a matter of a choice of whether to break the law or to act ethically. The more likely scenario is when the law permits certain behavior that is otherwise unethical. Since the law changes frequently but the rules of ethical behavior do not, consistency dictates that a code of ethics be established and followed.

## Ethical Dilemmas in HR Management

### Scenario summary

You overhear that an OSHA inspector will inspect your place of employment within the next week. Both you and the plant manager are aware of a safety hazard at the plant. For financial reasons, the hazard will not be fixed before the inspection, but the employer does plan to reduce employee exposure to the problem.

### Questions

1. *What are the ethical issues in this situation?*

One issue is whether the plant manager should spend the extra resources to fix the hazard immediately or wait until it is less expensive to do so. There is room for disagreement as to whether the risk of injury justifies the extra expense of fixing the problem immediately. The law requires the employer to eliminate only those recognized hazards that are likely to cause death or serious injury. As a practical matter, the employer cannot afford to eliminate all hazards immediately. A second issue is whether you should tell the plant manager what you heard. Not only might it be illegal to warn the plant manager of the inspection, but also it may be that the manager would not do anything differently if she or he knew the inspector was coming. You have warned the manager of the condition. Let the manager explain her- or himself to the OSHA inspector.

2. *What are the pros and cons for keeping this information to yourself versus telling your plant manager what you heard?*

It may be illegal to warn the plant manager about the inspection, regardless of how you acquired the information. For OSHA inspections to provide the proper incentive for employers to provide a safe workplace, they must be unannounced. Otherwise, employers will comply only in preparation for inspections. If you do not tell the manager, not only will you be obeying the law but you will also be doing what is right from society's perspective.

3. *What do you think most managers would do? What would you do?*

Student responses will vary. This makes an interesting class discussion.

## Assignment

**Purpose:** Affirmative action was created as a way of directly and proactively attracting more qualified members of protected classes into the workforce. Although most people believe that affirmative action has served a useful function, some people now believe that it is no longer needed. Specifically, they argue that companies today recognize the importance of hiring the best people possible and will continue to seek those individuals on their own without the pressure of formal affirmative action. Others, however, believe that affirmative action is still necessary to meet its original objectives. The purpose of this exercise is to give you additional insight into the arguments surrounding affirmative action.

**Step 1:** Your instructor will ask you to form groups of seven members each. Using a random procedure, divide your group into two subgroups of three members each and a moderator.

**Step 2:** One subgroup will work together to develop a set of arguments about why affirmative action is still a necessary and important component of equal opportunity employment. The other group will work together to develop a set of arguments about why affirmative action is no longer a necessary and important component of equal employment opportunity.

**Step 3:** Reconvene as a group of seven. The moderator will randomly select one side to present its case first. That group will have 3 minutes to make its case. The second group will then have take 3 minutes to make its case and an additional minute to rebut the first group. Finally, the first group will have 1 minute to rebut the arguments made by the second group.

**Step 4:** The moderator will then summarize the relative persuasiveness of each group regarding the affirmative action issue. In addition, the moderator should feel free to add whether or not either group did not bring up any additional thoughts he or she had about the issue.

**Step 5:** Develop a brief summary of the arguments made by both groups. Using whatever format is suggested by your instructor, share these arguments with the rest of the class.

## CHAPTER 3

# The Global Environment

### LEARNING OBJECTIVES

After studying this chapter, the student should be able to:

1. Describe the growth of international business.
2. Identify and discuss global issues in international human resource management.
3. Discuss the human resource management function in international business.
4. Identify and discuss domestic issues in international human resource management.
5. Describe the issues involved in managing international transfers and assignments.
6. Summarize the issues in international labor relations.

### CHAPTER OUTLINE

#### Opening Case: Bigfoot's Growing Footprint

Bigfoot Entertainment was founded in 2004 by German entrepreneur, Michael Gleissner. This company is responsible for a wide array of independently produced films, many of which are directly distributed on DVD or promoted in niche markets. While the company has offices in Los Angeles and production facilities in Venice, California, its main operations are located in Cebu, which is home to the second largest city in the Philippines.

Bigfoot's primary goal is to turn Cebu into a destination spot for independent filmmakers who wish to reduce costs and produce their films outside the United States. Facing the challenge of an insufficient pool of talented candidates to fill key spots in the business, Gleissner's solution was to start the International Academy of Film and Television. Today, many of the graduates of this academy have gone on to write, produce, and direct their own films. Bigfoot's success story has led it to become the largest shareholder in Carmike Cinemas, which is the fourth largest theater chain in the United States. With its purchase of the Majestic Crest Theater in Los Angeles, the growth and popularity of Bigfoot Entertainment promises a bright future for this organization.

#### Introduction

International business is booming, due to opportunities such as new markets where products and services can be sold, new locations where products and services can be created for lower costs, and areas offering new information, financing, and other resources. Firms need skilled and experienced managers and employees who understand foreign markets like Japan and Germany as well as the general economic situation such as exchange rate fluctuations, political risk, and labor cost to effectively manage international expansion. Human resource managers should be concerned with preparing other managers for international assignments, among other responsibilities.