

CASE STORY: “WOMEN vs WAL-MART”

Source: The World Wide Web

Tom Coughlin, chief of Wal-Mart U.S. stores, found himself explaining in court how he tried to encourage store managers to bring more women and minorities up to higher levels in the company: “I’ve rearranged rooms by ethnicity and gender to try to drive home that we’re not all recognising what our opportunities are relative to finding people in the organization that better represent both the gender and race issue.” Apparently this approach to managing workforce diversity- dubbed “managing by musical chairs” by one reporter- did not work. Coughlin was in court that day because a female employee named Stephanie Odle had filed a complaint with the Equal Employment Opportunity Commission (EEOC), and that complaint eventually led to a class action lawsuit against Wal-Mart.

Odle’s original complaint claimed that she was fired for protesting how she was treated when she asked for a raise. Odle was an assistant manager at the time. One day she learned that her pay was \$10,000 less than that of a male assistant manager. When she inquired about the pay difference, she was told that her co-worker was paid more because he had “a wife and kids to support.” Odle, who was a single mother, protested. She was told to submit a household budget to support her request for a pay raise, which she did. The result? She was granted a pay raise of \$40/week. At the time, Odle didn’t know that throughout Wal-Mart female assistant managers earned \$16,402 less than male assistant managers on average.

It turned out that Stephanie Odle wasn’t the only woman who felt mistreated. Within two years, testimony from at least 100 other Wal-Mart employees in California was used as the basis for a class action lawsuit, referred to as *Duke vs. Wal-Mart*. To date, it is the largest discrimination case in history. One issue is pay: the plaintiffs claim that women are paid less than men in every job category. Another issue is promotions: whereas 66% of hourly employees are women, only 14% of store managers are women.

Wal-Mart is the nation’s largest employer, and its executives admit that it has some work to do to improve how its managers treat employees. As one spokeswoman put it, “when you have one million people working for you, there are always going to be a couple of knuckleheads who do dumb things.”

End of Case

Facilitator / Lecturer Crafted Assignment Questions

- (a) Define at least four problems in this case.
 - (b) State why, from your list of the problems you have selected, you think is the central problem in this case.
 - (c) Identify and list some of the relevant factors you think contributed to the central problem you selected. Try to remain within the factors in the case. However, if you wish to make an assumption, label it as an assumption in your answer with some comparable supportable reference.
 - (d) You are the Human Resource (HR) Manager at Wal-Mart. Suggest ways to management on how you would implement policies, procedures and strategies in place to deal with the current problems while incorporating a change management plan for the CEO in this diverse workforce.
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THE UWI OPEN CAMPUS HRM CASE STUDY CLASS ASSIGNMENT APRIL 2019.

STUDENT DANIELLE RAMGATTEE ANALYSIS AND EVALUATION OF THE CASE STORY:
“WOMEN vs WAL-MART”

***PLEASE NOTE, THERE IS NO RIGHT OR WRONG ANSWER TO A CASE ANALYSIS
FOR YOUR GUIDANCE ONLY***

EDITED FOR PUBLICATION BY THE CLASS FACILITATOR / LECTURER DR. CAPTAIN VAMAN BAJNATH

WITH PERMISSION GRANTED FROM STUDENT DANIELLE RAMGATTEE.

THE CASE SUMMARY

The case begins with a female Assistant Manager Stephanie Odle who was employed at Wal-Mart U.S. stores and subsequently lodged a complaint to the Equal Employment Opportunity Commission (EEOC). Odle was fired for protesting how she was treated when she ask for a raise in pay. This occurred after learning that her other male assistant managers who held the same job position was being paid higher salaries than her.

Once Stephanie Odle`s case of sex discrimination became exposed, she eventually learned she was not the only one allegedly being treated unfairly. There were other female assistant manager`s throughout Wal-Mart earning \$ 16,402 less than male assistant managers in the same job position. Over a period of time more than 100 other female workers shared similar complaints such as less pay and the least likely to be promoted in every job category when compared to male employees. These female employees all joined with Stephanie Odle to form the bases for a Class Action lawsuit. This case made history as it went on to be the largest gender discrimination circumstance against one of U.S. largest employers. In the end Wal-Mart Executives admitted there is room for improvement on how top managers treat employees.

LIST THE MAJOR PROBLEMS IN THE CASE FACING WAL-MART

The facts of the case includes: Wal-Mart had establish a pattern of gender discrimination against its female employees; woman are being paid less than men in every job category and the least likely to be promoted even though they have higher performance rates; unethical practices; and turning a blind eye to a companywide system of complaints against gender discrimination, just to name a few. The Main Diagnostic Framework was used to analyse the external factors that are beyond the control of the company and the internal factors that can be controlled by the organization. The PESTELS analyses were used to identify trickle-down problems areas in Wal-Mart while the SWOT analyses recognized strengths and weaknesses in the case. As such, the major problems identified below are followed with brief details:

- i. GENDER DISCRIMINATION,
- ii. LEGAL IMPLICATIONS FOR VIOLATIONS OF THE CIVIL RIGHTS ACT OF 1964,
- iii. WORKFORCE DIVERSITY MANAGEMENT ISSUES,
- iv. UNETHICAL PRACTICES, and
- v. DISCRIMINATING ORGANIZATIONAL CULTURE.

i. GENDER DISCRIMINATION

Many of Wal-Mart's customers and biggest supporters are women. Yet Wal-Mart has a disturbing track record of discrimination when it comes to women in the workplace. According to Richard Drogin, a statistical consultant, he states that Wal-Mart has established a pattern of gender discrimination against female employees which ran rampant throughout various nationwide stores.

Discrimination against women in the workplace is when an employer treats a female employee less favourably than the employer would a male employee, specifically because of the employee's gender. Examples of discrimination against women in the workplace were outlined when Stephanie Odle and hundreds of other female employee's filed a class action lawsuit which claims that they were all paid less than that of male employees in every similar job categories. In addition, female employees find fewer or less frequent opportunities for promotion than their male colleagues. The women pointed out that 66% of hourly employees are women, but only 14% of store managers are women. Women should be able to advance based on their work history, knowledge, experience and skills on the same terms as male employees, and women employee's should be paid in accordance with the Equal Pay Act (EPA) which prohibits sex-based pay discrimination between men and women who perform under similar working conditions.

ii. UNETHICAL PRACTICES

In the case of Wal-Mart vs. Dukes (2011), this lawsuit highlights unethical behaviours where Wal-Mart is practicing discriminatory procedures in pay and promotions based on gender. The ethical issue in this instance would be fairness towards female employees. Additionally, frequent complaints from female employees stating that they have been denied promotional opportunities based on their gender is also unethical. Wal-Mart is the nation's largest employer, who allegedly can afford to pay all its employees equally. This type of unethical practices can damage Wal-Mart's reputation, resulting in nationwide employee turnover. Furthermore, these actions can deter future applicants who are able to create and introduce fresh new ideas that can give Wal-Mart a competitive advantage in the future. If Wal-Mart continues with these unethical practices it can lead to a nationwide increases of unhappy Wal-Mart employees leading to dozens of new cases in class action lawsuits. This can cost Wal-Mart a lot of unnecessary expenses in the long run.

iii. LEGAL IMPLICATIONS FOR VIOLATIONS OF THE CIVIL RIGHTS ACT (1964)

Stephanie Odle was fired from Wal-Mart for protesting on how she was treated when asked for a raise in pay. This occurred after she learnt she was paid \$10,000 less than a male assistant manager at that moment. Subsequent, she lodged a complaint at the Equal Employment Opportunity Commission (EEOC). In addition, a hundred and more women joined with Odle's on similar complaints and altogether filed a class-action lawsuit against violations of female civil rights by Wal-Mart. These allegations raised suspicions on whether Wal-Mart had any documented policies in place since nationwide discrimination against women were practised during their employment. This is evidenced by lower pay for women than men in the same type of job, and longer delays before women were promoted as compared to men employees.

The EEOC enforces the federal laws prohibiting job discrimination based on race, colour, religion, sex, pregnancy, national origin, disability, and age. If Wal-Mart is found guilty of an intentional act of

discrimination or practices against its employees they may be entitled to employment discrimination damages. Damages may include awards such as back pay for lost wages or payment for pain and suffering. Employees may also be entitled to job reinstatement, promotion, payments of fees which include compensation for attorney and witness fees. In addition, the court may order other corrective measures; for example, the court may order the company to take Anti-discrimination actions. Wal-Mart may be required to terminate individual(s) responsible for discrimination, stop specific practices, or make reasonable accommodations in the work environment to prevent future discrimination.

iv. WORKFORCE DIVERSITY MANAGEMENT ISSUES

As the country's largest private employer Wal-Mart has a diverse and multi-cultural workforce at all levels. That means understanding unique styles, experiences, identities, ideas and respecting and valuing diversity. Wal-Mart needs to increase its diversity management or it will remain limited, unless top executives and managers fully embrace diversity efforts as an integral part of business operations. In this case study, Wal-Mart is facing some difficulties in managing and dealing with its workforce diversity in terms of race, gender, and ethnicity. Wal-Mart's chief of all U.S. stores, Tom Coughlin, in an effort to manage workforce diversity, tried to encourage his managers to bring more women and minorities up to a higher level. He accomplished this change by rearranging rooms by ethnicity and gender in order to find people in the organization to better represent both gender and race issues. Obviously it didn't work in managing the workforce diversity.

Wal-Mart Boards of Directors and Top Managers face challenges of understanding how to manage diversities. Wal-Mart can deal with this challenge by taking steps to change employment practices by providing diversity training to all levels of management. Managers can then set diversity goals and objectives and formulate policy and practices to be integrated into Wal-Mart's organizational culture resulting in a generalized change in managing workforce diversity throughout its business operations.

v. DISCRIMINATING ORGANIZATIONAL CULTURE

An organizational culture is a shared set of values and beliefs about how things are done in the organization. A strong and widely shared organizational culture promotes uniformity of practices throughout the organization. An analysis of the Duke vs. Wal-Mart case was done using the main diagnostic framework and the most obvious factor in the Duke vs. Wal-Mart case appears to be sex discrimination against women. Based on my analysis, sex discrimination is more of a symptom. Hence, what is the underlying cause and influences that lead to this nationwide law suit from hundreds of female employees?

Employees believe Wal-Mart's discriminating organizational culture is a principal factor in creating and perpetuating unfair practices. According to Joseph Sellers, a lawyer from the law firm Cohen Milstein Sellers & Toll representing the employees, states that even though Wal-Mart has a strong documented anti-discriminatory policy, Wal-Mart's top executives delegates their way out of responsibility by adopting a centralized management policy giving its stores managers unchecked, unfettered decision making. These lee-ways allow store managers to subjectively continue their discriminating and unethical practices against its female employees by paying them less wages and delaying promotions.

IDENTIFY AND LIST FACTORS THAT CONTRIBUTED TO THE CENTRAL PROBLEM

Day to day, organizational culture shapes an employee's behaviour. Here are a few factors that contributed to Wal-Mart's discriminating organizational culture:

- The recruitment and Hiring process -

Wal-Mart's statistics showed women are more concentrated in low paying remedial job position even though they are more qualified and experienced than their male colleagues who held a higher paying position. This clearly indicates that recruiting managers are not following the recruitment and hiring process policy adequately, which is supposed to hire employees based on matching job description and specifications to the applicant's qualifications, and not on biases towards any gender. This behaviour fuels a discriminating culture.

- Discriminating Corporate structure -

The issue is not the size of Wal-Mart; it's whether its corporate structure perpetuated a male dominated hierarchy that suppressed women promotion and pay throughout Wal-Mart's nationwide stores. The answer is yes! Statistics in the case states that 66% of hourly employees are woman and only 14% of women are managers. Allegations from female employee's states that Wal-Mart has a highly uniformed male dominated corporate structure devoted to push the "Wal-Mart way" where the majority of top executives and store managers are men. The results of this system, encourages male managers to promote people like themselves who accept and perpetuate Wal-Mart's male dominated corporate structure.

- Unfair system of Promotions -

Wal-Mart's employees claim store managers do not follow policies when it comes to promotion. Store managers promotes by favouritism and not who works harder. They also promote by short interview, instead of work history. This is an incorrect way to evaluate employees who has already been working there for an enormous length of time. Promotions should be based on merit and not biased towards any gender or store manager's discretionary and subjective criteria.

In addition, according to Wal-Mart's former Vice Chair Man and Chief Operating Officer Don Soderquist in his book called "The Wal-Mart Way," Wal-Mart has:

- ✚ No criteria for making promotion selections,
- ✚ No oversight or systemic review of compensations and promotional decisions,
- ✚ No posting of promotion opportunities, and
- ✚ No written information about the management trainee program and no ability for hourly employees to apply for it.

- Inequality of wages based on Gender -

Wal-Mart has an organizational culture that promotes unequal pay based on gender discrimination. This is the top factor that first leads to the law-suite Duke vs. Wal-Mart after female employees learnt that they were being paid less than men in every job category. Wal-Mart female employees complained that store

managers do not use job related criteria such as job performance or experience to set wages and that men are often paid more even when women have higher performance ratings.

STEPS A HUMAN RESOURCE MANAGER WOULD TAKE TO IMPLEMENT POLICIES,
PROCEDURES AND STRATEGIES TO DEAL WITH THE CURRENT PROBLEMS, AND A
CHANGE MANAGEMENT PLAN FOR THE CEO.

The HR manager is responsible for the entire organization to ensure alignment of the human resource functions with the needs of the organization. In order to implement human resource strategies, human resource management has to first formulate a human resource management plan. In strategic planning, tools such as a SWOT analysis identifies strengths, weaknesses, opportunities, and threats to determine some of the issues Wal-Mart is facing. An HR manager must know the business, and therefore know the needs, values and missions of the business and can then develop a strategic plan to meet those needs. They also stay on top of current events, so they know what is happening globally and what is happening internally which could affect their strategic plans.

The HRM strategic plan has the major objectives the organization wants to achieve in the long run. The human resource strategy is formed out of the strategic plan. Subsequently, the human resource manager along with top executives determines the objectives and formulates policies to meet those objectives. Employees do not always experience change as something positive. However, they are important when it comes to the implementation of change. Applying the Kotter's 8 Step Change Model plan will help Wal-Mart to succeed at implementing change. First by (1) Create a sense of urgency; (2) Create a vision for change; (3) Communicate the vision; (4) Remove obstacles; (5) Create short-term wins; (6) Anchor the changes; (7) Consolidate improvements; (8) Step Change Model.

Outlined below and followed with a brief explanation is how the HR manager would deal with the current issues such as:

- A. GENDER DISCRIMINATION ;
- B. MEASURES TO AVOID LEGAL IMPLICATIONS, THE CIVIL RIGHTS ACT (1964) ;
- C. DEALING WITH WORKFORCE DIVERSITY MANAGEMENT ISSUES;
- D. UNETHICAL PRACTICES; AND
- E. A DISCRIMINATING ORGANIZATIONAL CULTURE.

A. SOLVING GENDER DISCRIMINATION

In the workplace, workers should be judged, promoted and valued based on the merit of their effort, contribution and ability, and not their gender. The HR manager should implement measures to eliminate gender discrimination in the workplace.

- ✚ Firstly by admitting there is a problem. Gender discrimination cannot be overcome until all relevant parties are willing to admit that it's occurring. Gender discrimination is uncomfortable, and many people would rather remain silent or pretend it's not taking place.

- ✚ Ensure store managers hold daily or weekly meetings with all employees to express any concerns about gender discrimination. Talking about gender discrimination brings the issue out into the open so it can be addressed. Managers should encourage employees to confront the person doing the discriminating or speak with a trusted supervisor, manager or member of your company's human resource department. The managers' responsibility is to make sure all complaints are investigated and addressed appropriately.
- ✚ The human resource manager can provide proper training on gender discrimination to all management personnel and supervisors. Teach managers what constitutes gender discrimination, and train them how to identify both the obvious and not so obvious signs that gender discrimination is occurring. Managers must also be taught on how to deal with it and prevent it from happening again in the future.
- ✚ The human resource manager should implement a written set of policies to promote gender equality in Wal-Mart. The policies should ensure that men and women receive equal pay for equal work, should promote gender equality in recruitment, training, hiring and promotional practices and policies, and should strictly prohibit all forms of gender discrimination.

B. SOLVING LEGAL IMPLICATIONS FOR VIOLATIONS OF THE CIVIL RIGHTS ACT OF (1964)

Employers who put strong measures in place to prevent and address employment discrimination, harassment, and retaliation may avoid Equal Employment Opportunity Commission charges and lawsuits. Implementing employment discrimination policies, preventions, and practices can work in Wal-Mart's favour in an employment discrimination lawsuit. If the employer can demonstrate the following preventative actions, the employer may escape significant damages.

The HR manager implements and integrates a strict policy that makes employment discrimination of any type unacceptable in your workplace. The policy should include a process for reporting any incidents of employment discrimination and given several methods for reporting incidents in case their supervisor is involved in the employment discrimination matter. The employment discrimination policy should also communicate how an employee complaint will be handled with an outline of steps. The employment discrimination policy should spell out disciplinary action that will be taken with offenders. Managers must respond to an employee complaint about employment discrimination in a timely, professional, confidential, policy adhering manner.

The HR manager should ensure the circulation of pamphlets to all Wal-Mart's employees so they become familiar with the Equal Employment Opportunity Act of 1964 detailing the civil rights of workers by law. As with any employment situation that could result in litigation, document all aspects of policy training, complaint investigation, hiring and promotional practices.

C. SOLVING WORKFORCE DIVERSITY MANAGEMENT ISSUES

Wal-Mart's Human Resource Manager should implement a set of diversity goals and guidelines to represent women and ensure managers are evaluated and assessed for their progress towards achieving those diversity goals. Setting diversity goals at Wal-Mart is the first step toward developing a strategic plan. Secondly setting goals based on Wal-Mart's diversity mission statement, which should clearly communicate Wal-Mart's commitment to diversity for e.g. a sample statement is: "We strive to respect and embrace individuals from different age groups, classes, ethnicities, genders, abilities, races, sexual orientations and religions."

The next step is to develop smaller objectives to help achieve the mission. Objectives should relate to Wal-Mart's employees, its customers and your community. An employee-related objective could be to recruit and hire workers from a diverse talent pool. Finally, measure results periodically, measure managers and employee's progress against the goals. If goals are not achieved, revise goals if needed or simplify the goals if it were too unrealistic to achieve.

Diversity means accepting, understanding and valuing differences among employees. Having a diverse workplace gives Wal-Mart ideas and innovations from a variety of backgrounds and cultures. The human resource manager should implement diversity training to all managers. By providing training to managers this may reduce or not make mistakes in applying leadership styles. That depends on the person or the situation. Whether by race, age, gender, or any number of qualities that make Wal-Mart's workforce unique, managing one employee may not be the way to manage, motivate, and lead. It must be a group effort from the top to the bottom.

D. SOLVING UNETHICAL PRACTICES

Identify the cause of the unethical behaviour. The human resource manager should encourage managers to behave ethically themselves. That involves treating others with fairness and respect, and following the standard of behaviour in your workplace. Managers can also demonstrate integrity, caring and teamwork. When employees can rely on managers to behave honestly, they are well on your way to influencing others behaviour. Establish procedures that encourages ethical behaviour and praise good ethical practices publicly by thanking employees whose behaviours model what management would like others to follow and provide an incentive if necessary such as a financial bonus or stress day off.

E. SOLVING DISCRIMINATING ORGANIZATIONAL CULTURE

Wal-Mart's top executives must decide if the old ways are not working and work with the HR manager to administer a change in vision and acting differently to change a discriminating work culture. The HR manager should set a strong non-discriminatory cultural foundation at Wal-Mart. During the induction process, ensure that employees understand and value the same behaviours management does not tolerate for discrimination. Provide comprehensive staff policies, handbooks, and procedures that cover the entire employment process. The human resource manager will ensure detailed guidelines are set during the hiring process to prevent gender bias. Hiring managers will be instructed to look for and notice any

discriminatory hiring practices, re-evaluate your process and try including a third-party as an outside perspective.

The HR manager implements Fair Promotions guidelines by first promoting internally. Monitor and ensure the development of female employees, or those who are typically overlooked in these circumstances and provide mentoring programs to help train and inform employees of opportunities for promotion. If necessary, the HR manager should out-source training courses on diversity. If Wal-Mart wants to manage the fight against gender discrimination at work, outside reinforcements might be needed.

REFERENCE WEBSITES

1. <https://www.shrm.org/resourcesandtools/tools-and-samples/how-to-guides/pages/how-to-develop-a-diversity-and-inclusion-initiative.aspx>
2. <https://www.nytimes.com/2017/07/18/business/betty-dukes-dead-walmart-worker-led-landmark-class-action-sex-bias-case.html>
3. https://en.wikipedia.org/wiki/Wal-Mart_Stores,_Inc._v._Dukes
4. <https://www.scotusblog.com/2011/06/opinion-analysis-wal-marts-two-messages/>
5. <http://joshblackman.com/blog/2011/06/20/instant-analysis-wal-mart-v-dukes/>
6. <https://www.aauw.org/resource/wal-mart-stores-inc-v-dukes/>
7. https://www.youtube.com/watch?v=gFp_vKaoSHo&t=156s
8. <https://www.youtube.com/watch?v=7T97smr6rUs&t=249s>

