

# INTEGRATING "DIVERSITY IN THE WORKPLACE" INTO THE BUSINESS LAW CURRICULUM

FRANK J. CAVALIERE\*  
TONI P. MULVANEY\*\*

## I. INTRODUCTION

“Diversity in the workplace” is a hot issue in the news, in the boardroom, around the watercooler, and in the classroom. The following is an example of a typical eye-grabbing diversity statistic that has become conventional wisdom: “By 2000, 85% of the entering workforce will be female, African-American, Asian-American, Latino, or new immigrants.”<sup>1</sup> Due to such stunning news, the business and business education communities have rushed to embrace, or at least come to grips with, the concept of diversity.<sup>2</sup>

Higher education, especially business education, is struggling to catch up to the real world, both in terms of the demographic composition of business faculty and in the presentation of this topic in the business curriculum. There is considerable confusion about the topic and much misinformation has been disseminated. A check of the term “diversity in the workplace” in a popular Internet search engine generated more than 5,000 “hits.” This topic is of importance for business educators, and business law teachers in particular, since they teach courses, such as the legal environment of business, business law, and business and society, where diversity is a natural part of the course content.

### A. WORKFORCE 2000

In 1987, the Hudson Institute<sup>3</sup> released a study called *Workforce 2000*<sup>4</sup> that it had prepared for the United States Department of Labor. This report caused an immediate

---

\* Professor of Business Law, College of Business, Lamar University

\*\* Associate Professor of Business Law, College of Business, Lamar University

<sup>1</sup> Blank, Renee & Slipp, Sandra, *Voices of Diversity*, AMACON 3 [American Management Association] (1994).

<sup>2</sup> The latest information from the Bureau of Labor Statistics concerning workplace demographics is included in the appendix and is discussed *infra*.

<sup>3</sup> The web site address of the Hudson Institute is <http://www.hudson.org>.

<sup>4</sup> WILLIAM JOHNSTON & ARNOLD H. PACKER, *WORKFORCE 2000: WORK AND WORKERS FOR THE 21<sup>ST</sup> CENTURY* (1987); this book has been revised by RICHARD JUDY & CAROL D'AMICO, *WORKFORCE 2020: WORK AND WORKERS FOR THE 21<sup>ST</sup> CENTURY* (1997). *WORKFORCE 2020* addresses issues such as: How will companies need to adapt to an aging workforce? How will growing trends such as telecommuting, temporary staffing, and employee leasing affect the workplace? Which industries and jobs will be most affected by technological advancement? How prepared are the new entrants to the workforce for the jobs of the twenty-first century?

reaction, a reaction that is still being felt today, and will be felt for a long time to come. It pointed out that the United States was about to face the largest wave of immigration since the end of the Second World War. The vast majority (90%) of these immigrants would be non-Europeans, principally people from Asia and Latin America. This was immediately perceived as a challenge to the business community, because the study further stated that by the year 2000, 85% of the net growth in the workforce would be comprised of women and non-Europeans. To many members of the European male power structure this prediction was viewed more as a threat than a challenge.

## B. AACSB STANDARDS

The curriculum standards for the AACSB—The International Association for Management Education (AACSB)<sup>5</sup> state that business curricula should cover “ethical and global issues, the influence of political, social, legal and regulatory, environmental and technological issues, and the impact of demographic diversity on organizations.”<sup>6</sup> Some programs have developed courses specifically tailored to these standards, often using “Business and Society” textbooks that devote much attention to ethics, global issues, and the “macroenvironment of business.” There is scant coverage of demographic diversity, however. This paper will define demographic diversity, present diversity statistics, discuss ways we already cover the topic in our courses, and provide a list of teaching resources.

## C. THE LAW SCHOOL ADMISSION COUNCIL WEIGHS IN

In December, 1999, the Law School Admission Council (LSAC) published "New Models to Assure Diversity, Fairness, and Appropriate Test Use in Law School Admissions." According to this document:

LSAC member law schools have demonstrated strong dedication to diversity in law school enrollment. Providing educational opportunity to underrepresented people, principally minorities and women, and creating a more representative bar have been both the goals and the hallmarks of this dedication. Their effort has created the increased richness that diverse student bodies bring to law school classrooms and environments, a change that has strong pedagogical value which law schools are reluctant to relinquish. Law schools remain committed to filling their classrooms with student representatives of the vast plurality and cultural, racial, ethnic, gender, age, and background experiences of

---

<sup>5</sup> Prior to July 1997, the name of the organization was the American Assembly of Collegiate Schools of Business (AACSB).

<sup>6</sup> AACSB STANDARDS FOR ACCREDITATION IN ACCOUNTING & BUSINESS C.1.1 (1991).

our society. Their commitment has been steady and successful, and has benefited the American legal profession.<sup>7</sup>

The LSAC recognized, however, that "[r]ecent and ongoing legal challenges to programs designed to increase student diversity have resulted in legal uncertainty that makes this document a work in progress." The document then proceeded to explain to legal educators how they can attempt to assure student body diversity with a minimum of legal risk.

#### D. DIVERSITY DEFINED

There are many current definitions for the term "diversity in the workplace." It is often lumped together with related concepts such as "cultural sensitivity," "multiculturalism," and "affirmative action." It is essentially a term of art, a charged concept that goes beyond the mere recognition of demographic changes on the job. Diversity in the workplace, at its core, can be described as sensitivity toward and appreciation for the differences among distinct groups of people.

There have been many attempts to define diversity, and many of them are seemingly contradictory. Definitions range from the simple ("diversity means differences in people"<sup>8</sup>) to the complex, ("a mix of people in one social system who have distinctly different, socially relevant group affiliations"<sup>9</sup>).

#### E. BUREAU OF LABOR STATISTICS FIGURES

Just how accurate are the assertions and predictions of the pro-diversity contingent? According to the latest statistics from the Federal Government's Bureau of Labor Statistics (BLS), the trends are dramatic, but not as stark as some diversity proponents claim. The first chart included in the Appendix is the BLS's Table 6, "Civilian labor force 16 years and older, 1988 and 1998, and projected 2008, and entrants and leavers, actual 1988-98 and projected, 1998-2008."

The most pertinent figures relate to white, non-Hispanic males whose percentage representation is shown to drop from 43.7% in 1988, to 39.8% in 1998, and to an estimated 37.4% in 2008. At the same time white, non-Hispanic female representation drops from 35.4%, to 34.1%, and finally to an estimated 33.3% for the same time periods. On the rise are Hispanic males (from 4.4% to 6.2%, and finally to an estimated 7.1%), Hispanic females (from 2.9% to 4.2%, and finally to an estimated 5.5%), Asian males (from 1.6% to 2.3%, and finally to an estimated 2.7%), and Asian females (from 1.3% to 2%, and finally to an estimated 2.5%). Black, non-Hispanic males remain steady at 5.3% throughout the three time periods, while black, non-Hispanic females increase slightly from 5.4% to 6%, and finally to an estimated 6.2%.

---

<sup>7</sup> LAW SCHOOL ADMISSIONS COUNCIL, *NEW MODELS TO ASSURE DIVERSITY, FAIRNESS, AND APPROPRIATE TEST USE IN LAW SCHOOL ADMISSIONS* 1 (1999).

<sup>8</sup> KAY DUPONT, *HANDLING DIVERSITY IN THE WORKPLACE* 9 (1997).

<sup>9</sup> TAYLOR COX, JR. & RUBY L. BEALE, *DEVELOPING COMPETENCY TO MANAGE DIVERSITY* 3 (1997).

The second chart included in the Appendix is the BLS's Table 8, "Distribution of the population and labor force by age and sex, 1978, 1988, 1998, and projected 2008." This chart demonstrates the aging of the American workforce. From 1978 to 1998, the percentage of workers 40 years of age and older increased from 39.2% to 46.5%. This group is projected to grow to 51.7% in 2008. Conversely, workers 25 to 39 are projected to shrink from 1978's 36% of the workforce to an estimated 31.9% in 2008. Diversity lessons should also address this trend.

#### F. BUSINESSES BENEFIT FROM DIVERSITY

The shifting demographics of the workplace, and society in general demand an appropriate response from the business community. There is still a void, as far as minorities and women are concerned, at the top of most *Fortune 500* firms. Silicon Valley, the epicenter of our digital economy, is particularly open to this criticism.<sup>10</sup> One reason for this is the alleged "fact" that the "topics of affirmative action and diversity have largely faded into the blue in many corporate circles and into the woodwork of the legal profession itself."<sup>11</sup> Many solutions to the problem have been suggested, such as more generous financial aid to racial minority youths,<sup>12</sup> quarterly tracking of minority staffing,<sup>13</sup> and the re-design of recruitment and retention practices.<sup>14</sup> Companies must respond by addressing the issues that minorities face such as social isolation, lack of access to key clients, lack of role models, and lack of feedback. Unless retention issues improve, large companies will not be able to build enough of a critical mass of minorities to effectively recruit them.<sup>15</sup>

The July 19, 1999 cover of *Fortune* trumpeted "Where Diversity Really Works - America's Best Companies for Minorities." The subheading to the story put it succinctly: "Companies that pursue diversity outperform the S&P 500."<sup>16</sup> Many reasons were cited for this superior performance: diverse groups make better decisions,<sup>17</sup> it is good for marketing and customer relations, there is a tight labor market, and diversity-friendly companies avoid nightmares, such as those experienced by Denny's and Texaco.<sup>18</sup>

<sup>10</sup> Joel Dreyfuss, *Valley of Denial*, FORTUNE, July 19, 1999, at 60 (stating "Last year the usually torpid *San Francisco Chronicle* pointed out in an article entitled 'The Digital Divide' that just 4% of employees in Silicon Valley were African-American and 7% Latino, well below their shares of the area's population.").

<sup>11</sup> Darryl VanDuch, *Minority GCs Are Few, Far Between*, NAT'L LJ, Oct. 12, 1999, at 1.

<sup>12</sup> *Id.*

<sup>13</sup> Michael D. Goldhaber, *Long-Distance Flight to Diversity*, NAT'L LJ, Sept. 8, 1999.

<sup>14</sup> Jeff Blumenthal, *Striving for Diversity* (Nov. 6, 1999) at <http://www.palawnet.com>.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> Geoffrey Colvin, *The 50 Best Companies for Asians, Blacks, and Hispanics*, FORTUNE, July 19, 1999, at 53.

<sup>17</sup> *Id.* at 54 (stating, "If everybody in the room is the same, you'll have a lot fewer arguments and a lot worse answers...Diversity is a competitive advantage. Different people approach different problems in different ways.")

<sup>18</sup> *Id.* at 58 (stating "Denny's paid \$54 million to settle a series of discrimination suits...Paying \$115 million to settle explosive charges of discrimination was bad enough, but what grabbed CEOs' attention was the

## II. COVERAGE OF DIVERSITY ISSUES IN EXISTING CURRICULA

In the business college curriculum, students must learn to cope with the reality of these issues. Successful businesses recognize demographic diversity as an opportunity to become more innovative and responsive to the marketplace. "Development of the future workforce is a critical issue for high technology companies. We must find ways to remain creative and innovative, and diversity of thought is fundamental to creativity."<sup>19</sup> But how do we teach about these issues in a way business students can achieve true understanding of the impact of diversity on business, as called for by accrediting standards?

Currently, most business schools offer a Legal Environment of Business course as part of the required curriculum. These course texts generally contain a chapter, maybe two, devoted to employment law issues such as employment discrimination and employee rights.<sup>20</sup> The specific topics discussed in these chapters generally include brief, succinct discussion of labor laws, equal pay laws, employee health and safety laws, employee benefits and rights laws, employer-related immigration laws, and employment discrimination laws such as the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and the Americans With Disabilities Act of 1990.

The focus of the material in these types of textbooks is comprehensive, superficial, and compliance-oriented. Teaching about diversity issues from a compliance perspective focuses on employees' differences and memberships in protected groups. It emphasizes employment practices that require careful, sometimes preferential, treatment of certain employees to achieve "equality" and "equal opportunity." It is an approach, however, that can easily document course coverage of diversity issues in the business curriculum to meet AACSB standards.

Another type of course usually required in the curriculum of business schools, and usually taught by business law professors, is a "Business Environment and Public Policy" course which emphasizes the interaction of business with its internal and external environments, and which includes coverage of economic, political, social-cultural, technological, international, ethical, and legal environments. The course text for these courses is generally a business and society book with varying degrees of coverage of diversity issues with titles such as *Business for the 21<sup>st</sup> Century*,<sup>21</sup> *Business and Its Environment*,<sup>22</sup> *Business & Society—Ethics and Stakeholder*

---

fact that Texaco's market capitalization dropped by about half a billion dollars in two days on the allegations.").

<sup>19</sup> Rich Templeton of Texas Instruments, Inc., quoted in *Honoring Diversity in the Workplace*, at <http://www.careerexposure.com/diversity.html> (visited Aug. 24, 2000).

<sup>20</sup> See, e.g., RICHARD A. MANN & BARRY S. ROBERTS, *BUSINESS LAW AND THE REGULATION OF BUSINESS* 867-92 (6<sup>th</sup> ed. 1999); ROGER E. MEINERS, AL H. RINGLEB & FRANCES L. EDWARDS, *THE LEGAL ENVIRONMENT OF BUSINESS* 481-552 (7<sup>th</sup> ed. 2000); RONALD A. ANDERSON & DAVID P. TWOMEY, *BUSINESS LAW AND THE LEGAL ENVIRONMENT*, 789-815 (1999).

<sup>21</sup> STEVEN J. SKINNER, & JOHN M. IVANCEVICH, *BUSINESS FOR THE 21<sup>ST</sup> CENTURY* (1992) (one paragraph each on worker safety, equality in the workplace, and comparable worth in 22 chapters and 800 pages of text).

<sup>22</sup> DAVID P. BARON, *BUSINESS AND ITS ENVIRONMENT* 3D ED (3<sup>rd</sup> ed. 2000) (one chapter on Ethical Issues in the Employment Relationship; one chapter on Ethical Issues in International Business which includes cultural relativism, operating in developing countries, questionable foreign payments; and three chapters devoted to the political economy, history and culture of Japan, the European Union, and China).

*Management*,<sup>23</sup> and *The World of Business*.<sup>24</sup> While the trend is to include more coverage of diversity issues in more recent editions of these types of textbooks, the amount of pages dedicated to teaching “an understanding of the impact of demographic diversity on business” is scant. These books have been produced with an eye toward fulfilling the AACSB's demands for coverage of business ethics, the social responsibility of business, and worldwide concerns (i.e. international business). It is not uncommon for these books to spend almost half their chapters addressing these issues. Yet, the coverage of diversity can usually be summed up in a mere few paragraphs or, at best, pages.

### III. A CREATIVE APPROACH TO TEACHING DIVERSITY

A more creative approach to teaching this topic in these core courses is needed to meet AACSB standards. One approach is to supplement the course text with outside readings from business magazines, journals, periodicals, and other texts that provide more detailed and real world discussions of diversity issues in the workplace. A list of suggested resources follows in Appendix 2. These outside readings can be assigned to individual students, who are then required to make oral presentations to the class outlining what they have learned. Or, the readings can be assigned to all students, who then must be prepared to discuss the material in class and answer test questions on the examinations. A useful tool for guiding student research is *Infotrac College Edition*, an online library which provides access to full-text articles from hundreds of scholarly and popular periodicals. This program can be partnered with certain textbooks by use of a special ISBN number and sold as a package. The students will receive a passcode which provides unlimited access for four months to the online library. Depending on the publisher, this service may be free to the students who will only have to pay the price of a new textbook.<sup>25</sup>

Another approach to incorporating more coverage of workplace diversity topics into required business law courses is to assign students outside research papers on specific diversity issues. While this approach is probably the best way to have students actually learn about diversity issues because they are doing the research and analyzing it themselves, it is futile for documenting course coverage if only “in-class activity” counts for AACSB measurement. One way around this problem may be to require the students to share their outside research with the rest of the class by way of an oral presentation. The students are graded on the substance and form of their oral presentation, with special emphasis on how well the student presenter

---

<sup>23</sup> ARCHIE B. CARROLL, & ANN K. BUCHHOLTZ, BUSINESS & SOCIETY—ETHICS AND STAKEHOLDER MANAGEMENT (2000) (three chapters on Employee Stakeholders and Workplace Issues, Employee Stakeholders: Privacy, Safety, and Health; and Employment Discrimination and Affirmative Action; one chapter on Ethical Issues in the Global Arena, which includes adapting to the laws and customs of foreign countries).

<sup>24</sup> LAWRENCE J. GITMAN & CARL MCDANIEL, THE WORLD OF BUSINESS (1992) (one paragraph on cultural considerations in international trade; four pages on employee relations issues such as discrimination; three to four pages of social demographics and communication skills in the new workplace culture).

<sup>25</sup> For more information see <http://www.infotrac-college.com>.

conveyed the research to the class, covered important issues, and stimulated the interest of the other students.

Lastly, an approach which can increase the coverage of diversity may be to simply adjust the perspective from which the subject is taught. When the business law professor gets to that paragraph, or page, or chapter, or chapters in the course text where there is actually discussion of a diversity issue, instead of simply explaining the law and its compliance requirements, the professor should focus on the theme that the economy, as always, must be fueled by new blood and new consumers—and in America both workers and customers are increasingly nonwhite. The result is multiculturalism, an opportunity for economic and aesthetic value, which seems to be permanently embedded in United States corporate culture. This attitude can be called the multicultural perspective, or MCP.

## A. MCP AND THE BUSINESS LAW CURRICULUM

### 1. ADMINISTRATIVE LAW

The topic of administrative law offers many opportunities to use the MCP methodology. The Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance (OFCC), for example, have led the government push for a diverse workforce. They have not been immune to the power of politics, however. During the Reagan Administration’s years of supply side economics, however, the number of workers receiving back pay because of affirmative action violations fell from more than 4,000 in 1980 to only 499 in 1986.<sup>26</sup> Clarence Thomas, chair of the EEOC during those years, is accused of impeding his own agency’s staff, having told the general counsel not to approve conciliation agreements that included goals and timetables and delayed other decisions about pending cases.<sup>27</sup> Even the Clinton Administration can be accused of treating these agencies as political footballs. After the national health care debacle, and the loss of the Democratic Party’s majority in the House of Representatives, Clinton embarked on a “race to the middle” seeking to recover the title of “New Democrat” – one who would be more of a centrist on issues such as affirmative action. To demonstrate his centrist tendencies he ordered a critical review of affirmative action policies and cut staff at both the EEOC and the OFCC.<sup>28</sup>

---

<sup>26</sup> A. W. BLUMROSEN, *MODERN LAW: THE LAW TRANSMISSION SYSTEM AND EQUAL EMPLOYMENT OPPORTUNITY* (1993).

<sup>27</sup> *Id.*

<sup>28</sup> These actions were taken in the wake of the Supreme Court’s decision in *Adarand v. Peña*, 515 U.S. 200 (1995), in which the Court found in favor of a low bidder on a highway construction project who had lost out to a minority contractor under a state plan to favor minority businesses. This case announced that henceforth cases dealing with racial preferences would be subject to strict scrutiny.

## 2. ALTERNATIVE DISPUTE RESOLUTION AND NEGOTIATION

Understanding more about how people are similar and different will help overcome fear of diversity and help students learn to see differences as strengths instead of weaknesses. A little diversity training can go a long way to overcome the fear that springs from ignorance. The key to dealing successfully with diversity is open, honest communication. When discussing strategies and techniques of negotiating disputes successfully, stress that in a diverse workplace, all should feel free to be themselves—while treating others with respect. Four steps to dealing with diversity include the following:

1. Understand and respect individual differences, remembering that not everyone sees things the same way you do.
2. Be assertive and let people know how you want to be treated.
3. Learn how others want you to treat them. Use the New Golden Rule: Treat others the way they would like to be treated. If you are uncertain about how to pronounce an unfamiliar name, or whether a person would rather be called black, or African American, *ask*.
4. Act as a force for change. When you discover inappropriate behavior, speak out against it. Attitudes cannot be changed overnight, but changing behavior is the first step.<sup>29</sup>

Depending on time limitations, a lecture on resolving disputes outside the legal system could incorporate topics such as attitudes and behaviors that keep people from being able to accept and respect differences,<sup>30</sup> strategies for communicating effectively with people from a variety of cultures and backgrounds,<sup>31</sup> and ways to effectively communicate and act as a force for change in developing and maintaining a diverse workplace.<sup>32</sup>

## 3. BURDEN OF PROOF

Business law professors should see the challenge of incorporating diversity into the curriculum as a way to enhance and enrich their courses. For example, when teaching a concept as simple as the difference between the burden of proof in criminal and civil cases, expand the discussion to include how the burden of proof shifts in Title VII discrimination cases when the plaintiff submits direct evidence of sexual stereotyping, requiring the employer to prove its action was not solely based on animosity toward the plaintiff because of membership in a protected class.<sup>33</sup>

---

<sup>29</sup> DUPONT, *supra* note 8, at 17-18.

<sup>30</sup> *See id.* at Chapter 3.

<sup>31</sup> *See id.* at Chapter 4.

<sup>32</sup> *See id.* at Chapter 5.

<sup>33</sup> *See Price Waterhouse v. Hopkins*, 490 U.S. 228, 109 S. Ct. 1775 (1989).

#### 4. CONSTITUTIONAL LAW

Constitutional law offers many opportunities to utilize the MCP methodology. Given the recent controversy over the Bob Jones University ban on interracial dating, and the fact that there were some 1.2 million interracial marriages in 1993, a discussion of the United States Supreme Court's action invalidating "anti miscegenation" statutes might be of interest. It is also significant in a discussion of how matters that are primarily the province of the states can draw the interest of the federal government when constitutional rights are involved.

#### 5. CONTRACT LAW

Even contract law can be implicated in an MCP discussion. Section 1981 of the United States Code was passed in 1866, before the passage of the Fourteenth Amendment. Section 1981 states that all citizens shall have the same right to make and enforce contracts "as is enjoyed by white citizens." That section was passed due to concern that the Fourteenth Amendment would not become law. It is still in active use today, since it provides for a much longer statute of limitations than Title VII of the Civil Rights Act of 1964. In the 1989 case of *Patterson v. McLean Credit Union*,<sup>34</sup> the new conservative majority of the Supreme Court declared that this statute did not apply to the case of an African-American employee who quit her job due to "racial harassment." The Court reasoned that Section 1981's provisions only applied to employment cases where someone was denied employment, not to cases where they were already employed. Congress overturned that decision with the adoption of the Civil Rights Act of 1991.

#### 6. CRIMINAL LAW/JURY SELECTION

When discussing the topic of jury selection, the MCP approach should incorporate the law of the *Batson v. Kentucky*,<sup>35</sup> which prohibits striking a juror solely because of his or her race in criminal cases. This segues logically into a discussion of "racial politics" in the O.J. Simpson trial – from Johnny Cochran's playing the "race card," to the differing perceptions of white Americans and African-Americans concerning the criminal justice system, to the recent scandal surrounding the Los Angeles police framing suspects. In discussions of criminal law, it would also seem appropriate to discuss the controversial topic of racial profiling, and the demographics of America's burgeoning prison population. It would also be appropriate to discuss the aging of American society and its impact on crime rates and the tolerance, or the lack thereof, for lawlessness.

---

<sup>34</sup> 491 U.S. 164, 109 S. Ct. 2363 (1989).

<sup>35</sup> 476 U.S. 7, 106 S. Ct. 1712 (1986).

## 7. EMPLOYMENT LAW

The subject that most closely embraces the MCP should be employment law, which includes coverage of several statutes that are the very essence of the topic of diversity in the workplace. The Equal Pay Act of 1963 prohibits an employer to pay men and women differently if the pay difference is based solely on the basis of gender. The Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, or national origin. The Age Discrimination Act of 1967 prohibits discrimination on the basis of age, for workers 40 years of age or older. Finally, the Americans with Disabilities Act prohibits discrimination in employment based on disability.

## 8. IMMIGRATION LAW

The Immigration Reform and Control Act of 1986 outlines prohibitions and requirements with regard to the hiring of illegal aliens. To enhance your presentation and give the students an understanding of what diversity really means, supplement your lecture with demographic information about the changing face of America. For example, more than 25% of Americans are people of color (African-Americans, Asians, Pacific Islanders, and Hispanics). Eleven percent of management/professional people are African-American. Hispanics number 24 million and are expected to be the largest minority in America by 2010. The largest majority of immigrants to the U.S. comes from Mexico (6.2 million). The Philippines ranks second, with 1 million. There were 1.2 million interracial marriages in the U.S. in 1993 and 9.8 million people listed their racial category as “Other” in the 1990 census, as contrasted with 200,000 in 1960.<sup>36</sup>

The best-educated, most affluent households in America are of Asian/Pacific Islander ancestry. Asians have the highest income per household (not per individual, however), with more than 32% earning more than \$50,000 per year, contrasted with 29% of Caucasian families. They also have the highest number of people with more than five years of college. And 39% of Asian Americans finish college, compared to 17% for the general population.<sup>37</sup>

## 9. INTERNATIONAL BUSINESS

Communicating in a global business environment is a complicated skill. Understanding foreign cultures and customs is imperative to a business’s success. Overcoming barriers to diversity involves avoiding prejudice, stereotyping, and discrimination. Knowledge is the best weapon to getting along with persons different from yourself. Care is needed in making references to groups, pronunciation of names, use of appropriate titles and terms.

Body language, such as gestures, movement, personal space, eye contact, and touching are all included in nonverbal communication. Our unspoken messages are usually understood by people who are like us but may easily be misinterpreted by people from other races, genders,

---

<sup>36</sup> DUPONT, *supra* note 8, at 21-23.

<sup>37</sup> *Id.* at 22-23.

cultures, age groups, or economic backgrounds. Although our world is becoming smaller, we will never all share the same language, culture or mannerisms. Teaching students some examples of possible faux pas in this area is an interesting way to incorporate diversity coverage in to the class discussion. For example, the gesture that means "okay" to people born or raised in the United States has various meanings in other countries. To a co-worker from Japan, it means "money." To business associates in France, Belgium, and Tunisia, it signals "worthless," or "zero." To those from Turkey, Greece, and Malta, it refers to homosexuality. To people who grew up in the rest of Europe and Mexico, this gesture represents an obscene or lewd comment.<sup>38</sup>

Americans have a comfort zone of eight inches to three feet, Mexicans reportedly will accept closeness up to 18 inches, while Japanese seemingly prefer a distance of three to six feet.<sup>39</sup> Eye contact follows the same principle as personal space. Typically, Americans are taught that the more eye contact they give, the more power they are perceived to have. In many cultures, however, less eye contact is more respectful.<sup>40</sup> In many Asian countries, body contact is considered disrespectful, so the accepted greeting is a nod or a bow instead of a handshake.<sup>41</sup> Training students to adjust their verbal and nonverbal behavior to avoid unintentionally offending someone is simply a way to help them keep customers and friends, avoid lawsuits, and not hurt people.

## 10. PROPERTY LAW

An MCP approach to property law might include a discussion of deed restrictions that sought to prohibit minorities such as Jews and African-Americans from ever purchasing the property subject to the restriction. It could also discuss how those restrictions that "run with the land" were declared illegal by the courts, and how during Justice Rehnquist's Senatorial grilling preliminary to his rising to the position of Chief Justice, it was found that he had bought a house with such a invalidated restriction. His opponents tried unsuccessfully to use that as evidence of his lack of sensitivity to minorities.

A discussion of property law might also include a discussion of the differences between the community property law system inherited from the Spanish and the common law system received as part of the Anglo-Saxon heritage. A discussion of which system is more enlightened might generate considerable enthusiasm.

## 11. SCHOOLS OF LEGAL THOUGHT

Several business law textbooks begin by describing various "schools" of legal thought. Henry R. Cheeseman's *Business Law*, for example, begins with a discussion of seven schools

---

<sup>38</sup> *Id.* at 60.

<sup>39</sup> *Id.* at 61.

<sup>40</sup> Asian, Mexican, Latin American, Native American, and Caribbean cultures are raised to believe less eye contact is more respectful. *Id.* at 62.

<sup>41</sup> *Id.* at 63.

of jurisprudential thought.<sup>42</sup> These schools include: natural law, historical, analytical, sociological, command, law and economics, and critical legal studies. The last of those schools provides interesting material for a multicultural discussion. According to Cheeseman, critical school adherents, “seek to expose the real aim of the American legal system, which is to provide an air of legitimacy for our unjust society.”<sup>43</sup> The “Crits” further contend that “the real purpose of our legal system is to make sure that the rich get richer and the poor stay where they are.”<sup>44</sup> Some feminists view law as an exercise in keeping women down. Some African-American leaders espouse a similar view, that they are victims of the “White Man’s law.” Some Hispanics and Native Americans view our legal system as justifying the theft of their birthrights.

This is just a partial discussion of how MCP can be introduced in the standard business law/legal environment/business environment course curriculum. Almost any topic can be implicated into a diversity topic by a professor with an awareness of the diversity issue.

### VIII. CONCLUSION

The challenge the United States must face is to acknowledge the reality that as long as there are distinct races, there will inevitably be racial categorization, but also to realize that managers and workers must find ways to get along.<sup>45</sup> Emphasizing the how of “getting along” instead of the how of “not discriminating against protected groups” is the paradigm shift that must be taught if business students are to be adequately prepared for the workplace of the 21<sup>st</sup> century.

---

<sup>42</sup> HENRY R. CHEESEMAN, BUSINESS LAW 7 (1995).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> James Pinkerton, *Why Affirmative Action Won't Die*, FORTUNE, Nov. 13, 1995, at 181.

**APPENDIX 1**  
**Labor Force (Demographic) Data**

<http://www.bls.gov/emplt988.htm>

Table 6. Civilian labor force 16 years and older, 1988 and 1998, and projected 2008, and entrants and leavers, actual 1988-98 and projected, 1998-2008

Group	1988	1988-98			1998	1998-2008			2008
		Entrants	Leavers	Stayers		Entrants	Leavers	Stayers	
Numbers									
[thousands]									
Total	121,669	35,033	19,028	102,640	137,673	42,033	25,131	112,542	154,576
Men	66,927	18,392	11,361	55,566	73,959	20,963	13,790	60,169	81,132
Women	54,742	16,641	7,668	47,074	63,714	21,070	11,341	52,373	73,444
White non-Hispanic	96,141	21,392	15,766	80,375	101,767	24,619	17,170	84,597	109,216
Men	53,122	11,299	9,590	43,533	54,833	12,578	9,654	45,178	57,756
Women	43,018	10,093	6,176	36,842	46,935	12,041	7,516	39,419	51,459
Black non-Hispanic	12,980	4,607	1,998	10,982	15,589	6,928	4,789	10,800	17,728
Men	6,470	1,916	1,049	5,421	7,337	3,166	2,302	5,034	8,200
Women	6,510	2,691	949	5,561	8,252	3,762	2,487	5,766	9,528
Hispanic origin	8,982	6,252	917	8,065	14,317	6,800	1,532	12,785	19,585
Men	5,409	3,713	551	4,858	8,571	3,431	969	7,602	11,033
Women	3,573	2,539	366	3,207	5,746	3,369	563	5,183	8,552
Asian and other, non-Hispanic	3,566	2,782	347	3,218	6,000	3,686	1,639	4,361	8,047
Men	1,926	1,464	171	1,755	3,219	1,788	864	2,355	4,143
Women	1,640	1,318	176	1,464	2,782	1,898	775	2,006	3,904
Share									
[percent]									
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Men	55.0	52.5	59.7	54.1	53.7	49.9	54.9	53.5	52.5
Women	45.0	47.5	40.3	45.9	46.3	50.1	45.1	46.5	47.5
White non-Hispanic	79.0	61.1	82.9	78.3	73.9	58.6	68.3	75.2	70.7
Men	43.7	32.3	50.4	42.4	39.8	29.9	38.4	40.1	37.4
Women	35.4	28.8	32.5	35.9	34.1	28.6	29.9	35.0	33.3
Black non-Hispanic	10.7	13.2	10.5	10.7	11.3	16.5	19.1	9.6	11.5
Men	5.3	5.5	5.5	5.3	5.3	7.5	9.2	4.5	5.3
Women	5.4	7.7	5.0	5.4	6.0	9.0	9.9	5.1	6.2
Hispanic origin	7.4	17.8	4.8	7.9	10.4	16.2	6.1	11.4	12.7
Men	4.4	10.6	2.9	4.7	6.2	8.2	3.9	6.8	7.1
Women	2.9	7.2	1.9	3.1	4.2	8.0	2.2	4.6	5.5
Asian and other, non-Hispanic	2.9	7.9	1.8	3.1	4.4	8.8	6.5	3.9	5.2
Men	1.6	4.2	0.9	1.7	2.3	4.3	3.4	2.1	2.7
Women	1.3	3.8	0.9	1.4	2.0	4.5	3.1	1.8	2.5

Note: The four race, Hispanic origin groups add to the total. Hispanics may be of any race. The "Asian and other" group includes (1) Asians and Pacific Islanders and (2) American Indians and Alaska Natives.



Table 8. Distribution of the population and labor force by age and sex, 1978  
1988, 1998, and projected 2008

[Percent]

Group	Population				Labor force			
	1978	1988	1998	2008	1978	1988	1998	2008
Total, 16 years and older	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
16 to 24	22.7	17.9	16.2	16.7	24.5	18.5	15.9	16.3
25 to 39	29.0	33.3	29.8	25.1	36.0	42.3	37.6	31.9
40 and older	48.3	48.9	54.0	58.2	39.6	39.2	46.5	51.7
65 and older	14.3	15.5	15.7	15.8	3.0	2.7	2.8	3.0
75 and older	5.2	6.0	7.0	7.2	0.4	0.4	0.5	0.5
Men, 16 years and older	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
16 to 24	23.5	18.5	17.0	17.4	22.6	17.6	15.5	16.1
25 to 39	29.8	34.4	30.6	25.4	36.6	42.6	38.0	32.2
40 and older	46.7	47.2	52.5	57.1	40.8	39.9	46.5	51.8
65 and older	12.4	13.5	13.8	14.2	3.2	2.9	3.0	3.4
75 and older	4.1	4.7	5.6	6.1	0.5	0.5	0.6	0.6
Women, 16 years and older	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
16 to 24	21.9	17.3	15.5	16.0	27.1	19.7	16.4	16.6
25 to 39	28.3	32.3	29.2	24.8	35.1	41.9	37.1	31.7
40 and older	49.8	50.4	55.4	59.2	37.8	38.4	46.6	51.7
65 and older	16.0	17.3	17.5	17.2	2.7	2.4	2.5	2.5
75 and older	6.2	7.2	8.2	8.3	0.3	0.3	0.4	0.4

**APPENDIX 2**  
**List of Resources**

*Alternative Dispute Resolution in Business* by Lucille M. Ponte and Thomas D. Cavenagh (West 1999).

*Business Dispute Resolution: Best Practices, System Design and Case Management* by Thomas D. Cavenagh (West 2000).

*Employment Discrimination Law: A Manager's Guide* by David P. Twomey (4<sup>th</sup> Ed. West 1999).

*Handling Diversity in the Workplace: Communication is the Key* by Kay Dupont (AMI 1997).

*Labor and Employment Law* by David P. Twomey (10<sup>th</sup> Ed. West 1998).

*Managerial Excellence Through Diversity* by Mary C. Gentile (Waveland Press, Inc. 1998).

*Managing Diversity: People Skills for a Multicultural Workplace* by Norma Carr-Ruffino (Thompson Executive Press 1996).

*Personnel Law* by Kenneth L. Sovereign (4<sup>th</sup> Ed. Prentice-Hall 1999).

*The Woman Manager: Developing Essential Skills for Success* by Connie Siterly, Ed. D. (Crisp Publications, Inc. 1993).

*Work and Occupations: An International Sociological Journal* (Sage Periodicals Press).