From the desk of the Editor-in-Chief... 


All articles that appear in this volume of the Mustang Journal of Law and Legal Studies have been recommended for publication by the Reviewers/Advisory Editors, using a double, blind peer review process. A personal thanks is extended to the Reviewers/Advisory Editors for all their hard work and dedication to the Journal. Without their work, the publication of this Journal would be impossible.

This is my first year as Editor-in-Chief, and I wish to express my sincere thanks and appreciation for all the support, encouragement, assistance and advice throughout this year. I would like to further express appreciation to Marty Ludlum of the University of Central Oklahoma, for his efforts in coordinating the entire process. The publishing of this journal is an intense educational experience which I continue to enjoy.

Congratulations to all our authors. I extend a hearty invitation to submit your manuscripts for the 2011 volume of the Mustang Journal of Law and Legal Studies, due to be released in fall, 2011.

To further the objectives of Mustang Journals, Inc., all comments, critiques, or criticisms would be greatly appreciated.

Again, thanks to all the authors for allowing me the opportunity to serve you as editor-in-chief of the Journal.

William Mawer
Editor-in-Chief
Mustang Journal of Law and Legal Studies
www.MustangJournals.com
Our Reviewers

Mustang Journals could not exist without the hard work and timely effort of our peer reviewers. Mustang Journals is seeking scholars willing to volunteer. Mustang Journals recognizes the importance of the peer review process in shaping the reputation and credibility of the journal and the individual papers. Reviewers will be expected to review no more than three papers a year. If you would like to become a peer reviewer, please contact us at MustangJournals@aol.com

Mustang Journals wishes to thank our Peer Reviewers.

Dr. Jennifer Barger-Johnson, Legal Studies, University of Central Oklahoma

Roger Chao, Ethics, Curtin University, Australia.

Steven I-Shuo Chen, Business & Management, National Chiao Tung U., Taiwan.

Dr. Darrell Ford, Legal Studies, University of Central Oklahoma

Dr. David Hartmann, ISOM, University of Central Oklahoma

Dr. Randal Ice, Finance, University of Central Oklahoma

Z.E. Jeelani, Business Studies, Islamic U. of Science & Technology, India.

Dr. Stellina Jolly, Legal Studies, Punjab University, India.

Dr. Stuart MacDonald, Legal Studies, University of Central Oklahoma

Dr. William Mawer, Dean, School of Education & Social Sciences, Southeast Oklahoma State University.


Karen Sneary, Business, Northwest Oklahoma State University.

Dr. Zulnaidi Yaacob, Management, University Sains Malaysia.
# Mustang Journal of Law and Legal Studies

## Volume 1 (2010)

**Table of Contents**

- Title Page . . . 1
- Editor’s Note . . . 3
- Reviewers . . . 5
- Table of Contents . . . 7

**Kelo Revisited: Can it Provide Unexpected Employment and Economic Opportunities?**
Dan Davidson and Mike Chatham . . . 9

**Family Educational Rights and Privacy Act: Who has an Educational Need to Know?**
R. Stewart Mayers, William T. Mawer, Melanie E. Price, and Jennifer M. Denny . . . 19

**A Managerial Guide to Avoiding the Product Liability Trap in Dealing with the People’s Republic of China**
Aaron Gordon, Hector R. Lozada, and Richard Hunter, Jr. . . . 28

**The Ethical Duties and Prohibitions Affecting the Decision of an Attorney to Blow the Whistle on an Organization Client**
Darrell G. Ford . . . 44

**Role Efficacy And Role Stress – Women BPO Employees**
L. Vijayashree and J. Katyayani . . . . . 52

**The Credit Card Plague on the American College Campus: A Survey**
Marty Ludlum and Brittany Christine Smith . . . 72

**Regression Analysis Of Motivation And Productivity In A Developing Economy**
Ngboawaji Daniel Nte . . . 78

**Taking a Byte of the American Pie: An Exploration Of The Influence Of Political, Economic, Social, And Technological Actors Within The Context Of Information Systems On Democracy Policy Formation And Execution**
David H. Hartmann . . . 99

**Call for Contributors . . . 118**

**New Journal Announcement . . . 120**
KELO REVISITED: CAN IT PROVIDE UNEXPECTED EMPLOYMENT AND ECONOMIC OPPORTUNITIES?

Dan Davidson¹
and
Mike Chatham²

The U.S. Supreme Court’s decision in Kelo v. City of New London³ was one of its most controversial and unpopular decisions over the past several decades.⁴ The public was outraged over the Court’s opinion allowing the City of New London to take private property by means of eminent domain in order to turn that property over to private developers. This was viewed by many as an abuse of the right of eminent domain and a perversion of the Fifth Amendment’s taking clause⁵ and the Fourteenth Amendment’s guarantee of due process.⁶ Imagine how ironic it would be if the same principles used to uphold the taking in Kelo could result in the retention of jobs and the preservation, or even expansion, of local economies in various locations across the country. However, in this scenario the “victims” of the taking would be corporations rather than individuals, and the object of the taking would be plants and factories rather than private residences or retail establishments. In fact, such an application of eminent domain as was espoused in the Kelo opinion might also lead to the formation of a new, at least for most of the U.S., form of business organization to complete with the traditional entities that have left those same local economies in dire straits due to plant closings, the relocation of plants to other regions or countries, or the outsourcing of jobs.

PRECURSORS TO THE KELO OPINION

Kelo was not a case of first impression, and the Court had ample precedent supporting its decision in favor of the City of New Haven. In a case decided in 1896⁷ the Court upheld a condemnation in order to allow a corporation to construct a reservoir and to dig ditches to be used for irrigation by local land owners. The owners of the condemned property argued that the taking was unconstitutional due to the transfer from a private owner to a second private owner (the corporation), but the Court disagreed. In its opinion the Court pointed out that the taking was done under provisions of a state statute, that the state’s citizens must be more familiar with the facts and circumstances in that state than one who is a stranger to that state, and that such knowledge and familiarity should be granted due

¹ Professor of Business Law, Radford University, Radford, Virginia
² Assistant Professor of Accounting, Radford University, Radford, Virginia
⁴ See, e.g., The Entrepreneurial Mind: Implications of the Kelo Decision, Jeff Cornwall (June 24, 2005); The Limits of Anti-Kelo Legislation, Ilya Somin, (August/September 2007); Homes may be ‘taken’ for private projects, MSNBC.com (June 23, 2005).
⁵ 5th Amendment to the U.S. Constitution, “nor shall private property be taken for public use, without just compensation.”
⁶ 14th Amendment to the U.S. Constitution, “... nor shall any State deprive any person of life, liberty, or property, without due process of law.”
weight with the courts. The Court found that the condemnation was, in fact, for a public use and was valid.

In *Clark v. Nash*\(^8\) the Court once again upheld a taking involving irrigation, but in this case the taking was for the benefit of a single individual. Under state statutes in Utah, an individual was allowed to condemn a right of way across a neighbor’s property in order to dig or to enlarge an irrigation ditch across that property, provided that the individual had a right in the stream from which the water was taken, and also that the land to be irrigated would otherwise be virtually worthless. Nash attempted to condemn a right of way across the land of Clark in order to widen his irrigation ditches, as permitted under state law. Clark objected, asserting that such an act would be an unconstitutional taking of his property, in part because the taking would be for the benefit of a single individual, Nash, and would therefore not be for a public use, as required by the Constitution. But as the Court pointed out, “In some States, probably in most of them, the proposition contended for by [Clark] would be sound. But whether a statute of a State permitting condemnation by an individual for the purpose of obtaining water for his land or for mining should be held to be a condemnation for a public use, and therefore a valid enactment, may depend upon a number of considerations.”\(^9\) The Court went on to say “we are always, where it can fairly be done, strongly inclined to hold with the state courts, where they uphold a state statute providing for such condemnation. The validity of such statutes may sometimes depend upon many different facts, the existence of which would make a public use, even by an individual, where, in the absence of such facts, the use would clearly be private.”\(^10\) The Court upheld this condemnation, finding that it was for a “public use” under the statutes of Utah even though it seemingly only benefited one person, Nash.

In *Strickley v. Highland Boy Gold Mining Company*\(^11\) the Court faced another case involving a taking under the somewhat unusual laws of Utah. In this case, a mining company sought permission to acquire a right of way across privately owned property in order to construct a tramway to haul its ore from the mine to a railway station two miles away. The mine owners made a diligent effort to discover the owners of the property in question in order to negotiate for the purchase of this right of way, but were unsuccessful in doing so. The court granted a condemnation to allow the mining company to use the right of way. The mining company then constructed the right of way, paying into the state court the money for the right of way, to be held in escrow for the owner of the land. Strickley, the owner of the property, objected to the condemnation, asserting that it was invalid since the taking was for a purely private purpose and did not constitute a public use, as required by the U.S. Constitution. Utah law provides that “the right of eminent domain may be exercised on behalf of the following public uses . . . (6) Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines.”\(^12\) Relying on its opinion of the prior year in *Clark v. Nash*, the Court upheld this taking, adding that “[i]n the opinion of the legislature and the Supreme Court of Utah the public welfare of that State demands that aerial lines between the mines upon its mountain sides and the railways in the valleys below should not be made impossible by the refusal of a private owner to sell the rights to cross his land. The Constitution of the United States does not require us to say that they are wrong.”\(^13\)

In the *Berman* case, Washington, D.C. proposed a redevelopment plan for a blighted neighborhood. It was found that most of the housing in the area (64.3%) was beyond repair, and that

---

\(^8\) 198 U.S. 361 (1905).
\(^9\) Id. at 367.
\(^10\) Id. at 368.
\(^11\) 200 U.S. 527 (1906).
\(^12\) Id. at 530.
\(^13\) Id.
redevelopment of the area was necessary in the interest of public health. Appellants owned a department store within the area designated for redevelopment, and they opposed the taking of the store as part of the plan. They alleged that the building was not “blighted,” nor was it used as a residence or as a habitation, and thus the taking of the building would be a denial of due process and would not be for a public use, both in violation of the Fifth Amendment. The Court disagreed, pointing out that “when the legislature has spoken, the public interest has been declared in terms well-nigh conclusive. In such cases the legislature, not the judiciary, is the main guardian of the public needs to be served by social legislation. . . This principle admits of no exception merely because the power of eminent domain is involved. The role of the judiciary in determining whether that power is being exercised for a public purpose is an extremely narrow one.”

In 1984 the Court decided Hawaii Housing Authority v. Midkiff, a case in which the legislature of Hawaii authorized the taking of private property from owner-lessees, with title then being transferred to the lessees. The purpose of this act was to reduce the concentration of ownership of fee simple estates in Hawaii. The owner-lessees argued that this was a taking of their property for a private, rather than a public, use in contravention of the provisions of the 5th and 14th Amendments to the U.S. Constitution. In the mid-1960s the Hawaiian legislature found that the State and Federal governments held approximately 49% of the land in Hawaii and that 72 private landowners held title to another 47% of the land in the state. The legislature determined that this concentration of private ownership was, to a significant degree, responsible for the skewing the state’s real estate market, causing inflated prices for land, and harming the public tranquility and welfare. The legislature then passed the Land Reform Act of 1967, creating a method of condemning many of the residential tracts owned privately and then transferring ownership of these condemned properties to the lessees in fee simple. For those properties condemned by the state, the former owner would be paid for the land either through a negotiation between the former owner and the lessee/buyer or by condemnation trial if no agreement was reached by the parties.

There was no question that the land was being taken from private owners with the sole purpose of transferring title of the land to another private owner, seemingly in direct contravention to the Constitutional prohibitions in the 5th and 14th Amendments. Despite this, the Court upheld the State’s action, relying on the precedent set in Berman, supra. The Berman Court had stated that “We deal, in other words, with what traditionally has been known as the police power. As attempt to define its reach or trace its outer limits is fruitless, for each case must turn on its own facts. The definition is essentially the product of legislative determinations addressed to the purposes of government, purposes neither abstractly nor historically capable of complete definition. Subject to the specific constitutional limitations, when the legislature has spoken, the public interest has been declared in terms well-nigh conclusive. In such cases the legislature, not the judiciary, is the main guardian of the public needs to be served by social legislation, whether it be Congress legislating concerning the District of Columbia . . . or the States legislating concerning local matters . . . This principle admits of no exception merely because the power of eminent domain is involved. . .” The Court concluded by noting that “A purely private taking could not withstand the scrutiny of the public use requirement; it would serve no legitimate purpose of government and would thus be void.” But no purely private taking is involved in these cases. The Hawaii legislature enacted its Land Reform Act not to benefit a particular class of identifiable individuals but to attach certain perceived evils of concentrated property ownership in Hawaii – a

14 Id. at 32.
16 Id. At 232.
18 348 U.S. 26 at 32.
legitimate public purpose. Use of the condemnation power to achieve this purpose is not irrational.

"Since we assume for purposes of these appeals that the weighty demand of just compensation has been met, the requirements of the Fifth and Fourteenth Amendments have been satisfied." 19

**THE KELO OPINION**

The city of New London, Connecticut was suffering from an economic downturn, having been declared a “distressed municipality” by a state agency in 1990. Adding to the problem, the federal government decided to close the Naval Undersea Warfare Center, located in the Fort Trumbull area of New London, in 1996. 20 At that time the unemployment rate in New London was nearly double the state-wide unemployment rate, and the population had fallen to its lowest level since 1924. 21

The local government decided that an economic revitalization was necessary, and reactivated the New London Development Corporation (NLDC), a private nonprofit organization, to help in creating a plan for this revitalization. The state government also became involved in early 1998, authorizing a $5.35 million bond issue to support the NLDC’s planning efforts and a $10 million bond issue for the creation of a Fort Trumbull State Park. 22 Shortly thereafter, Pfizer Pharmaceutical announced its intent to build a $300 million research facility adjacent to Fort Trumbull. 23 With an expectation that the Pfizer facility would attract other businesses to the area, the NLDC continued to work on its blueprint, which now included accommodating the Pfizer research center. The NLDC held a series of “neighborhood meetings” to inform the citizenry of its plans and to receive feedback and suggestions about them. Then, in May 1998, the city council of New London authorized the NLDC to submit its master plan to the relevant state agencies for review. Upon obtaining approval from these state agencies, the NLDC finalized its development of a 90 acre stretch of land in the Fort Trumbull area. 24

The proposed plan included a waterfront conference hotel, an “urban village” that would contain restaurants and shopping, marinas, a riverwalk, approximately 80 new residences, a Coast Guard Museum, and at least 90,000 square feet of research and development office space to be rented out to businesses coming to the area. Other office and retail space, parking, and retail services would also be included. 25 The city council approved the plan in January 2000, and designated the NLDC as its agent to implement the plan. The city council further authorized the NLDC to purchase the land from its current owners, or to acquire the land through eminent domain. While the NLDC was able to acquire most of the land by negotiating a purchase, several of the owners refused to sell. Upon these refusals, the NLDC initiated condemnation proceedings against those properties in conjunction with its exercise of eminent domain. 26

The other petitioners filed suit in the New London Superior Court, asserting that the taking of their property would be a violation of the “public use” requirement of the taking clause of the Fifth Amendment. The Superior Court agreed with the petitioners in part (the areas designated in the plan for use as a park or as part of the marina) and disagreed in part (the areas designated for office space). Both sides appealed to the Connecticut Supreme Court, the petitioners seeking to expand the restraining order to cover all of their properties, and the NLDC seeking to overturn the restraining order.

---

19 467 U.S. 229 at 245.
20 545 U.S. 469, 473.
21 Id.
22 Id.
23 Id.
24 Id.
25 Id. at 474.
26 Id. at 475.
covering the park and marina areas. The Connecticut Supreme Court found that the takings were valid under state statute (“a legislative determination that the taking of land, even developed land, as part of an economic development plan is a ‘public use’ and in the ‘public interest’”27). The court also found that the takings at issue in this case qualified as takings for a public use under the provisions of both the state and the federal constitutions.28 The court found that the takings were “reasonably necessary” to achieve the city’s intended public use, and satisfied the “reasonably foreseeable needs” of the city. Further, the planned use was sufficiently definite and it had been given “reasonable attention” during the planning phase.29

The U.S. Supreme Court granted certiorari in order to determine whether the taking of property by a city for economic development was a proper “public use” under the Fifth Amendment. In doing so, the Court was faced with two “polar opposite” positions: the fact that the state cannot take property for one private person for the sole purpose of transferring it to another private person, even if the first person is paid “just compensation” for the property; the fact that the state can transfer property from one private person to another private person if the purpose of the taking is for a future public use, and provided that the first person is paid “just compensation” for the property.30 The Court ruled that neither of these “polar positions” was dispositive, but rather the case turned solely on the issue of whether the City’s development plan served a “public purpose.” If it did, the Court’s history of deferring to the legislative judgment would result in approval of the taking as a proper exercise of authority. As stated in a prior case upholding a redevelopment plan,31 the area in question “must be planned as a whole” for the plan to succeed32, and “community redevelopment programs need not, by force of the Constitution, be on a piecemeal basis – lot by lot, building by building.”33 While New London was not dealing with a “blighted neighborhood” as was Washington D.C. in the Berman case, it had determined that the area designated for redevelopment was economically distressed, and that the distress was sufficient to justify the development of an economic rejuvenation plan. The Court pointed out that the City had carefully formulated an economic development plan, that the City believed this plan would succeed to the benefit of the community, and that the City had invoked a state statute authorizing the use of eminent domain in acquiring property for purposes of economic development. Following the precedent established in Berman, the Court found that, “Given the comprehensive character of the plan, the thorough deliberation that preceded its adoption, and the limited scope of our review, it is appropriate for us . . . to resolve the challenges of the individual owners, not on a piecemeal basis, but rather in light of the entire plan. Because the plan unquestionably serves a public purpose, the takings challenged here satisfy the public use requirement of the Fifth Amendment.”34

SOME CRITICISMS OF THE KELO OPINION

There have been a number of articles written about the Kelo opinion, most of them finding fault with the Court’s decision. A few representative criticisms include the following:

---

28 545 U.S. 469, 476.
29 Id. at 477.
30 Id.
32 Id. at 34.
33 Id. at 35
34 545 U.S. 469, 483.
"The Supreme Court . . . ruled that local governments may seize people’s homes and businesses – even against their will – for private economic development. It was a decision fraught with huge implications for a country with many areas, particularly the rapidly growing urban and suburban areas, facing countervailing pressures of development and property ownership rights. As a result, cities now have wide power to bulldoze residences for projects such as shopping malls and hotel complexes in order to generate revenues."\(^{35}\)

"The Kelo Decision, which has effectively taken away private property rights, is getting heated attention in the blog-sphere, but only passing attention in the main-stream media. Inc.com has yet to even run a story on this decision, which has more impact on the fundamental rights of small business than any decision in recent memory. . . . Up until this decision, government could only take private property for what was considered truly ‘the common good,’ such as roads, hospitals, military bases, or utilities. Now those limitations are gone. Large corporations . . . and developers with deep pockets can collude with local governments to hatch all kinds of plans to take away property. Some are arguing that government officials will surely use common sense. We know better."\(^{36}\)

"Upholding the forced transfer of land in New London, Connecticut, to private developers, the Court ruled that virtually any potential public benefit satisfies the Fifth Amendment’s requirement that the authorities can take property only for a ‘public use.’ Traditionally, a public use had meant a government-owned facility or a public utility with legally mandated access for the general public. With an economic development taking, property is simply transferred from one private party to another, without any public access requirement. Although the traditional definition of public use had already vastly expanded by previous decisions, Kelo drove the change home to the general public."\(^{37}\)

The ruling generated more broad opposition than any other Supreme Court decision of the last several decades. A 2005 survey by the Saint Index, a polling organization specializing in land use issues, showed that 81 percent of Americans opposed Kelo, a backlash that cut across traditional partisan, ideological, and racial lines. Eighty-five percent of Republicans opposed Kelo, but so did 79 percent of Democrats and 83 percent of independents. The decision was likewise opposed by 82 percent of whites, 72 percent of blacks, and 80 percent of Hispanics."\(^{38}\)

It is obvious that the Kelo opinion touched a nerve with a significant number of people. Both liberals and conservatives have taken issue with the Court and expressions of dismay at the “end of private property rights” have been prevalent. However, it is possible that this same opinion may provide a benefit for the U.S. economy in the form of the salvation or restoration of a significant number of jobs, and a counter-balance to those businesses choosing to move their operations out of the United States in order to obtain lower costs and lesser regulations.

THE USE OF EMINENT DOMAIN TO TRANSFER BUSINESS TO THE WORKERS

Peter Ranis, Professor Emeritus of Political Science at the CUNY Graduate Center and York College, has opined: “The deindustrialization of America with the concomitant loss of decent paying jobs, the rise of unemployment, and the increasing poverty among the working class requires a novel

\(^{35}\) "Homes may be ‘taken’ for private projects,” MSNBC.com (June 23, 2005), found at http://www.msnbc.com/id/8331097/pring/1/displaymode/1098.


\(^{38}\) Id.
response... The use of eminent domain offers a meaningful tool that can be implemented to counter this trend. Eminent domain has been legally used and constitutionally sanctioned for community, infrastructure, and development purposes. 39

Once a manufacturing-dependent city like Youngstown, Ohio loses its primary manufacturer to “outsourcing” the economic impact can be devastating. When Youngstown Sheet and Tube Company closed its operation in Youngstown in the 1970s the impact on the community was significant, with tens of thousands of jobs lost and a declining population. Three decades later Youngstown is still trying to recover. 40 In addition to the immediate impact on the community, there is a long-term ripple effect, and this “ripple effect can be substantial and hard to reverse. When people lose their jobs and leave, they leave behind abandoned homes, a declining tax base and a drop in charitable giving and community support – all of which can make it harder to recruit the kind of businesses that could revive the growth of an economy and population.” 41

Perhaps the precedent set in Kelo and its precursors can provide a solution to this problem. “Conditions exist today throughout America that provide the AFL-CIO, Change to Win, and/or locals thereof, an opportunity to act as a movement soliciting municipalities and state legislatures to expropriate, with compensation, factories and enterprises once the owners announce their intention to abandon their properties and move offshore. The factories and enterprises would then be turned over, with an initial public subsidy, to the workers themselves, who, by and large, have the technical skills and know-how to maintain their industries. . . It would keep these enterprises in operation, save the jobs of the workers and their families, preserve the health and welfare of the community, and sustain the workers as state and local tax payers.” 42

Eminent domain has been used to acquire private property on behalf of public use for decades in the United States, provided that the owner of that property is given just compensation. While that public use historically has been for such things as the construction of highways, schools, and hospitals, the courts now recognize that economic development and/or the removal of “blighted” neighborhoods can also be a valid public use, thus allowing the use of eminent domain to acquire private property that is to be transferred to a new private owner to be used in furthering such an economic development. In these cases, the courts have upheld such takings when there is a state statute under which the plan is formulated, there is a well-developed plan, and the overall intent of the plan is to further a public purpose. Thus, if the state legislature has, or enacts, a statute authorizing the use of eminent domain for the public purpose of preserving jobs and avoiding a distressed economy should a factory or enterprise relocate to the detriment of the community, and also provide a method of transferring that property to a workers’ cooperative, there is an excellent chance that such a plan would withstand any judicial scrutiny on constitutional grounds.

The workers might be able to get funding to purchase the condemned property through traditional sources such as banks. It is likely, however, that such a plan would require a state or municipality to sell the property acquired by eminent domain to such a purchaser such as a workers’ cooperative by way of installments. This may cause the legislature or the municipality to be reluctant to condemn the property, but there is documentary evidence that “the survival rate of worker cooperatives and employee owned firms in market economies appear to equal or surpass that of conventional firms . . . because they place more emphasis on job security for employee members and

40 Linn, Alison, “When jobs go, so do a city’s people,” MSNBC.com (June 25, 2009) found at http://www.msnbc.msn.com/id/31332585/ns/us_news-the_elkhart_project/
41 Id.
42 Note 36, op. cit.
employees’ family members, pay competitive wages (or slightly better than their sector), provide additional variable income through profit-sharing, dividends or bonuses, and offer better fringe benefits.”  

Worker cooperatives have had success in Western Europe, Asia, and South America, and “where worker cooperatives have . . . recuperated factories and enterprises – we see dramatic evidence of worker capacity to take on the responsibilities of departed owners and managers while creating democratic and humane conditions in the workplace.”

The state or the city would not be required to sell the enterprise to a workers’ cooperative, although such a sale should be considered. Any interested and qualified buyers should be considered, but the workers who will be displaced following the relocation of the plant or the enterprise are likely to be highly motivated to make the purchase and to strive for success – and job retention.

**Potentially Consequences of an Eminent Domain Action**

There are some obvious negative implications of increasing the use of eminent domain to spur economic activity and the tax base of a community. Corporate entities, both domestic and foreign, looking to relocate or expand operations into the U.S. may see the use of eminent domain as a potential “barrier to exit,” thus causing them to assess the U.S. market with a higher cost of capital. It is not just that the corporate entity would be in fear of not receiving fair valuation for the infrastructure it leaves behind, but that any cooperative formed may use that old infrastructure, along with any intellectual capital left behind, to begin competing with the good or service provided by the evacuating firm.

U.S. multinational firms may also end up being affected by the actions of domestic governmental entities attempting to stimulate economic activity. Though it is unlikely that a Libya or Iran would change its behavior toward American corporate interests because of increased eminent domain actions, it is possible that other countries may see this policy as one that is excessively parochial, thus causing these nations (e.g., Western European countries) to be less amenable in legislative and even judicial actions involving U.S. firms. In fact, the global reaction to an economic power such as the U.S. exerting the powers of eminent domain may be one of greater indifference to more extreme acts of national provincialism, as exemplified by Hugo Chavez’s expropriation of a number of businesses in Venezuela. The Chavez behavior is obviously extremist, but can the U.S. afford to be associated with actions that will undoubtedly be seen as parochial and may even be viewed as desperate by global economic analysts? Indeed, Justice O’Conner herself noted that, regarding the Kelo decision, “today the Court abandons this long-held, basic limitation on government power.”

**Conclusion**

---


44 Note 36, op. cit.


46 Kelo, supra, at 494 (O’Connor, dissenting).
The loss of jobs due to outsourcing has, in some instances, been offset due to strong economic growth and innovation which has created more, and better, jobs to replace those that were lost. Nonetheless, many of these “new and better” jobs require retraining or relocating the workers, and they do not address the impact on the community from which a manufacturing job has moved. In the long run there will be new jobs for employees across the U.S. and across the globe, but as John Maynard Keynes pointed out, “in the long run we’re all dead.” The problem to be solved is what should be done in the short run while waiting for the development and implementation of the “new and better jobs.”

More than four million jobs have been outsourced over the past twenty years, and there is no reason to expect this trend to change. While a number of economists assert that this movement of jobs will ultimately benefit the economies of both the U.S. and the nations to which the jobs are moved, the short-term effects are still devastating on many communities. The ability of the state to take property under its police power through the use of eminent domain is ingrained in our legal system. The historic requirement that the property only be taken for a public use has evolved into a requirement that the property be taken for a public purpose, and economic redevelopment has been recognized as a legitimate public purpose.

One possible solution is to build from the precedents established in *Midkiff, Berman*, and *Kelo* to “redistribute” factories and enterprises from the owners who plan to relocate – and thus will not be able to take the facilities with them to the new location – and sell it to a buyer who will continue to operate in the community. This buyer may very well be a workers’ cooperative or some variation thereof. In order to do this, the state legislature will need to cooperate by enacting a statute permitting such use of eminent domain and the city from which the business is moving will need to find some way to finance the purchase of the facility. The city and/or the state, when considering alternative methods of financing, will also need to take into consideration the fact that some potential purchasers – and especially the now-unemployed workers – are not apt to have the necessary funds to make the purchase outright. There is a certain irony in the fact that the opinion in *Kelo*, which allegedly was going to destroy a community, or at least a part of that community, could become a tool for preserving communities by using eminent domain to prevent economic distress due to relocations or outsourcing of jobs.

FAMILY EDUCATION RIGHTS AND PRIVACY ACT: WHO HAS AN EDUCATIONAL NEED TO KNOW?

R. STEWART MAYERS*
WILLIAM T. MAWER**
MELANIE E. PRICE***
JENNIFER M. DENNY****

I. INTRODUCTION

The Family Education Rights and Privacy Act (FERPA)\textsuperscript{1}, originally enacted in 1974, places statutory restrictions on public educational institutions from disclosing certain types of information contained in students’ educational records. The first section of the act prohibits any education institution from adopting policies that would prohibit or result in a denial of student access to his/her educational records. The second section of the act forbids educational institutions from enacting policies or permitting practices which would allow the release of student records without consent of the student or the student’s parents.

The United States Supreme Court ruled in Gonzaga University v. Doe\textsuperscript{2} (hereinafter referred to as Gonzaga) that FERPA does not establish a right protected by the Constitution or by Federal law. FERPA does not establish a separate or private cause of action against an educational institution which does not comply with the provisions of the statute. The Gonzaga decision effectively reduced the provisions of FERPA to nothing more than a mere spending statute which only authorized the withdrawal or withholding of federal funds from any school or educational institution which violates the provisions. This decision has been hailed by various educational commentators as:

(1) a victory for schools, which could no longer be pestered by individuals,
(2) a loss for students, who could no longer protect their own records, or

\textsuperscript{*Ed.D., Associate Professor – Educational Instruction and Leadership, Southeastern Oklahoma State University}
\textsuperscript{**J.D., Dean – School of Education and Behavioral Sciences, Southeastern Oklahoma State University}
\textsuperscript{***Ed.D., Assistant Professor – Educational Instruction and Leadership, Southeastern Oklahoma State University}
\textsuperscript{****M.Ed., Principal – Olentangy Local Schools, Columbus, OH}

\textsuperscript{1} 20 U.S.C. § 1232g (2000).
\textsuperscript{2} Gonzaga University v. Doe, 122 S.Ct. 2268 (2002); 536 U.S. 273 (202).
The varied interpretations of the *Gonzaga* decision all seem to imply that FERPA is now ineffective in protecting educational records. These interpretations completely ignore the ability of the Department of Education to withhold or suspend federal funding because of improper handling of student records. These interpretations also ignore the effect that the FERPA statute has on educators and personnel who work with student records.

This paper explores the application and effect of FERPA on school personnel and educators who deal with student records and information protected from disclosure, and on the possible consequences of improper release of student information. Understanding FERPA’s continued effect on school personnel and educators requires a basic understanding of the statutory provisions of FERPA and the congressional intent behind the enactment.

**II. FERPA Summary**

FERPA, also referred to as the Buckley Amendment, generally provides that student records and any information contained therein are confidential and not subject to disclosure except upon written permission by the parent(s) or eligible student. Originally enacted by Congress in 1974, the act has been subject to numerous amendments, none of which modify the original statutory intent—i.e., to make student records, which are maintained by a public educational institution, confidential and inaccessible by anyone not authorized by the statute. Access to student records is restricted to the student’s parents (if the student is a minor) or to the students themselves who have reached the age of majority. Access must be provided to the student’s parents or eligible student within 45 days of the receipt of a written request.

Specific instances are prescribed within the statute when consent of the parents or eligible student is not required and disclosure is permissible. Disclosure is permissible, without consent, to the following parties or under the following conditions:

- a) School officials with legitimate educational interests;
- b) Other schools to which the student is seeking a transfer;
- c) Specified officials conducting audits or for evaluation purposes;

---


6 *Id.*
d) Appropriate parties in connection with financial aid for the student;
e) Organizations conducting studies for or on behalf of the school;
f) Accrediting bodies or organizations;
g) To comply with a judicial order or lawful subpoena;
h) Appropriate officials in cases of health and safety emergencies involving the student; and
i) Specified state and local authorities, within a juvenile justice system, authorized by state law.  

Additionally, the enactment authorizes non-consensual disclosure of directory information. Directory information consists of such information as the student’s name, address, telephone number, date of birth, honors and/or awards, and dates of attendance. However, the educational institution must inform the parents or eligible student about the directory information that is going to be disclosed and allow the parent or eligible student a reasonable amount of time to refuse such disclosure. 

Under the act it is the responsibility of the educational institution to establish written standards that define the processes and procedures to comply with the requirements of the statute, as well as the personnel authorized to approve the disclosures of the student information. The language of the statute indicates that such a written policy or standard is merely directory and not mandatory.

III. SCENARIO

State University, located near a major metropolitan area, is a comprehensive university offering degrees in a variety of disciplines at both the undergraduate and graduate levels. State employs a customary administrative structure including a senior vice president for academic affairs/provost and a vice president for student affairs. All students seeking graduate degrees are required to pass a comprehensive examination. During the administration of such an examination, allegations were made accusing three students of bringing unauthorized materials into the examination room.

Following the examination, the proctor reported the irregularities to the graduate coordinator of the department which houses the degree program. A couple of days later, the examination proctor met with the graduate coordinator. At this meeting, the proctor released “crib notes” that she had confiscated from two of the accused students to the graduate coordinator who began an investigation into the incident. Later that day, the proctor recommended to the graduate coordinator via electronic mail that the offending students be allowed to retake their comprehensive examinations at a later date.

The investigation consisted of interviews with the three offending students conducted by the graduate coordinator and another professor from the program. At the beginning of each interview, the students were informed that the purpose of the interviews was to provide the accused students an opportunity, in an informal setting, to tell their version of what occurred at the comprehensive examination. All three students admitted bringing crib notes into the examination. However, the interviews revealed that the notes confiscated at the examination were confiscated from only one of the three students.

---

8 Supra, note 7.
9 Id.
After consultation with the dean of the graduate college and the university’s legal counsel, the graduate coordinator informed the offending students they would be suspended from the program for a period of five years, effectively erasing all course credit previously earned due to a university policy requiring all work for advanced degrees to be completed within a given timeframe. Counsel representing the suspended students requested all documents generated during the investigation including e-mails, letters, and interoffice memoranda. The graduate coordinator was charged with the responsibility of collecting the requested documents. Additionally, the graduate coordinator was told to submit the collected documents to the dean of the graduate college who would, in turn, submit the documents to the vice president for student affairs (VPSA). The graduate coordinator requested a release from each accused student prior to releasing any documents associated with the incident. Although the VPSA reported that the accused students executed appropriate releases, copies of the releases were never furnished to the graduate coordinator.

University policy provides that students who wish to appeal an accusation of academic dishonesty must do so through the VPSA office. The student handbook, published by State University, explicitly restricts access to student records by the VPSA’s office for the sole purpose of due process proceedings only. The Regents’ Policy Handbook and State University Employee Handbook reaffirm this stance. None of State University’s published policy addresses the handling of and access to student records. Therefore, the question of who has a “legitimate educational interest” is not addressed. The students did not appeal the assessed penalty.

A few days later the dean of the graduate college requested the graduate coordinator to release all the information and submit it to the VPSA. The graduate coordinator, acting on the advice of his personal attorney, declined to release the documents without copies of the students’ releases, citing FERPA concerns. The VPSA sent the graduate coordinator an e-mail demanding the release of the documents. Again, the graduate coordinator refused to release the documents without copies of the students’ releases. The following day, the dean of the graduate college sent the graduate coordinator an e-mail accusing him of insubordination. The graduate coordinator immediately called the dean of the graduate college to request a private meeting about the matter.

This scenario begs the question of whether or not compliance with the VPSA’s demands would constitute a violation of FERPA. If so, what options are available to the student whose privacy rights under FERPA have been violated?

IV. FERPA AND THE EDUCATIONAL NEED TO KNOW

Due to a lack of legislative history, questions remain concerning FERPA’s application to higher education. Perhaps the most troubling question left unanswered by FERPA and not completely clarified in the case law is exactly what constitutes “an educational need to know?” FERPA does require that educational institutions document requests for students’ records, including to whom the record(s) will be released and a description of the legitimate interest of the person making the request. This record must also be made available to the student upon his/her request. However, the question of educational need to know remains.

---

10 Supra, note 7.
Thus far, the courts have not sought to define “educational need to know” nor has a test to determine who has an educational need to know been formulated. In Rathie v. Northeastern Wisconsin Technical Institute, a Wisconsin Court of Appeals upheld a trial court’s dismissal of a petition for a writ of mandamus sought by a school official (Rathie) who had requested the release of attendance and grade forms for use in a criminal trial. The requested forms contained directory information (name and telephone number) as well as student social security numbers, attendance records and final course grades. The Rathie court stated, “The Act [FERPA] represents a strong stand in favor of privacy and was enacted to provide broad limitations on third party access in order to protect students’ rights.”

The Federal District Court for the District of New Jersey, in Keith Krebs, et al. v. Rutgers, enjoined the university from continuing its practice of unprotected distribution of class rosters which included student names and social security numbers. Specifically, the court was critical of the distribution of these lists to campus post office employees. Further, the Krebs court took a dim view of the practice of printing each student’s social security number on his/her university identification card. These cards were used for making purchases at the campus bookstore, borrowing library materials, and purchasing meals.

In Achman v. Chisago Lakes Independent School District, the Federal District Court for the District of Minnesota held that the disclosure of disciplinary records to ISS (In-school Suspension) supervisor Karen Watters did not violate FERPA. The ISS supervisor accused student Achman of raping her daughter outside of school hours and off of school properties. Watters requested the records in conjunction with a hearing held to determine if Achman would serve a 10-day out of school suspension.

The absence of a definition of “educational need to know” in the statute, the lack of legislative history of the statute, and the reticence of the courts to clarify this point leaves the onus to decide who should and should not have access to students records, as defined by FERPA, to each individual institution.

V. ADVANTAGES OF A WRITTEN FERPA STATEMENT OR POLICY

What is meant by “school official with legitimate educational interest?” Should the word “legitimate” be interpreted in a legal context or should it be interpreted by the job description of the personnel who handle student records. If the interpretation results in the intentional or unintentional disclosure of confidential student information to an unauthorized party, it is a FERPA violation and the educational institution could lose all or part of its federal funding. These situations can be avoided by a well-drafted and comprehensive written policy or statement addressing the confidentiality of student records and processes for managing such records.

The lack of a written standard or policy has resulted in many educational institutions being involved in unnecessary and expensive litigation, as well as confusion and indecision on the part of educational administrators and instructors. The lack of any internal written policy that defines or addresses the confidentiality concepts and procedures set forth in the FERPA statute, leaves the administrators and instructors interpreting the broad and nebulous language of the statute on their own. Interpretation of

---

13 419 N. W. 2d 685
14 419 N. W. 2d 692
15 797 F. Supp. 1246
16 45 F. Supp. 2d 664
statutory language is best left to attorneys and judges because of their training. An
administrator or instructor will generally lack the legal sophistication to determine the
breadth or application of the statutory language.

Furthermore, the lack of a written policy or statement can result in potential personnel
problems and disciplinary actions against the administrators and instructors of the
educational institution. Most, if not all, public educational institutions have a policy
requiring all employees to comply with all federal and state statutes during the term of
their employment. Failure to do so results in the employee facing potential disciplinary
action or even termination, depending on the institution’s policies.

If the administrator or instructor adopts a conservative interpretation of the FERPA
language related to a “school official with legitimate educational interest[s]” and refuses
to disclose confidential student information to a superior, he/she may face disciplinary
action for insubordination. Whereas, if that same administrator or instructor adopts a
liberal interpretation and discloses confidential student information there is a FERPA
violation, and he/she may face disciplinary action for violation of a federal statute.
Lacking written policies or statements concerning student record disclosure potentially
places many administrators or instructors in the proverbial “lose-lose” situation.

VI. WHEN IS FERPA VIOLATED?

The published regulations for enforcement of FERPA assert, “consistent with its
current practice, the Office [FPCO] may find that an educational agency or institution
violated FERPA without also finding that the violation was based on a policy or
practice.” This suggests that a single incident could be deemed a violation of FERPA.

However, a federal trial court for the Northern District of Illinois found that a single
disclosure of disciplinary action taken by a physical education teacher did not violate
FERPA. A New York appellate court held that a parent was required to show that
school policy resulted in the FERPA violation. Recently revised federal regulations
have sought to clarify this point. Current federal regulations have sought to clarify what
does constitute a violation of FERPA and suggests the FPCO may find an institution out
of compliance with FERPA based on a single violation.

VII. OPTIONS FOR ADDRESSING FERPA VIOLATIONS

The United States Supreme Court has effectively closed the door for addressing
FERPA claims in federal court. However, those who believe their privacy rights under
FERPA have been violated have two options. First, the affected person can file a
complaint with the Family Privacy Compliance Office (FPCO). Second, there may be a
state claim that could be pursued.

According to the U. S. Department of Education’s website, “the mission of the
Family Policy Compliance Office (FPCO) is to meet the needs of the Department's
primary customers--learners of all ages--by effectively implementing two laws that seek

17 Federal Register / Vol. 73, No. 237 / Tuesday, December 9, 2008, p. 37.
20 Lynn M. Daggett, FERPA in the Twenty-first Century: Failure to Effectively Regulate Privacy for All
Students, 58 CATHOLIC LAW REVIEW 59 (Summer 2008).
21 Id. at 67.
to ensure student and parental rights in education: the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA).\textsuperscript{22} Although the FPCO can, at its discretion, investigate complaints, regulations are silent on timelines and whether or not a hearing should be held.\textsuperscript{23} However, the only remedy available under such a finding is the withholding of federal funding from the offending institution. Under \textit{Gonzaga}, FERPA provides no remedy for the student.\textsuperscript{24}

Students who believe their records have been disclosed without their consent may have remedy under state statutes or their state constitution. Ten states (Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina and Washington) have constitutional provisions that could provide protection of student records. Litigation in seven other states has identified implicitly stated constitutional protections for student information. These include Kentucky, Minnesota, New Hampshire, New Jersey, Pennsylvania, Tennessee and Texas.\textsuperscript{25}

Most states have included the protection of public school records in legislation. Some of these (e.g., Arizona, Maine, Michigan, Utah) incorporated FERPA into its legislation while others (e.g., California, Delaware, Florida and Illinois) have imitated it.\textsuperscript{26}

\section*{VIII. Conclusion}

It is the conclusion of the authors of this paper that each public educational institution needs to adopt written policies or statements pertaining to the disclosure of confidential student records. Since federal statute does not define the meaning of school officials with legitimate educational interests, this term must be defined in policy. Otherwise, employees who are asked to handle confidential student records are placed in peril of violating FERPA.

The scenario above, based on actual events at a real university, was included to illustrate some of the problems that could arise should an institution not have a written policy concerning the handling and disclosure of confidential student records. Two issues in the scenario warrant discussion. First, State University’s VPSA was allowed, by policy, to access students’ academic records for due process purposes only. The second issue arises from State’s organizational chart. In State’s organization, the academic affairs department is completely separate from the student affairs department.

In the scenario, State University had no policy that specifically addressed the maintenance, handling, or disclosure of confidential student records. Further, State University’s written policy specifically restricted the VPSA’s access to student academic records to use in due process proceedings only. Therefore, only in the event of a student appeal could the VPSA legally access student academic records under the educational need to know language of FERPA. State’s policy reads that the VPSA’s office

\[m\]ay issue subpoenas duces tecum to compel the production of books, records, papers or other objects, which may be served by the marshal of the agency or by any person in any manner prescribed for the service of a subpoena in a civil action.

\textsuperscript{22} http://www.ed.gov/policy/gen/guid/fpco/index.html
\textsuperscript{23} 34 C. F. R. §§ 99.60 (a)-(b) (2001).
\textsuperscript{24} 536 U. S. 273 (2002)
\textsuperscript{26} Supra, note 22.
However, the VPSA was assigned by the university’s administration to be the collector of documents that were demanded by attorneys representing the accused students. These documents included student transcripts, correspondence from the graduate coordinator to the accused students, and electronic interoffice communication from the graduate coordinator to the dean of the graduate college and the college of education. This situation was problematic because the university’s own policy provided no avenue consistent with FERPA for the VPSA to acquire these documents. More troubling, the graduate coordinator was instructed by his superior, the dean of the graduate school, to submit documents to her, knowing she would submit them to an administrator who was precluded, by policy, from handling documents protected by FERPA. The graduate coordinator was so concerned about the situation that he consulted his personal attorney who agreed that releasing the documents under the conditions set forth by the university created a possible FERPA violation.

Tension in this situation came to a climax when the graduate coordinator received an electronic communication in which the dean of the graduate college accused him of insubordination for refusing to release the documents to her. The graduate coordinator refused to release the documents to prevent the dean of the graduate school from placing herself in jeopardy of violating FERPA by releasing the documents to the VPSA.

Should the graduate coordinator release the documents to the dean of the graduate college? Since the dean of the graduate college is in the chain of command and, as a member of the academic affairs department, does have authority to view student academic records, this release does not violate FERPA. However, State University’s policy allows the VPSA to access academic record only in the event of a due process proceeding against a student accused of misconduct. Therefore, it would be a violation of FERPA for the dean of the graduate college to release the documents to the VPSA without a release from the students.

The fundamental question addressed in this paper is how to protect employees of educational institutions from becoming ensnared in the muddy waters of FERPA. Since the statute itself does not define who has an “legitimate educational interest,” each individual educational institution must, in policy, provide a framework to address this issue, so its employees are clear on who does and who does not have authorization to possess or disclose confidential student records. Although the United States Supreme Court has ruled that FERPA does not create a private cause of action and no remedy exists under 42 U. S. C.§ 1983, serious financial ramifications exist for many institutions that are struggling to fund needed programs. By clearly defining in policy “educational need to know” institutions of higher learning potential losses of time, money, and productivity can be prevented.

27 536 U .S. 273
A MANAGERIAL GUIDE TO AVOIDING THE
PRODUCT LIABILITY TRAP IN DEALING WITH THE PEOPLE’S
REPUBLIC OF CHINA

By
Aaron Gordon*
Hector R. Lozada**
Richard Hunter, Jr.***

ABSTRACT

This article deals with the important issues of product defects and product liability in the Chinese market. The paper takes a close look at the scope of the problem, looks at the systemic causes of product defects within the Chinese market, discusses various attempts to reform of the manufacturing and production systems, and provides practical managerial and legal precautions that can be taken in order to avoid some of the more serious pitfalls.

KEY WORDS: China, Products Liability, Manufacturing, Management

I. Introduction

2007 was a disastrous year for manufacturing and production in China. Despite a year of continued strong economic growth,1 the harsh reality of Chinese product quality was thrust into stark perspective for U.S. consumers, entrepreneurs, importers, and managers alike. During 2007, there were five times as many recalls of products manufactured in China than in the previous year,2 and more than 50% of all recalls issued by the United States Consumer Products Safety Commission were for products made in China.3

---

*Manager of Consumer Marketing Research, Givaudan Fragrances Corp. ** Associate Professor of Marketing, Seton Hall University. *** Professor of Legal Studies, Seton Hall University

1 The Associated Press reported that China experienced a “sizzling” (but somehow “slowing”) 11.5% growth in 2007. Associated Press, Chinese economy slows to sizzling 11.5% growth, Oct. 25, 2007, http://www.usatoday.com/money/world/2007-10-25-china-gdp_N.htm. Before the recent world-wide economic downturn, China had been on track to overtake Germany in December as the world’s third-largest economy after the United States and Japan. However, per capita income for China’s population of 1.3 billion people will continue to be far smaller than that of those developed economies. Zhoa Qizheng, a spokesman for the second session of the 11th National Committee of the Chinese Political Consultative Conference, reported that it was possible that China could achieve an 8% GDP growth through 2008 despite a worldwide economic downturn. Growth for 2009 is a bit more problematic. See, Spokesman: China can achieve 8% GDP growth through efforts, CHINA DAILY, March 2, 2009, http://www.chinadaily.com.cn/bizchina/2009-03/02/content_7527011.htm.

China.³ Many of the defective products have contributed to horrifying accidents or lasting health problems for the users or American consumers who have grown increasingly alarmed with widespread reports of injury, deaths, and damages. In spite of these consequences, affected consumers have had limited recourse and financial recompense due to the nature of the closed Chinese business and legal environment. However, what may be most surprising to legal and business analysts alike is that despite the alarming trend of recalls and poor product quality, there are no strong indications of a highly protectionist or negative reactions from U.S. consumers, corporations, and the government. The Wal-Mart experience is especially instructive.⁴

Wal-Mart noted in its 2004 annual report, at least 70% of non-food items sold at Wal-Mart had a Chinese component. Further, Wal-Mart imported an estimated $18 billion in products from China during that same year.⁵ As the American Federation of Labor noted in its blog in June of 2007, “the U.S. trade deficit with China reached a whopping $233 billion [in 2006], … imports for Wal-Mart alone accounted for $27 billion—11 percent of that total.”⁶ Interestingly, following the 2007 incidents, while overall world-wide imports into the United States may have been reduced, the U.S. retailer announced no change to its Chinese import stream and planned to continue to purchase and import a wide variety of Chinese-made products.⁷

The reason for such a slavish dependence on China seems abundantly clear: Many Americans are simply unwilling to give up the low costs and prices that China affords our consumption-driven society, especially during weak economic times. For many entrepreneurs and business managers, relying on the low-cost Chinese supply chain is simply unavoidable. Given this “addictive reality,” American managers must apply individual product or sectoral “due diligence” and must be sufficiently prepared to

³ Keiko Morris, Damage Control for China’s exports, KNIGHT RIDDER TRIB. BUS. NEWS, June 29, 2007, at 1. Included on the list of recalled children’s products were 142,000 Halloween pails, containing amounts of lead that violate U.S. standards for lead paint, 20 million toys, 80,000 plastic miniature football bobble heads, toy garden tools, 110,000 children’s flashing rings, other children’s jewelry and cake decorations, again containing lead.

⁴ Wal-Mart came to China in 1996. The first Supercenter and SAM’S CLUB were opened in Shenzhen, Guangdong Province. There are currently 104 units in 55 cities, including 99 Supercenters, 3 SAM’S CLUBs, and 2 Neighborhood Markets. Across China Wal-Mart employs over 50,000 Chinese associates.


⁷ See Doug A. McIntyre, China Export Drop Signals Deepening U.S. Recession, Feb.11,2009, http://247wallst.com/2009/02/11/. The author notes: “China’s exports declined 17.5% to $90.45 billion in January. By some measures, this is the biggest drop in a decade. For the same period, China’s imports plunged 43.1% to $51.34 billion.” Id.
continue to purchase consumer goods and outsource manufacturing operations from 
China—but on much different terms. Managers will need to understand the scope and 
nature of recent product quality problems, be aware of the actions being taken by the U.S. 
and Chinese governments to modernize the regulatory environment, and recognize the 
managerial and legal precautions that can protect businesses from the products liability 
pitfalls of outsourcing manufacturing to China.

II. Understanding the Scope of the Problem

“Poor quality” fails to fully and accurately describe the recent spate of recalls 
stemming from Chinese manufactured products. The words simply do not capture the 
gravity of the defects or their potential (or in some cases, realized) consequences. 
Examples abound. American toy-giant Mattel had to pull 1.5 million toys from the 
shelves because of exceedingly high lead content in paint. Pet food imported from China 
was found to contain melamine, a chemical used to make plastics, fertilizer, and fire 
retardant. The chemical ultimately contributed to the death of hundreds of pets in the 
United States. Toothpaste from China was found to contain diethylene glycol, a 
substance found primarily in antifreeze, which damages the central nervous system, the 
kidneys, and the liver if ingested in large enough quantities. Nearly a half-million tires 
imported from China were found to be missing the strip that binds the belts together; 
tread separation-related accidents were the consequence. Chinese seafood has been 
found to contain a harmful anti-microbial agent that is carcinogenic. These are only 
some of the more publicized recalls, but the point is clear. As dependency on Chinese 
manufacturers has grown, their product quality has been found to be dangerously (or 
deadly) substandard.8

An investigation into the scope of the Chinese “product problem” also highlights 
the fact that quality and safety issues are not limited to export goods alone. In fact, goods 
manufactured in China for domestic consumption have been determined by regulators to 
be considerably more hazardous than export goods used in the United States.9 In a 
nationwide survey conducted in China cited by David Barboza, nearly a fifth of the food 
and consumer products that have been checked were found to be substandard or tainted, 
demonstrating that the domestic risk is even more pronounced than the risk faced by 
importing countries.10 The Wall Street Journal reported that the Chinese government 
itself had reviewed 114 types of products made for domestic consumption by more than 
6,300 Chinese companies and found that nearly a fifth of these companies failed quality

8 Thomas A. Sloma-Williams, Helping China’s Quality, 46 QUALITY 104 (Sept. 2007).
9 See David Barboza, China Finds Poor Quality In Its Stores, INT’L HERALD TRIB., July 5, 2007, 
10 Id.

Some suggest that the domestic issues may have even been compounded by the heightened scrutiny of foreign countries.\footnote{Id.} For example, when diethylene glycol was discovered in certain types of toothpaste, exportation was halted but the products were still permitted to be sold domestically in order to fully sell out the stock.\footnote{Id.} Chinese officials seemed to downplay the crisis and stated: “This problem doesn’t exist, it’s just a matter of U.S. standards, [it’s] not a safety problem.”\footnote{Id.} However, in a survey conducted by the state-run \textit{Xinhua News Agency}, 92\% of Chinese respondents said they were “concerned about food safety,” and 78\% felt that government safety regulations are “not good.”\footnote{Id.} These Chinese domestic issues should, however, not mitigate concern among American consumers or importing businesses. On the contrary, the domestic aspect of the issue should demonstrate the pervasiveness of Chinese product quality problems and the need for even greater vigilance and precaution when importing products into the United States.

Importers also must understand that the scope of the legal aspects of the problem is both expansive and complex. At the heart of the problem may exist a systemic flaw in the Chinese legal system. Fairclough notes rather incisively:

China is still at the early stages of developing the type of product-liability and product–recall system that is common in many Western countries, a situation that leaves little recourse against companies that flout regulations that are rarely enforced. Product-liability lawsuits, common in the U.S., are rare in China’s legal system. And there are no government regulations for the recall of products other than cars—though rules for recalls of hazardous toys and unsafe food are expected to be in place as soon as the end of the year.\footnote{For a discussion of the core deficiencies Chinese legal system, see Mark Blodgett, Richard J. Hunter, Jr. & Robert M. Hayden, \textit{Foreign Direct Investment, Trade, and China’s Competition Laws}, 37 DENV. J. INT’L L. & POL’Y 201 (Spring 2009).}
Product recalls in 2007 resulted in considerable legal fallout in the form of class action lawsuits, multi-district litigation, shareholder lawsuits, and actions by attorneys-general from various states. Understandably, most of these actions have not focused on manufacturers but on importers. The American Society of Quality has said that the legal climate in China provides no recourse for a failure to uphold terms of a contract, document forgery, or protection for intellectual property. Further, in the United States, the Consumer Product Safety Act of 1972 grouped manufacturers, retailers, wholesalers, distributors, and private labelers into a single group of producers and marketers that can all be potentially liable for faulty products, regardless of their point of origin. Simply stated, importers must be aware that “it’s no defense to say, ‘We didn’t know’ when foreign-made product defects lead to injury.” For example, when a recall of more than 500,000 Chinese-made tires occurred on account of tread separation issues, the importing company, Foreign Tire Sales in Union N.J., and the exporting company, Hangzhou Zhongce Rubber, were named in a wrongful death case. While both companies denied liability, Foreign Tire Sales, just like importers in most states, may potentially be held 100% liable for selling a dangerous foreign-made product.

Compounding the issue of potential liability are the actions taken by China when a recall occurs and litigation subsequently ensues. Chinese “regulators” often shut down plants or entire companies as soon as severe defects are found, making it impossible to find a party in China to potentially implicate or to sue. For example, when melamine was discovered in U.S. pet food, the Food and Drug Administration (FDA) visited China within a month after the discovery to help determine the source of the chemical. When inspectors arrived at the factory, they found little evidence that the manufacturing company had ever existed, uncovering little more than a shuttered factory, previously known as the Binzhou Futian Biology Technology Factory.

17 Fujimoto et al, supra note 2.


22 Id.

Many experts suggest that plaintiffs simply refrain from even attempting to file a lawsuit in China given the swift “remediation” practices by the government, ineffective legal and regulatory systems, and the fact that Chinese manufacturers are “small, far-flung producers that can’t afford to pay big judgments.”\(^\text{24}\) Even domestic Chinese product liability suits face insurmountable obstacles because of government actions. Not only are Chinese courts effectively “arms” of the communist party, but party officials often take a direct role in dealing with domestic victims in product liability cases, pressuring both legal counsel and their individual plaintiffs to refrain from litigation.\(^\text{25}\) Ultimately, recognition of the scope of Chinese product quality issues and gaining a clear understanding of the complexity and near futility of liability suits in China is a strong first step for businesses attempting safely to negotiate outsourcing manufacturing to China, given the facts of the current business, legal, and regulatory environment.\(^\text{26}\)

III. Understanding the Causes of the Problem

An understanding of the scope and complexity of the problem is only the first step for prudent importers; the root causes of the problem must also be appreciated. Ultimately, the reasons for the current crisis are two-fold. First, China has systemic problems in regards to its business, regulatory, and legal environments and its manufacturing industry is fundamentally ill-equipped to comply with the notion of quality control. China’s manufacturing industry is deeply rooted in a culture of counterfeiting, a disregard for quality that has been exacerbated through the process of globalization, and the lack of control exerted by the owners of brands and the remote, often foreign, manufacturers of their goods.\(^\text{27}\) Further, cutting corners is not “just a legacy of China’s initial rush toward the free market” but it has become literally “woven

\(^{24}\) Woellert, supra note 21.

\(^{25}\) See Sky Canaves & Juliet Ye, Chinese parents file milk lawsuit; couple’s claim comes as officials oppose litigation, WALL ST. J., October 1, 2008, at A21, available at www.online.wsj.com/article/SB122279824170891107.html. The authors noted: “Because courts aren’t independent of the government, officials often take a direct role in dealing with victims in high-profile incidents. In the aftermath of the Sichuan earthquake, the parents of children who died in collapsed schools were dissuaded from turning to courts while the government conducted investigations.” Id.

\(^{26}\) As early as 1999, China had announced a Five Year People’s Court Reform Plan which sought to “improve China’s court system by improving the expertise of judges, enforcing anticorruption regulations, allowing some discovery, and improving the efficiency and enforcement of judgments.” See Stephanie M. Greene, Protecting Well-Known Marks in China: Challenges for Foreign Mark Holders,” 15 AM. BUS. L.J. 382 (2008). It may seem ironic, but “The WTO does not require a member state to have a good legal system, …, or even a fair one. Instead, it merely insists that foreigners and nationals are treated alike, for better or for worse.” See generally Lindsay Wilson, Investors Beware: The WTO Will Not Cure All Ills in China, 2003 COLUM. BUS. L. REV. 1009 (2003). Attorney Wilson has identified three major “flash points” concerning Chinese legal institutions: (1) the lack of a cohesive legal “system;” (2) pervasive vagueness in the language of statutes and administrative rules; and (3) difficulty of enforcing judgments once they are obtained. Id.

into the fabric” of China’s industrial economy.\(^{28}\) Chinese officials are constantly under pressure to promote fast rates of economic growth\(^{29}\) and continuously favor producers over interests of consumers.\(^{30}\) It is generally accepted that voracious and cut-throat entrepreneurs find it very easy to take advantage of a weak legal system with virtually no regulations, and are essentially encouraged by a “business culture where bribery and corruption are rampant.”\(^{31}\) A visit to a Chinese factory brings to light other compounding factors.

Most industrial centers lack capital, technology or shear competence, and Chinese workers place a premium on obedience over quality, reflecting the “command and control” orientation of the closed communist system.\(^{32}\) Additionally, the supply chain in the Chinese industrial environment is vast and industries can be comprised of hundreds of thousands of small factories, farms, traders, brokers, haulers and agents, all of whom maintain control at one point, but add little value overall. Strikingly, on average, it takes China seventeen separate parties to produce a product; comparatively, in the United States, it takes three.\(^{33}\) With every additional layer in the supply chain, effective quality control becomes more difficult. Although procedures and costs for quality control are well-established, Chinese companies thus far have had little incentive to institute a dedicated quality focus. Additionally, considerable capital will be required to hire qualified teams to document, implement, and monitor quality procedures. Incidentally, while the business culture and costs of quality control may be impediments to higher production and manufacturing standards,\(^{34}\) the reality is that China’s legal environment may stand as an even bigger obstruction.

China is still in the very early stages of developing regulatory bodies and a product liability and recall system that is common throughout Western or developed nations.\(^{35}\) However, it must be recognized that product safety regimes in the United States and in other developed countries evolved out of responsible reactions to similar product quality issues. For example, as recent as 1937, more than 100 U.S. citizens died

\(^{28}\) Barboza, supra note 23.

\(^{29}\) Current information relating to economic growth, investment, foreign trade, population, and other economic and political factors may be found in the World Fact Book published by the Central Intelligence Agency, at https://www.cia.gov/library/publications/the-world-factbook/rankorder/2007rank.html.


\(^{31}\) Barboza, supra note 23.


\(^{33}\) Id.


\(^{35}\) Fairclough, supra note 11.
after taking antibiotics that contained diethylene glycol (the chemical discovered in Chinese toothpaste). The case paved the way for the passage of the Federal Food, Drug and Cosmetic Act in 1938\(^\text{36}\) that ultimately broadened FDA oversight and established stronger regulatory responsibility and power for the government agency.\(^\text{37}\)

The situation in China is vastly different. China only issued rules for recalling faulty automobiles in 2004 and established superficial recall regulations for food and toys in 2007.\(^\text{38}\) However, the creation of a more comprehensive legal and regulatory structure will be critical in paving the way for systemic improvements in product quality and safety. However, currently, litigation against Chinese defendants is often a futile endeavor because understanding the network of middlemen and finding the party that actually caused the defect is nearly impossible. At the state level, Chinese courts are often unwilling to hand down decisions that allow foreign or domestic victims to recover damages at all.\(^\text{39}\)

In fact, the government’s official position tends to be outright denial of product quality issues altogether\(^\text{40}\) and companies that produce poor quality rarely face financial penalties or public reprimand. Instead, industrial managers implicated in major scandals are often simply executed by Chinese government officials. For example, the Associated Press/Reuters reported that “A Chinese court… sentenced two men to death for their role in the production and sale of melamine-tainted milk that killed at least six children and made nearly 300,000 ill.”\(^\text{41}\) Under this system in which the suppression of lawsuits for the sake of social stability is prevalent, change will be difficult and slow.\(^\text{42}\) Even when the government has implemented quality rules and regulations on exporting manufacturers, there is wide-spread evidence of what is called “product fade,” where Chinese companies ensure that the first few product lots meet the required standards, and then quality gradually fades or decreases as material inputs are replaced with cheaper equivalents.\(^\text{43}\) Ultimately, the sparse legal landscape and insufficient regulations in


\(^{37}\) Fairclough, supra note 11.


\(^{40}\) DeWoskin, supra note 27.


\(^{43}\) Id.
China, coupled with the China’s corrupt and irresponsible business culture, puts the onus for consumer safety on Western importers and regulators. However, many argue that this responsibility has not been taken seriously to date and the West’s inaction has in itself become at least a secondary cause of poor Chinese product quality.

There are numerous critics who have indicted Western companies and regulatory bodies for complacency in regards to the scrutiny they place on the sources of cheap goods. In 2007, the FDA was only inspecting about 1 percent of the imports that fell under its jurisdiction and still today many observers believe the agency misses most of the contaminated products that enter the country. Additionally, only when repeated problems occur with a specific exporter does the FDA issue an official alert, which in turn activates heightened attention at the border. However, the tracking database tied to this border monitoring system also has flaws that inhibit sufficient analysis and regulation. For example, the system does not currently store the quantity of a contaminated product that has arrived at the border; therefore, regulators do not know if an exporter shipped a box or an entire freighter of contaminated products when analyzing import data post-hoc. Critics also argue that the FDA has not adapted to the deluge of imports in the last ten years due to expanding globalization. While an “Import Strategic Plan” was drawn up in 2003 as a means to restructure the agency and focus more resources on finding potential risks in the imported food supply, budgetary constraints have all but halted implementation.

Regulatory bodies are not the only domestic contributor to the problem. Importers themselves have failed to share responsibility for ensuring safe Chinese-made products. Randy Gooden, chair of the American Society for Quality, notes, “Companies are so used to dealing with suppliers in the U.S. or Europe that comply with their specifications that they aren’t taking into account that the whole concept of quality systems is a radically new thing to many foreign suppliers like China.” The most disciplined companies have “men on the ground” in exporting countries ensuring quality and providing training; however, many employees engaged in purchasing in large companies with vast layers of reporting structure have “lackadaisical attitudes” due to their lack of visibility. Alternately, many small and medium-sized businesses simply do not have the resources to monitor all their suppliers’ activities. Obviously, China itself should face much of the blame for manufacturing products of dangerously low quality;


45 Id.

46 Id.

47 Id.

48 American Society of Quality, supra note 18.

49 Id.
however, western importers (regardless of their size) and regulators must also recognize their culpability for the failure to assure the importation of safe products regardless of their place of manufacture.

IV. Is the Problem is Being Addressed?

In addition to understanding the scope of product quality problems in China and the causal factors, potential outsourcers should also review and monitor the concrete steps that China is taking to deal with product quality concerns. Internally, China claims it is making considerable changes in short order. Most notably, the Chinese State Food & Drug Administration (SFDA) has recently established an official Recall Management Methods program that if completed, adhered to, and enforced, may pave the way for national systems that will promote voluntary recalls and monitor industrial product safety. It is quite apparent that “The American public is already aware of the dangers posed by many imported Chinese products. This is driven home every day by news stories on TV/newspapers about recalls of Chinese imports containing hazardous/toxic substances.”

The $1.2 billion plan will channel funds toward building or upgrading the nation’s quality and safety infrastructure by 2012, including drug and medical device testing centers. In fact, China announced what effectively can be termed as a “blacklist” of 429 export companies that had violated existing regulations—including two companies that had been implicated in the recent pet food contamination scandals.

In addition, a range of laws have been passed that suggest some legal steps are being made to modernize the regulatory environment. The Product Quality Law, the Standardization Law, the Law on Import and Export Commodity Inspection, and the Food Safety Law have all been enacted in recent years with the purported intent to improve quality and safety. Vice Premier Wu Yi also noted that the government recently launched a nationwide campaign to improve quality and safety training in a range of areas, including agricultural products, food processing, food sold in stores, catering, medicine, pork, imports and exports, and other consumer goods involving health and safety.

While the ultimate effect of these laws may be open to question, given the corrupt culture and negative characteristics of the Chinese industrial economy, several concrete steps have also been undertaken. In 2007, the Chinese government and the United States

50 Fujimoto et al, supra note 2.


52 Id.

53 Id.

signed the *Global Food Safety Initiative*. At the very least this step signifies that China has globally acknowledged the need to improve quality and is willing to do so via direct cooperation with importers. The agreement addresses many specifics, including manufacturing, registration, and certification requirements, establishment of quality benchmarks, and the introduction of China’s involvement in international regulatory and public-health agencies. However, while the framework to improve quality may be coming together both domestically and internationally, potential importers need to understand how far China remains from possessing an effective regulatory environment. As such, and for the foreseeable future, importers must actively monitor the legal, systemic, and industrial changes being made in order to sufficiently prepare and protect themselves from product liability problems.

V. Practical Managerial and Legal Precautions Necessary to Outsource From China

Finally, there are a number of practical steps in terms of supply chain management, contract design and insurance procurement that importers must take to protect themselves from the product liability pitfalls of outsourcing manufacturing to China. Michael Hausfeld of the law firm Cohen Milstein Hausfeld & Toll very directly comments on the need for adept supply chain management when he says, “Anyone relying on a Chinese manufacturer at the moment needs to do more than just put in an order and ask it to be filled. They have to take affirmative steps to assure the quality of the inputs.”

Careful supplier selection with appropriate due diligence is an elemental step to supply chain management. Importing parties must understand the quality control and safety testing procedures of the manufacturer, whether products consistently meet specifications, whether facilities are clean and modern, whether management and employees are well trained and efficient and whether manufacturers outsource to other companies. Complete due diligence should also include checking the manufacturer’s litigation and claims history, requesting references from other importers and investigating the manufacturer’s finance and insurance status.

Subsequent to a meticulous supplier selection process, the American Society for Quality (ASQ) outlines four ongoing preventative measures that supply chain managers need to consider. First, increased on-site monitoring should be used as an on-the-ground presence can help to ensure specifications are being followed at each stage of manufacture and it can effectively manage corrective action when problems arise. On-

---

55 The objectives of the *Global Food Safety Initiative* or GFSI are:

- Create a convergence between food safety standards through maintaining a benchmarking process for food safety management schemes.
- Improve cost efficiency throughout the food supply chain through the common acceptance of GFSI recognized standards by retailers around the world.
- Provide a unique international stakeholder platform for networking, knowledge exchange, and sharing of best food safety practices and information.


site monitoring should also include periodic sample checks at multiple points through the manufacturing process and inspection of the supplier’s books and records on an ongoing basis. Second, importers need to reinforce discipline in supplier quality basics. There are numerous resources available on the fundamentals of customer-supplier relations and these guidelines can help educate novice importers (such as entrepreneurs and small businesses) in order to avoid basic liability problems. Third, importers must look beyond price and focus on relationship-building. Supply chain expert Grace Duffy suggests, “Instead of focusing only on the cost savings of outsourcing to countries like China, importers need to do the work required to implement quality processes and build more long-term relationships with suppliers that will lead to fewer product issues and more repeat business and loyalty.”58 Lastly, ASQ advocates that importers need to work to raise the competency level of their overseas suppliers. U.S. companies can offer supplier development training to clearly outline their expectations, provide an understanding of their company’s culture and assist the manufacturer in setting up a quality management system.

Next, manufacturer selection and ongoing supply chain management must be supplemented by a comprehensive supplier contracts that protect importers, particularly if a defects arise. Bruce T. Clark, an attorney that has represented plaintiffs in a number of food-borne illness cases says sloppy contracts lead to considerable problems for importers.59 Broadly speaking, a good supplier should specify covenants, representations and warranties related to product quality, design, specifications, prototypes, samples, inspections and testing, all of which will impose on the Chinese supplier obligations to manufacture and deliver goods without safety defects. At the same time, contract provisions related to defects, insurance and indemnification should be used to outline the legal recourse against the Chinese supplier for a breach in the contract.60

Erika Schenk, leader of the commercial practice group of law firm Bryan Cave advises importers to describe everything is detail, noting what products will be tested on the site, by whom and who is responsible if something does go wrong.61 Importantly Schenk says, “You want a contract where you are indemnified against lawsuits and claims, and one that would protect you from consequential damages if your business reputation is hurt.”62 Ryan Smethurst, an attorney with McDermott, Will & Emery, goes further saying, “Importers must specify that the supplier’s liability, including any duty to indemnify, is not limited to the extent of its potentially applicable insurance.”63

58 American Society of Quality, supra note 18.
59 Dave Lenckus, China recall crisis underscores risk, 41 BUS. INS., Aug. 2007, at 1.
60 Grace Park Fremlin, Careful Contracts Reduce Risk, 35 CHINA BUS. REV. 34 (Jan./Feb. 2008).
61 Quitner, supra note 20.
62 Id.
Attorney George von Mehren adds that the contract must cover foreseeable problems, even minor ones such as issues that might arise during shipping. He adds that language should be included in the contract that holds the manufacturer responsible for covering all the costs of any product recall, stipulates that the importer receives pre-production samples before agreeing to a complete run and outlines penalties for late or defective products. Lastly, it is advised that the contract include details that provide importers the right to return non-conforming products, permission to conduct facility, product and records inspections at any time and a dispute resolution clause. Strategically designed supplier contracts are a critical aspect to negotiating the product liability pitfalls of outsourcing from China; however, according to Joe Underwood, a senior consultant with Albert Risk Management, too few companies have effectively “codified in print” an effective agreement that protects them if poor quality manufacturing arises.

Lastly, in addition to effective supply chain management and contract design, the final precautionary element that importers must employ is insurance procurement both for themselves and their overseas manufacturers. In general, Chinese manufacturing firms do not carry much insurance (liability or otherwise). Therefore, within the contract, the importer should mandate that the Chinese supplier deliver a certificate of insurance that proves the manufacturer has purchased an agreed amount of product liability insurance with U.S. or worldwide coverage. The policy should name the U.S. buyer as an additional insured party and include a waiver of subrogation where the insurer relinquishes the right to hold a third party accountable for a loss suffered by an insured. Importers must be wary of the fact that some firms in China have been known to purchase insurance coverage to fulfill a contract, and then cancel the policy once production is underway. As such, the insurance portion of the contract should require that the U.S. buyer receive advance notice of any cancellation or non-renewal, and it should also state that the supplier is responsible for any deficiencies or gaps in coverage. Specifically under the policy, the legal costs incurred by the insured parties (manufacturer and importer) in defending product liability lawsuits must be covered. Additionally, the supplier’s coverage should pay damages and claimants’ costs and expenses that result from bodily injury or property damage arising from a defective product.

Supplemental insurance policies should also be required. First, the supplier should be mandated to hold recall insurance coverage. This standalone policy (in

64 Quitner, supra note 20.
65 David Blanchard & Jorge Perez Izquierdo, Taming the Dragon, INDUSTRY WK. Nov. 2007, at 28.
66 Lenckus, supra note 59.
67 See Fremlin, supra note 60.
69 Adapted from Fremlin, supra note 60.
addition to the aforementioned product liability insurance) covers the recall cost of the Chinese supplier and of the U.S. buyer, including the costs of replacing and repairing recalled items. 70 Another important supplemental area of supplier coverage is EOIL or Employer’s Occupational Injury Liability. Importers should require this insurance policy to be held by the manufacturer as it provides specific benefits to employees that are not covered under the national work injury program and protects against suits being brought against the manufacturer by its employees. 71

Given a culture of corruption, U.S. importers need to ensure that manufacturer insurance policies are not only valid, but would be effective in case of a recall. As such, importers should establish relationships with reputable local insurance brokers to confirm their supplier’s continuously maintain valid policies. 72 Importers should also consider requiring foreign suppliers to maintain some U.S. assets that can be attached if a product liability claim is filed; this partially protects against foreign suppliers simply shutting down abruptly with no notice after product quality problems emerges. 73

U.S. importers should also have comprehensive liability insurance coverage. In fact, given the dramatic increase in the outsourcing of manufacturing to China, a range of new risk management insurance products has become available. 74 Integrated product liability packages, one of the newer products, provide a broad-based, one-stop solution which typically includes a risk management analysis of the supplier as well as product safety, design audit and product liability insurance. 75 Political risk insurance is another product for importers to consider. This insurance policy is designed to cover lost revenues if an overseas supplier folds for political reasons or suffers trade restrictions that affect or even eliminate the supply; the policy also protects importers against the costs for securing a replacement supplier and retooling its supply chain. 76

Regardless of how well an importer understands the scope of and reasons for the Chinese product quality problem, the supply chain management steps, contract design elements and various forms of liability insurance described above are necessary to fully prepare for outsourcing manufacturing to China.

VI. Conclusion

70 Id.
71 Gervang, supra note 70.
72 Id.
73 Lenckus, supra note 59.
74 Stephen Charnley, Great Wall No Longer, 75 CANADIAN UNDERWRITER 60 (Mar.ch 2008).
75 Id.
76 Smethurst, supra note 62.
China’s product quality problems are undeniable. However, the evolution of the global economy has made outsourcing manufacturing from China a certainty for many businesses, both large and small. This inevitable relationship with China is fraught with liability pitfalls. China’s business environment is by nature fragmented and corrupt, its legal and regulatory structures are miniscule and ineffective and many foreign business and countries have not taken the steps necessary to establish a culture of safe and defect-free production. While the current situation is less than ideal, potential importers should not categorically exclude Chinese manufacturers from their supply chain. By understanding the scope, source and evolution of the problem, and through disciplined and effective supply chain management, contract design and insurance coverage, importers can safely negotiate the products liability pitfalls of outsourcing product manufacturing to China.
THE ETHICAL DUTIES AND PROHIBITIONS EFFECTING THE DECISION OF AN ATTORNEY TO BLOW THE WHISTLE ON AN ORGANIZATION CLIENT

DARRELL G. FORD

I. INTRODUCTION

With heightened scrutiny being directed at corporate governance, attorneys representing organizations are facing increasing levels of responsibility and accountability. The demands for oversight may conflict with traditional duties of loyalty and confidentiality. Attorneys that represent organizations are often confronted with difficult decisions when they discover wrongdoing within the organizations they represent. The decisions they make involve a delicate balancing of competing duties. One of the most difficult decisions an attorney must make in such situations is whether to make the wrongdoing known by blowing the whistle.

This paper provides a framework for addressing the ethical duties and prohibitions an attorney must consider when the attorney discovers wrongdoing within an organization. I first provide an operational definition of whistle-blowing. I then submit that the decision to blow the whistle will depend upon the attorney’s consideration of three duties – the legal duty, the ethical duty, and the fiduciary duty. Each of these duties is examined in the context of a whistle-blowing situation.

II. WHISTLE-BLOWING DEFINED

Because whistle-blowing is susceptible to different meanings, it is important to define the action being contemplated before considering the various duties. While the origins of the term “whistle-blowing” may be traced to the English Bobbies who would blow a shrill whistle to alert the public to danger, the term is now generally associated with a public disclosure of wrongdoing.

In a business context, the generally accepted definition of whistle-blowing is the reporting of an illegitimate, illegal or immoral organizational activity under the control of the organization by a member or former member of an organization to someone who may be able to effect action.¹ This definition focuses on variables such as the perception of wrongdoing, the ethical motive for the conduct, the potential for effecting change, the organizational activity involved, the disclosure of the whistle-blower’s identity, the exhausting of internal channels of dissent first, and the argument over whether the


* J. D., Associate Professor, University of Central Oklahoma
whistle-blower must publicly disclose information or can blow the whistle internally. Each of these variables must be considered on a case by case basis and will ultimately determine the nature and merit of the whistle-blowing.

For purposes of this discussion, I will assume that an attorney is representing an organizational client and that a whistle-blowing situation exists. A whistle-blowing situation is defined to mean that the attorney has discovered an illegitimate, illegal or immoral organizational activity under the control of the organization, that the perception of wrongdoing is real and significant, that the attorney is ethically motivated to disclose the wrongdoing, and that the disclosure will likely stop, prevent or remedy the wrongdoing. I will also assume that the attorney’s identity is known and that the attorney has exhausted all internal channels of dissent first. Given these assumptions, the decision to be made is whether the attorney should publicly disclose information concerning the wrongdoing.

III. THE LEGAL DUTY

When confronted with a whistle-blowing situation, an attorney must first consider the attorney’s legal duty. A legal duty might exist under both statutory law and civil common law. A statutory law duty could exist in the form of a statute or regulation requiring the attorney to report the wrongdoing. A civil law duty could exist pursuant to a contract or pursuant to common law theories of negligence or misrepresentation.

Many statutes and regulations at both the state and federal level require individuals to report violations and other wrongdoing. The reporting requirements in these statutes and regulations impose a statutory duty on those with knowledge of the violation or wrongdoing to disclose the information to sources outside the organization. In other words, these statutes and regulations compel whistle-blowing. Because of their role within an organization, attorneys are often made aware of violations and wrongdoing and are thus confronted with a whistle-blowing situation.

Some statutes and regulations are more apparent than others. Laws that require reporting of child abuse, regulations that require reporting of Federal Aviation Authority safety violations, and laws that require reporting of violations of Nuclear Regulatory Commission regulations are to be expected. Other laws and regulations, however, may not be so obvious, such as laws requiring the reporting of abuse and neglect of nursing home residents, or a law that requires the reporting of certain computer crimes. Other examples of laws that contain reporting requirements include those that require the reporting of violations of state and federal commercial trucking regulations, those that require the reporting of violations of pharmacist regulations, and those that require the reporting of violations of any manufactured home construction or safety standard. One

---

3 Meury v. Connie Kalitta Services/American International Airways, Inc. 181 F.3d 102, 1999 WL 357774 (6th Cir. May 20, 1999)
law even requires the reporting of those who violate regulations governing barbers and beauty shops.9

One of the most recent and publicized laws containing a reporting requirement is the Sarbanes-Oxley Act of 2002.10 This law specifically mentions attorneys and contains an internal whistle-blowing obligation on the part of all attorneys representing public companies to report violations of securities law or a breach of fiduciary duty.11 Because the reporting obligation provides for internal disclosure only, this does not truly represent a whistle-blowing situation. Nevertheless, the fact that attorneys are specifically mentioned indicates a trend that will likely continue in future laws.

Perhaps of greater concern for attorneys is the federal law that makes it a crime for any person with knowledge of the commission of a felony to conceal and fail to report the felony.12 Although this law has been interpreted to require both knowledge of a crime and some affirmative act of concealment or participation,13 attorneys who discover wrongdoing within an organization and fail to report the wrongdoing could be viewed as concealing the information by failing to inform shareholders and investors. A court has held that suppression of evidence, harboring of criminals, intimidation of witnesses and other acts designed to conceal from authorities the commission of a felony is a crime.14

In addition to the legal duty imposed by statute, attorneys also face a legal duty imposed by common law. When an attorney represents an organization the attorney is obligated to perform according to the terms of the representation agreement and with reasonable care. The failure of the attorney to perform accordingly could result in a claim for breach of contract or negligence. Certainly it would appear to be within the scope of every representation, and an obligation of the attorney, to advise the organization’s controlling authority of wrongdoing within the organization. If the organization fails to stop, prevent or remedy the wrongdoing, the attorney is confronted with a whistle-blowing situation.

Obviously, the failure of an attorney to publicly disclose wrongdoing on the part of an organization is not a breach of any duty owed to the organization. Not so obvious is whether the failure of an attorney to publicly disclose wrongdoing on the part of an organization is a breach of any duty owed to third parties. The Restatement (Third) of the Law Governing Lawyers provides that an attorney owes a duty to non-clients when and to the extent that the attorney knows that the client intends as one of the primary objectives of the representation that the attorney’s services benefit the non-client.15

States vary in their view of the obligation attorneys owe to third parties. For example, Texas and Illinois hold that only one in privity of contract with an attorney may bring a negligence action against the attorney.16 Under New York and Georgia law, reasonably foreseeable or intended beneficiaries may bring claims for negligence or fraud.

---

14 Bratton v. U.S., 73 F.2d 795 (10th Cir. 1934).
15 § 51 Restatement (Third) of the Law Governing Lawyers.
against an attorney.\textsuperscript{17} Similarly, under Massachusetts law, an attorney owes a duty to non-clients when the attorney knows the non-client will rely on the services rendered.\textsuperscript{18} Under Ohio law, attorneys, like surveyors and abstractors of title, who are in the business of supplying information for the guidance of others, occupy a special relationship justifying claims for negligent misrepresentation.\textsuperscript{19}

In determining whether an attorney owes a duty to non-client beneficiaries, the court will consider factors such as the extent to which the transaction was intended to affect the beneficiaries, the foreseeability of harm, the degree of certainty that the beneficiaries have suffered harm, the proximity of the conduct and the injury, the policy of preventing future harm, and the burden on the legal profession under the circumstances.\textsuperscript{20}

Clearly, attorneys whose services are relied upon by non-clients must be aware of a potential legal duty owed to such third parties. In rendering legal opinions, preparing securities filings, and drafting offering materials or private placement memoranda, attorneys must realize that their failure to disclose wrongdoing on the part of their client could be a violation of a legal duty owed to third parties.

\textbf{IV. THE ETHICAL DUTY}

In addition to the legal duties, attorneys confronted with whistle-blowing situations must also consider their ethical duties. A common misconception is that ethical duties such as the duty to maintain confidentiality prohibit whistle-blowing even when a legal duty might otherwise exist. In actuality, the most widely accepted rules of professional conduct permit the disclosure of wrongdoing when required by law.

Rule 1.6 of the American Bar Association Model Rules of Professional Conduct (the “Model Rules”) provides that an attorney may reveal information “to comply with other law.”\textsuperscript{21} Model Rule 1.6 also permits disclosure to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used the attorney’s services, and to prevent, mitigate or rectify substantial injury to the financial interests or property of another resulting from the client’s commission of a crime or fraud.\textsuperscript{22} Similar versions of the Model Rules, including Model Rule 1.6, have been adopted in most states.\textsuperscript{23}

The information subject to Model Rule 1.6 includes not only matters communicated in confidence but also to all information relating to the representation

\textsuperscript{17} Glanzer v. Shepard, 233 N.Y. 236, 135 N.E. 275 (1922); In re Finley, Kumble, Wagner, Heine, Underberg, Munley, Myeson and Casey, 194 B.R. 728 (S. D. N. Y. 1995).
\textsuperscript{18} International Strategies Group, Ltd. v. Greenberg Traurig, LLP, 482 F.3d 1 (1\textsuperscript{st} Cir. 2007).
\textsuperscript{21} American Bar Association Model Rules of Professional Conduct adopted February 5, 2002 (hereinafter the “Model Rules”), Rule 1.6(b)(6).
\textsuperscript{22} Model Rule 1.6(b)(2) and 1.6(b)(3).
regardless of the source. A comment to the Oklahoma Rules of Professional Conduct gives the example of a client dumping toxic waste into a town’s water supply. If the attorney knew of the activity, the attorney could blow the whistle and reveal the information.

A correlation to Model Rule 1.6 exists in Model Rule 1.13 governing an organization as a client. Model Rule 1.13 provides that if an attorney for an organization knows that a person associated with the organization is acting, intends to act, or refuses to act in a way that is a violation of law or a legal obligation to the organization and that could result in substantial injury to the organization, the attorney shall act as necessary in the best interests of the organization. Model Rule 1.13 also contains a requirement for internal whistle-blowing if it is in the best interests of the organization. With respect to external whistle-blowing, Model Rule 1.13 authorizes an attorney to make a public disclosure if the highest authority within the organization refuses to act, the activity is a clear violation of law, and disclosure is reasonably necessary to prevent substantial injury to the organization.

Taken in concert, the effect of Model Rule 1.6 and Model Rule 1.13 is that an attorney must exhaust internal channels for reporting wrongdoing first. If the internal disclosure does not effect a change and the violation of law or legal obligation to the organization could result in substantial injury to the organization or injury to the financial interests or property of another, the attorney may make a public disclosure. In other words, the rules of professional conduct authorize whistle-blowing if done so properly.

The rules pertaining to confidential information and public disclosure to prevent injury are consistent with the scope of an attorney’s representation. Although an attorney should normally take direction from the organization’s constituents, an attorney cannot assist a client, or advise a client to engage, in conduct the attorney knows to be criminal or fraudulent. There is a stark difference between giving legal advice regarding questionable activity and recommending the means by which a crime or fraud might be committed or concealed. When an attorney is confronted with a whistle-blowing situation, the attorney must consider the ethical duty. Even if disclosure is not made, the attorney must ensure that the attorney’s services are not used to conceal the violation or wrongdoing.

The Model Rules that authorize an attorney to blow the whistle on an organization client parallel other Model Rules that contain disclosure requirements. Rule 4.1 of the Model Rules provides that an attorney shall not “fail to disclose” a material fact to a third person when disclosure is necessary to avoid assisting a client in criminal or fraudulent conduct. Model Rule 3.3 provides that an attorney shall not “fail to disclose” legal authority known to be directly adverse to the position of the client. Model Rule 8.1 provides that an attorney shall not “fail to disclose” facts necessary to correct misapprehensions known by the attorney to have arisen in connection with a bar

---

26 Model Rule 1.13.
27 Model Rule 1.13(b).
28 Model Rule 1.13(c).
29 Model Rule 1.2.
30 Model Rule 4.1.
31 Model Rule 3.3.
admission application or disciplinary matter. 32 Model Rule 8.3 requires an attorney to report violations of the Model Rules that raise a substantial question as to another attorney’s honesty, trustworthiness or fitness as an attorney. 33

Even though the rules of professional conduct authorize whistle-blowing in certain circumstances, consideration of the ethical duty does not end there. The attorney must still resolve conflicts between the attorney’s responsibilities, issues of professional discretion, and the attorney’s exercise of sensitive professional and moral judgment. 34 Resolution of these conflicts will necessarily involve a consideration of the attorney’s ethical duty to third parties, to the legal profession, and to the public in general in addition to the ethical duty to the organization client. The rules of professional conduct recognize that attorneys owe duties to persons and groups other than the attorney’s clients. In some instances, an attorney can even be disciplined for breaching the attorney’s ethical duty to non-clients, especially third-party non-client beneficiaries. 35

V. THE FIDUCIARY DUTY

In addition to the legal duties and ethical duties, attorneys confronted with whistle-blowing situations must also consider their fiduciary duty to the organization they represent. As agents for the organization, attorneys have a fiduciary duty with respect to all matters within the scope of the representation. 36 In exercise of their fiduciary duty, attorneys owe to their organization clients the basic obligations of loyalty and obedience. 37 In fact, loyalty is an essential element of an attorney’s relationship with a client. 38 If an attorney breaches the fiduciary duty to the organization client, the attorney may be civilly liable to the client. 39

Attorneys that represent organizations represent the entity and not the persons who manage the entity. As a result, the duty of loyalty is owed by the attorney to the organization and not to the organization’s officers, directors, or shareholders. 40 When an attorney discovers wrongdoing on the part of an organization member, the attorney must not state or imply that the attorney also represents the organization member or is disinterested. 41 The attorney must act in the best interests of the organization.

Although an attorney may represent both an organization and its constituents, if a conflict of interest arises, the attorney must withdraw. 42 Failure to withdraw is a violation of the rules of professional conduct and an attorney can be disciplined for representing both clients. 43 Conflicts may be inevitable in whistle-blowing situations where the

---

32 Model Rule 8.1.
33 Model Rule 8.3.
34 Model Rules, Preamble: A Lawyer’s Responsibilities.
36 Restatement (Second) of Agency, §§ 1, 13, and 375.
37 Restatement (Second) of Agency, § 14N.
38 Restatement (Third) of the Law Governing Lawyers, § 128.
39 Restatement (Third) of the Law Governing Lawyers, §§ 16(3) and 49.
40 In re Complaint as to the Conduct of Campbell, OSB 06-14 (Or. 2-5-2009)(Or., 2009).
41 Model Rule 4.3.
42 Model Rule 1.7.
43 State ex rel. Oklahoma Bar Association v. Perry, 936 P.2d 897 (Okla. 1997); In re Bechner, 778 N.E.2d 806 (Ind. 2002).
wrongdoing being committed by organization members is adverse to the best interests of the organization.

Given the fiduciary relationship and the duty of loyalty an attorney owes to an organization client, an attorney may choose not to blow the whistle absent some legal duty to do so. The rules of professional conduct typically permit the attorney to blow the whistle but do not require public disclosure.\(^44\) An exception requiring disclosure may exist if there is a risk of death or serious bodily harm.\(^45\)

However, an attorney should not assume that being loyal to an organization and blowing the whistle are necessarily inconsistent with each other. There may be circumstances where public disclosure of wrongdoing is actually in the best interest of the organization. In these situations an attorney does not breach the duty of loyalty to the organization by blowing the whistle. To the contrary, legitimate whistle-blowing is typically motivated by ethical beliefs and a loyalty to the organization.\(^46\) Therefore, the decision to blow the whistle should not be viewed as a choice between conflicting loyalties and interests. If the whistle-blowing is sincere and the organization views the whistle-blowing event as being consistent with the individual’s loyalty toward the organization, there will be no conflict.

In essence, whistle-blowing is simply a means of conveying information. Indisputably, information has value. Organizations spend millions of dollars gathering information about customer preferences, business opportunities, potential markets, financial forecasts, new technology and new methods of operation. The information is valuable because it contributes to successful decision making and positive actions.

With whistle-blowing events, the information conveyed typically involves a perception of illegal, improper or inappropriate conduct. This information has value to the organization because it indicates a possible departure from the conduct prescribed for members of the organization. If individuals are not acting in ways to support principles of the organization, they are acting contrary to the goals and objectives of the organization. No ethical organization has as one of its goals the goal of engaging in unethical behavior.

Therefore, in the same way that product testing alerts an organization to faulty products, whistle-blowing alerts an organization to individuals who are engaging in ways contrary to the ethical precepts of the organization. If testing reveals a flaw in a product, changes are made before the product can cause harm to consumers. Through testing, a company may prevent the loss of life, the loss of reputation, and the loss of money paid to defend and pay civil judgments. Obviously, the information gained through product testing has value.

Similarly, information gained through whistle-blowing may also prevent the loss of life, the loss of reputation, and the loss of money paid to defend and pay civil judgments. Such information could also lead to improved efficiency, productivity, and quality of performance. In addition, the organization can, through internal whistle-blowing, gain from ongoing critique and greater self-awareness.

\(^{44}\) Model Rule 1.6.
Consequently, when considering the fiduciary duty to the organization, an attorney must weigh the negative aspects of whistle-blowing, which include damage to the organization’s reputation, against the positive aspects of whistle-blowing. Whether the attorney chooses to go public or not, there should be no breach of the fiduciary duty if the attorney acts in the best interest of the organization.

VI. CONCLUSION

Whistle-blowing situations create ethical dilemmas for attorneys. As with most ethical dilemmas, there are no easy answers. The decisions an attorney makes in these situations may be guided by thoughtful consideration of the attorney’s legal duty, the attorney’s ethical duty, and the attorney’s fiduciary duty.

Consideration of the legal duty will involve an awareness of statutes that require disclosure and an awareness of the attorney’s duty of care to the organization client and to third parties. Consideration of the ethical duty will involve understanding and appreciating the requirements and prohibitions contained in rules of professional conduct as well as the attorney’s obligations to third parties, the legal profession, and the public in general. Consideration of the fiduciary duty will involve honoring the duty of loyalty by acting in the best interest of the organization. By utilizing this structure an attorney who discovers wrongdoing within an organization client will be better able to evaluate the ethical duties and prohibitions affecting the attorney’s decision to blow the whistle.
ROLE EFFICACY AND ROLE STRESS
–WOMEN BPO EMPLOYEES

Ms. Vijayashree. L¹
Dr. Katyayani. J²

ABSTRACT

Our study explores role efficacy and Organizational role stress concepts particularly among women BPO employees in Bangalore. The present study aimed a) to find the influence of personal and organizational variables on role efficacy and Role stress b) to find out the interrelationship between role efficacy and organizational role stress among women BPO Employees in Bangalore. The Pilot study was conducted in Bangalore, India with a sample of 39 women BPO employees. The data collected were analyzed using Pearson’s correlation test. Results showed that the women BPO professionals experience Role making dimension more among role efficacy dimensions. It also proved that role erosion and role overload dimensions are seen more among stress dimensions in women BPO employees. This study also reveals that there is a strong relationship between Role efficacy and organizational role stress.

Key words: stress, Organizational Role stress, Role Efficacy

1. Vijayashree. L - Assistant Professor, Management Research Division, Dayananda Sagar Institutions, Kumaraswamy Layout, Bangalore – 78
2. Dr. Katyayani. J - HOD, Associate Professor and Research Supervisor, Department of Business Studies, Sri Padmavathi Mahila Viswavidyalayam, Tirupathi.

Introduction

The changes in the Indian economy over the last 15 years or so have been responsible for the growth of the information technology sector and, after that, the BPO industry. The World Bank forecasts that by 2020 India could become the world’s fourth largest economy (Budhwar, 2001¹; Kapur and Ramamurti², 2001).

An analysis of the available information from secondary sources indicates that BPO (typically provided by Information Technology enabled Services- ITES) is now the fastest growing industry in India, and India is considered the “electronic housekeeper” of the world (Pawan, Harsh, Jyotsna Bhatnagar³, 2006).

According to Karnataka state BPO Policy⁴, by the year 2010 the employment potential in Karnataka’s BPO sector is projected to touch 360,000 across the State, with non-metro cities offering a substantial portion of the manpower.

The Figure 1 represents the growth of BPO sector in Bangalore (Karnataka state BPO Policy⁵)
Today women play a vital role in Indian BPO sector. According to survey out of 400 million of workforce in India, around 30-40 percent are females. They are one of the driving forces behind the success of BPO industry in India (Ivana5).

Keeping all the above said facts, the present research emphasized need to study further about BPO sector and particularly about women issues like their nature of work and job stress and their coping patterns in that sector.

**Women in India**

The growing number of educated women in India— who are now participating in the urban, organized, industrial sector in technical, professional, and managerial positions— has been accompanied by a steady growth in dual career families (Komarraju6, 1997). Research on “Career women in India” show that work and family dilemmas found in India, are often different from those reported by women in the West (Sekaran7, 1992). As compared to their counterparts in other parts of the world, Indian women employees face a lot of difficulties in managing their work and life (Buddhapriya8, 2009).

A lot of balancing is needed between home and workplace, including balancing between social and personal requirements. The issues of maternity, menopause, parenthood, gender roles, conditions at home and workplace, familial and social support et al, often blight women's lives in the long run.

Women especially in India have found out that, the wages that they earn through a BPO job help them to experience freedom and autonomy. In India the women mobility has always been controlled by men even in case of highly educated and independent women. According to a study carried on call centre workers in India, it has been found that women are happy to learn new skills and have learnt to become more assertive.

The participation of women in BPO industry has been seen as a critical enabling factor for continued growth of the industry. Today BPO companies are recognizing women on board at
all levels and this helps the organization to make good business sense. Therefore BPO companies are trying to develop and involve women for higher roles and functions (Lewis9). Most of the people talk about exploitation of women in call centers. Despite the physical stress, mundane nature of the job and low status of call centre work, women constitute about 30-40 percent of the total workforce in BPO sector.

**Role**

According to the Webster’s dictionary10 role means “The characteristic and expected social behavior of an individual” or “A function or position” or “The proper activity of a person or thing”.

In a system, the position one has is defined by the title/designation/post given. One’s role is defined by the tasks/functions one performs. It is important to understand that the performance of people working in a programme or in an organization depends on their technical competence, managerial skills, and their potential effectiveness in the roles they perform. It is the merging of the two (the person and the role) that ensures the individual’s effectiveness in an organization.

**Role Efficacy**

Every person in an organization has got a role and both the organization and the individuals have to deal with this situation by keeping the role occupant plan for his own role.

Anirudh11 (1997) says the process of enriching one’s role in an organization is called ‘Role Efficacy’. In other words Role efficacy is the potential effectiveness of an individual occupying a particular role in an organization.

Pareek12 (2002) said that the effectiveness of a person’s role in an organization will depend upon his own potential effectiveness, the potential effectiveness of the role, and the organizational climate. The potential effectiveness can be termed as efficacy.

People with high role efficacy seem to experience less role stress and work-related tension. They rely on their own strengths to cope with problems, use more focused behavior, interact with people and the environment, persist in solving problems (mostly by themselves), and show commitment to their work. A participatory environment provides staff higher satisfaction and contributes to role efficacy. An environment characterized by control seems to lower role efficacy.

**Role Efficacy and its dimensions.**

Role efficacy has ten aspects. These aspects can be classified into three groups or dimensions, namely, Role making, Role centering and Role linking.

- **a. “Role making”** is an active attitude towards the role, i.e. defining and making the role one likes to take on.
- **b. “Role centering”** is concerned with increasing the power of the role, making it more important.
- **c. “Role linking”** is concerned with extending the relationship of the role with other roles and groups.
Role efficacy index is the conversion of role efficacy scores into the scores between 0 -100. 0 is treated as low efficacy score on the whole sample and 100 is treated as high role efficacy.

**Empirical studies on role efficacy Stress**

- Pareek\(^{12}\) says that the integration of a person and role comes about when the latter is able to fulfill the needs of the individual, and when the individual in turn is able to contribute to the evolution of the role. The more we move from role taking to role making, the greater is the likelihood of the role being effective. Role taking is responding to the expectations of others, while role making is taking the initiative to creatively design the role so that the expectations of both others and the role occupant are integrated. Role efficacy can be seen as the psychological factor underlying role effectiveness\(^{12}\).
- Sharma and Sharma\(^{13}\) (1984) attempted to relate role efficacy with job anxiety and tension. They found that there is a negative correlation between these two variables.
- Das\(^{14}\) (1984) found role efficacy as having moderating impact on purposeful job behavior and independent variables, such as organizational climate and role stress. Increased work-related tension was found to have overall negative relationship with role efficacy.
- Sayeed\(^{15}\) (1985) found that personal attributes and job demographics were found to have impact on role efficacy.
- Pestonjee\(^{16}\) (1992) said that role efficacy reduces role stress.

**Stress**

Stress is a subject which is hard to avoid. The term is discussed not only in our everyday conversations but has become enough of a public issue to attract widespread media attention from different areas like radio, television, newspapers or magazines, the issue of stress figures etc. Different people have different views about it as stress can be experienced from a variety of sources.

The concept of stress was first introduced in the life sciences by Hans Selye in 1936. It is a concept borrowed from the natural sciences. Derived from the Latin word ‘Stringere’, stress was popularly used in the seventeenth century to mean hardship, strain, adversity or affliction (Pestonjee\(^{17}\), 1999).

- Selye has defined stress as "the nonspecific response of the body to any demand made upon it"\(^{18}\).  
- According to Cox\(^{19}\) (1993), ‘stress is now understood as a psychological state that results from people’s perceptions of an imbalance between job demands and their abilities to cope with those demands’.

**The effects of stress on job performance**

There are many effects due to stress on an individual and the effects are more on his/her job performance. Some of the effects of stress on job performance are shown in the Figure 2

Figure 2: Effects of Stress.
Organizational role stress (ORS)

Several physical, social and psychological factors influence human behavior in an organization. An individual gets integrated with the organization with the concept known as role. It is through the role that the individual interacts with and gets integrated with the system. An organization can be defined as a system of roles. However, role itself is a system.

Banton\(^{20}\) (1965) has proposed the concept of basic, general and independent roles. Basic and general roles are related, e.g., a husband is a basic role and a working woman's husband is a general role.

According to Pareek\(^{21}\), 1976 the word "role" for any position a person holds in a system (organization) as defined by the expectations of various significant persons, including him, have from that position.

There are two role systems which need to be considered. First system consists of various roles an individual occupies and performs, and second is the system of various roles of which his role is a part, and in which his role is defined by other significant roles.

Kahn, Wolfe, Quinn, Snoek, and Rosenthal\(^{22}\) (1964) were the first to describe organizational stress in general and role stress in particular. Katz and Kahn\(^{23}\) (1966) continued this research and suggested that an organization can be defined as a system of roles and they used three categories to define role stress: role ambiguity, role conflict, and role overload.

Pareek\(^{24}\) (1983) has defined role as any position a person holds in a system (organization) as defined by the expectations of various significant persons, including himself/herself have from that position. The definition of role indicates that there are inherent problems in the performance of a role and, therefore, stress is inevitable. To study this role stress, Organizational Role Stress (ORS) Scale was administered by Pareek in 1983. ORS Scale is a Five Point Scale, indicating how true a particular statement is for the role. Thus, the scores
for each role stress range from minimum 0 to a maximum of 20. ORS Scale has 50 items. The score of each role stress may range from 0 to 20, and the total organizational Role stress score may range from 0 to 200. A high score on a particular dimension indicates that more role stress is being experienced in that area.

Following are the ten dimensions of ORS as explained by Pareek\(^3\) as explained below.

i. **Inter-role Distance:** This stress is experienced when there is a conflict between organizational and non-organizational roles; for example, the role of an executive versus the role of a husband.

ii. **Role Stagnation:** Role stagnation stress is the feeling of being stuck in the same role.

iii. **Role Expectation:** Role expectation stress arises out of conflicting demands originating from colleagues, i.e., superiors, subordinates and peers in the organization.

iv. **Role Erosion:** Role erosion stress arises when a role has become less important than it used to be, or when somebody else gets the credit for doing things of considerable importance.

v. **Role overload:** Role overload stress is the feeling that one is required to do too much or doing things of considerable importance.

vi. **Role Isolation:** Role isolation stress is characterized by the feeling that others do not reach us easily, indicative of the absence of strong linkages of one's role with other roles.

vii. **Personal Inadequacy:** Personal inadequacy stress is depicted by the absence of adequate skills, competence, and training to meet the demands of one's role.

viii. **Self-Role Distance:** Self-role distance stress arises from a gap experienced between one's concept of self and the demands of the role.

ix. **Role Ambiguity:** Role ambiguity stress is experienced when there is a lack of clarity about the demands of the role.

x. **Resource Inadequacy:** Resource inadequacy stress arises when the human or material resources allocated are inadequate to meet the demands of the role.

Total Organizational Role Stress (ORS_Mean Score) is the sum of the ten types of stresses mentioned above.

**Studies on Organizational Role Stress**

- Sen\(^{26}\) in 1982 found that role stagnation decreases as people advance in age. He also said that higher the income, lesser is the role stress; unmarried persons experience
more stress than married persons; family size is positively associated with role stagnation and role isolation but negatively associated with role erosion.

- Sen\textsuperscript{26} (1982) studied about role stress and role efficacy. He said that there is a negative Correlation between Role Efficacy and Organizational Role Stress.
- Das\textsuperscript{27} (1984) studied that there is a negative Correlation between Role Efficacy and some dimensions in ORS.
- Mathur\textsuperscript{28} (1997) said that there is a negative Correlation between Role Efficacy and most of the dimensions of ORS.
- Gupta\textsuperscript{29} (1988), found that Role erosion (80\%) was experienced by a higher number of executives of Irrigation Design Organization, Roorkee followed by role inadequacy (78\%), role stagnation (74\%), self-role distance (60\%), personal inadequacy (65.8 \%), role isolation (62.2\%) and role expectation conflict (44\%).
- Srivastav\textsuperscript{30} (1993), reported that Role stress experienced was the general stress and the overload stress; Role erosion was the dominant stressor, followed by role isolation, resource inadequacy and personal inadequacy; Role erosion was negatively correlated to dependency but positively to extension.

Studies on Role stress among women

Many researchers have studied about women and their stress issues. Some of the author’s views are listed below.

- Achla and Mehta\textsuperscript{31} (1999) said in their studies that many women are demanding new options for career and household responsibilities. Today's working woman is expected to be an inspiring companion of her husband, proficient in the care of children and able in the handling of family budget. She is also expected to pursue a career, show skill and intelligence and be as competent as males on a job. They said that women engaged in different types of professions may be differing in the types of role stress.
- Ushashree and Jamuna\textsuperscript{32} (1990) said that women teachers in general schools were found to experience greater role conflict and had poor attitudes towards their students and were less satisfied with their careers as compared to their male counterparts in general schools. Teachers from special schools, both men and women, were found to experience significantly greater role conflict and job stress compared to their counterparts in general schools.
- Surti\textsuperscript{33} (1982) found that Role overload was experienced in more or less the same intensity by all professional groups except university and college teachers and also total role stress was experienced most by nurse, followed by bank employees. University and college teachers experienced least role stress.
- Vijayashree and Katyayani\textsuperscript{34} (2009) found that there is no difference with respect to sensitivity towards environment and physiological environment between male and female; target- orientedness and negative attitude which increases stress varies between male and female.
- Emily\textsuperscript{35} (2007) found that physical environment often cause stress among women.
- Piotrkowski\textsuperscript{36} (1993) felt that self sacrifice causes more stress among women.

Based on the literature studies the following framework was carried out for the present study.
From the above we can conclude that there is a relationship between RE and ORS.

**Methodology**

Women need to understand the importance of understanding the role and role efficacy concept. Less understanding of these concepts leads to a number of stresses among working women. Thus this research mainly focuses on role efficacy, different role stress experienced by women employees.

**Objective:**

- a) To find the influence of personal and organizational variables on role efficacy and Role stress.

- b) To find out the interrelationship between role efficacy and organizational role stress among women BPO Employees in Bangalore

**Hypothesis:** There is a negative correlation between RE and ORS.

**Sample Details:**

39 BPO women employees are taken as Sample. Though 52 Questionnaires were distributed researcher was able to get only 39 responses. For the final researcher expects 240 as sample. Criteria for sample unit: Researcher has kept a screening for sample. Women BPO employees who has minimum 2 years of experience in BPOs were considered for the pilot study. Sample representation: Initially there was an urge to collect data from both Non-Voice and Voice sector equally and 26 questionnaires was distributed in each. But when the researcher got the responses it was only 60 % Voice sector and...
40% Non-Voice sector. Sample unit completed: A Respondent with greater than 20% incomplete questionnaire was treated as missing case.

Analysis:

Figure 4: Correlation –Role efficacy dimensions on REI

In figure 4 it is clear that 83% of the correlation score is highlighted in Role making among other of Role Efficacy dimensions. This means that most of the women employees in BPO Sector are able to make themselves fit to the role they are occupying.

Comparision of Role – Efficacy Index & ORS

Figure 5: Comparison of Role Efficacy Index & ORS

In Figure 5 REI is clearly shown across the demographic variables like age, process, years of experience and education. Role efficacy Index line which runs above the ORS bar chart representation shows the score of individual demographic variable score between 0 to 100.
Overall REI mean score for the entire sample is 69. This means 39 women BPO Employees are in the score 69 and can be said that they have fairly high role efficacy in their role. The highest potential effectiveness (80) is seen among the women employees who have 5 and above experience in that industry and the next high potential effectiveness (79) is seen among unmarried women employees.

From the above figure we can come to a conclusion that role efficacy or potential effectiveness in a role is high among the women employees who have 5 years and above work experience and those who are unmarried.

Overall ORS mean score for the entire sample is 9. As the scoring ranges from 0-20, we can say that these women employees are experiencing a medium level stress in their role. The highest Role stress is (80) is seen among the women employees who have 5 and above experience in that industry which is highlighted on the maroon color bar. Next high role stress (9.29) is seen among women employees who have 2-3 years work experience.

From the above figure we can come to a conclusion that role stress and role efficacies both are high among 5 and above experienced women employees. Though the earlier studies found that there is a negative association between role efficacy and role stress, due to the small sample size the researcher has got the above said results.

Comparison of ORS Overall Mean Score with ORS Individual variables

Mean Score of ORS Overall and Individual Items

<table>
<thead>
<tr>
<th>Overall Mean Score (ORS) (9)</th>
<th>ORS Individual Mean Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.43</td>
<td>9.68</td>
</tr>
<tr>
<td>8.65</td>
<td>10.24</td>
</tr>
<tr>
<td>9.51</td>
<td>8.62</td>
</tr>
<tr>
<td>10.16</td>
<td>5.57</td>
</tr>
<tr>
<td>6.57</td>
<td></td>
</tr>
</tbody>
</table>

Note: The Overall ORS Mean Score is 8.59 or 9 which is compared with Individual ORS Items
In figure 6 ORS mean score (9) is compared with all factors of ORS. Among BPO Women employees Role Erosion (10.24) is seen high and the next highest factor is personal inadequacy (10.16). This shows that most of the women BPO Employees have the feeling that their role functions are being done by others and also have the feeling that she does not have enough knowledge / skills for that role. The score proves that though the women BPO employees are stressed with respect to role erosion they are in the medium level. The feeling of importance and should be high in a job. From the above results we can say that the women BPO Employees in Bangalore do not have the feeling of importance in their job.

The result of role efficacy proves that most of the women BPO Employees are in the process of making their role according to their likings. This indirectly proves to say that role erosion is prevailing in their mind and they are in the process to come out of that feeling of not being recognized in the job.

**Result of Hypothesis**

‘There is a negative correlation between RE and ORS’.

**Hypothesis Tested: REI on ORS**

![Diagram showing correlation between Role Efficacy Index and ORS factors](image)

In Figure 7, proves that there is a significant negative correlation between role efficacy Index and organizational role stress which is similar to the studies done earlier. Thus hypothesis formed is proved.
Conclusion

In this pilot study, the major findings were targeted towards looking into the association between the role efficacy and ORS. The hypothesis is tested and proved to be negative in correlation which is similar to most of the research works done earlier. Based on the results got in the pilot study, the researchers proceeded with more number of samples.

References


73. Gupta, P. (1989), Role Stress, Locus of Control, Coping Style and role Efficacy: 1 Study of First Generation Entrepreneurs, M. Phil. dissertation, University of Delhi, Delhi.

74. Mittal, Uma (1992), Coping Styles as Related to Role Stress, Locus of Control and Personality Type, Ph.D. thesis, University of Rajasthan, Jaipur.


THE CREDIT CARD PLAGUE ON THE AMERICAN COLLEGE CAMPUS: A SURVEY

Dr. Marty Ludlum, University of Central Oklahoma *
Brittany Christine Smith, student, University of Central Oklahoma

ABSTRACT

In America, credit cards on campus have been a disaster, leading to students buried in debt before graduation, often with little hope of paying off the debt before high fees and interest double the amount. This research details an exploratory survey of current American college students and their use of credit cards. In the current project, we surveyed business students (n=251) in fall, 2009. We found significant differences between students on their use of credit cards. We conclude by discussing the implications for further research in this area.

INTRODUCTION

America has had a very healthy appetite for easy credit and the convenience of credit cards. Average US household has nine credit cards (Dugas, 2010). Financier Arkadi Kuhlmann described credit cards as “the opium of consumerism” (Roane, 2006). Credit cards have an empowering effect, giving an optimistic view of purchasing power (Silverblatt, 2010). We are addicted. Half of Americans with a credit card keep an $8000 balance (DeConto, 2010). The surge in debit cards coincided with increased use of credit cards (Silverblatt, 2010). In 1995, Americans paid more with credit cards than cash, for the first time (Nichols, 2006; Stern, 2006).

Consumer debt among Americans increased $461.8 billion in 2001-2006 (Loonin and Renuart, 2007). By 2005, Americans had nearly 700 million credit cards (Mercatante, 2008). And the costs have been staggering. Retroactive interest rate changes and penalty interest rates costs consumers $10 billion a year (Samuelson, 2010). America has suffered under this problem, and nowhere more than on college campuses. Students, often without any current income, have received credit cards and used them without abandon.

In the current project, we surveyed current college business students across four campuses (n=251) in the fall of 2009 concerning their use of credit cards. In support of this project, we described America’s obsession with credit, the hidden costs of credit, and the problem of credit availability on campus. Finally, we discussed our results and findings. We concluded by discussing the implications for further research in this area.

AMERICA’S OBSESSION WITH CREDIT

America has been marketed to death with credit card offers. In the last quarter of 2009, the number of credit card offers was increasing 46% over the previous quarter (Mindlin, 2010; Bulik, 2010). Almost 400 million credit card offers mailed in last three months of 2009 (Mindlin, 2010). Banks, fearful of new regulations, stepped up the marketing in the last quarter of 2009. For example, JP Morgan Chase increased credit card mailings by 87% in 2009 (Bulik, 2010).
During the heyday (2004-2007), nearly seven billion credit card offers were sent annually (Bulik, 2010). This was a 20% increase over the previous years. Lenders sent nearly five billion credit card solicitations in mail in 2001 (Nichols, 2006).

For example, Capital One has issued over 37 million cards in America, one card for every six adults (Silver-Greenberg, 2009). The market was so saturated that lenders must find new markets of consumers. The new target was our college students. It has worked. Sallie Mae found that 84% of undergraduate students have a credit card (Block, 2009a).

**HIDDEN COSTS OF CREDIT**

Most Americans do not understand the terms of their credit cards (Hensarling, 2009). It would be funny if it were not true. The banks knew this. Credit card businesses profit off of consumer mistakes (Acohido, 2008). We have often revised the credit card rules to protect consumers with little effect. The Schumer Box (named after Senator Schumer (D., N.Y.) was designed to help consumers make more informed choices (Rosato, 2008). For example, cash advance fees have been overwhelming. Lewis (2009) commented that withdrawing your own cash can cost you, and you would be paying for the rest of your life. This is not an exaggeration. Penalty fees will generate $20 billion for credit card issuers in 2009 (Chu, 2009a).

Consumers wanted change. When the Federal Reserve asked for comments on new proposed credit card rules, 62,000 consumers responded in writing (Harris, 2008). Credit cards generated more consumer complaints than any other industry except cable television (Sullivan, 2008). Recently, the Military Lending Act of 2007 curbed some of the abuses target to our military families (Harris, 2008). When will we protect our students?

**CREDIT ON CAMPUS**

Credit on campus can only be described as a plague. More than 80% of college students had a credit card in 2008 (Block, 2009b). Fifty percent (50%) of college students have four or more credit cards (Block, 2009b). Average debt for college student was $3173 in 2008 (Block, 2009b). In 2007, the average college senior had four credit cards and $3000 debt (Cahill, 2007). By 2009, the average increased to over $4100 (Block, 2009a). This is not a new problem, just an existing problem getting worse. A decade ago, one in five students had greater than $10,000 in credit card debt (Parks, 1999). It only gets worse, as college graduates double their credit card debt shortly after graduation (Adams and Moore, 2007).

Slick marketing was the problem. Lenders, eager for new customers, come to campus to sign up fresh meat (Parks, 1999). College students are solicited for credit cards 25-50 times a year (Cahill, 2007). Incentives include everything from t-shirts to ipods for students to sign up (Block, 2009a). Some credit card companies preyed on the uninformed and charged 80% interest (New York Times, 2010). College students are getting credit without planning because of these slick marketing tactics (Cahill, 2007). A third of students never discuss the credit card decision with their parents (Block, 2009a).

The lenders have eliminated income and employment requirements to make credit cards easier to get for college students (Cahill, 2007). American students are inundated with credit card marketing schemes (Adams and Moore, 2007). This has caused some to exclaim that credit cards are greater threat on campus than alcohol or sexually transmitted diseases (Parks, 1999).
Nearly half (47%) of full time students have credit cards in their own names in 2005 (Nichols, 2006). A recent survey found that a quarter of college students graduate with more than $5,000 in debt (Harris, 2008). This has led some to call for the ban of issuing credit cards to college students (Acohido, 2008).

The political process has responded. Recent changes in the law limit the Wild West behavior of credit card companies on campus. Now students will have to demonstrate means to pay before getting a card (Samuelson, 2010). Students under 21 must prove financial ability or have a co-signor (Block, 2009b). Consumers Union claimed this will be the last “open season” on college students (Block, 2009b). Lenders plan to scale back reward programs and increase fees to adjust to the new laws (Chu, 2009b).

Is the problem specific to American students? Adams and Moore (2007) found that international students in the United States take less credit risks than domestic students. Perhaps the problem was not the access to credit (which international students would also have) but instead the American cultural mindset about credit. However, Canada is seeing the same explosion in consumer credit (Kirby, 2010).

METHOD FOR THE SURVEY

A convenience sample of business majors were taken from large survey classes at four campuses in the U.S. southwest in the fall semester of 2009. The schools varied in size from under 6000 students to over 25,000 students.

Students were asked to complete the questionnaire during class time. All students participated. A total of 251 completed surveys resulted. No surveys were rejected because of incomplete answers. However, in some questions, there were fewer than 251 responses.

Nearly all (96%) of survey participants were business majors. The group was fairly distributed among academic years. The respondents were in the following: freshman, 0.80%; sophomore, 12%; junior, 29.2%; senior, 32.4%; and graduate 16.4%. Since most students were in the last years of the business program, most had completed the core business classes. More than 64% had taken a class in business ethics. Over 82% had taken a class in business law. On average, students reported studying less than ten (10) hours per week.

Females and males were evenly divided. By age, the group consisted of traditional students. The average age was 24.12. Only fourteen were under age 20. Eleven were over age forty. Only 18.8% of the respondents were married, and about 18.4% used tobacco. Most students worked while attending school (75.6%). Of those who were employed, less than half were employed full-time. Fewer than 30% owned any stock or securities.

When paying for education, credit use was not a problem. One-fourth relied on their parents, while the same amount borrowed funds for college. Half the students indicated using multiple sources to pay for education. Often, this would include using credit cards to purchase books and supplies, and occasionally for tuition.

FINDINGS

Our findings were much more positive. We found that 26.4% of college students did not have a credit card. Just over a third (36%) had only one credit card. This leaves approximately half the college students with two or more credit cards.
And the students are using them. Only 18% used the card for emergencies. Another 14% used it less than five times a month. Nearly three-quarters (68%) use the card frequently.

However, when we examined the views of those who used their credit cards, the results were not positive. Only a third (35%) of students paid their credit card in full each month. Few (7.6%) paid only the minimum payment. This left the majority of students with some indeterminate amount of credit card debt each month. This might not be a problem if students were aware of the dangers of credit. However, we found that students lacked credit card knowledge.

- Only 30% of students claimed to know the interest rate they paid on credit.
- A strong majority (80%) had no idea of late payment charges on their credit card.
- Only 26% claimed to know the penalty for being over their credit balance.

Since these were not verified independently, we can safely assume that students have over-estimated their knowledge of financial matters. While America struggles to recover from a housing lending crisis, we face another one, as students leave college with heavy credit card debts and find a stagnant job market.

CONCLUSION

Clearly, we have a problem of financial literacy which must be addressed. If our college students lack financial literacy, the prospects for consumers without a college education must be dire indeed. Higher education must respond to this crisis with effective financial literacy training. And with debts accumulating at 20% interest, we must act with haste.

AUTHORS

*Professor Ludlum can be reached at mludlum@uco.edu

For a complete copy of the survey questions, please contact the authors.

REFERENCES

Acohido, B. (2008). Credit card support could toughen rules. (Nov. 28) USA Today, 5b.
Block, K. (2009a). Credit card reform swipes easy plastic from college students. (May 26) USA Today, 3b.
Block, K. (2009b). As card rules change, college students can still build a credit history. (Sept. 8) USA Today, 3b.
Bulik, B.S. (2010). Quit complaining about more credit-card offers. (Feb. 15) 81.7 Advertising Age, 9.
Chu, K. (2009a). Credit card fees keep going up. (March 16) USA Today, 1b.
Chu, K. (2009b). Credit card protections come with some holes. (May 21) USA Today, 3b.
Chu, K. (2010). Fed proposes rule to rein in late, over-limit charges on credit cards. (March 8) USA Today, 6b.
Kirby, J. (2010). Awash in a sea of debt. (Feb. 8) 123.4 Maclean’s, 62.
Christian Science Monitor, 29.
ABSTRACT
This study takes a look at a regression analysis of motivation and productivity in a typical company in a developing country of Nigeria. In its analysis, the study relied heavily on quantitative method which employed the use of 86 items in a questionnaire that was used to test the relationships between the chosen variables for the study. In its findings, the study noted that effective communication, feedback mechanisms, proper reward system are key motivational elements needed for improved productivity.

INTRODUCTION
A definition of motivation is “the set of processes that determine the choices people make about their behaviors” (Lopez, 1981). Motivation is an abstract term. It imparts incentives that require a response on part of someone else to achieve a defined goal. In business, motivation is not synonymous with salaries; money is a means for accommodating the economic needs of workers. Motivation means an inner wholesome desire to exert effort without the external stimulus of money. Motivating is the ability of indoctrinating the personnel with a unity of purpose and maintaining a continuing, harmonious relationship among all people. It is a force which encourages and promotes a willingness of every employee to cooperate with every member of the team. To maintain it is to create and perpetuate the climate which brings harmony and equilibrium into the entire work group for the benefit of all who are involved – the company as a whole (Wilbert Scheer 1979). Since the effective motivation comes from within, by motivating others, the manager can do more than create proper conditions that cause people to do their work willingly and with enthusiasm.

According to Robin and DeCenzo (1995: 271) motivation is defined as, “the willingness to exert high level of effort to reach organizational goals, conditioned by the worker’s ability to satisfy some individual need”. Campbell and Pritchard (1976) see motivation as a set of independent and dependant relationships that explains the direction, amplitude and persistence of an individual’s behavior holding constant the effects of aptitude, skills, understanding of a task and the constraints operating in the work environment. Schrader (1972) linked construction worker need to motivation, and it was subsequently concluded by

The relationship between the employer and employee must be one of understanding in order for the employee to identify himself with his work and with the business he is working for. Lack of motivation in return affects productivity. A number of symptoms may point to low morale: declining productivity; high employee turnover; increasing number of grievances; higher incidence of absenteeism and tardiness; increasing number of defective products; higher number of accidents or a higher level of waste materials and scrap (William Day 1978). A motivated employee is a loyal employee and to be loyal implies that the employee supports the actions and objectives of the firm. The appearance of the job as a whole has, in fact a bearing on the willingness and quality of an employee’s performance (Martin Bruce 1962).

Furthermore, Hofstede (1980) decried such motivational theories as merely point made about the ad nauseam emphasis on the managerial perspective in the quest to improve productivity. John Borcherding and Clarkson Oglesby (1974) discovered that productive job creates high job satisfaction while non-productive job (one which fall behind schedule) produce dissatisfaction at all levels of the management/worker chain.

Therefore, jobs that are well-planned and run smoothly produce great satisfaction while jobs with poor management (with scheduling and planning problems), create dissatisfaction. This illustrates the relationship between job satisfaction and productivity since; well-managed jobs are generally more productive.
A close review of all theories of human motivation reveal a common driving principle that people do what they are rewarded for doing. In general, the theories on motivation can be classified as: employee needs motivation through goal-setting, employee reward/incentives and reinforcement.

In Nigeria, unlike the advanced countries of the world where the manufacturing sector is highly inefficient, determining the relationship between motivation and productivity becomes quite challenging. This can be better appreciated by reviewing the enormous economic crisis confronting Nigeria and its implication for the manufacturing sector. In a recent publication by the Ministry of Economic Matters tagged ‘Obasanjo’s Economic Direction 1999 – 2003’, the President had this to say about the Nigeria economy: “The economy was generally riddled with myriads of problems and had virtually collapsed. In addition to the inherent fundamental structural defects which persisted, the economy was burdened by mismanagement, which brought additional problems, such as energy crises, manifested in the scarcity of petroleum products and an epileptic and erratic power supply; high fiscal deficits, which threw macro-economic fundamentals out of order and a near-total collapse of infrastructure and services. Low output, high unemployment and a crushing external debt overhang prevailed.”

In the face of the aforesaid challenges, it is believed by management experts that no matter the level of industrial development of any society, incentives constitute the pivots upon which motivation rotates. In order to keep manufacturing firm workers motivated, their needs should be looked into as project goals are reached. Satisfying workers’ needs can be viewed as distributing incentives when certain objectives are achieved. In management practice, it is believed that employees have needs that they want met and employers have goals that they reach and they can work together as a team to satisfy the wants of both the employees and their employers. Workers who are motivated to help reach the goal of the employer and do so should be recognized with an incentive/reward. When considering what type of incentives to use there are two types to be aware of, extrinsic and intrinsic. Extrinsic rewards are external rewards that occur apart from work, such as money and other material things. On the other hand, intrinsic rewards are internal rewards that a person feels when performing a job, so that there is a direct and immediate connection between work and reward.

The power of incentives is immense and pervasive, which is all the more reason they require careful management (McKenzie and Lee 1998). Heap (1987) in a study of a typical construction company has summarized a list of these advantages and disadvantages associated with financial incentives. Many construction companies have already considered that there can be advantages and disadvantages of developing an incentive program. A study by Sanders and Thompson (1999) showed that those companies that keep their program simple with the main objective of the program in mind (to benefit the project in reference to cost, schedule, customer service, environment and quality) are also deemed success of any incentive program. Incentives are usually defined as tangible rewards that are given to those who perform at a given level. Such rewards may be available to workers, supervisors, or top managers. Whether the incentive is linked directly to such items as safety, quality or absenteeism, the reward follows successful performance (MaKenzie and Lee 1998). Many companies feel that pocket money is to longer a good motivator. Others contend that small rewards such as toasters and blenders do not motivate. Many companies therefore offer profit sharing plans; or companies have abandoned monetary rewards and instead offer lavish trips to such places as Europe and some Caribbean islands.

Furthermore, because of the expense, these programs require careful monitoring. Some companies merely reward good producers with an extra day off with pay. Other concerns reward top performers with better working conditions. Since incentive programs aim to increase workers’ performance levels, the measure used to decide if a reward has been earned should be carefully set. The performance level must be attainable or workers won’t try to reach the goal. That fact underscores the usefulness of having workers themselves contribute their ideas about what constitutes a reasonable level of performance. An incentive scheme may also fail if the measure of success ignores quality or safety. An obvious problem exists when an incentive is applied to work that is machine paced. Incentives should be clearly linked to performance, but not all incentives can be clearly tied to objective criteria. Some incentive rewards are issued on the basis of a subjective assessment by a superior on the merit of particular workers. This method, in particular, may cause conflicts between workers, especially those who do not win rewards.

In the same vein, despite development in the project management technology workers are still the key players in the projects. They determine the success or the failure of a project; they define project goal, they plan organize, direct, coordinate and monitor project activities. They also meet project goals and objectives by using interpersonal and organizational skills such as communication, delegation, decision-making and negotiation (Yvonne du Plessis 2003). She adds “In project environments, people can be viewed as contributing problems
and constraints or a providing solution and opportunities”, and concludes that human resource management is a vital component of a project. The emphasis is on the workforce and how they can be managed and led to increase their overall efficiency and effectiveness as individuals, as project teams and as the members of the organization. It is important therefore, that the right people enter the project at the right time, which they are organized and motivated as individuals and work as a team to deliver according to the project goals and therefore recognized and rewarded for their achievements.

Based on the above analysis, and the fact that conflicting debates rage on what should constitute motivation and what is the relationship between motivation and productivity, this work strives to study the effect of motivation on productivity in United Plastics Limited Trans-Amadi Industrial Layout, one of the enterprises still managing to survive in Nigeria. In doing this the study will attempt to provide answers to such questions as; what is motivation?, what is the process of motivation?, what is the relationship between motivation and productivity? what is Expectant theory and its role in the motivation process?, what is the place of communication and feedback in the motivation process, what are the key motivating factors in an enterprise? Are there key environmental factors that determine motivation? What are the effects of motivation on productivity of staff? What special factors can sustain motivation etc? Answers to these questions will provide useful insights into the nature and dynamics of the process motivation.

**OBJECTIVES OF THE STUDY**
This study seeks to achieve the following objectives:

(a) To understand the nature and process of motivation and
(b) To show the relationship between motivation and productivity in a manufacturing company.

**RESEARCH DESIGN**

The aim of the study was to determine if motivation indeed leads to higher productivity and the role of communication as a major motivating factor in organizations. To determine the influence relationship, it was decided to conduct a survey. De La Rey (1978) sees the survey method as a reflection whereby the researcher gathers information about a certain phenomenon and interprets it. The information is then used to determine the causality of the phenomena as well as the factors influencing it. When conducting a survey, a researcher samples respondents who answer the same questions. Researchers measure variables, test hypotheses and make inference about past behavior, experiences and characteristics (Neumen, 1997:231)

To determine the relationship between motivation and productivity, it is vital to (1) determine the level of motivation of the employees and (2) to determine the place of communication in the motivation process.

**QUESTIONNAIRE**

A question was compiled consisting of 86 questions. The questionnaire consisted of four sections:

**SECTION 1: Biographical information**

This section was used to profile the candidates in terms of years of service, gender, status in the company, nature of their job activities, department, home language, qualification and age.

**SECTION 2: feedback**

Feedback was described in terms of the sources of performance feedback commonly used in organizations. Respondents were asked to indicate how much they agreed or disagreed with statements made on a seven point likert type scale. Due to the importance of direction and intensity of the respondents’ indications, a likert-type rating scale was used. The respondents indicated the degree to which they agreed or disagreed with statements. The scale representing number 1 indicated agreement and number 7, disagreements. Due to the fact that some of the items have an inverse context, adjustments were made in order to process the data.

Four sources of feedback were focused upon:

Self feedback
Task feedback
Co-worker feedback
Supervisor feedback
Due to the fact that no formal performance appraisal system was in use in the company, the section did not focus on the formal process of appraisal as a source of providing information on performance. It was however referred to in question 56 and question 57, where respondents were asked if they would prefer performance appraisals or not.

**Section 3: Satisfaction**

A short section comprising of three items were placed in the questionnaire to determine basic job satisfaction.

**Section 4: Motivation**

In this section, the questionnaire by Lawler et al (1975) was used to determine job motivation, based on the expectancy theory of motivation.

The section comprised of 25 questions on a Likert-type rating scale.

The first set of questions focused on the expectations of reward with regards to performance (11 questions). Respondents were asked to rate their answers in terms of “not at all likely” to “extremely likely”. The second set of questions focused on the list of elements important to individuals. Respondents were also asked to rate their answers in terms of “less important” to “very important” the third set of questions focused on the expectancy that working hard (effort) would lead to a performance outcome.

**RESEARCH GROUP AND RESPONDENTS**

The research group comprises of 196 employees of a manufacturing company working on different levels. The levels ranged from management to production workers and included employees from different levels of qualification, age, status (permanent or contractors), language, years of service and gender. The respondents were drawn randomly within their different sections.

**DATA COLLECTION AND ANALYSIS**

**DISTRIBUTION AND COLLECTION OF THE QUESTIONNAIRES**

Questionnaires were distributed by researcher to the different sections via the management channels in the organization. All questionnaires were completed using pen and paper and sent to the Human Resources Department via internal mail.

**DATA ANALYSIS**

All data received from the questionnaires were read into spreadsheet format and the computer based program, SPSS (Statistical Package for the Social Sciences) was used to analyze the data.

**STATISTICAL METHODS**

**CORRELATION**

Cascio (1998:322) describes correlation by stating:

“The degree of relationship between any two variable is simply the extent to which they very together in a systemic fashion. The magnitude or degree to which they are related linearly is indicated by some measure of correlation, the most popular of which is the Pearson Product-Moment Correlation Coefficient, r. As a measure of relationship, r varies between +/-1. When r is 1.00, the two sets of scores are related perfectly and systematically to each other.”

The Product-Moment Correlation Coefficient is a parametric correlation statistic and is a quantitative index of the strength of the linear relationship between two variables (peers, 1996:253).

**REGRESSION**

Correlation does not allow prediction criterion scores form predictor scores. For this function, a statistical technique known as regression analysis is used (Cascio, 1998:332).

Regression analysis is used for the following (peers, 1996:253):
a) Describing the relationship between a response variable and an explanatory variable.
b) Predicting the values of a response variable from independent variables

RELIABILITY

Reliability of a measurement refers to a measurement constantly providing the same results measured repeatedly under near identical conditions (Pears, 1996:3). Reliability means that the information provided by indicators does not vary as a result of characteristics of the indicator, instrument or measurement device itself (Neuman, 1997:138).

EFFECT SIZES

Effect sizes are seen as standardized measures of relationships. The core indicates the relative importance of the covariate, main or interaction effect. A main effect is seen as the direct effect of an independent variable and interaction effect is the joint affect of two or more independent variables on the dependent variable (Source: Becker, 2001:1).

Effect sizes can be calculated in different ways. One such a method is using the point-bi-serial correlation. The effect size correlation can be computed directly as the point-bi-serial correlation between the dichotomous independent variable and the continuous dependent variable. The point-biserial is a special case of the Pearson product-moment correlation that is used when one of the variables is dichotomous. The point-biserial is a shorthand method for computing a Pearson product-moment correlation. The value of the point-bi-serial is the same as that obtained from the product-moment correlation (Becker, 2000:5).

FIGURE 3 EFFECT SIZE CORRELATION

The relationship between $d$, $r$ (Pearson product-moment coefficient) and $r^2$ is shown in the following table.

<table>
<thead>
<tr>
<th>Cohen’s Standard</th>
<th>D</th>
<th>R</th>
<th>$R^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0</td>
<td>.707</td>
<td>.500</td>
<td></td>
</tr>
<tr>
<td>1.9</td>
<td>.689</td>
<td>.474</td>
<td></td>
</tr>
<tr>
<td>1.8</td>
<td>.669</td>
<td>.448</td>
<td></td>
</tr>
<tr>
<td>1.7</td>
<td>.648</td>
<td>.419</td>
<td></td>
</tr>
<tr>
<td>1.6</td>
<td>.625</td>
<td>.390</td>
<td></td>
</tr>
<tr>
<td>1.5</td>
<td>.600</td>
<td>.360</td>
<td></td>
</tr>
<tr>
<td>1.4</td>
<td>.573</td>
<td>.329</td>
<td></td>
</tr>
<tr>
<td>1.3</td>
<td>.545</td>
<td>.297</td>
<td></td>
</tr>
<tr>
<td>1.2</td>
<td>.514</td>
<td>.265</td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>.482</td>
<td>.232</td>
<td></td>
</tr>
<tr>
<td>1.0</td>
<td>.447</td>
<td>.200</td>
<td></td>
</tr>
<tr>
<td>0.9</td>
<td>.410</td>
<td>.168</td>
<td></td>
</tr>
<tr>
<td>0.8</td>
<td>.371</td>
<td>.138</td>
<td></td>
</tr>
<tr>
<td>0.7</td>
<td>.330</td>
<td>.109</td>
<td></td>
</tr>
<tr>
<td>0.6</td>
<td>.287</td>
<td>.083</td>
<td></td>
</tr>
<tr>
<td>0.5</td>
<td>.243</td>
<td>.059</td>
<td></td>
</tr>
<tr>
<td>0.4</td>
<td>.196</td>
<td>.038</td>
<td></td>
</tr>
<tr>
<td>0.3</td>
<td>.148</td>
<td>.022</td>
<td></td>
</tr>
<tr>
<td>SMALL</td>
<td>.100</td>
<td>.010</td>
<td></td>
</tr>
<tr>
<td>0.1</td>
<td>.050</td>
<td>.002</td>
<td></td>
</tr>
<tr>
<td>0.0</td>
<td>.000</td>
<td>.000</td>
<td></td>
</tr>
</tbody>
</table>

(Source: Becker, 2000:5)
DATA ANALYSIS

This section deals with the application of statistical measures and results obtained when analyzing the data. The finding and the interpretations will be discussed.

STUDY SETTING

The United Plastics Industries started as a one-man establishment. It was a development made in response of the desire of the people for footwears that would be simple and less expensive and quite affordable. This idea was embraced and materialized by a Chinese named Mr. John Lui. Mr., Lui is therefore the bona fide owner of United Plastics Industries limited. He registered the company as an enterprise in 1979 and became incorporated as a private limited liability company in 1981, and the eventual commencement of production.

Upon his death after a few years of achievements, one of his sons; Mr. Eddy Lui took over the affairs of the firm. After a while due to bitter feud amongst the siblings, the company was handed over to the Liu’s elder brother, Mr. Williams Lui, to manage as the chief executive officer, till date the company is owned by Williams Lui in trust for the family and he remains the Chief Executive Officer (CEO). Today, United Plastics employs about 950 persons and a lot of other indirect employees.

Amongst the most popular of United Plastics products is EVA products, commonly called "Silipas," deigned in various forms and sizes. Their source of raw materials used in production - rubber are obtained both in natural and synthetic forms. In the case of the former, raw materials are purchased from the crop rubber, at Delta Rubber Company Ltd., Etche, Rivers State, while the other products such as pigments (coloring substance), Resin, Strict acids, DOP, Ere flex, Zinc Oxide, VCP, blowing agents and all the likes are procured from the local markets.

ORGANIZATIONAL CHART UNITED PLASTICS INDUSTRIES LIMITED

```
Sales
  | Productio
    | Managing Director
      | Director
              | General
               | Accounts
                      | Accounts
                               | Account Office
                                    | Security
                                         | Worker’s Canteen
                                             | Medical
                                                | Pay Roll
                                                     | Productio n Unit
                                                        | Factory
                                                            | Factory Up - 2
                                                                | Factory Up - 1
                                                                    | Factory Office
                                                                        | Productio n Unit
```

Mustang J. of Law & Legal Studies (2010)
FACTORY CHART
UNITED PLASTICS INDUSTRIES LTD, PORTHARCOURT.

Up – 2
Supervisor

Cutting Sector

Cementing
Section

Servicing Section

Laminating
Section

Packing Section

Factory
Manager

Supervisors

Assistant Sect
Head

Rolling Section

PVC Section

Pressing
Section

Sole-Cutting
Section

Pinning

Workshop

Sores

Local
Purchase

Packing
TABLE 2  GENDER

<table>
<thead>
<tr>
<th>Gender</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>119</td>
<td>60.7</td>
<td>60.7</td>
<td>60.7</td>
</tr>
<tr>
<td>Female</td>
<td>77</td>
<td>39.3</td>
<td>39.3</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Table 3 presents the gender distribution in the study. A greater number of participants were male (119), with a percentage of 60.7 percent in comparison with females (77), with a percentage of 39.3%. This table is intended to give part of the bio-data of the respondents.

TABLE 3 STATUS OF EMPLOYMENT

<table>
<thead>
<tr>
<th>Status</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>19</td>
<td>9.7</td>
<td>9.8</td>
<td>9.8</td>
</tr>
<tr>
<td>Permanent</td>
<td>175</td>
<td>89.3</td>
<td>90.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>194</td>
<td>99.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>2</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>System</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There are permanent and contract workers in the employ of the company. In the study, a greater number of participants were permanent employees (175), with a percentage of 89.7% in comparison with females (19), with a percentage of 9.7%. The essence of this table is to know the length of service of the workers which will in turn determine the reliability of the responses as longer serving employees will most likely provide more reliable responses because of their good knowledge of the intricate workings of the company.

TABLE 4 NATURE OF JOB

<table>
<thead>
<tr>
<th>Nature of Job</th>
<th>Frequency</th>
<th>Percentage</th>
<th>Valid percent</th>
<th>Cumulative percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td>5.8</td>
<td></td>
</tr>
<tr>
<td>Management</td>
<td>11</td>
<td>5.8</td>
<td>12.7</td>
<td>5.8</td>
</tr>
<tr>
<td>Supervisor</td>
<td>24</td>
<td>12.2</td>
<td>17.5</td>
<td>18.5</td>
</tr>
<tr>
<td>Administrative Specialist</td>
<td>33</td>
<td>16.8</td>
<td>11.1</td>
<td>36.0</td>
</tr>
<tr>
<td>Security</td>
<td>21</td>
<td>10.7</td>
<td>3.7</td>
<td>47.1</td>
</tr>
<tr>
<td>Quality</td>
<td>7</td>
<td>3.6</td>
<td>12.2</td>
<td>50.8</td>
</tr>
<tr>
<td>Production worker</td>
<td>23</td>
<td>11.7</td>
<td>37.0</td>
<td>63.0</td>
</tr>
<tr>
<td>Total</td>
<td>70</td>
<td>35.7</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing System</td>
<td>189</td>
<td>96.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The nature of the job distribution refers to the different types of jobs the employees perform in the company. Seven different categories were described. The greatest number of participants was production workers (70), with a percentage of 35.7%. Administrative personnel were also found to of a high number (33), with a percentage of 16.8%, followed by supervisors (24), with a percentage of 12.2% and employees in quality assurance (23), with a percentage of 11.7%. Specialists include employees with specialists’ knowledge (such as tradesmen) and represented 10.7% of participants. Managers were represented by 11 participants (5.6%) and security with a percentage of 3.6%.

**TABLE 5 LANGUAGES OF RESPONDENTS**

<table>
<thead>
<tr>
<th>Home Language</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ibibio</td>
<td>17</td>
<td>8.7</td>
<td>8.9</td>
<td>8.9</td>
</tr>
<tr>
<td>English</td>
<td>126</td>
<td>64.3</td>
<td>66.0</td>
<td>74.9</td>
</tr>
<tr>
<td>Ibo</td>
<td>26</td>
<td>13.3</td>
<td>13.6</td>
<td>88.5</td>
</tr>
<tr>
<td>Yoruba</td>
<td>8</td>
<td>4.1</td>
<td>4.2</td>
<td>92.7</td>
</tr>
<tr>
<td>Other</td>
<td>14</td>
<td>7.1</td>
<td>7.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>191</td>
<td>97.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>5</td>
<td>2.6</td>
<td>2.6</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Home language refers to the mother tongue of the participants. English is the official language of the company; the majority of employees are not English speaking individuals (64.3%). There is however other languages which are widely spoken as indicated in the table above to show the obvious multi-ethnic nature of Nigeria.

**TABLE 7 QUALIFICATIONS.**

<table>
<thead>
<tr>
<th>Qualifications</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trade qualification</td>
<td>26</td>
<td>13.3</td>
<td>32.5</td>
<td>32.5</td>
</tr>
<tr>
<td>National Certificate</td>
<td>10</td>
<td>5.1</td>
<td>12.5</td>
<td>45.0</td>
</tr>
<tr>
<td>National Diploma</td>
<td>21</td>
<td>10.7</td>
<td>26.3</td>
<td>71.3</td>
</tr>
<tr>
<td>University Degree</td>
<td>9</td>
<td>4.6</td>
<td>11.3</td>
<td>82.5</td>
</tr>
<tr>
<td>Others</td>
<td>14</td>
<td>7.1</td>
<td>17.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>80</td>
<td>40.8</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing No Response</td>
<td>116</td>
<td>59.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Trade qualification refers to the technical after completing an apprenticeship-training programme. Examples of trade qualifications include fitting turning and tool making. Trade qualifications represented 13.3% of formal qualifications of participants. National certificate employees represented 5.1% of employees and employees with nationals Diplomas in various field 10.7%. Graduates represented 4.6% of the participants. The no-response category represents all the other participants to the study not having any form of formal qualification other than school qualifications. This group is large, and forms 59.2% of the participants to study.
### TABLE 8  AGE

<table>
<thead>
<tr>
<th>Age in years</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Younger than 25</td>
<td>15</td>
<td>7.7</td>
<td>7.7</td>
<td>7.7</td>
</tr>
<tr>
<td>25-30</td>
<td>30</td>
<td>15.3</td>
<td>15.3</td>
<td>23.0</td>
</tr>
<tr>
<td>31-35</td>
<td>24</td>
<td>12.2</td>
<td>12.2</td>
<td>35.2</td>
</tr>
<tr>
<td>36-40</td>
<td>16</td>
<td>8.2</td>
<td>8.2</td>
<td>43.4</td>
</tr>
<tr>
<td>41-45</td>
<td>40</td>
<td>20.4</td>
<td>20.4</td>
<td>63.8</td>
</tr>
<tr>
<td>46-55</td>
<td>58</td>
<td>29.6</td>
<td>29.6</td>
<td>93.4</td>
</tr>
<tr>
<td>Older than 55</td>
<td>13</td>
<td>6.6</td>
<td>6.6</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>196</td>
<td>100</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The age distribution of participants to the study is described in this table. Age group 46-45, has the largest amount of participants, namely 58 (29.6%), followed by the age group 41-45, with 40(20.4%). The smallest groups are participants younger than 25 (7.7%), the group 36-40 (8.2%) and participants older than 55.

### TABLE 9  MOTIVATIONS OF EMPLOYEES

<table>
<thead>
<tr>
<th>Motivational Score</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid very low motivation score</td>
<td>3</td>
<td>1.5</td>
<td>1.5</td>
<td>1.5</td>
</tr>
<tr>
<td>Low motivation score</td>
<td>12</td>
<td>6.1</td>
<td>6.1</td>
<td>7.7</td>
</tr>
<tr>
<td>Below average motivation</td>
<td>39</td>
<td>19.9</td>
<td>19.9</td>
<td>27.6</td>
</tr>
<tr>
<td>Motivation score</td>
<td>61</td>
<td>13.1</td>
<td>31.1</td>
<td>58.7</td>
</tr>
<tr>
<td>Average motivation</td>
<td>30</td>
<td>15.3</td>
<td>15.3</td>
<td>74.0</td>
</tr>
<tr>
<td>Above average motivation score</td>
<td>18.9</td>
<td>37</td>
<td>7.1</td>
<td>92.9</td>
</tr>
<tr>
<td>Score</td>
<td>14</td>
<td>196</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The table indicates the level of motivation of employees. The highest groups of participants have average motivational scores. Close to twenty percent (19.9%) of participants have below average motivational scores and 15.3% of participants have above average motivational scores.

### TABLE 10  NEED FOR FORMAL PERFORMANCE APPRAISAL (FORMAL)

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid percent</th>
<th>Cumulative percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very high need for</td>
<td>89</td>
<td>45.1</td>
<td>46.1</td>
<td>46.1</td>
</tr>
<tr>
<td>Performance feedback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High need for</td>
<td>33</td>
<td>16.8</td>
<td>17.1</td>
<td>63.2</td>
</tr>
<tr>
<td>Performance feedback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
model consistency, based on the average inter-item correlation.

**TABLE 11 RELIABILITY ANALYSES**

<table>
<thead>
<tr>
<th>Feedback</th>
<th>Items (N)</th>
<th>Alpha</th>
<th>Standardized Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Self feedback</td>
<td>7</td>
<td>0.6855</td>
<td>0.6949</td>
</tr>
<tr>
<td>2. Task feedback</td>
<td>12</td>
<td>0.7774</td>
<td>0.7780</td>
</tr>
<tr>
<td>3. Supervisor feedback</td>
<td>9</td>
<td>0.7530</td>
<td>0.7597</td>
</tr>
<tr>
<td>4. Co-work feedback</td>
<td>8</td>
<td>0.5306</td>
<td>0.5336</td>
</tr>
</tbody>
</table>

A high level of reliability was found with reference to task feedback, supervisor feedback and self feedback. Satisfactory reliability was found on co-work feedback.

**Correlation**

**TABLE 12 MOTIVATION AND SOURCE FEEDBACK**
The table displays Pearson correlation coefficients, significance values, and the number of case with non-missing values (N). The Pearson correlation coefficient is a measure of linear association coefficient is also displayed in the correlation table. The significance level (or p-value) is the probability of obtaining results as extreme as the one observed. If the significance level is very small (less than 0.05) then the correlation is significant and the two variables are linearly related.

In the table correlations between motivation and feedback are negative for all sources of feedback. Significant correlations are supervisor feedback (-0.467), Self-feedback (-0.381).

Effect size are also seen to play an important role. Effect sizes are seen as standardised measures of relationship. Using the table as set out in the previous chapter, the following effects were found.

Large effects were found for:
- score and supervisor feedback (-0.67* *), d=1.0
- Motivation score and task feedback (-3.81**), d=0.8
- Supervisor feedback and task feedback (0.306* *), d=0.6
- Motivation Self feedback and task feedback (-3.81), d=0.8

Where d=0.6, the amount of variance in the dependent variable that is accounted for is about 8.3%, where d=1.0 the variance is 20% and where d=0.8, the deviation is 13.8%.

Medium effects were found for:
- Supervisor feedback and co-worker feedback (0.236**), d=0.4
- Co-worker feedback and self-feedback (0.241**), d=0.4
- Task feedback and co-worker feedback (0.197**), d = 0.4
- Motivation and self-feedback (-1.191*), d =0.4

In all case, d =0.4. The amount of variance that is accounted for is about 3.8%
It can be seen that the higher the “r” the higher the “d” and this implicates the large size effect.
TABLE 13 FEEDBACK AND AVERAGE EXPECTANCY VALENCE

Descriptive Statistics

<table>
<thead>
<tr>
<th></th>
<th>Mean</th>
<th>Std. Deviation</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Expectancy</td>
<td>23.3312</td>
<td>10.46441</td>
<td>196</td>
</tr>
<tr>
<td>valence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervisor feedback</td>
<td>3.10</td>
<td>1.246</td>
<td>183</td>
</tr>
<tr>
<td>Co-worker feedback</td>
<td>3.73</td>
<td>1.185</td>
<td>179</td>
</tr>
<tr>
<td>Self feedback</td>
<td>2.3564</td>
<td>.84816</td>
<td>181</td>
</tr>
<tr>
<td>Task feedback</td>
<td>2.9231</td>
<td>1.01317</td>
<td>182</td>
</tr>
</tbody>
</table>

The table describes the mean, the standard deviation and the number of cases with no missing values. The mean or arrhythmic average, are set in the proximity of 3 for supervisors feedback, co-worker feedback, task feedback and 23.331 for the expectancy valence. The mean of self-feedback is set at 2.356. This is computed by adding up the scores and then dividing the scores by the number of scores. This is a well-known way of measuring central tendency and is only used for interval or ration level data (Neumen, 1997:300). Scores at the extreme ends (high and low) will disproportional influence the mean (Bless and Kathuria, 1993:46). This concept of influence is commonly known as the standard deviation “tells you how much dispersion there is in the distribution scores as set out in the table indicate that the employees responded very similarly, especially in terms of self-feedback with a standard deviation of 0.848.

TABLE 14 EXPECTANCY VALENCE AND FEEDBACK

<table>
<thead>
<tr>
<th></th>
<th>Average Expectancy Valence</th>
<th>Pearson Correlation</th>
<th>Sig. (2 tailed)</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervisor Feedback</td>
<td></td>
<td>-432**</td>
<td>.000</td>
<td>196</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.000</td>
<td>183</td>
</tr>
<tr>
<td>Co-worker Feedback</td>
<td></td>
<td>.236**</td>
<td>.002</td>
<td>179</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.002</td>
<td>169</td>
</tr>
<tr>
<td>Self feedback</td>
<td></td>
<td>.241**</td>
<td>.010</td>
<td>165</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.010</td>
<td>169</td>
</tr>
<tr>
<td>Task feedback</td>
<td></td>
<td>-222**</td>
<td>.003</td>
<td>181</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.003</td>
<td>181</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-236**</td>
<td>.065</td>
<td>181</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.065</td>
<td>182</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-333**</td>
<td>.000</td>
<td>181</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.000</td>
<td>181</td>
</tr>
<tr>
<td></td>
<td></td>
<td>.000</td>
<td>.010</td>
<td>171</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.010</td>
<td>171</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-197**</td>
<td>.000</td>
<td>171</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.000</td>
<td>171</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>-236**</td>
<td>.000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.000</td>
<td>171</td>
</tr>
</tbody>
</table>

** Correlation is significant at the 0.01 level (2-tailed)
* Correlation is significant at the 0.05 level (2-tailed)

As can be seen, there are negative correlations between the average expectancy valence and supervisor feedback (-0.432**), self-feedback (-0.222**) and task feedback (-0.333**). All of the correlations in the table are of significant value. N is the number of cases with non-missing values. In this case, a large number of the research group is represented in all instances.
As this study is based on the expectancy theory of motivation, expectancy valence refers to combination of a number of beliefs about what the outcomes of successful performance will be and the value or attractiveness of these outcomes for the individual. Based on the theory, the more likely a person feels that performance will lead to valent outcomes, the more likely her or she will try to perform at the required level. The negative correlations thus indicate that the more source feedback on performance is received, (excluding formal performance appraisals) the lower the average expectancy valence. It can thus be inferred that source feedback in his instance, negatively influences the perceptions or belief about what the outcomes of successful performance will be and the value or attractiveness of these outcomes for the individual. It can thus further be inferred that behavior of employee will be negatively influenced by the feedback they receive.

Other correlations are also present. It is seen that there is a positive correlation between supervisor feedback and co-worker feedback. Where an individual thus receives positive feedback form his or her supervisor, he or she would receive positive feedback form the co-workers he or she works with. It can be assumed that group influence on behavior is high. There is also a positive correlation between supervisor feedback and task feedback. The correlation could be explained by an individual completing a task and receiving feedback from it, and the supervisor providing the same or similar feedback on performance. Correlations also exist between self-feedback and co-worker feedback. Due to the fact that a large number of task are performed in group settings, it is quite likely that the performance feedback from the co-workers would positively influence self feedback, as self feedback is a product of the environment and employee finds himself in. Task feedback also positively correlates with self-feedback. This could be illustrated by the fact that if a person performs well on a task e.g turning asset piece, the employee will receive information of task success as well as information worth and increased control over his or her work piece.

Effect sizes are also seen to play an important role. Effect sizes are seen as standardized measures of relationships. Using the table as set out in the previous chapter, the following effects were found.

Large effects were found for:

- Supervisor feedback and average expectancy (0.432**), d= 0.9
- Task feedback and self feedback (0.401**), d=0.8
- Supervisor feedback and task feedback (0.306**), d=0.6
- Task feedback and expectancy valence (0.333*), d=0.7

Where d=0.9, the amount of variance in the dependent variable that is accounted for is about 16.8%, where d=0.8 the variance is 13.8%, where d=06, the variance is 8.3% and where d=0.7, the deviation is 10.9%.

Medium effects were found for:

- Self feedback and expectancy valence (-0.222**), d=0.4
- Co-worker feedback and supervisor feedback (0.236**), d=0.4
- Self-feedback and co-worker feedback (0.241**), d=0.4

In all cases, d=0.4. The amount of variance that is accounted for is about 3.8%

A small effect was found for co-worker feedback and task feedback (0.179*), d=0.1. The amount of variance that is accounted for is about 2%.
Table 15 describes the mean, the standard deviation and the cases where no missing values were identified.

The mean or arrhythmic average is set at 4.7 for the motivational score and at 23.331 for the expectancy valence.

In terms of standard deviation, the motivational score has an average distance of 1.4 from the mean, indicating that a large amount of scores fall in relative close proximity to the mean. This indicates the employees do not vary much in terms of motivation scores. This is also true for the standard deviation of 10.4 of the average expectancy valence. They do however, not fall as closely together as the motivation scores.

Table 16 describes the mean, the standard deviation and the cases where no missing values were identified.

The correlation table displays Pearson correlation coefficients, significance values and the number of cases with non-missing values. As can be seen, there is a significant positive correlation between the motivational scores and the expectancy valence score.

The positive correlation implies that the higher the expectancy valence, the higher the level of motivation. This in accordance with the expectancy theory of motivation as discussed in chapter 2.

**REGRESSION**

With the calculation of regression, the stepwise method was used.
TABLE 17 FEEDBACK, MOTIVATION AND EXPECTANCY VALENCE: MODEL
Model Summary

<table>
<thead>
<tr>
<th>Model</th>
<th>R</th>
<th>R Square</th>
<th>Adjusted R Square</th>
<th>Std. Error of the Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>.911a</td>
<td>.830</td>
<td>.828</td>
<td>.60544</td>
</tr>
<tr>
<td>2</td>
<td>.917b</td>
<td>.842</td>
<td>.840</td>
<td>.58538</td>
</tr>
<tr>
<td>3</td>
<td>.921c</td>
<td>.849</td>
<td>.846</td>
<td>.57379</td>
</tr>
</tbody>
</table>

a. Prediction: (Constant), Average Expectancy valence
b. Prediction: (Constant), Average Expectancy valence Supervisor feedback
c. Prediction: (Constant), Average Expectancy valence Supervisor feedback, Task feedback

This table displays R, R squared, adjusted R squared, and the standard error. R, the multiple correlation, is the correlation between the observed and predicted values of the dependent variable (motivation).

The values or R for models produced by the regression procedure range from 0 to 1. Large values of R indicate stronger relationships. Squared is the proportion of variation in the dependent variable explained by the regression model.

In using multiple regression, the best fitting model is sought to described the relationship between a dependent variable and more than one independent variable. In table 18, the predictions with regard to motivation, as a dependent variable were possible.

Due to the fact that R=0.921 in model three, it is seen as the highest correlation coefficient and the lowest standard error of estimates. This implies that model 3 is chosen to describe the relationship between feedback, motivation and expectancy valence.

TABLE 18 FEEDBACK, MOTIVATION AND EXPECTANCY VALENCE: ANOVA

ANOVA

<table>
<thead>
<tr>
<th>Model</th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Regression</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>262.264</td>
<td>1</td>
<td>262.264</td>
<td>715.489</td>
</tr>
<tr>
<td></td>
<td>Residual</td>
<td>53.883</td>
<td>147</td>
<td>.367</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>316.148</td>
<td>148</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Regression</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>266.117</td>
<td>2</td>
<td>133.059</td>
<td>388.293</td>
</tr>
<tr>
<td></td>
<td>Residual</td>
<td>50.031</td>
<td>146</td>
<td>.343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>316.148</td>
<td>148</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Regression</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>268.408</td>
<td>3</td>
<td>89.469</td>
<td>271.748</td>
</tr>
<tr>
<td></td>
<td>Residual</td>
<td>47.739</td>
<td>145</td>
<td>.329</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>316.148</td>
<td>148</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a. Prediction: (Constant), Average Expectancy valence
b. Prediction: (Constant), Average Expectancy valence Supervisor feedback
c. Prediction: (Constant), Average Expectancy valence Supervisor feedback, Task feedback
d. Dependent Variable: Motivational score

The output for regression displays information about the variation accounted for by the model. The output for residual displays information about the variation that is not accounted for by the model. The model has a large regression sum of squares and indicates that the model accounts for most of variation in the dependent variable (motivation). This is shown by regression sum of squares being 268.408 and the residual sum of squares equaling 47.739.

The mean square is the sum of squares divided by the degrees of freedom. The F statistic is the regression mean square (MSR) divided by the residual mean square (MSE). As the F statistic is smaller than 0.05 it explains the variation in the dependent variable (motivation).
Table 19: Coefficients with Dependant Variable: Motivational Score

<table>
<thead>
<tr>
<th>Model</th>
<th>Unstandardized Coefficients</th>
<th>Standardized Coefficients</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>Std. Error</td>
</tr>
<tr>
<td>1</td>
<td>1.503</td>
<td>.118</td>
</tr>
<tr>
<td></td>
<td>.121</td>
<td>.005</td>
</tr>
<tr>
<td>2</td>
<td>2.113</td>
<td>.215</td>
</tr>
<tr>
<td></td>
<td>.114</td>
<td>.005</td>
</tr>
<tr>
<td></td>
<td>.140</td>
<td>.042</td>
</tr>
<tr>
<td>3</td>
<td>2.517</td>
<td>.260</td>
</tr>
<tr>
<td></td>
<td>.111</td>
<td>.006</td>
</tr>
<tr>
<td></td>
<td>-120</td>
<td>.042</td>
</tr>
<tr>
<td></td>
<td>-132</td>
<td>.050</td>
</tr>
</tbody>
</table>

a. Dependent Variable: Motivational Score

The un-standardized coefficients are the coefficients of the estimated regression model. The estimated model is average expectancy valence (0.111), Supervisor feedback (-0.120) and Task feedback (-0.132). Due to measurements in different units, standardized coefficients or betas are used to make the regression coefficients more comparable. Average expectancy valence (0.834), supervisor feedback (-0.104) and task feedback (-0.092) combined to form significant predictors of motivation. It can thus be said that the more feedback received from the task and the supervisor, the less the expectancy that the outcome will lead to rewards. As expectancy valence positively correlates with motivation, it can be said that the lower the expectancy of rewards, the lower the motivation.

This relationship implies that average expectancy valence (positive relation), supervisor feedback (negative relation) and task feedback (negative relation) plays a significant role in determining motivation.

Summary, Recommendations and Conclusion

Summary
This study was initiated as a result of identifying certain problems in performance feedback when abolishing formal performance evaluations. Although performance appraisal is not seen as the only form of performance feedback, traditionally it has been linked to effort-performance-reward contingencies as explained in the expectancy theory of motivation.

Research indicated that there is a significant relationship between motivation and performance source feedback. The relationship however, is negative for the other sources of motivation. It also shows the significant role of communication in motivation and productivity of employees of United Plastics, Trans Amadi, Port Harcourt, Nigeria.

A problem reason for the negative correlation is the negative relationship between feedback sources and average expectancy valence (the perception or belief that performance would lead to desired rewards or outcomes). This “lack” of belief or perception is most likely to be due to a lack of formal performance feedback structures. This inference is made due to the following reasons:

- Negative correlation between average expectancy valence and supervisor feedback received from supervisors do not enhance the perception that performance will lead to a desired outcomes but rather limit it. Supervisor feedback could be negatively influenced by limited or feedback given in
a “too general” sense. This can be attributed to the fact that sections are large and formal performance feedback is not given. In a sense one would expect feedback on performance to be more frequent to those who perform well and where their performance is very visible or where performance is below standard. In United Plastics this could be surmounted by proper division of responsibilities and duties

- Negative correlation between average expectancy valence and task feedback is seen to exist. This could be due to fact that the company manufactures small components, where individual control is limited. Where most of the individuals that participated in the study work on the production and expectancies of performance outcome on an individual basis, is limited.

- A negative correlation between average expectancy valence and self-feedback is described. As stated earlier it was found that where feedback is not given directly, properties of both the person and the stimulus influence the nature of the perceived feedback. The individual’s frame-of-reference with which he or she addresses the performance environment is the major variable affecting perception. More so, this could undermine productivity in United Plastics if the communication pattern is blurred as in most business organizations.

- Lack of formal performance appraisal could also contribute to the negative correlation. As no formal performance feedback is given, the evaluation of performance is even more subjective and open to bias. The effort-performance-reward contingency link can also be difficult to put in place. An employee may perceive his or her performance to be outstanding, but it is not necessarily the case (lack of ability) and finds it difficult to accept that his or her performance is not rewarded. It is also true that some employees may be more advantaged in the “no-performance appraisal” idea – some employees could perhaps position themselves better than others. The high need of participants to have a formal performance appraisal system in place (70.5%) is also important and could probably be due to perceived inequalities. United Plastics need to improve in this area to improve their appraisal mechanism and by extension help to ensure high productivity from her workers.

RECOMMENDATIONS

“Why do employees do what they do?” According to the study, employees are motivated do what they do in order to satisfy needs. According to Timbers (2001), employees need recognition, communication, a feeling of belonging and emotional security.

Commitment from top management to improve motivational levels and communication in the organization is vital. It is advised that communication must form part of management planning as production schedules, procurement of materials and maintenance of equipment. Improved communication will enhance the employee’s sense of belonging.

Effective organizing of groups and teams would also be of value to organization as they provide resources to fulfill needs in a social structure and create the opportunity for sharing of ideas, belonging and various other advantages. Effective communication from management to employees would also limit the negative effects of rumors and part of this strategy is to open up appropriate line of communication in United Plastics to reduce the negative effect of rumors in the organization.

A formal feedback structure, such as a performance appraisal system should be set in place in order to inform employees (directly) on their performance on a regular basis that could also improve on the information organizations need to improve their performance as a whole.

In terms of recognition, it is important to know that employees need to know that they are valuable assets to organizations. Where possible, their contributions should be recognized and jobs should be designed in such a fashion that it contributes to the employee. Where production workers are concerned, job rotation could contribute to improve task-related feedback. This strategy is highly recommended for United Plastics Company to boost productivity.
Above all, the impact of good and sustainable wages and other incentives cannot be over emphasized. Although most literature tends to dwell much on this issue, a deliberate effort was made to discuss latter in this work. Concerted efforts should be made by management to implement a dynamic wage structure that is capable of ensuring optimum productivity. While this is subject of intense debate with regards to what constitute an acceptable wage between management and workers, the fact remains that management of United Plastics should ‘pay’ their workers well.

CONCLUSION
This research project has made a modest attempt to establish the relationship between motivation and productivity using United Plastics factory as a case study. In the course of the study efforts were made to establish the impacts of such motivation variables as; communication, wages and remunerations, leadership styles in the productivity of workers in United Plastics Factory. The study showed interesting patterns of workers’ motivation charts which in the recommendations were strongly advocated for optimum productivity in industrial settings.

In conclusion it can be said that organizations should take care to communicate with employees in order to positively influence the formation of perceptions that could lead to higher motivational levels. Communication structures, such as performance feedback sessions should be put in place to function effectively.

REFERENCES


TAKING A BYTE OF THE AMERICAN PIE: AN EXPLORATION OF THE INFLUENCE OF POLITICAL, ECONOMIC, SOCIAL, AND TECHNOLOGICAL ACTORS WITHIN THE CONTEXT OF INFORMATION SYSTEMS ON DEMOCRACY POLICY FORMATION AND EXECUTION

David H. Hartmann *

Introduction

Social contexts may be modeled in humanities’ physical and virtual neighborhoods. The process and formality for which residents perceive their environment may define the reality of these contexts and could further influence its human actors to execute choice freely or as could be modulated by legal, moral, and ethical constraints. Indeed, it may be assumed that across time and geography, questions have surfaced and extensive research conducted regarding people and information: *information have*s and *have not*s, the *information divide*, and the cooperative/antagonistic roles to be played by the state agents, politicians, secular participants, and members of commercial and state-media. Meyrowitz (1985) challenges then contemporary thinkers to consider the implications of humanities’ headlong dis-evolution from city-states and explicit governance into complex relationships of information ‘hunters and gathers’ approximating the behaviors of slash and burn societies, garnering trophies of contemporary information versus victims of the animal kingdom. In a startling bit of contemporary media, the Fisch, McLeod, & Bronfman (2009) ‘Did You Know? 3.0 (Official Video) -2009 Edition’ provocatively asserts humanities’ absolute need to thrive versus merely to survive in the information environment as this exponentially changes.

The research question, then, is to analyze the relationships between freedom, access, control, denial, democracy and other forms of interrelated co-existence. What is the information environment relative to the political, economic, social, and technological entities within and through which humanity perceives democratic process?

In this research paper, work is presented to frame the *information environment* and to suggest a methodology for its comparative analyses. A limited test of the research model was used to confirm one aspect of the research thesis.

* Associate Professor of Information Systems, University of Central Oklahoma
American Democracy Project

A process to provoke pedagogy in higher education is the American Democracy Project (ADP). The ADP,

‘...is a multi-campus initiative focused on higher education’s role in preparing the next generation of informed, engaged citizens for [the American form] democracy. The project began in 2003... to produce graduates... committed to being active, involved citizens in their communities. The 231 participating colleges and universities, as members of the American Association of State Colleges and Universities, have been described as “Stewards of Place.” As today’s undergraduates complete their studies and return to their communities, universities must prepare the next generation of citizens to become tomorrow’s “Stewards of Place.”’ (AACSU, 2009)

In research completed to address the National Conference of the American Democracy Project, Hartmann (2008) invited perspectives on the politics, economics, social implications, and technological impact of electronic media upon contemporary American students. Further, he discussed the implications that the pace, span, reach, and depth of electronic information access, use, pricing, and control may have on American perceptions of democracy and he called for agents to help shape the democratic landscape. ‘Tom Freidman may have opened the world’s eyes to the revolution going on about us in his 2005 best seller, the world is flat. Now it’s our turn and the ADP to consider the next steps’ (Hartmann, 2008).

The following are several examples selected for their geographic diversity, democratic processes, and information infrastructures maturity (Hartmann, 2008).

Carter Center. In the Center’s, 2002 publication, Access to Information: Key to Democracy important discussions are detailed addressing population’s access to information usage, use and issues from perspectives of the governments and the citizenry on all continents. The Center asserts that this type of analysis is needed in the cyber world.

In the State of Israel, democratic discussions occur concomitant with the first Israeli Constitution. Professor Alan Dowtry (1999) reports in the journal Israel Studies (Reported in Hartmann, 2008) that Ghanem, Rouhana, and Yiftachel begin with a clear definition of democracy:

‘We perceive [democracy] as a system of government based on several key principles: (a) equal and inclusive citizenship and civil rights, (b) popular
sovereignty and universal suffrage; (c) protection of minorities; and (d) periodic, universal and free elections.’

To this the authors later added a *de facto* fifth requirement:

‘...a democracy must have clear borders..., because it must have a ‘demos,’ defined in ancient Greece as "an inclusive body of empowered citizens within a given territory." This clearly implies, they argue, clear and permanent borders: "the state should belong to all its citizens and only to those citizens’

In the same journal article, Professor Larry Diamond in a speech at Hilla University said,

‘Democracy consists of four basic elements:

1. A political system for choosing and replacing the government through free and fair elections.
2. The active participation of the people, as citizens, in politics and civic life.
4. A rule of law, in which the laws and procedures apply equally to all citizens.’

Individual rights to information and freedom of information are phrases which may be concluded from the preceding. Collectively, they may be called the information environment and its further research may help to frame the context of democracy.

**Information Environment**

A meta-context for modeling the information environment is framed in eight research questions. Following each question is a brief review of the research literature.

*Question - 1.* ‘The World may be flattening..., what is the context of governing vis-à-vis the tools of the trade: IM, Wiki, Wi-Fi, Blogosphere, Mash-ups, etc.? Was Tom Freidman an observer or modeler of the flat world?’

The ubiquitous environment of the internet makes guided and unguided interconnection not only evolutionary, but also commonplace from the personal to the commercial and governmental (Green, Rosenbush, Crockett & Holmes, 2003). Pek (2004) wrote in NetRatings that 39 million Americans were connected to the Internet at home and that this number increased by 27 percent from 2003. The use of Wi-Fi networks is increasing worldwide, and was projected to reach 707 million
users by 2008, as reported in *Pyramid Research* (Sipior, 2007). As an example, a *Blogosphere* is a virtual community in which actors use web blogs for personal reflection (Lee, 2006), (Dennison & Ogilvie, 2007). The Research firm IDC estimates that as many as 255 million people will use instant-messaging at work (IM, 2004). The use of blogs has enabled people to connect with people by voicing their own opinion of certain topics. Less than ten years ago, practically all media was still a one-way street (Rosenbloom). Governments may use technology to provide information to people. For example, the National Association of Counties and the Center for Digital Government partnered to provide a *Digital Counties Survey* of American counties (2005). In the State of Kansas [USA], Johnson County is a very common example of a county [across the United States] providing two-way communication tools (Vockrodt, 2006).

Therefore, Thomas Friedman's opinion that the ‘world is flat’ is provocative, and portends a time when people will routinely use electronics to globally assist others to use information technology to share ideas (Heslin, 2007).

**Question - 2.** ‘What does history tell us about the role of information control in society?’

As stated by Hearst (1999), ‘Society and technology are rapidly co-evolving, and often in surprising ways.’ ‘Like a native child, information technology often ignores important contextual cues, and tactlessly places people into potentially embarrassing situations’ (Grudin, 1999). These comments suggest that as society continues to allow computation into more personal and sensitive aspects of its life, it must then consider how to make information technology more sophisticated about social expectations, and become more sophisticated in understanding the nature of computer-mediated services.

Information control of the media and access affects people in untold ways. In the American experience, history suggests that during the era of the United States colonial rule, the media was controlled by the government, who used it to influence the populace by providing limited information (Sussman, 1999). To control information is evident in the current US engagement in Iraq. All parties in the conflict have controlled information to benefit their operations (Dunham, 2001). Jones & Weir (2002) suggest leaders of nations are not the only ones who control information.

**Question - 3.** ‘How has technology shaped information exchange?’

Entity-to-entity relationships are formed in physical and virtual communities. Kurlander (2006) reports how technology has influenced information exchange in multiple ways: the NIEM, the National Information Exchange Model, is a
partnership of the American Department of Justice and the Department of Homeland Security. Since the horrific events of September 11, 2001, the American federal government has intensified its efforts to improve communications, collaboration, and information sharing between government and private sector agencies at all levels (Kurlander, 2006), (Bielski, 2009).

However, voice media are not the only way for exchanging information, but internet is also a good way to exchange information. The internet brings better education for teaching (Kuksa, 2009). People can see their benefits' accounts online. As a result, employer can connect the all employees’ benefits' plan easier than before (Leach, 2009). Voice mail is one of the efficient ways to exchange information and voice may improve interpersonal understanding over e-mail (Parker, 2007). Collaboration between others may increase too, through computers that linked to other computers with networking software and hardware that promotes communication (McGonigle, 2009).

Question - 4. ‘What are the similarities and differences between Asian, European, Middle Eastern, African and “American” societies in the context of information accessibility?’

More than 10 million1 Japanese belong to a popular social networking service, Mixi (‘Find Out…’, 2007). One of the characteristics of Mixi is accessibility. Users can access this social network from devices which have internet-connectability (Vasilash, 1998).

Websites in China and the Korean peninsula are more restrictive (Yang 2003). In Europe, the number of families who have internet access in a house is dramatically increasing. Forty-one million families have had internet access since 2004. In 2009, there are more than 100.5 million families who have internet access (‘European Internet…’, 2005). International Techno-communication announced their global ranking of accessibility to Information and Communication Technology. The ranking shows Central and Eastern Europe has the greatest accessibility, Korea ranked fourth. The top 10 countries are situated in Europe and Asia (Slater, 2004).

Middle Eastern governments focus on how they spread information. (Berkoz & Eyuboglu, 2007).

Africa is a large economically underdeveloped continent so many people cannot go to school and get education when they are children. Many universities

1 […] of more than 94 million internet subscribers]
have more internet courses for students, especially those who cannot go to college. Heydenrych, Higgs & van Niekerk (2003) state that most of the students of the new course are over thirty years old, an age when political actions reach maturity.

Heck (2005) reports in *Corporate America and Web Access for the Blind* upon web accessibility for blind people in the United States. A screen reader system is available for the blind. Information accessibility does not only mean access to the information efficiently, but also information accessibility means the way to access information for disabled people efficiency (Peters & Bell, 2007).

In summary, Asian, European, Middle Eastern, African, and American countries have similarities in information accessibility in enhancing technologies, and the technology should be easy to connect the information for multiple constituents, including people with disabilities. The differences between Asian, European, Middle Eastern, African, and American countries are themes. Asians have focused more on entertainment. Europeans have focused more community-based. Africans have focused more on education. Middle Eastern have Americans have focused on disabilities access and usage.

**Question - 5.** ‘What is “information presence, access, and usage”? ’

*Information presence* means tools or systems that people use for retrieving information, such as the telephone or internet. People can freely or restrictedly access news on thousands of commercially and, privately, and socially-contexted websites (Fadel, 2009). *Information presence* depends on personal situations and what devices are available at home. *Amazon* is an example of a commercial provider for a system of customer information access (Sauer & Burton, 1999). IBM, Google, and Continua Health Alliance corporate together and they have developed healthcare online systems. This system makes it easier for users to keep their health records. Doctors can tell their patients’ test results without meetings (Frederick, 2009). *Information usage* is how people use the information they've already accessed. *Information usage* for doctors is for keeping track with patients' medicines and symptoms (Black & Tagg, 2007). Other forms of *information presence, access, and usage* are exemplified in supplier and customer relations and collaborative enterprise-level machines of business intelligence and knowledge management. Finally, a very widespread form of access and contact, albeit perhaps dated, is e-mail. According to Ducheneaut (2001), e-mail has become more like a habitat than an application, given that now it is used for a wider range of tasks, such as information management and for coordination and collaboration in organizations.

**Question - 6.** ‘What is the role of individuals in “information evolution”? ’
Active and passive participation portend access and collaboration. Humanity is data in another form (Meyrowitz, 1985). Wikipedia is an online encyclopedia which provides nearly open information veracity (Tomainuolo, 2009). Therefore, the information on Wikipedia may sometimes be correct or not as its participants range from the altruistic to the intentionally mischievous. According to the article, *Information Inaccuracy*, there was wrong information on Wikipedia; somebody put an obituary of Ted Kennedy and Robert Byrd on Wikipedia and the editors fixed the page, but it was too late. Many people believed and they were manipulated by this wrong information (Mullan, E, 2009). Another example of the role of individuals in information evolution is *Facebook*. *Facebook* is one of several social networks to which people post most anything they want especially information which they cannot say to friends, but really want to share with somebody else. *My Space* is similar to *Facebook*. *My Space* is used more for advertising users’ clubs and hobbies than *Facebook*. *My Space* has been updated around 60,000 uploads per day (McGirt, 2008), (Klaassen, A., & Bulik, B. 2009).

**Question - 7.** *What is a Framework of “Information Democracy?”*

Betts (2004) suggests that information democracy means sharing information with other people. For instance, within an organization, managers share a particular area’s information with other employees. In other words, managers do not only share marketing information within the marketing team, but also managers provide marketing information to other departments’ employees (Betts, 2004). As a result, if people have any devices which access the internet, people can get information that they want to know (Gates, 2005). Some employees may have an opportunity to hear some advice and comments from other department employees or employers. Companies sometimes have conflicts between teams. The way to solve the conflicts is sharing their information within an organization, such as resources and customer information (Hansen, 2009). If a person has a great deal of information, that information does not work very well. The information might work well if many workers and teams know it. Some workers use social networks to share their information within an organization (Green, 2007). There are benefits to sharing information within an organization, but they need to put secure systems on their database for the protection of their information (Waters, 2006). They need to put in securities and make sure it works fine every day to avoid destroying and leaking information. Many workers have had information leak cases by using a program called *Winny* to share information (Winny-killing software proves popular, 2006).

**Question - 8.** *What are the political, economic, social, and technology challenges achieving Information Democracy?’*
There are political challenges in achieving information democracy, especially in a case of an emergency such as disasters. During a disaster, government agencies will share information about post-disaster situations on their website. In other words, governments support ameliorating bad situations in society by using technology (‘Government information sharing can help protect the most disadvantaged,’ 2006). There are also economic challenges in achieving information democracy. Each company has developed their system for success in their businesses and in competing with other companies. Also, hackers' attacks are one of the factors of enhancing companies’ systems (D'Agostino, 2006). As far as a social challenge enabling achieving information democracy, most people have a computer in their house and they can access the internet whenever they want. Each person can be the sender of information on the internet, and each person can utilize the information. Many libraries try to manage their systems by using their website and other social networks (Farkas, 2008). In the library of the University of Central Oklahoma, they have their own website and there is question and answer section. Student can access it and ask their questions to the librarians.

Technology may be the most important enabler of achieving information democracy. Numerous references cite various numbers about the number of websites and pages. However, nearly 1 trillion websites and pages appears generally accepted. This number shows how useful it is to get information and how many people use the internet for sharing information. Nonetheless, there are risks for sharing information on the internet as. Various styles of hackers are willing to access and resell information (Weinberg, 2009). As a result, technology will influence achieving information democracy as needs and fears conflict.

Summary. A broad and complex set of political, economic, social, and technological themes, quantitative and qualitative, are proposed in a meta-context of eight questions for modeling information and society. A brief exploration of the densely populated literature was given. These themes are the basis for the research model which follows.

Research Model and Research Plan

Framing the information environment, and its democratic context, should address the tension concomitant with a variety of inhabitants of the environment and their antagonistic perceptions about the concept of the ideal democratic environment. Indeed, the question arises, ‘What is the information environment relative to the political, economic, social, and technological entities within and through which humanity perceives democratic process and how may these attributes be compared relative to their impact upon democratic process?’ To
answer this complex question, it is acknowledged that political, economic, social, and technological entities enjoy various levels of strength of importance to humanity and that a process is needed to measure relative strengths of their association. A widely used comparative process is analytical hierarchy process [AHP].

Briefly, AHP is a “…framework of logic and problem-solving by organizing perceptions, feelings, judgments, and memories in a hierarchy of forces, which may influence decision results.” As such, AHP employs the human ability to use current information and past experience to “estimate relative magnitudes” by paired-comparisons of criteria used to decide between alternatives. Saaty (2000) presents AHP as a general theory of measurement used to derive ratio scales from discrete and continuous paired comparisons in multi-leveled hierarchic structures. Problems/goals are successively decomposed into ever-smaller constituent components for paired, subjective comparison. AHP has been used to combine the hard data of physical measurement (For example, what is the height of a building) with the soft data of the outcomes of personal choice relative to conflicts between resource allocation and individual priorities (For example, which painting project should I begin given time, paint, payment, capabilities, and so on). These hard and soft data relate to individual choice and not to the real world, because reality is not absolute to all perceivers.

AHP will “operationalize” [the provision of a contextual metric standardized for a certain set of scenarios] the abstraction of hard and soft data in ratio scales (temperature scale) through paired comparisons. Typically, the differences between the ratios, then, are a measure of the relative strength of one set of comparisons with another. The set of comparisons may grow with the complexity of the problem/goal. Saaty (2000) recommends a clustering of elements to reduce the complexity in a more manageable comparison matrix. Such a clustering is, suggested for the current study.

**Information Environment and AHP.**

The information environment lends itself to AHP analyses because data may be collected on a number of quantitative measures; judgment (qualitative data) enters individual decisions; and alternative courses of action are available. Therefore, it is asserted that quantitative and qualitative factors are a basis to explain the political, economic, social, and technological entities and their relative importance may be comparatively analyzed.

**The research model.**

Framing the information environment is synthesized as a generalized hierarchy of *n*-levels modeling four attributes in consideration in the present
research: political, economic, social, and technological entities. From these four attributes a consensus of expert opinion would be sought for their disaggregation into a complete model of the sub-attributes of the four primary attributes. There are a myriad of decision-making tools that may be employed to complete the hierarchy beyond the scope of this paper.

A model of sub-attributes and definitions is shown in Figure 1., which illustrates a generalized pair-wise hierarchy for two primary and three sub-attributes in a typical Saaty model. In this research, the Level 1 represents the ideal information environment; level; 2 models the political, economic, social, and technological attributes; level 3 represents various sub-attributes of level 2; and further levels, such as levels 4, 5, 6…n must be assumed and to continue to a depth to be decided upon within the constraints of the research frame.

**Figure 1** A “Generalized” AHP Model of Three Comparison Levels

---

**Level 3 sub-attributes.**

The Level 2 political, economic, social, and technological attributes [entities] are disaggregated by quantitative parameters and qualitative factors suggested by the eight research questions already presented.

**Political attributes.** Indeed, in a comparative study of Chinese electronic indenture and its impact upon democratic process, Lollar (2006) uses a set of four factors and nineteen sub-factors to analyze twenty-nine Chinese provinces and metropolitan departments: information provided; services provided; transparency/openness; and citizen outreach/responsiveness. These are assumed as political factors and are subsumed and extended within the Annual Digital Counties Survey (2005) that is conducted in United States as a commercially sponsored and government subscribed program. In this research paper, it was assumed that sub-attributes would enter, if the government had an objective
influence upon initiation, guidance, presence, and/or access to information from the perspective of the individual user.

**Economic attributes.** Economic data are collected and disseminated in a variety of forms. For this study, the economic attribute is defined by the presence of an economic development authority – private, semi-private, or government.

**Social attributes.** In a 2009 study, Hartmann concludes four criteria and definitions: **Content:** Integrated, unified material; categorization/classification schema; **Context:** Decision making in the organization or one’s predisposition to a decision-making paradigm – spanning the gulf between the collaborative to the dictatorial; **Community:** Organizational belief in citizenship; and **Collaboration:** Strength of collaborative thinking, security, access restriction.

**Technological attributes.** For this study, the presence or absence of wireless fidelity and/or guided connections are the criteria.

**Research project plan.** The planned research frame is the census of counties within a randomized sample of States of the United States of America. The four level 2 political, economic, social, and technological attributes are to be probed using formal survey-based research querying respondents on their preferences for the comparative choices between the research model’s level 3 sub-attributes. Following routine AHP analysis, the relative strengths of these preferences would be assessed, potentially revealing significant implications for decision makers.

It must be noted that funding constraints limited executing the present research plan to a preliminary testing of the research model using publically available websites for only the level 2 political attribute, within the frame of sample of the seventy-seven counties in the State of Oklahoma and a state-level random sample of eleven states of the United States of America.

**Results and Recommendations**

This section presents the research results and recommendations for further research.

**Results.** Observational research revealed similarities and differences in the sample of counties in the State of Oklahoma [Table 2] and within the cohort of States of the United States of America [Table 3]. The enumerated columns refer to the Table 1. and the check mark ‘√’ reveals the presence or absence of the attribute within the referenced entity:

Table 1. Reference Codes

<table>
<thead>
<tr>
<th>Code Number</th>
<th>Definition</th>
</tr>
</thead>
</table>

109
<table>
<thead>
<tr>
<th>County</th>
<th>#1</th>
<th>#2</th>
<th>#3</th>
<th>#4</th>
<th>#5</th>
<th>#6</th>
<th>#7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oklahoma</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Jefferson</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blaine</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canadian</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tulsa</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Comanche</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grady</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Woodward</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mayes</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Dewey</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Kingfisher</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Logan</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

These counties did not have either a website, or any Coded information on their websites.

<table>
<thead>
<tr>
<th>State</th>
<th>#1</th>
<th>#2</th>
<th>#3</th>
<th>#4</th>
<th>#5</th>
<th>#6</th>
<th>#7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oklahoma</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Arkansas</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Texas</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Kansas</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>California</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Maine</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

Recommendations. The results of the limited research suggest further in-depth comparative analytic research of each of the Level 2 political, economic, social,
and *technological* attributes. Further study is needed regarding information systems mechanisms by which the dynamics of access and use may advance or retard the society’s implicit consensus on “What is democratic?” Such research may reveal differences in opinion and resultant choice for democracy in the face of complicit fluidity in national borders, collective mistrust and the transference of ethnicities concomitant with immigration. Further, these proposals may further a new discussion on the roles and responsibilities of institutions to initiate and/or to assist political structures at all levels the shaping of public policy regarding the access and use of information by and for their constituents.

**Bibliography**


‘Government information sharing can help protect the most disadvantaged.’ (2006). *MZPressWIRE*, September 13, no page cited.


WE ARE ACCEPTING MANUSCRIPTS

FOR VOLUME 2 OF:

MUSTANG JOURNAL OF BUSINESS AND ETHICS

AND

MUSTANG JOURNAL OF LAW AND LEGAL STUDIES

DEADLINES: September 1, 2011, but earlier submissions are encouraged!

GUIDELINES: Manuscripts should use only Microsoft Word (version 2000 or higher). Papers should be no longer than 25 double spaced pages all inclusive. Use the most recent edition of the APA Style (American Psychological Association) or Harvard Blue Book Style (for legal studies). Complete details are on the website!

SUBMIT YOUR MANUSCRIPT TO: EDITOR-IN-CHIEF
M. P. (Marty) Ludlum
MustangJournals@aol.com

Mustang Journals, Inc., PO Box 2193, Edmond OK 73083
www.MustangJournals.com
Listed in: Cabell’s Directory
Announcement

New Journal for 2011

Mustang Journals, Inc., is pleased to announce the first edition of our newest journal:

The Mustang Journal of Accounting and Finance

Submit your Manuscript to: Editor-in-Chief
M. P. (Marty) Ludlum
MustangJournals@aol.com

Mustang Journals, Inc., PO Box 2193, Edmond OK 73083
www.MustangJournals.com