

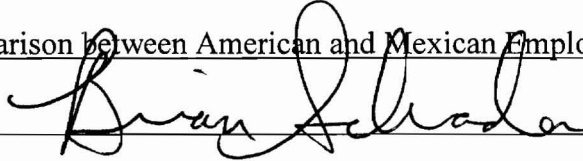
AN ABSTRACT OF THE THESIS OF

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Abstract approved:



The objective of this study was to conduct a comparative analysis between American and Mexican employment law. Once the comparison was established, a series of six analysis of variance were conducted to see how the differences between legislation have an impact in human resources practices in recruitment, personnel selection, training and development, performance appraisal, and human resources practices in general. A sample of 90 human resources directors from different companies were surveyed, relying on the Mexican and American Employment Practices Questionnaire (MAEPQ) designed by the researcher. The result of the comparison between American and Mexican employment laws showed that American law has been more thorough in each of the topics that were analyzed, emphasizing Equal Employment Opportunity. Still, in the practice of human resources activities, statistically significant differences were found, and the hypotheses were supported by concluding that even when the ultimate objective in the legislatures of both countries is to protect employees' dignity and integrity, in Mexico most of the human resources practices still do not. It is further recommended that the Mexican government and the private sector make a joint effort and take the necessary steps to establish more robust hiring and employee development policies to meet the requirements of the current global economic community.

A COMPARISON BETWEEN AMERICAN
AND MEXICAN EMPLOYMENT LAW

A Thesis

Presented to

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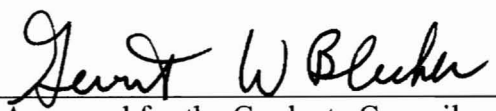
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CHAPTER 1

INTRODUCTION

The global economy is one of the most powerful realities in the new millennium. Globalization, an inevitable and irreversible force, has significantly affected the workplace and the community in good and bad ways (Marquardt & O'Berger, 2003). Mexico and many other emerging economies are becoming more competitive and capable of offering the best business environment (Urteaga, 2005). Today, firms and workers around the world must accommodate to conditions and requirements of different countries in which they plan to have, or already have businesses in order to deliver world-class products and services. Of the many adaptations to this changing environment, one of the most important is human resources. The quality of working life has become a real political and economic issue. There is a growing awareness of the interdependence of the various elements that constitute working conditions. The improvement of working conditions now tends to be viewed as a global problem in which all the factors affecting the physical and mental well-being of workers are interrelated (Spyropoulos, 1994). Human resources management is one of the main components of an organization and can make the difference in the success or the failure of a business.

Human resource practices are different across countries and should be based on the regulations that each country specifies through its labor laws. A broad spectrum of policies affect employment from an international point of view (Lee, 1995). Mexico is one of the countries where facilities are offered for the development of foreign business. American and Mexican companies have taken advantage of these opportunities. Since 1988, global corporations have invested some \$80.8 billion in Mexico and are now

investing at a rate 25% higher than just two years before; the United States (US) share in Mexico's investment has held steady at about 64 % from non-oil products (Herbig & Day, 1993). Mexico is one of the geographically closest countries to the US and both countries are actually experiencing a lot of joint business operations which are regulated under the conditions that were established in the North American Trade Agreement (NAFTA). NAFTA established the North American Agreement on Labor Cooperation, which consisted of: (a) the obligation of each of the Parties to keep full respect for each Party's constitution; (b) recognizing the right of each Party to establish its own domestic labor standards; and (c) adopting or modifying its labor laws and regulations accordingly to the country (NAFTA Center, 1997). NAFTA free trade may have been oversold as the elixir of Mexican prosperity, but even so, the pact has done a remarkable job of raising that country's standard of living. Mexico's per capita income has risen 24% since 1993 to over \$4,000, nearly 10 times higher than in China. Exports have grown 300% from \$52 billion to \$161 billion (Business Week, 2003). In addition, a natural affinity between Mexico and the US does indeed exist. What distinguishes Mexico from alternative sites for investment has been proximity and security of access to the American market. Mexico is the United States "doorway" to Latin America (Herbig & Day, 1993).

The importance of employee conditions is becoming a main topic within Mexican and American organizations. With the North American Free Trade Agreement, an increasing number of US companies are likely to do business in Mexico in the coming years. Thus, employers contemplating opening operations in Mexico should understand and be aware of the differences in employee regulations, because in Mexico, employees generally have greater rights than American employees. Furthermore, it would be

important to know how American and Mexican companies deal with their own differences in employment laws, considering that both are quite distinct. The understanding of the differences between the employment regulations of each country becomes even more significant as “developing countries can enhance employment and skill creation through foreign direct investment” (Lall, 1995, p. 522).

In the study, the specific parts of the American labor law that were compared and analyzed are (a) The 13th and 14th United States Constitution Amendments, (b) The Civil Rights Act of 1866 and 1871, (c) the Equal Pay Act (EPA) of 1963, (d) The Civil Rights Act (CRA) of 1964, also known as Equal Employment Opportunity in Title VII section 703 and 704a, (e) the Age Discrimination Employment Act (ADEA) of 1967, (f) The Immigration Reform and Control Act (IRCA) of 1986, (g) the Americans with Disabilities Act (ADA) of 1990, (h) the Civil Right Act (CRA) of 1991, and (i) the Family and Medical Leave Act (FMLA) of 1993. These sections of the American Federal Employment law are compared with (a) Article 123 of the Mexican Constitution, Sections A III, A V, A VII, A XIV, A XXIX, Section B VII, B VIII, B IX, B XXVI, (b) Article 3, (c) Article 7, (d) Article 20, (e) Article 22, (f) Article 28, (g) Article 42, (h) Article 46, (i) Article 47, (j) Article 53, (k) Article 133, and (l) Article 154 of Mexican Federal Employment law. In addition, the study addressed how these differences impact personnel recruitment, selection, training, and development and performance appraisal since both sets of laws and practices were created in and based on distinct cultures, needs, and backgrounds.

Market Globalization in the United States and Mexico

In the 1980s and 1990s organized labor in industrialized countries suffered from the fall of traditional manufacturing industries, the ever-expanding globalization of the economy and the ideological dominance of economic liberalism and free trade (Tsogas, 1999). Free trade advocates claim that continent-wide agreements would help North America compete against rival trading blocks in Europe and Asia (Herbig & Day, 1993). The opening of the Mexican economy has had dramatic results. Even though there is an aversion to foreign investment in Mexico, global corporations have invested some \$80.8 billion in Mexico since 1988. In 1982, 78% of export earnings came from oil and only 30% from non-oil. Mexico is still a net exporter of oil (Herbig & Day, 1993). Although the US and Mexico have a common border and common problems, Mexico is the US third largest trading partner and its largest supplier of petroleum. Mexico supplies the US with many food products during the winter months that cannot be produced in the US during the winter. The interdependence between the two countries will continue to grow. A North American trade alliance is driven by the strength of the Mexican hierarchy and of the Hispanic population in the US (Stern, 1992).

North American Free Trade Agreement

Passed by the US Congress in 1992, “The Signing of NAFTA on December 17, 1993 by the leaders of Canada, Mexico and the United States signaled the beginning of a fifteen year transition period during which all tariffs for goods originating in the three countries will be reduced or eliminated by the three countries” (NAFTA center, 1997 p. 64). NAFTA formally went into effect in January 1994. The Governments of Canada, the United Mexican States and the United States of America resolved to strengthen the

special bonds of friendship and cooperation among their nations to contribute to the harmonious development and expansion of world trade. NAFTA intends to complement the economic opportunities with the human resource development, labor/management cooperation and continuous learning that characterize high-productivity economies. NAFTA acknowledges that by protecting worker's rights, high-productivity and competitive strategies will be encouraged.

NAFTA also resolved to promote in accordance with each member-country respective laws, high-skill, high-productivity economic development in North America by investing in continuous human resource development, promoting employment security and career opportunities for all workers through referral and other employment services, strengthening labor- management cooperation in order to promote greater dialogue between worker organizations and employers, and fostering creativity and productivity in the workplace. NAFTA encourages employers and employees of each country to comply with labor laws to maintain a progressive, fair, safe, and healthy working environment. NAFTA also attempts to build on existing institutions of Canada, Mexico and the United States, and to work on the improvement of working conditions and living standards, as well as on the promotion of the labor principles of each country. NAFTA encourages joint studies in order to enhance mutual beneficial understanding of the laws and the institutions that are governing labor in each country (The NAFTA, 1993).

The obligations of each country are to affirm full respect for each country's constitution and recognize the right of each country to establish its own domestic labor standards and to adopt or modify accordingly its labor laws and regulations. Each country shall ensure that its labor laws and regulations provide high labor standards consistent

with high quality and productive workplaces. Also, each country shall continue to strive to improve those standards in that light (SICE, 1995). Although NAFTA maintains tight control on the labor movement and facilitates the temporary entry of business, it does not create a common market for the movement of labor. NAFTA only establishes that each country “maintains its rights to protect the permanent employment base of its domestic labor force, to implement its immigration policies, and to protect the security of its borders” (Kramer, 1996, p. 15). Some of the benefits that NAFTA will give to the US when fully implemented are that manufacturers will have unlimited access to Mexico’s growing markets for high technology products while giving US consumers the advantage of lower prices on goods originated from the South. Furthermore, by reducing barriers to trade, NAFTA is expected to raise efficiency by shifting jobs and resources to the most productive sectors in our economy. Industry analysts believe that NAFTA will benefit American firms by fostering a rapid growth in the Mexican market (Kramer, 1996). Experts also claim that by reducing tariffs and other barriers to trade for US firms, NAFTA will motivate them to enter the growing Mexican market (Williams, 1996). Moreover, “by reducing the cost of doing business, NAFTA is touted as allowing US firms a competitive advantage over competitors outside North America. The very first year after NAFTA adoption, firms saw an increase of more than 22% in total merchandise traded to Mexico by the USA” (Gosh, 1998, p. 95). Likewise, “Mexico is expected to benefit from the trade agreement in a number of important areas including creation of better jobs at higher wages, and greater job opportunities in manufacturing and financial services” (Hashemzadeh, 1997, p. 1080). “NAFTA creates conditions for the increased and unlimited circulation of goods and services, though not the circulation

of people/labor. The operation of the North American labor market has not yet transcended the many differences between the northern and southern borders of the United States,” meaning Canada and Mexico, respectively (Kirby & Hyndman, 1998, p. 53). Unfortunately, no attempt has been made to harmonize qualifications or recognition arrangements. In fact, the 1993 NAFTA Agreement on Labor Cooperation protected existing arrangements by specifying certain reasonable exceptions, such as bona fide occupational requirements or qualifications, as possible grounds for discrimination (Iredaly, 1999). NAFTA legitimizes the cultures, largely ignoring its socio-cultural implications (Galperin, 1999). A review of NAFTA would suggest that a regional economic integration may also promote a labor international form of globalization. Certain features of the economic integration process may both stimulate or inhibit the transnational worker (Carr, 1999).

American Labor Law

Understanding the origins of the American labor law requires understanding of the American legal system. The Constitution is the foundation of the US legal system. The Constitution defines the three-branch system of government and ground rules for creating and modifying laws. In addition, the federal government relies on agencies and commissions to regulate and enforce laws (Gutman, 1993). The originally ratified Constitution contains seven articles. Articles I, II, and III define the judicial, legislative, and executive branches, respectively, and Articles IV and V address states’ rights and constitutional amendments, respectively (Gutman, 1993). The United States Constitution does not explicitly create a body of labor law. Rather, it is based on principles of

individual's liberty that assure fundamental rights to all people. These rights provide a core from which worker rights within the United States Constitution are derived.

The 13th and 14th Amendments of the Constitution

The Department of Labor administers several laws that affect the operations of American businesses. The most significant amendments to the Constitution relevant to employee conditions are the 13th and 14th Amendments. The American Revolutionary War was fought for individual rights, and a strong federal government was feared nearly as much as a foreign king. Therefore, the states retained the right to amend the Constitution. In 1787, the amendments guaranteeing individual and states' rights would follow shortly after ratification. Equal Employment Opportunity (EEO) law has been most affected by the 13th and 14th Amendments. The 13th Amendment prohibits slavery within the states, and the 14th Amendment provides equal protection for citizens against state violations of federal law. Both amendments fueled post-Civil War civil right statutes that, only recently, have become relevant to EEO (Gutman, 1993).

The Civil Rights Act of 1866 and 1871

Another important issue within American labor law is the Civil Rights that the citizens are able to enforce so their work conditions can be respected and improved. The Civil Rights Acts of 1866 and 1871 were enacted based on the provisions of the 13th and 14th Amendments. The Civil Rights Act of 1866 grants all citizens the right to make and enforce contracts for employment, and the Civil Rights Act of 1871 grants all citizens the right to sue in federal court if they feel they have been deprived of any rights or privileges guaranteed by the Constitution and laws. "The Civil Rights Act of 1866 allows for jury trials and for compensatory and punitive damages for victims of intentional racial

and ethnic discrimination, and it covers both large and small employers, even those with fewer than 15 employees” (Cascio, 1991, p. 15). This is important because later federal legislation often exempted companies with fewer than 15 to 30 employees from many laws.

Equal Pay Act of 1963

The actual conditions in which the businesses are managed includes equality between employees. Women are making significant contributions in the business world. Therefore, equality in payment according to abilities and capabilities is an essential issue to be considered, even when cultural differences are involved. Gender wage discrimination and occupational segregation appear to be universal phenomena in countries throughout the world. In the US, pay equity and employment equity have been important responses. The Equal Pay Act of 1963 is interpreted as requiring equal pay for equal work and not equal pay for work of equal value. That is, the jobs themselves have to be similar because dissimilar jobs cannot be compared simply because they have equal value as established by a job evaluation scheme (Gunderson, 1994). In addition, the Equal Pay Act of 1963 also applies to those employers that are subject to the Fair Labor Standards Act, by prohibiting sex discrimination in the payment of wages, unless such payment is made pursuant to a seniority system, a merit system, a system which measures earning by quantity or quality of production, or a difference based on any factor other than sex. On the other hand, an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of these subsections, reduce the wage rate of any employee (Cascio, 1991).

Title VII of the Civil Rights Act of 1964

In today's world, equality in the workplace refers to business' ability to identify those persons who possess the abilities, skills, knowledge or capability to perform in a certain position rather than hire people because of other reasons. Opportunities should be given to every applicant who fulfills the requirements of the position regardless of other factors that are not job related. Typically, white men held pivotal positions in organizations. Women and people of color occupied positions of lesser influence, lower status, and lower pay (Humphries & Grice, 1995). A number of groups found a powerful argument for legislative intervention or organizational responses in the form of Equal Employment Opportunity (EEO) and Affirmative Action (AA) policies. Title VII of the Civil Rights Act of 1964 outlawed employment discrimination. At the beginning of the 1970s, increased enforcement stimulated employers to search for compliance mechanisms (Erin & Dobbin, 1998). Title VII is the broadest of all EEO laws, fully protecting the larger number of classes: sex, race, color, religion and national origin. The statute covers private, state/local, and federal entities for all practices relating to nondiscrimination.

The Equal Employment Opportunity (EEO) may sponsor Sec. 17 suits for injunction and back pay or Sec. 16 suits for back pay, liquidated damages, and lawyer fees. The defense must prove that wage disparity is a function of seniority, merit, quantity and quality of work, or any factor other than sex. Back pay awards in Title VII cases are limited to two years prior to the filing of the charge. To avoid a third year of back pay and liquidated damages, the employee must prove the employer knew there was a violation or showed a reckless disregard for the statute. Regarding race discrimination,

Title VII protects all races and colors. Minority issues involve all terms, conditions, and privileges of employment, whereas majority issues involve mainly reverse discrimination.

Discrimination can be in the form of adverse impact which “occurs when identical standards or procedures are applied to everyone, despite the fact that they lead to a substantial difference in employment outcomes for the members of a particular group and they are unrelated to success on a job” (Cascio, 1998, p. 14), and it can be used for all screens, including history of arrest and conviction, credit information, and even word-of-mouth referral. The other form of discrimination is called disparate treatment which is “based upon an intention to discriminate, including the intention to retaliate against a person who opposes discrimination, has brought charges, or who has participated in an investigation or hearing” (Cascio, 1998, p. 13). In general, minorities are historical victims of segregation and classification, both within companies and by outside agents.

In terms of discrimination because of religion most cases address the reasonable accommodation as a requirement. Title VII requires employers to reasonably accommodate sincerely held religious beliefs. The employer must reasonably accommodate the belief unless doing so imposes excessive financial costs or interferes with work efficiency. In addition, the employee must express the need for accommodation, cooperate in identifying accommodations, and accept any accommodation that overcomes a neutral barrier.

In relation with national origin, Title VII permits non-pretextual discrimination based on citizenship, as does the due process clause of the 5th Amendment. Title VII prohibits to fail or to refuse to hire any individual or otherwise to discriminate against

any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's national origin. Also, prohibitions against fluency in English only apply to lawful aliens, as do the other general provisions of the Act (Gutman, 1993).

The Age Discrimination Employment Act of 1967

America's workforce is aging. In fact, due to the baby boomer generation, the fastest growing segment of the population in the United States is over 55 years old. By the year 2020, one in three working Americans will be over the age of 50 (Peng & Kleiner, 1999). The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination on the basis of age. The ADEA prohibits discrimination against persons age 40 and over with no upper ceiling on the basis of such matters as hiring, discharge, leave, compensation, promotions, and other areas of employment (Office of the Regional Director, 1997). The ADEA is applicable to private employers of 20 or more persons, employment agencies serving covered employers, and labor organizations with 25 or more members or which refer persons for employment to cover employers, or which represent employees of covered employers and all State and local government employers without regard to the 20 employee requirement (US Department of Labor, 1987). ADEA can be described as a self-sufficient statute built on issues uniquely related to age discrimination, plus principles borrowed from Title VII and from the Fair Labor Standards Act (FLSA) of 1938. The issues investigated by the Secretary of Labor formed the basis for the statute, but ADEA has continued to evolve. The initial delay in enacting was probably beneficial to older workers. In 1967, Congress borrowed many strong features from Title VII and FLSA of Congress had not incorporated age as a protected

Title VII class, older workers might have experienced years of judicial and congressional fidgeting (Gutman, 1993).

Immigration Reform and Control Act of 1986

The need of employers for having lower expenses in manufacturing tasks has created the obligation to regulate all the operations between different countries. Thus, it is important to know how these regulations can have an impact on the employee conditions, as well as on the employer when he or she does not follow the specified rules. The Immigration Reform and Control Act (IRCA) of 1986 “applies to every employer of the United States as well as to every employee whether full-time, part-time, temporary, or seasonal” (Cascio, 1998, p. 19). The IRCA makes the enforcement of national immigration policy the job of every employer. The law requires: (a) that employers not hire or continue to employ aliens who are not legally authorized to work in the United States, and (b) that employers verify the identity and work authorization of every new employee and then sign a form attesting that the employee is lawfully eligible to work in the United States. Under the law, employers may not discriminate on the basis of national origin, but when two applicants are equally qualified, an employer may choose a US citizen over an alien. The law also provides amnesty rights for illegal aliens who can show that they had resided continuously in the United States from January, 1982 to November 6, 1986 (Cascio, 1998).

The Americans with Disabilities Act of 1990

Job opportunities need to be provided to everybody. A job offer needs to be based on the abilities, skills or knowledge that are needed to perform the job, instead of being based on other components of the person, including physical or mental disabilities. The

Americans with Disabilities Act (ADA) is a recently codified statute designed to apply the Rehabilitation Act of 1973 to entities not strongly protected in the original statute. “This law became effective in July 1992 for employers with 25 or more employees and in 1994 for employers with 15 or more employees” (Cascio, 1998, p. 20). The ADA prohibits discrimination against a qualified individual with a disability. Disability is defined as a physical or mental impairment that substantially limits one or more major life activities such as walking, talking, seeing, hearing, or learning. Rehabilitated drug and alcohol abusers are also protected, but current drug abusers may be fired. The alcoholic should be accommodated by giving the person the choice to rehabilitate. The ADA also protects persons with the AIDS virus, and again, employers must make reasonable accommodations for job applicants or employees. More specifically, the Rehabilitation Act contains two core statutes: Section 501 provided strong protections for federal employees, and Section 503 provided affirmative action for disability much as in Parts II and III of Equal Opportunity. In essence, the ADA extends to private and state/local entities the strong protections previously provided to federal employees in Section 501. The ADA requires that employers reasonably accommodate disabilities that serve to prevent people from working. Reasonable accommodation is mandated only if the disability interferes with performance of essential job functions and if accommodation can permit the individual to overcome that interference.

The Civil Rights Act of 1991

Fairness at the workplace becomes very important when personnel decisions are based on discrimination against certain races, genders, or religions, rather than an employee capability to perform the job. The Civil Rights Act of 1991 is an attempt to

expand the remedies in discrimination cases. This Act overturned six Supreme Court decisions issued in 1989. Some of the key provisions were: monetary damages and jury trial, and adverse impact, racial harassment, or discrimination against protected groups. Individuals who feel they are victims of intentional discrimination based on race, gender (including sexual harassment), religion or disability can ask for compensatory damages for pain and suffering, as well as for punitive damages, and they may demand a jury trial. In relation to adverse impact, racial harassment, or discrimination against protected groups the Act clarifies each party's obligation in such cases. When adverse impact is alleged, the plaintiff must identify specific employment practices as the cause of discrimination. If the plaintiff is successful in demonstrating adverse impact, the burden of producing evidence shifts to the employer, who must prove that the challenged practice is job related. In addition, when racial harassment or discrimination against a member of a protected group is produced, the Act protects workers in all aspects of employment, not just hiring and promotion. Also, the Seniority Systems Act prohibits intentional discrimination against the member of a protected group. If discrimination occurs, the employer can be challenged at any of three points: (1) when the system is adopted, (2) when an individual becomes subject to the system, or (3) when a person is injured by the system (Gutman, 1993).

Family and Medical Leave Act of 1993

The notion that work and family were really separated in space, in time and in people's minds is not valid anymore. In the present time, job obligations have an influence on family ties and, at the same time, family obligations interfere with job responsibilities (Gester & McGonagle, 1999). The need of organizations to consider the

employee as an integral person with strengths and weaknesses makes activities outside the workplace contributing to job satisfaction. The Family and Medical Leave Act (FMLA) is the major federal initiative to respond to family needs and was signed into law by President Clinton in 1993. Its central provisions include a guarantee that people employed for more than 12 months in companies with at least 50 employees, within 75 miles of their work site can take up to 12 weeks unpaid leave per year without losing their jobs (Gester & McGonagle, 1999). The FMLA includes the private-sector and part-time employees who work 1250 hours over a 12-month period. The law gives workers 12 weeks each year for birth, adoption, or foster care of a child within a year of the child's arrival or care for a spouse, parent, or child with a serious health condition if it prevents them from working. The employer is responsible for designating an absence as FMLA leave based on information provided by the employee. Employers can require workers to provide medical certification of such serious illnesses and can require a second medical opinion. Employers also can exempt from the FMLA key salaried employees who are among their 10% highest paid. For leave-takers, however, employers must maintain health insurance benefits and give the workers their previous jobs when their leaves are over (Cascio, 1998).

Mexican Labor Law

Comprehending Mexican labor law requires understanding the Mexican legal system. Mexican laws are instituted in the Constitution of the United Mexican States of 1917. The Mexican legal system is established in Title III, Chapter I, Article 49, where the Mexican Constitution talks about the Division of Powers. The supreme power of the country is divided into the legislative, executive, and judicial branches, just like in the US

Two or more of these powers shall never be united in one single person or corporation, nor shall the legislative power be vested in one individual except in the case of extraordinary powers granted to the Executive, in accordance with the provisions of Article 29. The Legislative Branch represented by Article 50 establishes that the legislative power of the United Mexican States is vested in a General Congress, which shall be divided into two chambers, one of deputies and the other of senators. In Mexico, the basic source of labor law is established in Article 123 “Labor and Social Security” of the Constitution of the United Mexican States, adopted in 1917.

Article 123 Labor and Social Security

Employees must know about their rights, privileges, and obligations. Employees in developing countries should comprehend current and future significance of appropriate employment conditions and their professional realization as a human being. The guiding principle of Article 123 is a commitment to improving the living and working conditions of Mexican workers and honoring their inherent liberty, rights, and human dignity. In 1929, Articles 73-X and 123 of the Constitution were modified to grant the Federal Congress exclusive power to enact labor laws (Secretaría del Trabajo y Previsión Social [STPS] & US Department of Labor [DOL] 1992). Article 123 shall apply to workers, day laborers, domestic servants, artisans and in a general way to all labor contracts.

Article 123 Section B XXVI and Article 28 of the Mexican Federal Employment Law

The opening and exploration of new markets requires industries to develop innovative processes that may require the acquisition of new abilities in their employees. In order to be profitable, organizations need to train their employees. With the signing of a free trade agreement among three countries, organizations need not only import and

export goods but also receive and provide the knowledge and skills necessary to operate new technology and produce new assets. As a consequence, organizations in Mexico and in the US may need to hire employees from the country in which the technology or product was originally developed. Article 123 Section B XXVI establishes the conditions that should be followed when there is a labor contract made between a Mexican worker and a foreign employer. The contract must be notarized by a competent municipal authority and countersigned by the consul of the nation to which the worker intends to go, because in addition to the ordinary stipulations, the expenses of repatriation should be borne by the contracting employer. Furthermore, Article 28 of the Mexican Federal Employment Law provides other regulations that need to be applied to those Mexican employees who are working abroad. Article 28, Section I establishes that the work conditions in which the employee will perform need to be written in advance. These conditions should include all expenses due to transportation and repatriation stipends.

Article 123 Section A XXIX

The opportunity to obtain a job is a right that is established in the Mexican Constitution. The person's ability to perform the job should be the only determinant to be considered for any position.

When a current employee develops or shows a disability as a result of the lack of a safe working environment (therefore difficulties in performing his or her job activities), the employer must follow the considerations established in Article 123 Section A XXIX, which is an enactment of a social security law that should be considered public interest and it should include insurance against disability, against involuntary work stoppage, against sickness and accidents, and other forms for similar purposes.

Article 123 Section A XIV

A company needs to ensure its employees' well-being by providing them with adequate resources and appropriate installations for the performance of the job activities. Article 123 Section A XIV establishes that employers shall be responsible for labor accidents and for occupational diseases of workers, contracted because of or in the performance of their work or occupation. Therefore, employers shall pay the corresponding indemnification whether death or only temporary or permanent incapacity to work has resulted, in accordance with what the law prescribes. This responsibility shall exist even if the employer contracts for the work through an intermediary.

Article 3 of the Mexican Federal Employment Law

The importance of taking into account equality issues when making personnel decisions is nowadays stated in American labor law, as well as in Mexican labor law; therefore, equality needs to be respected. Article 3 establishes that working employment is a right and a social obligation. Work should be done under safe conditions, and it would not be possible to establish any distinctions between employers in terms of race, sex, age, religion, political doctrine or social condition. Working conditions constitute the specific rights and obligations of the parties in a given relationship (Hollon, 1996). Another important employee right is the freedom to choose the place and the activities that he or she wants to perform.

Article 7 of the Mexican Federal Employment Law

With all the operations that different organizations are having abroad as a result of NAFTA signing, it is not surprising to find employees working in other countries. For this reason, special regulations are needed for employees working outside their country.

Article 7 establishes that any organization, profitable or non-profitable, needs to employ at least 90% Mexican workers. When the employer and other employees in a given organization are foreign, it is obligatory to provide training to Mexican employees who are working in that organization. This article is not applicable to directors and general managers.

Article 20 of the Mexican Federal Employment Law

American businesses that have operations in Mexico need to know their responsibilities and their legal obligations as employers. In addition, any foreign firm that plans to run businesses in Mexico needs to consider employees' rights and privileges enacted in the Mexican federal employment law. Article 20 of the Mexican federal employment law establishes the general work provisions and indicates that any act that originates the provision of a personal activity in which one person is subordinate to another person by means of a salary payment is regarded as a job-relationship. It assumes the existence of a work-contract between the person who does the job and the person who receives the service (Hollon, 1996).

Article 22 of the Mexican Federal Employment Law, Article 123, Section A III and Article 123 Section B VIII

The differences in cultural, economic, social and environmental settings between countries cause employment regulations from one country to consider factors that might not be considered in the laws of another country because they are not relevant or not significant at all. One of the most important considerations in the Mexican employee law is to respect Article 22, which prohibits the use of labor for minors under 14 years of age who have not finished their basic academic education. Furthermore, according to Article

123 Section A III, persons above 14 and less than 16 shall have a maximum workday of six hours. Thus, foreign investors need to be aware of these regulations since the cheap labor costs in developing countries can reduce production costs. On the other hand, the Mexican labor law also regulates the processes of job offerings and job promotions to older people (Hollon, 1998). Article 123 Section B VIII, states that workers shall be entitled to the rights of a classification scale so that promotions may be made on the basis of skills, aptitudes, and seniority.

Article 42 of the Mexican Federal Employment Law and Article 123 Section B IX

Equality of rights in terms of protection for citizens against violations of the law is established in Article 42 of the Mexican Federal Employment Law and Article 123, Section B IX. As stated in NAFTA, foreign employers have the obligation to adopt or modify their domestic labor standards according to each country's labor law and regulations. Article 42 of the Mexican Federal Employment Law and Article 123, Section B IX, are important since both address the employer's responsibility concerning the reasons for dismissal and suspension of work. According to Article 123 Section B IX, workers may be suspended or discharged only on justifiable grounds, for reasons prescribed by law. In the event of unjustifiable discharge, a worker has the right to choose between reinstatement or appropriate indemnity determined by legal proceedings. In cases of abolishment of positions, the affected workers shall have the right to another position equivalent to the one abolished or to a negotiated indemnity, which is very common when downsizing occurs.

Articles 46, 47 and 53 of the Mexican Federal Employment Law

Another significant consideration found in American as well as in Mexican employee law is the rights of contract that employees and employers are able to enforce as citizens of their country. Article 46 talks about the right of the employer to dismiss an employee without any responsibility, at any time, if enough evidence exists to prove inadequate behavior. In addition, Article 47 lists all the reasons that enable the employer to fire an employee; for example, when the employee provides false information about their abilities, knowledge or skills, or when during a working day, the employee shows any violent or inappropriate behavior that threatens the integrity or safety at the workplace. Article 53 denotes a series of other reasons that can also terminate with the contract established by the employer and the employee. For example, when the employer and the employee agree to finish the contract before the original agreement, when the employee dies, when the employee's physical or mental inability does not allow finishing the work, or when the work is completed before the previously established deadline.

Article 154 of the Mexican Federal Employment Law

As a result of increasing foreign investments, employers are required to hire employees that possess the knowledge, abilities and skills necessary to perform the activities of the job. In developing countries like Mexico, employers may have a special preference to hire American employees, because of their knowledge, abilities or skills and the false tendency of Mexicans to believe that almost everything that comes from outside the country is better. Article 154 concerns the employer's responsibility to prefer Mexican employees rather than foreign employees and to give priority to those employees with seniority. Article 154 also establishes that employers have an obligation

to give priority to those employees who are the only source of financial provision in their families.

Article 123 Section A VII and Section B VII

In industrialized and developing countries, women are providing business with contributions that equal or exceed men's performance. Therefore, the establishment of work-pay should be based on the quality of performance rather than other elements such as gender. Article 123 prohibits making personnel decisions without considering equality in issues related to gender. Article 123 Section A VII establishes that equal wages shall be paid for equal work, regardless of sex or nationality. In addition, Article 123 Section B VII sustains that the appointment of personnel shall be made by systems which permit a determination of the skills and aptitudes of applicants. The state shall organize schools of public administration.

Article 123 Section A V

As an important part of the culture, "In Latin America the strong sense of family and the loyalty owed to family are evident in organizational life. It is not surprising that employees often ask permission for absences or time off relating to family obligations" (Osland, 1999, p. 226). As a result, the importance of family in the culture is also contemplated in the law. Article 123 Section A V says that, during the three months prior to childbirth, women shall not perform physical labor that requires excessive physical effort. In the month following childbirth, they shall necessarily enjoy the benefit of rest and shall receive their full wages and retain their employment and the rights acquired under their labor contract. During the nursing period they shall have two special rest periods each day of a half-hour each for nursing their infants.

In essence, many of the American employment regulations emphasize fairness in decision-making in an attempt to promote employees' well being. Although the US and Mexico are cultures that were developed in completely different contexts, the ultimate objective of both American and Mexican employment laws is to protect employees from acts that could create a violation of their human dignity and integrity. On the other hand, although the American and Mexican employment laws are similar (See Table 1), they both have particular specifications that should not be taken for granted because the omission of those specifications can lead to legal difficulties that could slow down or impede the development of new businesses.

Table 1

A Comparison Between American and Mexican Employment law

Key Issue	American	Mexican
Slavery and liberty rights	13 th Amendment	Article 123
Equal rights	14 th Amendment	Article 123 honors Article 42 Article 123 Section B IX Article 46 Article 47 Article 53
Enforcement of contracts	Civil Rights Act of 1866	Article 20 Article 123 Section B IX Article 46 Article 47 Article 53
Deprivation of rights	Civil Rights Act of 1871	Article 42 Article 123 Section B IX
Equality of pay	Equal Pay Act of 1963	Article 123 Section A VII Article 123 Section B VII
Discrimination	Title VII of the Civil Rights Act of 1964	Article 3

Table 1 (Continued)

Key Issue	American	Mexican
Age discrimination	The Age Discrimination in Employment Act of 1967 (ADEA)	Article 22 Article 123 Section A III Article 123 Section B VIII
Foreign employees	The Immigration Reform and Control Act (IRCA)	Article 123 Section B XXVI Article 7 Article 28 Article 154
Disabilities	The Americans with Disabilities Act (ADA)	Article 123 Section A XXIX Article 123 Section A XIV
Family	Family and Medical Leave Act (FMLA)	Article 123 Section A V

The Present Study

The purpose of this study was to compare some of the most relevant Mexican and American employment laws. The study addressed the main differences between the laws as well as the emphasis of each law. In addition, the researcher analyzed the impact that those differences have in the human resource practices (recruitment, selection, training/development, and performance appraisal) of Mexican and American companies located in one or both countries. More specifically, this study attempted to determine if the major differences between American and Mexican labor law have an impact in the human resource practices of the companies that have operations in one or both countries. Based on this, the following hypotheses were tested.

Hypotheses

Hypothesis 1. Companies that run businesses in the United States and/or Mexico will have different practices in their processes of personnel recruitment.

Foreign investors need to know how personnel recruitment is different in the country in which they are developing new business in order to adapt their own recruitment process to the legal regulations of the country in which they are investing.

Hypothesis 2. Companies that run businesses in the United States and/or Mexico will have different practices in their processes of personnel selection.

Foreign investors also need to know the differences in personnel selection practices from the country in which they are investing in order to adapt their own selection practices to the legal regulations of the country in which they are investing.

Hypothesis 3. Companies that run businesses in the United States and/or Mexico will have different practices in their processes of employee training and development.

Policies concerning employee training and development should also be modified according to the legal regulations of the country in which the investor is developing business.

Hypothesis 4. Companies that run businesses in the United States and/or Mexico will have different practices in their process of performance appraisal.

Foreign companies need to know how to conduct performance appraisal processes that do not contradict the law of the country in which they are developing new business.

Hypothesis 5. Companies that run businesses in the United States and/or Mexico will have different human resource practices depending on the type of product/service they produce or provide.

It would be useful for investors planning to develop new businesses in a different country to observe the emphasis of the human resource practices of other organizations that provide a similar product/service.

Hypothesis 6. The companies that are established in both countries will have fewer employee lawsuits filed against them than companies that are established in only one country.

It is very important for companies that are established in both countries to be aware that the deeper the understanding they have of employment law, the smaller the probability of having employee lawsuits.

CHAPTER 2

METHOD

Participants

Participants were 90 human resources directors for companies that have operations just in Mexico, just in the United States, and in both the United States and Mexico. Since the companies that were part of the study were selected on the basis of whether they practiced human resources activities or not, the sampling process was purposive. Thus, companies with human resources activities such as recruitment, selection, and training and performance appraisal were applicable for the study, regardless of company size and the type of product or service the company provided. In addition, for the researcher's convenience, all the companies in Mexico were located in Mexico City. Since the sampling process was non-random, the researcher increased the sample size as necessary in order to provide external validity to generalize the results of the study. The number of companies that were asked to respond to the survey was 30 in each category (Mexican companies, American companies and companies located in both Mexico and in the US) for a total of 90 companies and thus 90 participants. In addition, the collected demographic information concerning the type of product or service that the company provided, as well as the country where the company was present were used to support Hypotheses 5 and 6. Other demographic information was only used if relevant information could be obtained after conducting an analysis of the data.

Measures

The primary instrument used in this survey was the Mexican and American Employment Practices Questionnaire (MAEPQ) (see Appendix A) designed by the author of the study. The survey involved the use of the MAEPQ, which contained the same questions for the companies regardless of their location, differing only in the language used. The MAEPQ measured the differences in human resources practices among companies established just in Mexico, just in the US, and in both countries. The MAEPQ was comprised of 20 items. Each item described a human resources activity, which is part of one of the following subscales: (a) Recruitment, (b) Selection, (c) Training/Development, (d) Performance Appraisal, and (e) General Human Resources.

Similarly, each activity targeted one of the legal issues that was compared in the employment laws section (see Table 2). Each of the items was scored considering 5 as a high score and 1 as a low. A high score obtained in the Recruitment subscale (Items 1, 2, 3, and 4) meant that the company's recruitment process considered the legal regulations. A low score in the first subscale, however, suggested that the recruitment process in that company did not conform to the employment regulations. Similarly, a high score in the Selection subscale Items 5, 6, 7, and 8 meant that the selection process of the company was designed according to legal employment practices. A low score meant that the process was not in agreement with the employment law. Furthermore, a high score in the Training/Development subscale Items 9, 10, 11, and 12 meant that training and development practices in that company were legal and complemented employment law. A low score in the Training/Development subscale meant that the company's training and development processes were not followed, what was established in the law.

Table 2

Description of the items in the MAEPQ

Item	Legal Issue	Human Resource Process
1	Disabilities	Recruitment
2	Age discrimination	Recruitment
3	Title VII	Recruitment
4	Age discrimination	Recruitment
5	Title VII	Selection
6	Equality of pay	Selection
7	Foreign employees	Selection
8	Title VII	Selection
9	Title VII	Training/development
10	Title VII	Training/development
11	Family	Training/development
12	Disabilities	Training/development
13	Title VII	Performance Appraisal
14	Equality of pay	Performance Appraisal
15	Title VII	Performance Appraisal
16	Title VII	Performance Appraisal
17	Legal practices	General Human Resources
18	Legal practices	General Human Resources
19	Legal practices	General Human Resources
20	Legal practices	General Human resources

A high score in the Performance appraisal subscale (Items 13, 14, 15, and 16) meant that the performance appraisal process in that organization was legal. A low score in that subscale meant that the regulations of the employment law were not considered in that organization. Finally, a high score in the General Human Resources subscale (Items 17, 18, 19, and 20) meant that, overall, the human resources practices of that company were based on what the employment law establishes. A low score in the subscale meant that the human resource practices in that company were not in accordance with the employment law. Items 3, 4, 6, 10, 13, 14, 15, and 18 were reversed scored. The items were scored on a Likert Scale with a 5 point range where "5" = strongly agree, "4" = agree, "3" = undecided, "2" = disagree, and "1" = strongly disagree. Table 3 is a description of some of the items the author was expecting to find significant differences between Mexican and American companies' responses. Finally, in order to determine appropriateness of MAEPQ questions for validity, the researcher used two members of her thesis committee as Subject Matter Experts (SMEs).

Product/Service Types of Companies and Lawsuits in Each Company

The companies that were used for the study were classified into the five following categories according to the type of product or service the company provided: (a) government, which included all companies or organizations economically dependent on government; (b) financial, which were companies related with providing financial services such as banks; (c) consulting, which were companies that provide a service by offering business solutions to other organizations; (d) consumer goods, which were companies that manufacture products for final consumer; and (e) technology, which were

Table 3

Description of the Items in Which Significant Differences were Expected

Item	Legal Issue	Direction of the Expected Difference
1	Disabilities	The majority of Mexican companies do not have physical spaces that are accessible to people with physical disabilities.
2	Age discrimination	Most Mexican organizations do not hire people older than 45 to 50 years old.
3	Title VII	Mexican companies are still strongly determined by the culture; thus, certain positions are to be held by women and others by men.
4	Age discrimination	In Mexico, all the interviewers ask for the age of the candidate. It is a common practice.
8	Title VII	When hiring, most of Mexican organizations do not follow a previously structured interview guide.
10	Title VII	Mexican companies provide most of the training and development opportunities to young people.
12	Disabilities	The majority of Mexican companies do not have physical spaces that are accessible to people with physical disabilities.

Table 3 (Continued)

Item	Legal Issue	Direction of the Expected Difference
13	Title VII	In Mexico, the culture still displays a strong preference for having men in executive positions.
17	Legal practices	Most of Mexican companies do not consider the employment law when designing their HR processes

companies that provide services related with solutions that involve the use of any kind of technological developments. Table 4 illustrates the number of companies used by the country in each category. In addition, the researcher asked the human resource director the number of lawsuits the company reported over a period of time of a year (see Table 5).

Procedure for Companies in Mexico

The initial contact with each of the companies was established by letter, electronic mail or telephone call. The Mexican companies that were approached were all located in Mexico City. The US companies were in the following cities: San Antonio, Houston, Dallas, Phoenix, San Diego, Atlanta, Kansas City, Denver, Philadelphia, New York, Omaha, and Oklahoma City.

The participating companies were informed about the study in two different ways. First, the researcher contacted the human resources directors with a brief explanation of what the study was about. For the companies that were located in Mexico, the researcher set up an appointment with the human resources director. On the day of the appointment, the researcher brought the participation consent letter (Appendix B) and the MAEPQ (Appendix A), both in Spanish. The researcher gave the human resources directors the consent letter in Spanish and informed them about their rights as a participant in the study. Once the human resources director signed the consent letter, the researcher asked her or him to fill out the MAEPQ. The researcher instructed the human resource directors to rate the items according to the company's "real" human resources practices, instead of

Table 4

Number of companies used by country by category

Category/Country	Mexico	US	Both Countries
Government	3	7	0
Financial	6	1	1
Consulting	2	2	6
Consumer Goods	10	18	17
Technology	9	2	6
Total	30	30	30

Table 5

Summary of Means and Standard Deviations of Annual Lawsuits Obtained by Companies by Country

Country	<i>M</i>	<i>SD</i>
Mexico	3.70	2.52
US	.57	.77
Both Countries	1.17	1.08

what the director supposes the company “should” do. After the MAEPQ was filled out, the human resources director (a) turned it in immediately to the researcher, (b) made arrangements with the researcher to pick up the questionnaire some other day, or (c) mailed it back using a private mailing company.

Procedure for Companies in the US

For the companies in the US, the researcher contacted human resources directors by using electronic mail or telephone. The researcher gave the human resources directors a brief explanation of the study and mailed them the participation consent letter (Appendix B) and the MAEPQ, both in English, as well as a return envelope and return postage enclosed in a white envelope. The human resources directors were asked to sign the consent letter and rate the MAEPQ. Again, the researcher instructed the human resources directors to rate the MAEPQ according to their company’s actual human resources practices instead of what they suppose the companies “should” do. Once the researcher received the MAEPQ' s, they were scored and analyzed.

CHAPTER 3

RESULTS

Participants of the study were 90 human resources directors from three different groups: companies that have operations just in Mexico, companies that have operations just in the United States, and companies that have operations in both countries. The sampling process was purposive and nonrandom, and the instrument used to gather data was a survey called Mexican and American Employment Practices Questionnaire (MAEPQ).

Five separate one-way ANOVAs were conducted, where the independent variable was location (Mexico, US or both), and the dependent variables were the five subscales. A summary of means and standard deviations of five subscales may be seen in Table 6. In addition, for Hypothesis 5 a two-way ANOVA was used. The independent variables were the location of the company and the type of the product/ service the company provides and the dependent variable was the score obtained in human resources practices in general. In addition, Hypothesis 6 was tested using a one-way ANOVA, where the number of lawsuits obtained in one year was the dependent variable and the independent variable the country location of the companies.

Hypothesis 1

The comparison of recruiting practices produced statistically significant differences for location $F(2, 87) = 479.41, p < 0.05$. For the purpose of this study, this means that recruitment processes in companies established in Mexico, the United States, and operating in both countries are different (see Table 7).

Table 6

Summary of Means and Standard Deviations of Location for each Subscale

Subscale	Mexico <i>M(SD)</i>	US <i>M(SD)</i>	Both <i>M(SD)</i>
Recruitment	7.37 (1.27)	18.87 (.93)	15.00 (1.98)
Selection	10.70 (1.55)	18.93 (1.33)	13.93 (1.91)
Training/Development	11.80 (1.42)	15.07 (1.46)	12.17 (1.66)
Performance	8.13 (2.24)	17.37 (2.38)	15.30 (2.00)
General Human Resources	15.67 (1.58)	17.63 (1.32)	18.63 (1.40)

Table 7

Analysis of Variance in Recruitment Practices by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Location	2	2,054.68	1,027.34	479.41*
Error	87	186.43	2.14	

* $p < .001$

In addition and in order to know where those differences lay, a post hoc Tukey HSD procedure was used (see Table 8). The bigger differences in recruitment practices lay between companies established solely in the US and companies established solely in Mexico. On average, companies established in the US usually considered legal regulations when recruiting people, while companies established in Mexico often did not. Companies established in both countries may or may not have considered legal regulations while doing business in Mexico and the US, and recruitment processes were usually conducted according to local legal regulations.

Hypothesis 2

For personnel selection practices, location was significant, (see Table 9) $F(2, 87) = 196.94, p < 0.05$. Also, the Tukey HSD procedure (see Table 8) revealed that the selection process in companies established in the US was overall designed and executed according to legal employment practices, whereas selection practices in companies in Mexico were often not in accordance with the local employment law.

Hypothesis 3

Training and development practices produced significant differences for location (see Table 10) $F(2, 87) = 41.62, p < 0.01$. HSD procedure (see Table 8) shows that major differences are among companies established in the US and companies established in Mexico. Furthermore, training and development practices in companies established in the US usually are according to legal regulations, whereas they are not necessarily following what is established in the law in companies established in Mexico.

Table 8

Tukey Results of Location by Subscale

Subscale	Location	<i>M</i>
Recruitment	Mexico	7.37 ^a
	US	18.87 ^b
	Both	15.00 ^c
Personnel Selection	Mexico	10.70 ^a
	US	18.93 ^b
	Both	13.93 ^c
Training & Development	Mexico	11.80 ^a
	US	15.07 ^b
	Both	12.17 ^a
Performance Appraisal	Mexico	8.13 ^a
	US	17.37 ^b
	Both	15.30 ^c
General HR	Mexico	15.67 ^a
	US	17.63 ^b
	Both	18.63 ^c

Note. Different superscripts within each subscale denotes a significant difference among means ($p < .05$).

Table 9

Analysis of Variance in Selection Practices by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Location	2	1032.42	515.21	196.94*
Error	87	228.03	2.62	

* $p < .001$

Table 10

Analysis of Variance in Training and Development Practices by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Location	2	192.15	96.07	41.62*
Error	87	200.83	2.30	

* $p < .01$

Hypothesis 4

For the comparison of performance appraisal practices, also using an alpha level of 0.05 for the statistical test, the differences were also statistically significant $F(2, 87) = 143.61, p < 0.05$ (see Table 11). The Post Hoc Tukey HSD procedure results reported that the main differences were found between companies located in Mexico and in the United States (see Table 8). The performance appraisal processes in organizations established in the United States are according to what the employment law states. In addition, performance appraisal processes for companies established in Mexico are not aligned with local employment law guidelines.

Hypothesis 5

The relationship between the way human resources practices are executed (in companies located in different countries) and the type of product/service the companies provide was assessed with a 3 (Location: Mexico, US, both countries) x 5 (Product: government, financial, consulting, consumer goods, technology). The results showed that there are no significant differences $F(4, 76) = 0.49, p < 0.05$ (see Table 12). There is no evidence to conclude that there is a relationship between the way companies execute human resources practices and the type of product/service provided. A significant difference, $F = 20.12, p < 0.05$ (see Table 12), exists in the way companies execute human resource practices by location. The HSD procedure shows significant differences among human resources practices in companies located in Mexico, the US, or both countries (See Table 8). Interaction for product between location and product/service was not significant.

Table 11

Analysis of Variance in Performance Appraisal Practices by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Location	2	1,408.86	704.43	143.61*
Error	87	426.73	4.90	

* $p < .001$

Table 12

Two Way Analysis of Variance in Human Resources Practices by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Type product/industry	4	4.34	1.08	0.49
Country	2	88.10	20.12	20.12*
Type product/industry x Country	5	7.57	1.08	0.49
Error	76	166.34	2.18	2.18

* $p < .05$

Hypothesis 6

To explore the relationship between knowledge and understanding of labor law and the location of the company with the number of lawsuits reported in the company over a year, a one way anova was run with location as the independent variable and number of lawsuits as the dependent variable. The results showed significant differences $F = 30.61, p < 0.05$ (see Table 13). At HSD procedure, the companies located in Mexico and US, followed by companies located in México and in both countries, showed the major differences. Companies located in the US and in both countries reported no significant differences in terms of number of lawsuits obtained.

Table 13

Analysis of Variance in Number of Lawsuits by Location

Source	<i>d</i>	<i>SS</i>	<i>MS</i>	<i>F</i>
Location	2	165.95	82.97	30.61
Error	87	235.83	2.71	

* $p < .01$

CHAPTER 4

DISCUSSION

Hypothesis 1

The way recruiting practices are executed in Mexico and the US differs significantly. In terms of people with disabilities, most of the recruiting practices in the US involve the recruitment of people with disabilities, while in Mexico this is not the case. In Mexico, the only matter that law regulates in regard to disabilities is in Article 123 Section AXXIX, which addresses the employer responsibility of providing benefits and insurance when a current employee develops a disability due to an unsafe environment. However, the Mexican law does not specifically address the right of employees with disabilities during the recruiting process. Penalties for those employers who discriminate against people with disabilities in their recruitment process are not specified. On the other hand, The Americans with Disabilities Act of 1990 prohibits discriminations against a qualified individual with a disability and establishes the responsibility of employers to accommodate disabilities that serve to prevent people from working. Companies with presence in both countries also show significant difference in the way recruitment is executed. Apparently, recruiting practices are not often consistent for the same company while operating in different environments. This finding suggests that recruitment practices are not consistent across companies in the US and Mexico. Another relevant matter in recruitment process is the age of the applicant in which there are also differences in terms of interviewers in the US, who do not ask for the applicant's age when recruiting. By asking this question, the company could be violating what is established in Title VII of the Civil Rights Act of 1964, which fully protects all races and

colors against age discrimination. In Mexico, Article 123 Section BVII of the Constitution establishes that the appointment of personnel shall be made by systems that determine skills and aptitudes of applicants. However, in terms of age, the Mexican law in Article 123 Section AIII of the Constitution is more focused on regulating the work of persons above 14 years and less than 16 years of age in terms of the number of hours allowed to work a day. Likewise, Article 22 of Mexican Federal Employment Law prohibits the use of labor for minors under 10 years of age. Thus, employment law in México is not explicit about age because companies in Mexico openly ask or specify in the profile of the position the age that a candidate must have. Age is also a very common question in job interviews. Age in most cases is not job-related, but companies want to hire young people (less than 40-45 years old) because there is a culturally preconceived idea that young people have more energy than people above 45 years old (Erin & Dobbin, 1998).

Another important matter when recruiting people is the involvement of gender preference for certain positions. Companies in the US adhere to Title VII of the Civil Rights Act of 1964, which talks about employment discrimination fully protecting against discrimination in sex, race, color, religion and national origin. In Mexico, Article 3 of the Mexican Federal Employment Law establishes no possibility for the employers to distinguish between employees in terms of sex, age, religion, political doctrine or social condition. Likewise Article 123 Section AVII prohibits making personnel decisions without considering equality in issues related to gender. These last two laws may not be respected in Mexico because there is Article 154 of Mexican Federal Employment Law, which establishes that employers must give priority to those employees who are the only

source of financial provision in their families, which in Mexico typically is the male. Companies that are not in accordance with employment law would rather have men than women holding executive positions. This trend may be changing, but still there is a nine-to-one man-woman ratio of executives (Lockwood, 2004).

For companies located in both countries, when located in México they possibly are holding executive positions for men as a result of being biased by the Mexican culture where typically the man is looked as the main source of financial provision.

Hypothesis 2

Personnel selection practices, are executed differently in the US and Mexico. When selecting personnel in the US human resource generalists use the same battery of psychometric tests depending on the position and regardless of the candidate, and the process of personnel selection is 100% based on the assessment skills and abilities. This may be the result of applying The Civil Rights Act of 1991, which protects individuals who feel they are victims of intentional discrimination based on race, gender, religion or disability. An individual who feels intentionally discriminated can ask for compensatory damages. In México, Article 3 of the Mexican Federal Employment Law establishes that employers cannot distinguish between race, sex, age, religion, and political doctrine or social condition. The difference is that Mexican Law does not establish the right of employees to ask for compensatory damages. Therefore, candidates in Mexico do not have the possibility to sue since no penalty is established in the law. Besides, companies in the US do not have a variation in salaries depending on the sex of the candidate. This is supported by The Equal Pay Act of 1913, which prohibits sex discrimination in the payment of wages. In Mexico, although Article 123 Section AVII establishes that equal

wages shall be paid for equal work, regardless of sex or nationality, salaries offered to men are still higher than salaries offered to women even though both have the same amount of responsibility. In addition, the “glass ceiling” regarding women in business with a focus on advancement to senior positions has been recognized both in Mexico and the US as an opportunity in which human resources professionals are required to be knowledgeable by developing affirmative action plans, complete Equal Employment Opportunity reports, and undergo audits (Lockwood, 2004). Companies in the US follow the same process when hiring foreign employees, and this is based on Title VII of the Civil Rights Act of 1964, which establishes non-discrimination based on citizenship and a refusal to hire or discriminate against individuals in compensation or privileges of employments because of national origin. Companies in Mexico confirm to follow a different process when hiring foreign employees. However, the researcher assumes a misunderstanding of the wording of the question at the MAEPQ, when translating it into Spanish. Consequently, the responses of human resource directors were more oriented to be answered thinking on the process of filling in forms related with permission to work in the country. The researcher believes this is not a matter that can be interpreted as lack of Equal Employment Opportunity. Job interviews are structured in companies in the US depending on the position. Job interviews in Mexican companies are not structured and lack reliability. Companies in both countries accommodate their human resources practices to what other companies do in the country; therefore, interview questions are not necessarily intended to determine the abilities and/or skills required by the position but something else. In general, recruitment practices in Mexico are not only based on the individual’s ability to perform a job but also on many other characteristics, such as

physical appearance or appropriate relationships among others (Freedman, 2003). Different cultures emphasize different attributes in the recruitment and selection processes depending on whether they use achievement or ascriptive criteria (Freedman, 2003). Achievement criteria refer to the consideration of skills, knowledge, and talent. Although “connections” can help, companies generally only hire those with the required qualifications. Ascriptive criteria refer to the consideration of factors such as culture, age, gender, and family background to make selection decisions (Freedman, 2003). Hiring decisions in Mexico are very much driven by cultural stereotypes. This issue is changing very slowly and mainly in the private sector both for local and multinational companies. However, Mexico still needs to further reinforce its employment law requirements by imposing serious penalties to non-complying companies and by implementing national educational programs to create awareness in the business environment. The companies must adopt a geocentric or a global approach to manage and staff headquarters and subsidiaries on a global basis (Freedman, 2003). In this approach, the organization considers both headquarter’s practices and those practices prevalent in the countries of its subsidiaries when recruiting or selecting candidates (Freedman, 2003).

Hypothesis 3

Training and development practices across the three locations do not seem to be as different as the other practices. Maybe this is the result of strong regulation within Mexican law that makes it mandatory for companies established in Mexico to comply with specific training guidelines. Article 7 of Mexican Federal Employment Law determines the obligation of any organization to provide and execute mandatory training programs to Mexican employees. Training and Development are areas that have more

focus in Mexico, since there is a government office designated for regulating these actions called “Secretaría del Trabajo y Previsión Social.” In Mexico, all companies are required by law to present an annual report with the time invested in employee training over a year. Unfortunately, this process has become more an administrative task than a value-added activity designed to promote employee education and development. In general, large companies reach the training quota that they are supposed to cover, but most small companies do not. Furthermore, there is a relevant difference as a result of the study when it comes to training programs targeted to the physically challenged. This could be a direct result of the low levels of economically active population with disabilities. As global competition increases, it is important for successful companies to have a group of managers with a global perspective. Companies must identify managers with global potential and provide them various training and development opportunities (Treven, 2006). When analyzing the data for benefits given to the parent when a new child is born, Article 123 in the Mexican Law has two considerations: during the three months prior to birth, women should not perform tasks that involve excessive effort; and in the month prior to childbirth, women have the benefit of rest and receive full wages. Similarly, the United States Family and Medical Leave Act of 1993 opens more opportunities to new parents, as it establishes the right for each worker to 12 weeks per year at time of their choosing to either care for the child during birth, adoption, or foster care. The differences are that in Mexican law these benefits are only given to woman, not to men. Thus, companies in Mexico grant woman permission to leave with full wages since it is established in the law. As a consequence of these regulations, companies in Mexico discriminate against hiring pregnant woman by including in their hiring process

pregnancy test which is an element that determines if the candidate will be hired or not. In general, the possibility of women getting pregnant and investing more time in child care makes leaders think that a man may be more convenient for being groomed for a determined position (Lockwood, 2004).

Hypothesis 4

In regards to performance appraisal processes, US companies observe the Civil Rights Act of 1991, which protects workers in all aspects against discrimination in hiring and promotions. For companies in Mexico, Article 123 Section BVIII establishes that promotions may be made on the basis of skills, aptitude or seniority. However, Mexican companies show that gender is still a determinant for likelihood of promotion. Also, the level of pay may vary significantly depending upon gender for similar jobs, and minorities do not seem to have any special attention. Article 123 Section AVII of Mexican Constitution determines equal wages shall be paid for equal work, regardless of sex or nationality. In spite of this, companies are still biased by tradition and/or “machismo” culture. The Equal Pay Act of 1963 guarantees a worker equal pay for equal work and prohibits gender discrimination in the payment of wages. This statement seems to be consistent with the survey results. Also, Title VII of the Civil Rights Act of 1964 states these rights for every applicant who fulfills the requirements of the position, regardless of other factors that are not job related. Under Mexican law, Article 123 Section AXXIX establishes the opportunity to obtain a job as a result of the candidate’s ability to perform the required task as the basic criteria for eligibility. It also prohibits making personnel decisions without considering equality issues related to gender. Article 154 of the Mexican Federal Employment Law establishes that employers have an

obligation to give priority to those employees who are the only source of financial provision in their families. However, in Mexico, the survey results suggest a significant deviation from fair practices in terms of performance appraisal techniques. Performance appraisal systems in large companies seem to be more objective and well articulated. However, the process still involves perception and observation of the boss. People rate employees based on personal prejudices, which often translates to giving lower preference or poor ratings to non-protected groups (Treven, 2006). Companies need to learn how to conduct performance appraisal processes that do not contradict the law of the country in which they are developing a new venture, but more importantly, they need to improve the design and development of tools and methodology for appropriate application. Additionally, companies located in both countries should develop a performance appraisal system with a geocentric approach, which in brief uses the same performance evaluation system worldwide but with universal applicability (Treven, 2006).

Hypothesis 5

Differences in human resources practices are based on the location of the company. However, no evidence was found to support a relationship between the way human resources practices are executed and the type of product/service provided. The lack of this relationship may be because all companies in Mexico must adhere to Article 123 of Mexican Constitution, which talks about Labor and Social Security. This article is rather focusing on a commitment to improve the living and working conditions of Mexican workers honoring their inherent liberty, rights and human dignity than in regulating human resources practices by considering the type of the product/service

provided by the company. Employment law is applicable to all companies without making distinction by type of product/service provided. Mexican law emphasizes in Article 123 Section A XXIX that the employer is responsible for providing a safe work environment no matter the type of product/service the company produces.

Hypothesis 6

Companies that are in both countries when compared with companies in the US did not show differences in the number of lawsuits obtained over a year. This finding indicates that companies located in the US and in both countries do have a better understanding and adherence to labor laws. Companies in Mexico had a higher number of lawsuits over a year because of the lack of either knowledge or understanding of employment law. For companies in Mexico, the high number of lawsuits may be due to the fact that most lawsuits are supported by labor unions (Urteaga, 2006) that argue what is set in Article 20 of Mexican Labor Law, which assumes a work relationship between the person who does the job and receives it. Thus, the employer has the responsibility to demonstrate that all information argued by an employee is false. This means that anything declared by the employee is assumed correct. Companies in Mexico do avoid lawsuits, although once they are sued, they previously have not regulated negotiations with labor unions that allows them to win the jury trial. Mexican workers cannot finance employment lawsuits considering that this process may take from one to five years. This is the reason lawsuits mostly are supported by the unions.

Conclusions

In general, Mexican companies need to become more aware and invest more time to better understand and apply legal human resources practices in Mexico, particularly if

they are planning to conduct business outside of Mexico. Also, American companies should continue their compliance with the law, but those that are also established in Mexico must model behaviors that contribute to fairness and non-discriminative practices in the global environment.

Historically, discrimination provoked more debate in the US than in Mexico. Most of the discrimination issues in Mexico can be traced to the fact that discrimination and minorities have never represented a major source of real concern in Mexican society or for companies operating in Mexico. Manufacturing workers and informal workers in Mexico, who represent between 50 to 60 % of the total Mexican labor force, is a group characterized by the absence of basic rights and obligations generally associated with formal employment relationships. Instead, they have tended to develop their own “legality,” which can encompass organizational and political processes, sometimes visible and other times invisible (Arteaga, 2005). Thus, discrimination issues are not the main concern in people’s minds but rather the ability to have an income that allows them to satisfy their basic needs. This has been identified as a common scenario in transitioning societies in the developing world; although major components of its economy participate in the global marketplace, significant portions of its population live in poverty, poor health, and illiteracy (Hasler & Thompson, 2006).

Limitations of the Study

The present analysis is based on a limited sample of 90 human resources directors of companies operating in Mexico, the US, and both nations. The size of the sample is a limitation and the sampled countries may not fully encompass the general practices in each country.

In addition, the MAEPQ analysis tool explored very sensitive matters for companies, considering HR directors are aware of the legal implications that answering with complete adherence to reality may bring to their companies in case HR practices are not in accordance to law. Another limitation is that the MAEPQ answers are based on the response of a single human resources person, when the human resources departments have staff who may have a more accurate knowledge of the practices and the results obtained in each of the subscales. The researcher is trusting the judgment and knowledge of a single person, and these responses may be biased. Another consideration is that every year companies are more sophisticated and more aware of global practices in order to remain competitive. Thus, human resources practices may be changing dramatically in very short periods of time.

Implications for Future Research

With globalization the opening of the economy to foreign investors, and a higher degree of interaction with companies around the globe, success of any company is directly linked to its ability to attract a talented workforce. The best indicator of whether a multinational company is prepared to succeed globally is the range of nationalities and the degree of international experience among its senior leadership (Freedman, 2003). If Mexican companies are to thrive in a new competitive global business environment, they need to adapt employee recruitment and development efforts accordingly. Mexico still has a long way to go in this area as cheap labor is no longer a sufficient differentiator for companies seeking new markets to invest in. Although major achievements can be identified in many multinational companies being established in Mexico, for the most part, a strong cultural barrier still remains. In order to properly address these outages, the

Mexican government needs to approve further reforms to the current labor law and put in place the necessary enforcing actions to insure success. In the end, both Mexico and the global business community stand to benefit from these actions.

Furthermore, Mexico, as one of the leading emerging markets in the global economic arena, can no longer afford to be complacent in regard to employment best practices. Major steps have been already taken to ensure fair trade practices with leading global economies, but those will only be successful if they are accompanied by the necessary actions in labor legislation and practices. Globalization has significantly influenced every aspect of the Human Resources Development profession, yet Human Resources Development professionals have played a relatively insignificant role thus far in affecting globalization (Marquardt & O'Berger, 2003). Three common ground areas have been identified to be closely related to global issues in Human Resources Development: (a) developing a sense of social responsibility, (b) embracing globalization, and (c) embracing multiculturalism. These three roles must be displayed by Human Resources professionals in order to maximize the beneficial elements of globalization and limit its dehumanizing forces (Marquardt & O Berger, 2003). Global success depends on utilizing the resources and diverse talents and capabilities of the broadest possible spectrum of humanity (Marquardt & O Berger, 2003).

I conclude that Mexico can look to the north and seek to reapply some of the current practices currently in place and adapting them to the reality of what is Mexico today and what is to become in the years to come. Key actions in which the Human Resources Professional can positively affect the forces of globalization are: (a) participating and promoting fair and nondiscriminatory legal practices, (b) increasing

organizational and workplace learning, (c) offering education and vocational training, (d) developing global leadership or leaders, (e) improving the use of technology and knowledge, and (f) ensuring an environment for sustainability (Marquardt & O'Berger, 2003). The following are roles that some Human Resources Development professionals already play but could be expanded to enhance globalization by: (a) preparing employees for overseas assignments including cross cultural training, expatriation and repatriation support, and language training, (b) building global teams and enhancing their ability to work virtually across time and distance, (c) creating systems for continuous quality improvement to meet global customer expectations, (d) developing cross-cultural communication skills, (e) developing abilities in learning how to learn through action learning processes and (f) building capabilities in knowledge management and technology systems (Marquardt & O Berger, 2003). Some basic examples in these areas are assurance of equal opportunity employment practices, merit-based rewarding systems, non-discriminatory enforcement laws, and disciplinary training and development opportunities for employees.

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Appendix A

English and Spanish versions of Mexican and American Employment Practices
Questionnaire (MAEPQ)

**Mexican and American Employment Practices Questionnaire
MAEPQ**

Name of the company: _____
 Type of product/service: _____
 Your job title/position in the company: _____
 Number of years at this position: _____
 Number of years at this company: _____
 Your educational background: _____
 Languages spoken: _____
 Racial identification: _____ Your age: _____ Your sex _____

Check one of the following

The company is established:	Only in Mexico	Only in the United States O	In both countries O
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O

Instructions: Please rate the statements as honestly as possible. Make sure you rate each statement, and only give one response per statement.

1. The recruitment process in the company involves people with disabilities.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
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2. The company considers people older than 40 years as possible candidates.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

3. The recruitment process of the company involves some kind of sex preference for certain positions that are not a legitimate Bona Fide Occupation Qualification.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

4. The recruiters of the company ask the applicant to provide information about their age.

STRONGLY AGREE (4)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

5. The company uses the same test battery regardless of the candidate.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

6. The salaries offered to candidates within the company vary depending on the sex of the candidate.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

7. A different hiring process is followed when the company hires foreign employees.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

8. The questions asked during an interview to occupy certain position are always the same.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

9. The company has mandatory and systematic training programs for all the employees.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

10. The company emphasizes training activities in young employees to motivate their development.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

11. The company allows employees to leave work for a time period of three months when they have a child.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

12. The company has the resources to train people with disabilities.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

13. The company would rather promote men than women especially in executive positions.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

14. The company considers that if men are the main source of financial support in their home, then they should, have a higher payment than women who are doing the same activity should.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

15. Performance appraisal seems to be more beneficial for the people that do not belong to a protected group.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
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16. The company uses the same performance appraisal system for all the employees.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

17. In general, the processes of recruiting, selection, training/development and performance appraisal of the company are designed according to the legal employee regulations in the country.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

18. Actual or former employees commonly file a claim or lawsuit against the company.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

19. The company has established and follows a standardized process to deal with employee lawsuits.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (4)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

20. The company was successful in almost all employee lawsuits reported last year.

STRONGLY AGREE (5)	AGREE (4)	UNDECIDED (3)	DISAGREE (2)	STRONGLY DISAGREE (1)
--------------------------	--------------	------------------	-----------------	-----------------------------

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

5. La empresa utiliza la misma batería de exámenes de selección para todos sus candidatos.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

6. El salario ofrecido a un candidato varía dependiendo de su sexo.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

7. El proceso de contratación de un empleado extranjero es diferente al proceso de contratación de un empleado mexicano.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

8. Las preguntas hechas durante la entrevista, para ocupar determinada posición, son siempre las mismas.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

9. La empresa cuenta con un programa de capacitación obligatorio para todos los empleados. (Excluyendo el proceso de inducción)

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

10. La empresa impulsa la capacitación y el desarrollo de empleados jóvenes.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

11. Cuando alguno de los empleados tiene un bebe, la compañía otorga tres meses de permiso para no asistir al trabajo.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

12. La compañía cuenta con recursos para entrenar a personas incapacitadas.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

13. Para puestos ejecutivos, la empresa promueve a mas hombres que a mujeres.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

14. La empresa considera que si alguno de sus empleados hombres, es la fuente principal de ingreso económico al hogar, deberá de tener una salario mas elevado que el de una mujer que realiza las mismas actividades.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI	EN DESACUERDO	MUY EN DESACUERDO
-------------------	---------	---------------------	------------------	----------------------

		EN DESACUERDO		
(5)	(4)	(3)	(2)	(1)

15. Las evaluaciones de desempeño son mejores para los empleados que son mujeres.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

16. La compañía utiliza el mismo sistema de evaluación de desempeño para todos los empleados.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

17. En general, los procesos de reclutamiento, selección, capacitación/desarrollo y evaluación de desempeño de la compañía están diseñados de acuerdo a la ley laboral del país.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

18. La compañía es comúnmente demandada o recibe reclamaciones de empleados actuales y pasados.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI EN DESACUERDO	EN DESACUERDO	MUY EN DESACUERDO
(5)	(4)	(3)	(2)	(1)

19. La compañía tiene un proceso establecido a seguir en caso de presentarse una demanda laboral.

MUY EN ACUERDO	ACUERDO	NI EN ACUERDO NI	EN DESACUERDO	MUY EN DESACUERDO
-------------------	---------	---------------------	------------------	----------------------

(5)	(4)	EN DESACUERDO (3)	(2)	(1)
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20. La compañía ganó la gran mayor parte de las demandas presentadas el año pasado.

MUY EN ACUERDO (5)	ACUERDO (4)	NI EN ACUERDO NI EN DESACUERDO (3)	EN DESACUERDO (2)	MUY EN DESACUERDO (1)
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Appendix B

English and Spanish versions of Informed consent letter

English Version
Participation Consent Letter

Thank you for agreeing to participate in this study. This study is going to investigate the differences between American and Mexican employment law, as well as the impact that these differences have in the human resources practices of organizations.

Information in this study will be identified by the name of your company. Your name will be used only to indicate that you participated in the study and receive credit for participating. Your participation in this study is completely voluntary. Should you wish to terminate your participation, you are welcome to do so at any point in the study. Termination on the participation will not affect you. There is no risk or discomfort involved in completing the study.

If you have any questions or comments about this study, feel free to ask the experimenter. If you have any additional questions, please contact Dr. Brian Schrader, Department of Psychology and Special Education, 321 Visser Hall, (620) 341-5818.

If you would like a copy of the results, please write or call, Veronica Rueda, Sabana num. 12, Col. Hda. De San Juan, Del. Tlalpan C.P. 14370 México, City, México. (525) 673-3785.

Again, thank you for your participation.

I, _____, have read the above information and have decided
(please print name)
to participate. I understand that my participation is voluntary and that I may withdraw at any time without prejudice after signing this form should I choose to discontinue

(signature of Participant)

(date)

(signature of Experimenter)

**THIS PROJECT HAS BEEN REVIEWED BY THE EMPORIA STATE UNIVERSITY
COMMITTEE FOR THE PROTECTION OF HUMAN SUBJECTS.**

Versión en Español
Carta de Consentimiento de Participación

Muchas gracias por participar en este estudio, que tiene como objetivo investigar las diferencias que existen entre algunas de las leyes laborales mexicanas y norteamericanas, así como el impacto de éstas diferencias o similitudes en las prácticas de recursos humanos dentro de las organizaciones.

La información que usted nos proporcione, para la realización de este estudio será confidencial y anónima, y únicamente va a ser utilizada para indicar su participación y recibir crédito por ésta. Su participación es completamente voluntaria, y en caso de que desee terminarla, lo puede hacer en cualquier momento sin ninguna repercusión.

En caso de tener alguna pregunta o comentario acerca del estudio, puede preguntar al investigador o bien, contactar al Dr. Brian Schrader, Department of Psychology and Special Education tel. (620) 341-5818. Emporia, Kansas USA.

Si desea una copia de los resultados del estudio, por favor llame o escriba a Verónica Rueda Wong, Sabana num. 12, Col. Hda. De San Juan, Del. Tlalpan C.P. 14370 México, D.F., México. Teléfono (525) 673-3785.

Una vez mas, muchas gracias por su participación.

Yo _____, he leído la información anterior y he decidido
(por favor escriba su nombre)
participar en el estudio. Acepto que mi participación es voluntaria y que me podré retirar del mismo en cualquier momento.

(firma del participante)

(fecha)

Verónica Rueda _____
(firma del investigador)

ESTE PROYECTO HA SIDO REVISADO POR EL COMITE PARA LA
PROTECCIÓN DE SUJETOS HUMANOS DE EMPORIA STATE UNIVERSITY.

Appendix C

Application for Approval to Use Human Subjects

APPLICATION FOR APPROVAL TO USE HUMAN SUBJECTS

This application should be submitted, along with the Informed Consent Document, to the Institutional Review Board for Treatment of Human Subjects, Research and Grants Center, Campus Box 4048.

1. Name of Principal Investigator(s) or Responsible Individuals:

Veronica Rueda

2. Department Affiliation: Department of Psychology and Special Education.

3. Person to whom notification should be sent: Veronica Rueda

Address: Commercial 1200, ESU, 321 Visser Hall, Emporia, KS. 66801.

4. Title of the Project: A comparison between American and Mexican employment law.

5. Funding Agency (if applicable): _____

6. Project purpose(s):

Make a comparison of human resource practices in American and Mexican companies, regarding to the differences between their employment laws.

7. Describe the proposed subjects: (age, sex, race, or other special characteristics, such as students in a specific class, etc.)

The subjects used for this study will be companies located in the US and Mexico. The companies should have operations in both countries and should have human resources practices.

8. Describe how the subjects are to be selected:

The companies need to be established in Mexico and in the US, and the size of the companies should be large.

9. Describe the proposed procedures in the project. Any proposed experimental activities that are included in evaluation, research, development, demonstration, instruction, study, treatments, debriefing, questionnaires, and similar projects must be described here. Copies of the questionnaires, survey instruments, or test should be attached.

A questionnaire will be applied to the person who represents the human resource department of each company. Questionnaire is in appendix A.

10. Will questionnaires, tests, or related research instruments not explained in question # 9 be used? ____ Yes No (If yes, attach a copy to this application).

11. Will electrical or mechanical devices be used? ____ Yes No (If yes, attach a detailed description of the device(s).)

12. Do the benefits of the research outweigh the risks to human subjects? ____ Yes No This information should be outlined here.

13. Are there any possible emergencies which might arise in utilization of human subjects in this project? ____ Yes No. Details of this emergencies should be provided here.

14. What provisions will take for keeping research data private?

15. Attach a copy of the informed consent document, as it will be used for your subjects. See appendix B.

STATEMENT OF AGREEMENT: I have acquainted myself with the Federal regulations and University policy regarding the use of humans subjects in research and related activities and will conduct this project in accordance with those requirements. Any changes in procedures will be cleared through the Institutional Review Board for Treatment of Humans Subjects.

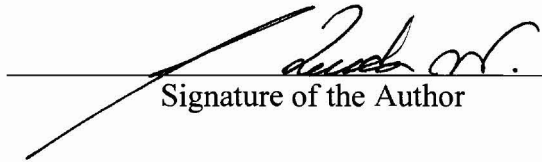
Signature of Principal Investigator

Date

Signature of responsible individual
(faculty advisor)

Date

I, Verónica Rueda, hereby submit this thesis to Emporia State University as partial fulfillment of the requirements for an advanced degree. I agree that the Library of the University may make it available for use in accordance with its regulations governing materials of this type. I further agree that quoting, photocopying, or other reproduction of this document is allowed for private study, scholarship (including teaching) and research purposes of a nonprofit nature. No copying which involves potential financial gain will be allowed without written permission of the author.




 Signature of the Author

07/27/2006.

 Date

A Comparison Between Mexican and American Employment Law
 Title of the Thesis



 Signature of Graduate Office Staff Member

9-14-06

 Date Received

Original