

Is Wal-Mart Ethical? Debate
[Longer Version with Supporting Arguments]
Mesa Community College
November 24, 2009

The following comments support the charges made in my public comments for the debate on 11/24/09:

WAL-MART ETHICALLY WRONGS ITS EMPLOYEES:

ARG1: Wal-Mart executives have failed to pay workers overtime, and admitted to being trained and told by their superiors to do so. One Wal-Mart mgr claimed that he/she has seen every Wal-Mart mgr change the hours other than the General Mgr. The 31 state lawsuit, and \$50 MM class action payment in CO convincingly indicate that Wal-Mart violated the law, and in TX it was estimated that Wal-Mart cheated workers out of \$150 MM. Another figure cited is that they underpaid 87,000 workers in the US by \$34 MM prior to 2007.¹

One can easily argue that this practice is not merely illegal, but immoral. The workers are not making that much money and can use any money they are owed for living expenses. If Lee Scott is correct that they pay every worker for every hour, then they should have had the records to prove it, and should not have been found guilty in CO, for instance. It is also not ethical to fail to budget enough money for payroll (especially given that they obviously have the money to do so), as a manager also claimed was the case with Wal-Mart. More evidence is when we hear from a store mgr/trainer that the policy was that if you can squeeze every dime out of them, you can go for it, and not care whether they get sick (which is yet another issue). It is also implied by one worker that they would be heavily pressured to do overtime work (“If you can’t do it, I’ll just get someone else to do it” with a smile), and presumably would not be promoted if they didn’t do the overtime work. This practice is effectively pressuring someone to work for free, and/or assuming they will not be paid for overtime.

ARG2: Wal-Mart has multiple (at least 80) lawsuits concerning wage and hour violations.

Besides being sued for not paying overtime, as mentioned in the movie, and for which there are multiple violations and lawsuits, Wal-Mart has also been charged with not giving workers Federally mandated breaks, lunches, and requiring workers to take their missed breaks or overtime before Friday’s end of the pay period, which is illegal.² They have also manipulated their wage and hour records according to these lawsuits.³ For instance, employees might be logged out for payroll purposes, but simultaneously logged into cash registers, which is proof of off-the-clock labor.⁴ They have not paid full-time benefits for workers who work 40 hours per week.⁵ Wal-Mart was forced to pay \$172 MM in damages in 2005 in CA, plus \$265 MM in costs and attorney fees.⁶ Wal-Mart had to pay \$187 MM in PN in 2006 in a class action lawsuit. Wal-Mart settled for \$50 MM in CO in 2004 for these types of violations.⁷ The ethical issue is fairness, and playing fair with their workers AND competitors. They’re putting others out of business by not obeying the law, but they’re also treating their employees unfairly by not letting them take breaks, and essentially telling them to lie about when they worked when, for instance, they mandated that workers should stay punched in while on breaks.

ARG3: Wal-Mart is not paying a living wage. Wal-Mart is not paying their workers enough to support their families or to have health care, which either forces the worker to publicly funded health care and/or so

¹ The U.S. Labor Department ordered Wal-Mart to pay back wages. See Wal-Mart Watch Fact Sheet: “The Employee’ Free Choice Act: Wal-Mart’s Last Stand Against Unionization?” p. 3.

² Wal-Mart Watch Fact Sheet: “Wal-Mart’s Wage and Hour Violations,” p. 1.

³ Wal-Mart Watch Fact Sheet: “Wal-Mart’s Wage and Hour Violations,” p. 1.

⁴ Wal-Mart Watch Fact Sheet: “Wal-Mart’s Wage and Hour Violations,” p. 3.

⁵ This is anecdotal and not from an actual case, apparently. See Wal-Mart Watch Fact Sheet: “The Employee’ Free Choice Act: Wal-Mart’s Last Stand Against Unionization?” p. 6.

⁶ Wal-Mart Watch Fact Sheet: “Wal-Mart’s Wage and Hour Violations,” p. 5. They appealed this lawsuit as well.

⁷ Wal-Mart Watch Fact Sheet: “Wal-Mart’s Wage and Hour Violations,” p. 4. Finally, Wal-Mart was found guilty of these kinds of violations in MN for \$6.5 MM in 2008, not including punitive damages.

they're *encouraged* by Wal-Mart to do so. They pay 26-37% less than the national average for the same jobs in the retail industry.⁸ They pay poverty level wages; that is, a "full-time" employee is such at 34 hrs/wk, at \$10.86/hr, and makes \$19,200.48/yr, where the Federal government's definition of poverty for a family of four is \$21,200.⁹ This is not ethical because (1) Wal-Mart is making such huge profits, that they can afford to pay living wages; (2) Wal-Mart is profiting more by using the U.S. or State Governments to fund health care for its employees (via welfare, Medicaid, and so on), which is not fair to their competitors, and is not fair to our society.

Wal-Mart has more employees on Medicaid in FL than any other company (and they cited many employees from various states who are receiving public assistance). They cite \$1.557 BB to support Wal-Mart's employees. Actually, in 24 states they have more employees on Medicaid than any other US company (which I have independently confirmed¹⁰). Moreover, in CA, taxpayers paid \$86 MM and local CA taxpayers paid \$25 MM for health care, income tax credits, housing subsidies. We're told that Wal-Mart encourages employees to apply for public health benefits, which implies that they are aware of the problem. Whether or not they are encouraging employees to use Medicare, employees are in fact doing so, which still implies that they are not providing a living wage (to include the ability to have adequate health care via Wal-Mart).

In addition, they have worse health care packages and terms than their competitors. For instance, (1) they cover 50% of their employees, compared to the national average of 64% for major retailers (5000+)¹¹; (2) Wal-Mart employees have to wait for 6 months, instead of the national average of 3 months, to get health insurance;¹² (3) Wal-Mart charges extra for ambulance usage and emergency room visits;¹³ and (4) Employees with pre-existing conditions must wait at least one year for treatment.¹⁴

They should have to readjust their prices, salaries, etc., in order to include enough money to pay for some basic health care, especially given that they had \$240 BB in profits at the time of the movie. This violates the oft-heard conservative principle that we shouldn't have social programs, and people should work and get their necessities from a job's income. It also violates the oft-touted free market principle, as above, by gaining an advantage that other companies do not get, by their competitors' paying for health care, while Wal-Mart is not. [The Wal-Mart employee also implies that no one wants to fill out this paperwork and go through the hassle and humiliation, but if that is what it takes, that is what they will do.]

Lastly, Lee Scott (Wal-Mart CEO) admits the problem by saying that he's troubled that his employees cannot provide for their families. If he weren't aware of it, it may be more forgivable, but since he acknowledges the problem and has done little to nothing to fix it, it is arguably reprehensible and wrong.

ARG4: Wal-Mart discriminates against women¹⁵ by not paying them equally and not promoting them to upper management. This is evidenced by anecdotal evidence, studies, and court cases. A 2003 study found that women hourly workers earn up to 37 cents/hr less than their male counterparts; female mgrs earn \$5000/yr. less than male mgrs.; 72% of Wal-Mart's total workforce are female, but only 33% of them are mgrs.¹⁶ Jon Lehman, former Wal-Mart store manager for 19 yrs said that upper echelon managers believe that women are useless at Wal-Mart, and that there are systemic policies against them that originate at the home office. The anecdotal evidence is damning as well: Asking why she wasn't promoted to management (what she was promised), an African American woman asking whether it's because she's a woman or because

⁸ Wal-Mart Watch Fact Sheet: "Low Wages, Always", p. 2. The jobs are Sales Associate, Cashier, Team Leaders, and Overnight Stocker.

⁹ Wal-Mart Watch Fact Sheet: "Wal-Mart's New Health Plan: Medicaid," p. 1.

¹⁰ See the fact sheet entitled "Wal-Mart's New Health Plan: Medicaid," p. 2, at http://walmartwatch.com/img/documents/medicaid_factsheet.pdf.

¹¹ Wal-Mart Watch Fact Sheet: "Wal-Mart's New Health Plan: Medicaid," p. 1.

¹² Wal-Mart Watch Fact Sheet: "Wal-Mart's New Health Plan: Medicaid," p. 1.

¹³ Wal-Mart Watch Fact Sheet: "Wal-Mart's New Health Plan: Medicaid," p. 1.

¹⁴ Wal-Mart Watch Fact Sheet: "Wal-Mart's New Health Plan: Medicaid," p. 1.

¹⁵ Wal-Mart has also been accused of and paid off a lawsuit for violating the ADA to the tune of \$7.5 MM in NY in 2005. Wal-Mart has also been accused of and paid off a lawsuit for discriminating against African Americans in hiring for their truck drivers. Nationally, 15% of truck drivers are African Americans, but at Wal-Mart, the percent was 4-6% of 10,000 drivers. This was a class action lawsuit they settled for \$17.5 MM.

¹⁶ Wal-Mart Watch Fact Sheet: "Low Wages, Always", p. 3.

she's black, and receiving the answer that "Two out of two ain't bad" is pretty telling. This is not just against the law; it's immoral because it is breaking a promise without any contrary circumstances, and it is discriminatory.

ARG5: Wal-Mart abuses employees who are minors. Just one Wal-Mart internal audit of one week's time clock records for 25,000 employees found 1,371 instances in which minors apparently worked too late at night, worked during school hours or worked too many hours in a day.¹⁷ It also found more than 60,000 apparent cases of minors' not taking breaks and 156,000 apparent cases of working through meal times.¹⁸ These cases are unethical because minors should be able to do well in school, without being scheduled too many hours (according to the law), working late, etc. They are essentially being deprived of a good education.

In CT the Federal Labor Department cited Wal-Mart for 90 child labor violations mostly in CT, where children under 18 were operating dangerous machinery such as chainsaws, paper balers and forklifts. These cases are unethical because children are not of the age of consent to be able to operate dangerous machinery (besides that all of this is against the law).

Moreover, Wal-Mart's factories abroad have also abused children: In Bangladesh (2006), it was estimated that 200-300 were discovered sewing pants for Wal-Mart. They were routinely beaten, forced to work overtime, cheated out of their wages, given phony time cards, and told to lie about their age.¹⁹

ARG6: Undocumented worker abuse: Wal-Mart was sued and settled for \$11 MM, after being accused of hiring 250 undocumented workers in 61 U.S. stores, making them work from 9:00 p.m. to 7:30 a.m., locked in stores until the manager opened the doors. Ignoring the illegality on many levels, this is using people only as a means, as we'll see in the next argument regarding the Chinese sweatshops, and is therefore wrong.

WAL-MART ETHICALLY WRONGS ITS SUPPLIERS (AND/OR SUPPLIERS' EMPLOYEES):

ARG1: Wal-Mart contracts with Chinese workers and treats them only as a means (as German philosopher Immanuel Kant would say). That is, these workers are like slaves, or literally tools to get the work done; they are not valued and respected as human beings with their own lives to live. They are basically being forced (with rewards and punishments) (1) to work 7 days a week and possibly to work overtime; and (2) to lie to inspectors and auditors in order to keep their jobs,²⁰ while the whole point of the inspections and audits are to ensure that they have good working conditions, etc.! If we buy goods from Wal-Mart, we're taking part or essentially being an accessory to slavery.

Moreover, Wal-Mart pays 18 cents for a product that they charge \$14.96 for in America.

In addition, a Wal-Mart supplier factory was reported by the National Labor Committee as having employed minor employees as young as 12, worked them for excessive overtime hours at less than the legal minimum wage there of 55 cents/hr.²¹ Also, they worked 7 days/wk and worked with paint and chemicals without protective gear.²²

Lastly, Wal-Mart's factories abroad have also abused children: In Bangladesh (2006), it was estimated that 200-300 were discovered sewing pants for Wal-Mart. They were routinely beaten, forced to work overtime, cheated out of their wages, given phony time cards, and told to lie about their age.²³

Of course, if we do not buy these goods or boycott them, these Chinese workers might lose their job, and where does that leave them? One can still, however, argue that they should be treated with respect, and that

¹⁷ Wal-Mart Watch Fact Sheet: "The Employee' Free Choice Act: Wal-Mart's Last Stand Against Unionization?" p. 5.

¹⁸ Wal-Mart Watch Fact Sheet: "The Employee' Free Choice Act: Wal-Mart's Last Stand Against Unionization?" p. 5-6.

¹⁹ Wal-Mart Watch Fact Sheet: "Wal-Mart's Global Labor Violations," pp. 1-2.

²⁰ Wal-Mart Watch Fact Sheet: "Wal-Mart's Global Labor Violations," p. 1. Wal-Mart coaches the Chinese employees on what to say and what not to say, they have been given scripts to memorize, and they have been threatened and bribed to give the right answers to auditors' questions.

²¹ Wal-Mart Watch Fact Sheet: "Both U.S. and China Lose in Wal-Mart's Global Economy", p. 2.

²² Wal-Mart Watch Fact Sheet: "Both U.S. and China Lose in Wal-Mart's Global Economy", p. 2.

²³ Wal-Mart Watch Fact Sheet: "Wal-Mart's Global Labor Violations," pp. 1-2.

Wal-Mart should improve working conditions immediately. I am stunned that, to my knowledge, no one has remedied this situation yet.

WAL-MART ETHICALLY WRONGS ITS COMMUNITY:

ARG1: Wal-Mart harms the environment. Wal-Mart claims to care about the environment and have a “duty” to it,²⁴ but (1) they lied about having an environmental person dedicated to these issues; (2) the home office failed to act on any of the requests made by the Catansa River Officer (Donna) – it was a local Wal-Mart manager who actually decided that this was important, only after the media showed him what was happening. This is not an environmentally friendly policy, as Lee implies by claiming that Wal-Mart has a duty to the environment – it’s more like avoidance, or hoping problems will go away, or having empty slogans that you hope your customers will believe. When you do not care about putting chemicals into the environment that are known to cause birth defects and reproductive harm, or you cannot just ask for what the evidence is as to why it’s a bad idea to store fertilizers in parking lots unprotected, this is arguably wrong. The only good news in the story is that they hired a person in charge of the environmental impact of Wal-Mart, but the person didn’t know or do anything about the problem, and even the threats of lawsuits didn’t budge the home office – it was a local manager, as stated. Even worse, Donna and her lawyers discovered that the state had already mandated that Wal-Mart had to come up with better storage and environmental policies, and they hadn’t done so. Lastly, we have Donna telling us, after years of dealing with power companies and others about the environment, that Wal-Mart was the worst. This is incompatible with what Lee Scott propounded at the beginning of the segment, and the commercial Wal-Mart made.

Moreover, they detail all of the fines that Wal-Mart has been ordered to pay for Clean Water Act violations (TX, OK, and MA - \$1 MM in 2001, \$3.1 MM in 9 other states in 2004 – the largest for any retailer, and \$1.15 MM in CT among 22 stores in 2005).

Lastly, from the LA Times: Wal-Mart store rejected because they didn’t have enough measures to reduce global warming in their store – no solar power. They fought it, even though they claim to seek 100% renewable power in all their stores, and that near Joshua Tree is an ideal place for solar power. Wal-Mart was disappointed in the ruling and seeks to either appeal or revise the environmental impact statement. This is not the kind of thing we expect from a company that boasts that it cares about the environment and is doing whatever it can, as Lee Scott said in the movie.

WAL-MART ETHICALLY WRONGS ITS COMPETITORS:

ARG1: Wal-Mart gets breaks that small businesses do not get, which is unfair. Wal-Mart received \$2.1MM in subsidies to set up shop in Cameron, and \$300,000 to set up in Brookfield; and Wal-Mart received \$1.008 BB in subsidies nationwide.

If Wal-Mart is such a good to the community, it should not need any money from cities, states, or communities. It should not receive free plumbing (or money for it) from the community in order to set up their store on the outskirts of towns, when other companies and citizens have to pay to have such utilities and services set up when they’re in the same situation. To know that the county and city denied a tax abatement for Red Esry’s IGA, but would help Wal-Mart is not comforting.

It is not abiding by the free market principles that are staunchly defended and typically touted by Wal-Mart defenders. For instance: (1) Sam Walton practiced corporate socialism, in the following forms: he sought free land, long-term leases at below-market rates, pocketing sales taxes, even getting workers trained at government expense, government-sponsored industrial revenue bonds.²⁵ (2) A \$37 MM freeway ramp and road

²⁴ See also this statement, made in 1990 in a Wal-Mart booklet sent to suppliers: “At Wal-Mart we’re committed to help improve our environment. Our customers are concerned about the quality of our land, air and water, and want the opportunity to do something positive. We believe it is our responsibility to step up to their challenge.” (“Wal-Mart: The Main Street Merchant of Doom,” *Business & Society: Ethics and Stakeholder Management*, Archie B. Carroll, and Ann K. Buchholtz, 7th ed. South-Western Cengage Learning, 2006, p. 635.)

²⁵ David Kay Johnston, *Free Lunch*, p. 99.

widening for Wal-Mart's corporate headquarters in Benton, AR accounted for more than a third of all earmarks for that state in 2005.²⁶

Another point is made that the government's money that's going to help open Wal-Marts could be used for schools. It is claimed that three schools in Denver could have stayed opened with the \$1.7 MM that was used for Wal-Mart in that area.

Moreover, research shows that Wal-Mart received about \$1 BB in subsidies, but a Wal-Mart spokesman said that it is common for Wal-Mart to seek subsidies for its new stores and receives them in about one-third of all projects – this implies that the \$1 BB number is 14 times less than can be discovered with the initial method.²⁷

In sum, it is not ethical, and not abiding by free market policies (as is always cited and typically revered by defenders of corporations such as Wal-Mart) to give a competitor such a huge advantage, especially given how big Wal-Mart is, compared to a mom and pop hardware store, say.

ARG2: Wal-Mart is putting small businesses out of business. Assuming that the points that have already been made are correct, namely that Wal-Mart: (1) has received subsidies that their competitors do not receive; (2) has treated its suppliers' employees in negative and immoral ways that its competitors have not; (3) has unfairly used undocumented workers to obtain their labor at a much cheaper rate; and (4) has failed to pay its employees a living wage, overtime, and for hours worked; THEN they have unfairly beat their competitors. If they would have been conducting their businesses legally and morally, then there is at least a question as to whether these smaller businesses would have needed to close their doors.

Wal-Mart has decimated downtowns of small towns, and got prices and types of goods sold in the small town stores, bought it elsewhere and sold it for a lower price at Wal-Mart, and then stopped selling it when their competitor downtown stopped selling it or went out of business.²⁸ It is estimated that Wal-Mart's trade deficit with China between 2001 and 2006 eliminated 200,000 U.S. jobs.

WAL-MART ETHICALLY WRONGS ITS CUSTOMERS:

ARG1: Wal-Mart deceives customers in their advertising v. their practices. They do this by setting out cheap items (known as loss leaders) to set price points, and then has other items that are not the lowest price, as advertised ("Always Low Prices - Always" – now it's "Save Money. Live Better.")²⁹ Deception is immoral, so Wal-Mart is immoral.

ARG2: Wal-Mart harms their customers by failing to provide adequate parking lot security. As we've seen, however, they do have hundreds of cameras and security guards inside their stores to protect their merchandise. Lee Scott, CEO, claims that they care about their customers, "their most important beneficiaries." With all of the rapes, shootings, carjackings, kidnappings, muggings, and so on, local police have requested that they hire on-site security for outside, but they haven't (at least at the time of filming). And, Wal-Mart assured their customers or perhaps the city that they would have onsite security (outside), and there was none. We also know through ample evidence that Wal-Mart knew about the problem, even though they will not turn over their extensive research on the subject (which is certainly suspect!). Thus, they deceived the public, and they're putting profits before human life, and this is immoral.

The good news on this issue is that when they added patrols, crime dropped to nothing! So, assuming that there are now patrols in every Wal-Mart parking lot, they have cleaned up their ethical act, and I will not use this as a major current charge against their company.

WAL-MART ETHICALLY WRONGS ITS COUNTRY:

²⁶ David Kay Johnston, *Free Lunch*, p. 115.

²⁷ David Kay Johnston, *Free Lunch*, p. 100.

²⁸ "Wal-Mart: The Main Street Merchant of Doom," *Business & Society: Ethics and Stakeholder Management*, Archie B. Carroll, and Ann K. Buchholtz, 7th ed. South-Western Cengage Learning, 2006, p. 637.

²⁹ I received this information from a Wal-Mart executive on the PBS program Frontline.

ARG1: Wal-Mart is (a) putting American workers out of business and (b) potentially endangering our lives by importing cheap goods overseas. (a) It is estimated that Wal-Mart's trade deficit with China between 2001 and 2006 eliminated 200,000 U.S. jobs. (b) "If Wal-Mart were an independent nation, it would be China's eighth-largest trading partner."³⁰ Another feature of the cheap goods is that the safety standards are lower in China, so it leads to putting American consumers at risk.³¹ As we can see from the toy safety recalls in 2007 and thereafter, the dog food cases, etc., this is a real and not an exaggerated concern. This is unethical because (1) Wal-Mart is risking their consumer's health by trying to maximize their profits, and (2) Wal-Mart is putting other businesses out of business that *do* sell quality, safe products by lowering their standards, which is unfair.

IN CONCLUSION: One of the protestors' signs was particularly a propos: "Low prices are no excuse." Wal-Mart proponents simply cannot justify every bad thing they've done by trying to justify it under their low price banner, especially when we've shown via former Wal-Mart managers that they do NOT always have the low prices! Moreover, it should tell us something that when Wal-Mart opened up stores in Germany, it hasn't worked out well, because Germany has price controls, which limit below-cost selling, rigid labor laws, and demanding zoning regulations (though they faced well-entrenched rivals there as well).³² What this *might* indicate is, when Wal-Mart is forced to compete fairly, follow labor laws, not sell below cost, etc., that their profits are not as large. Now, when we compare Wal-Mart's Germany performance with what is happening in America – namely, all their lawsuits about not paying wages owed employees, using child labor or undocumented workers, getting subsidies, and so on, one might be able to understand why there's a difference in performance in Germany.

³⁰ "Wal-Mart: The Main Street Merchant of Doom," *Business & Society: Ethics and Stakeholder Management*, Archie B. Carroll, and Ann K. Buchholtz, 7th ed. South-Western Cengage Learning, 2006, p. 637.

³¹ Wal-Mart Watch Fact Sheet: "Both U.S. and China Lose in Wal-Mart's Global Economy", p. 1.

³² "Wal-Mart: The Main Street Merchant of Doom," *Business & Society: Ethics and Stakeholder Management*, Archie B. Carroll, and Ann K. Buchholtz, 7th ed. South-Western Cengage Learning, 2006, p. 637.

BONUS: Wal-Mart Q&A Exchange

DF: I wanted to give you a transcript of one question and answer exchange at the end of the discussion, and comment on it myself:

Randy: I've got some statements here I want to review for you.

Preston: Okay.

Randy: So, the first question, I guess, is, "Is the United States a democracy?"

Preston: (Laughs). Yes.

Randy: Good.

Dave: I thought it was a republic.

Randy: So the next question would be, "Has Wal-Mart been determined to be monopolistic?"

Preston: No.

Randy: Good. So where is the individual or the corporate or the government accountability on this issue? So we can start at the individual level. So, are the Wal-Mart employees by law forced into employment?

Preston: No.

Randy: Is there a basic supply and demand premise here?

Preston: Yes, yes, there is, as with any business.

Randy: ... any business. And, if there was less supply, wouldn't they be forced to pay more in salaries to satisfy the demand of the payroll?

Preston: Mmm hmm. That's correct.

Randy: I think Wal-Mart sounds like an ethical company.

Preston: Ok, and if that's your economic definition, I'm OK with that.

-- END OF TRANSCRIPT --

Unfortunately for Randy, he is far away from being able to claim that Wal-Mart is an ethical company, based on his premises. This argument is a non-sequitur; that is, it is a fallacy, where its conclusion [Wal-Mart sounds ethical] fails to follow from its premises [1. The U.S. is a democracy; 2. Wal-Mart is not monopolistic; 3. Wal-Mart employees are not forced by law into employment with Wal-Mart; and 4. Law of supply and demand holds (so, e.g., if there were less supply of employees, they'd have to pay more in salaries to meet demand.)]. Note that I, Randy's opponent in the argument, who believes that Wal-Mart is unethical, can grant to Randy every one of his premises (and note also that my argument did not deny any of these premises either), and it still would not follow that because we live in a democracy, and a company is not a monopoly and supply and demand hold (where employment is voluntary), that that company is ethical. For instance, I can voluntarily

work at a company that doesn't tell me that I'm using harmful chemicals that can give me cancer, and the company will have not only done something illegal, but arguably unethical as well.