CHAPTER 1

From Harriet Tubman to Hurricane Harvey: The Case for Diversity and Inclusion

For nothing is fixed, forever and forever and forever, it is not fixed; the earth is always shifting, the light is always changing, the sea does not cease to grind down rock. Generations do not cease to be born, and we are responsible to them because we are the only witnesses they have. The sea rises, the light fails, lovers cling to each other, and children cling to us. The moment we cease to hold each other, the sea engulfs us and the light goes out.

–James Baldwin

Introduction

Out of respect and reverence, black folks called her “Moses” and Union officers affectionately dubbed her “general.” These were the nicknames given to Harriet Tubman, a diminutive African American woman who escaped slavery to become the conductor of the Underground Railroad—a network of abolitionists committed to helping African Americans in the South escape slavery. Tubman’s heroics as an abolitionist and freedom fighter are well known; what is less known are her contributions to a decisive military campaign in South Carolina during the Civil War. At a time when states sanctioned the ownership and subjugation of African Americans and before women could vote,
white Union officers asked Tubman, a black woman born into slavery, to support the war effort as a strategist and recruiter of men.

According to Jeff W. Grigg’s book, *The Combahee River Raid: Harriet Tubman & Lowcountry Liberation*, the Union had to accomplish at least three things to have a successful military campaign in South Carolina: (1) they needed to cripple the plantations by cutting off access to the Combahee River—a major artery for the plantations and Confederate soldiers; (2) because Confederate soldiers outnumbered Union soldiers, they needed to bolster their numbers by recruiting African Americans; and (3) they needed to earn the trust of former enslaved people who, for obvious reasons, did not trust white people. Tubman helped the Union accomplish all three.

Answering the questions “why diversity?” or “what is the business case for diversity?” can be challenging for anyone. People often recite platitudes such as “it is the right thing to do,” “we appreciate diversity of thought,” “it just makes business sense,” or several other similar responses that fail to articulate the importance of this issue to them. While I personally think that diversity makes us better and is one of our nation’s strengths, it is necessary to develop a response that is consistent with your and your organization’s core values, culture, and business strategy. Forward-thinking organizations define their diversity business case, and can respond adequately and appropriately to challenging and controversial events.

The first part of this chapter uses Harriet Tubman’s strategic contributions to the Civil War to address the business case for diversity from a historical military perspective. Union officers’ decision to leverage Tubman’s unique skill set provides an example of how leaders should proactively look for opportunities to leverage diversity. The second part of the chapter explores diversity as an intangible asset that directly impacts an organization’s brand and its bottom line. Examples provided here include the economic impact of the “bathroom bill” on North Carolina’s economy, the lingering consequences of the University of Missouri’s failure to adequately respond to student concerns of racial animus, and the business and political communities’ responses to the white supremacist protests in Charlottesville, Virginia, in August 2017. But first, we will begin with Tubman and the Combahee River Raid.

Harriet Tubman: Entrepreneur, Abolitionist, Strategist, Leader of Men

Harriet Tubman's entrepreneurial spirit and craving for freedom made her an abolitionist. As a young woman, she convinced her owner to hire herself to other slave owners for a fee that she split with her owner. Tubman used the money to buy oxen for hauling timber, and she eventually expanded her business into farming and doing various jobs at wharfs on the Eastern Shore of Maryland. Tubman's work on the wharfs exposed her to black and white mariners with abolitionist connections in northern port cities. These people also provided her with escape route information and contacts who could be helpful in the event of her escape from slavery.²

Tubman undertook her first actions on the Underground Railroad to safeguard against the breakup of her family following the death of her owner. Tubman's initial escape occurred with her two brothers. It was short-lived because they convinced her to return, but a few weeks later she left for good and returned to Maryland only to free relatives and other enslaved people. According to Paul Donnelly's article for the *New York Times*, she led approximately 12 missions that freed more than 100 people, making Tubman a celebrity who would be called upon by prominent abolitionists for the most sensitive operations.³

In 1850, the Fugitive Slave Act prohibited northern states from serving as a safe haven for people fleeing slavery. Consequently, it became too dangerous for Tubman to travel south on rescue missions, so she stopped and settled with her family in Canada. Abolitionist John Brown, the would-be leader of a slave revolt in Harpers Ferry, Virginia, went to Canada soliciting her support in recruiting African Americans to assist in his raid. Tubman admired Brown and his cause and encouraged people to join his insurrection. Brown's raid failed and ended in his death, but it marked the first time that a white man asked Tubman to use her gravitas and influence to assist a military campaign. The second would be on a much larger scale with a very different outcome.

Tubman often went to Boston in the years leading up to the Civil War. The city was home to some of the most influential abolitionists, so she used these trips to fundraise for Canada’s black community, to earn a living telling

². *Id.* at 17–18.
her story, and to cement relationships in Boston’s abolitionist community. Tubman developed a friendship with John Andrew, Massachusetts governor and leading abolitionist. Andrew thought she could be an asset to the Civil War effort and recommended that the Union send Tubman to South Carolina to help the Army give aid to thousands of newly freed people. Her initial war service included assisting Union surgeons in treating wounded white soldiers. Tubman’s hospital work also gave her opportunities to interact with people fleeing slavery in the Confederacy. These men and women did not trust white Union officers but were more than willing to provide Tubman with information that could hurt the Confederacy’s war effort. As more enslaved people escaped, the word spread that they should see “Miss Harriet.”

Tubman’s role increased as she gained the confidence of and credibility with Union officers who recognized the strategic value of her involvement in the war effort in South Carolina. Tubman accompanied the Union Army as it moved farther inland from coastal South Carolina. She visited liberated slave camps along the coast and recruited ten scouts from those plantations who later helped with a decisive military campaign in South Carolina. Tubman tried to meet every person who escaped slavery to get as much intelligence from them as possible. Union generals insisted that they needed Tubman to get people talking to her, so officers gave her money to pay people for information. She learned how many people were at the plantations and the best routes to access those plantations.

Tubman met Colonel James Montgomery, leader of the newly formed Second South Carolina Volunteers—a group composed mostly of black troops—in February 1863. Montgomery and Tubman shared a connection to John Brown. Montgomery was an abolitionist who fought beside Brown, and Tubman recruited men to join Brown’s Harpers Ferry raid. Montgomery was responsible for orchestrating what become known as the Combahee River Raid and worked with Tubman to plan it based on the intelligence she gathered and the soldiers she recruited. Tubman accompanied Montgomery and his men not as a passenger, but as a strategist, a commander of scouts, and an intermediary for black soldiers and white Union officers.

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5. Id.
The Combahee River Raid was a success. Montgomery’s Second South Carolina Volunteers knew which routes along the river were most vulnerable to attack. According to Griggs, they methodically destroyed plantations that provided the Confederacy with food, livestock, and supplies without suffering a single casualty. The raid also resulted in the freeing of approximately 800 enslaved men, women, and children by black troops. The operation succeeded in part because military strategists devised a strong plan, they knew what they needed to make it work, they positioned people to succeed, and they were willing to rely on Tubman—a black woman who was a former slave—to develop and lead a team of scouts whose intelligence proved consequential to the operation. Tubman’s involvement in the Combahee River Raid exemplifies why diversity is the right thing to do and how it can provide a competitive advantage.

Civil War military operations and law firm management are not quite the same thing, but the leadership lessons are transferable. There are several practical reasons why diversity is good for organizations: it strengthens an organization’s brand, research indicates that it has a positive impact on financial markets, and the increased representation of women and people of color on corporate boards is good for business. But the standard response is that diversity is the “right thing to do.” While laudatory, it is unrealistic to assume that altruism alone will somehow ensure a level playing field for all lawyers to succeed in big law or for organizations to take proactive measures to develop inclusive environments. Therefore, the willingness of Union officers to see strategic value in Tubman and to empower her to use her knowledge in a mutually beneficial way cannot be understated.

According to “Rethinking the Baseline in Diversity Research: Should We Be Explaining the Effects of Homogeneity?,” it is well documented that cognitive diversity—the variety of approaches brought to problem solving by diverse groups—improves business outcomes and prevents groupthink. However, diverse teams may also result in greater conflict when there is a lack of awareness of how to build inclusivity. According to research by psychologists on homophily—the idea that people naturally associate more with people similar

6. Id.
to them, including being similar in race/ethnicity—people are more likely to give opportunities to members of their particular group. Studies have also shown that in-group preferential treatment is a stronger motive driving group conflict than out-group opposition. This preference for in-group members can also manifest in outcomes that may even be harmful to clients.

One example that highlights the detrimental effects of homophily is captured in an article published in the *Proceedings of the National Academy of Sciences of the United States of America*. Researchers selected participants who were randomly assigned to ethnically homogenous and diverse markets. The study revealed that in the homogenous market scenario, traders were more likely to accept speculative prices. Consequently, overpricing was higher and these markets suffered more severe crashes when bubbles burst. In ethnically diverse markets, market prices fit true values 58 percent better than in homogenous markets and, as a result, market crashes were less severe. The researchers concluded that in addition to human errors and economic climate, price bubbles may also be a consequence of the social context of decision making. This is because ethnic diversity may foster friction, resulting in beneficial skepticism. Conversely, a characteristic of homogeneity is overwhelming confidence that translates into a “herd mentality”—which is often associated with pricing bubbles.

Further making this point is an independent evaluation by the International Monetary Fund (IMF) assessing its role in not foreseeing or preventing the global financial crisis. In its evaluation, the IMF attributed its inability to foresee the Great Recession to a “high degree of groupthink, intellectual capture, [and] a general mindset” that large advanced economies could not trigger a major financial crisis.

Slavery and the fight against ending it during the Civil War represent the most blatant forms of homogeneity. But some people managed to rise above this mentality in ways that allowed a former enslaved African American woman to lead men in a military campaign that freed hundreds of other

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8. *Id.* at 236.
9. *Id.*
people. Today, homogeneity does not manifest itself as it did in the 19th century, but it does exist, and this topic and unconscious bias will be addressed in subsequent chapters. The business case for inclusion is central to the remainder of this chapter. In “Examining the Link between Diversity and Firm Performance: The Effects of Diversity Reputation and Leader Racial Diversity,” professors Quinetta M. Roberson and Hyeon Jeong Park state that corporate reputation—how organizations are perceived to create value relative to their competitors—is among the most important intangible business assets. Corporate reputation includes a commitment to diversity and the ability to build and maintain an inclusive environment. The financial implications of North Carolina’s bathroom bill, the consequences of the 2015 University of Missouri protests, and business and political communities’ reactions to the events that took place in Charlottesville, Virginia, in August 2017 illustrate the link between diversity and inclusion and business.

House Bill 2: The Bathroom Bill That Cost North Carolina Almost $1 Billion

In March 2016, a Charlotte Observer article reported that in response to a Charlotte, North Carolina, ordinance extending rights to gay and/or transgender people, the North Carolina state legislature passed a law that went further than reversing the ordinance. The law passed by the North Carolina General Assembly, known as the Public Facilities Privacy and Security Act, HB2, or the Charlotte bathroom bill, made it illegal for cities to expand upon existing laws regulating workplace discrimination, the use of public accommodations, and certain business issues. The law mandated that transgender

14. Id.
people use public restrooms in accordance with the gender on their birth certificates and nullified local ordinances that extended protections to the LGBT community.

The business community’s reaction was intense:

- Protests by companies and performers resulted in the cancellation of business expansions and entertainment events.
- On July 21, the National Basketball Association (NBA) moved its All-Star Game from Charlotte in 2017, which cost the city approximately $100 million.
- In September 2016, the National Collegiate Athletic Association (NCAA) removed seven championships scheduled to be held in North Carolina during the 2016–2017 academic year, including two rounds of the wildly popular men’s basketball tournament.
- Two days later, the Atlantic Coast Conference (ACC) announced that it would remove the ACC football championship game in December from Charlotte in protest of the law.
- Large businesses including Bank of America, Dow Chemical, and Wells Fargo demanded repeal.
- Despite pushback from the business community, Governor Pat McCrory dug in and in November 2016 lost his reelection bid to Attorney General Roy Cooper—which political observers attributed to the governor’s support of HB2.15
- In March 2017, Politico reported that North Carolina suffered an estimated $630 million in lost revenue.16

In March 2017, North Carolina’s Democratic Governor Roy Cooper and the Republican-led state legislature reached a compromise to ease some of the restrictions of HB2. A March 29, 2017, New York Times article quoted Governor Cooper as saying, “I support the House Bill 2 repeal compromise . . . It’s not a perfect deal, but it repeals House Bill 2 and begins to repair our

15. Id.
reputation.” In September 2017, the Los Angeles Times published an Associated Press article reporting that Credit Suisse announced it would expand its presence in North Carolina by 1,200 jobs because of the repeal of HB2, and the NBA reversed course and awarded the 2019 All-Star Game to Charlotte.

The University of Missouri: Protests, Resignations, Damaged Reputations, Lost Revenue

According to a November 9, 2015, article in the Slatest, historically it has been challenging for the University of Missouri to address race and diversity issues. In 2001, the university hired a chief diversity officer and attempted to include a diversity course in the school’s curriculum based on a campus-wide survey to gauge attitudes on diversity and inclusion. Diversity efforts stalled in 2010, and issues roared back five years later in ways that damaged the University of Missouri’s reputation and resulted in the resignations of high-level officials.

The fall of 2015 brought forth a tumultuous year for the University of Missouri. On August 14, 2015, graduate students received less than 24 hours’ notice that the university would cut their health care. The decision resulted in a rally, a list of demands, and a graduate student walkout that would serve as an ominous sign of things to come a few weeks later when the university failed to respond adequately to students’ concerns about racism.

In September, Missouri Students Association President Payton Head brought national attention to the university’s deteriorating campus climate when he spoke publicly about his experience with racism on campus. Approximately two weeks after Head’s comments, students held the first of three

“Racism Lives Here” rallies criticizing the administration’s delayed response to reported racial incidents. Tensions only seemed to rise because more incidents ensued. On October 5, members of the university’s Legion of Black Collegians’ Homecoming Royal Court were harassed and called racial slurs during rehearsal for a homecoming play. On the heels of that incident someone drew a swastika in feces in a dorm bathroom—the second anti-Semitic incident in a residence hall in the past year.

And, just hours after students confronted University of Missouri System President Tim Wolfe at a homecoming parade about perceived inadequate response to concerns related to persistent racism on campus, white students called two black students “nigger” outside of the student recreation complex at the University of Missouri campus.21

According to the Slatest, on November 7, 2015, University of Missouri football players announced in a tweet that they would boycott all practices and games “until President Tim Wolfe resigns or is removed due to his negligence toward marginalized students’ experiences.” The following day, the University of Missouri Head Football Coach Gary Pinkel showed support for players when he tweeted a group photo of the team that said: “The Mizzou Family stands as one. We are united. We are behind our players.”22 This stance by the football team could have resulted in a $1 million fine for the university had the team forfeited the upcoming football game.

Local and federal politicians weighed in the following day. Two Republican lawmakers demanded that President Tim Wolfe resign, and Democratic Senator Claire McCaskill issued the following statement:

At this point I think it is essential that the University of Missouri’s Board of Curators send a clear message to the students at Mizzou that there is an unqualified commitment to address racism on campus . . . [and] that my university can and will do better in supporting an environment of tolerance and inclusion.23

22. Id.
23. Id.
On November 10, University of Missouri System President Tim Wolfe resigned and Chancellor R. Bowen Loftin stepped down shortly after. Days before their resignations, both leaders expressed concerns about the campus climate and support for student protestors, but it was too little and too late. The perceived lack of responsiveness, lack of empathy, and inaction cost them their jobs and damaged the University of Missouri's reputation.

Anemona Hartocollis wrote a New York Times article detailing the consequences of the protests two years later. Freshmen enrollment at the university’s main campus declined by 35 percent from 2015 to 2017, with significant declines among white and black students at 21 percent and 42 percent, respectively. And the drop in white students has been most fiscally damaging because they far outnumber other groups on campus. Before the protests, the university experienced steady growth, but it now faces financial challenges. The lost tuition resulted in budget cuts, there has been a decrease in state funding, the university closed dormitories temporarily, and it cut more than 400 positions.

University officials attribute the enrollment decline to what occurred in 2015. Current University of Missouri System President Mun Choi said, “The general consensus was that it was because of the aftermath of what happened in November 2015. There were students from both in state and out of state that just did not apply, or those who did apply but decided not to attend.” Because the university attracts mostly regional students, college admissions counselors believe that it will take several years for the University of Missouri to recover from the consequences of the protests.

Charlottesville

On a Friday evening in mid-August 2017, when many people were engaged in the rituals that accompany the traditions of summertime in our nation, a group of white supremacists descended on Charlottesville to march through the University of Virginia campus in a torchlight procession invoking images

25. Id.
of the Hitler Youth and the Ku Klux Klan (KKK). According to Joe Heim’s article for the Washington Post, the Friday march included approximately 250 young white men in khaki pants and polo shirts chanting “blood and soil!” “you will not replace us!” “Jews will not replace us,” “white lives matter!” and making monkey noises at counterprotesters.26 Friday’s march resulted in shoves, punches, the spraying of chemical irritants, and the marchers throwing their torches at counterprotesters. But each of these acts would pale in comparison to what occurred the following day.

Saturday’s rally was scheduled to begin at noon in Emancipation Park in Charlottesville. Rallygoers began converging on the park at 8:00 a.m. chanting slogans, waving nationalist banners, and carrying shields, clubs, and in many cases guns. Counterprotesters also arrived early, many armed with sticks and shields. In addition to the white supremacists (rallygoers) and counterprotesters, armed citizens referred to as a militia also inserted themselves into the day’s events. According to Virginia Secretary of Public Safety and Homeland Security Brian Moran, the militia did not appear to be there to cause trouble, but more firearms in that environment was a potential recipe for disaster and confusion because the militia could easily be mistaken for the National Guard.

Things got out of control when rallygoers failed to comply with a previously agreed-upon plan with the Charlottesville Police Department separating them from counterprotesters. Violence ensued as the groups came into contact. Sticks were swung; chemicals were sprayed; and rocks, bottles, and punches were thrown. To quell the violence, the Commonwealth of Virginia declared an unlawful assembly at 11:22 a.m., which appeared to work because the crowd began to disperse. But two hours later, the events of the day took a fatal turn when rallygoer James Alex Fields, Jr. drove his car into a crowd of pedestrians, killing Heather Heyer of Charlottesville and injuring 19 others.

Condemnation of the violence in Charlottesville was immediate and bipartisan, and many unequivocally blamed the white supremacists. However, President Donald J. Trump initially blamed both sides for the violence

without condemning white nationalists, then he later condemned white nationalists in prepared remarks, and finally in a press conference he reverted back to his initial comments but added that some of the white nationalists were fine people. Political and business leaders reacted immediately to the president’s remarks. Three chief executive officers announced their resignations from the president’s manufacturing-advisory council.

A *Weekly Standard* article chronicled Republican policymakers’ reactions to the president:

- Senator Cory Gardner of Colorado: “This is nothing short of domestic terrorism & should be named as such.”
- Senator Ben Sasse of Nebraska: “These people are utterly revolting—and have no understanding of America.”
- Senator Tim Scott of South Carolina: “Domestic terror in #Charlottesville must be condemned by every.single.one.of.us. Otherwise hate is simply emboldened.”
- Senator Chuck Grassley of Iowa: “What ‘White Natjionalists’ are doing in Charlottesville is homegrown terrorism that can’t be tolerated anymore that what Any extremist does” [sic throughout].
- Senator Ted Cruz of Texas: “The Nazis, the KKK, and white supremacists are repulsive and evil, and all of us have a moral obligation to speak out against the lies, bigotry, anti-Semitism, and hatred that they propagate.”
- Senator Tom Cotton of Arkansas: “These contemptible little men do not speak for what is just, noble, and best about America. They ought to face what they would deny their fellow citizens: the full extent of the law.”27

The willingness of Republican elected officials to publicly separate themselves from the leader of their party in a political climate rife with partisanship demonstrates the magnitude of the events in Charlottesville. And the reaction of chief executives on the president’s manufacturing-advisory council shows

the importance to the business community of an unequivocal response to reprehensible behavior by groups such as the white supremacists in Charlottesville. Business leaders were so taken aback by the absence of a full-throated condemnation of racial strife by the president that they chose not to associate themselves or their businesses with council, thwarting the goal of helping the manufacturing industry.

A Wall Street Journal article referenced reasons the following CEOs gave for resigning from the manufacturing-advisory council:

- Merck Chairman and CEO Kenneth Frazier said the following when he announced his resignation: “America’s leaders must honor our fundamental values by clearly rejecting expressions of hatred, bigotry and group supremacy, which run counter to the American ideal that all people are created equal . . . As CEO of Merck and as a matter of personal conscience, I feel a responsibility to take a stand against intolerance and extremism.”

- Intel Corp. CEO Brian Krzanich said he resigned “to call attention to the serious harm our divided political climate is causing to critical issues,” and to condemn “white supremacists and their ilk who marched and committed violence.”

- In announcing his resignation, Under Armour Inc. Founder and CEO Kevin Plank said, “We are saddened by #Charlottesville. There is no place for racism or discrimination in this world. We choose love & unity.”

Conclusion: Hurricane Harvey and Human Chains

In August 2017, Hurricane Harvey ravaged the Texas Gulf Coast when it brought 50 inches of rain, resulting in dozens of deaths, damaged homes and businesses, and human loss and sorrow existing long after the water receded.

Events in our nation over the past several years reveal fissures that exist when


we are pitted against each other. But we should try to find inspiration in the response to Hurricane Harvey.

Interwoven in the images of destruction and human sorrow were acts of kindness and cooperation transcending the tribalism that pulls us apart. That spirit of connectedness we witnessed in the tragedy on the Texas Gulf Coast—one of the most diverse regions in the nation—represents the essence and power of diversity and inclusion. One such example was a group of strangers that formed a human chain to rescue an elderly man from a truck submerged in flood waters. Had any of those people stopped to think about their political affiliations, religious beliefs, race, and so on, the man may have drowned. Diversity is important because it makes us better when we do not approach it as a zero-sum game but as something that expands opportunity for everyone.

Harriet Tubman’s involvement in the Civil War exemplifies how benefits from diversity and inclusion extend beyond an individual. Tubman had an opportunity to contribute meaningfully to a cause that benefited former enslaved people, the Union Army, and the nation. Recent history—from the passage of the bathroom bill in North Carolina, the reactions to the response of the University of Missouri administrators to racist incidents, and the aftermath of Charlottesville—demonstrates the importance of diversity and inclusion to business leaders, students, and ordinary citizens. It is incumbent upon institutions to get these issues right because brands, reputations, and revenue are at stake, and the focus on diversity and inclusion is not going anywhere.

An obvious question: how do we approach something as complex as valuing difference and leveling the playing field for opportunity when the field has been inherently uneven? The next chapter will answer this question by examining steps Branch Rickey took to orchestrate the integration of Major League Baseball when Jackie Robinson became the first African American to play in the big leagues.