

CHAPTER 1

Introduction

CHAPTER OVERVIEW

This chapter examines all aspects of employment relations, drawing attention to contentious issues that may impact on the employment relationship. In doing so, the chapter begins by exploring the employment relationship, and then moves on to determine what might be meant by the term ‘employment relations’. Taking something of a pluralist perspective (see Chapter 3), the next section investigates the different interests of employers and employees in terms of their expectations of workplace terms and conditions. Later sections focus on different dimensions of the employment contract, including both legal and economic perspectives, and – somewhat unusually for an introductory chapter – the psychological contract. As is explained later in the chapter, although the psychological contract is not formalised, it can nevertheless be a key feature of the employment relationship. The final section of the chapter begins to explore the management of employment relations in different contexts. Although much of the chapter assumes the potential involvement of trade unions as a key party to the employment relationship, it is acknowledged that the majority of small firms tend to be non-unionised, and this is particularly the case in developing and emerging economies. We therefore also consider non-unionised firms. Finally, attention is drawn to the differences inherent in the management of employment relations in private, public and non-profit-making organisations, in small firms, and – of particular relevance to a text that covers international dimensions – initial insights are provided of the nature of employment relations within multinationals.

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LEARNING OUTCOMES

After studying this chapter you should be able to:

- critically discuss the concept of the employment relationship
- define what is understood by the term 'employment relations'
- explain the potential differences between employer and employee expectations
- define the employment contract from legal, economic and psychological perspectives
- explain different approaches to managing employment relations in unionised and non-union organisations
- compare aspects of employment relations in multinational, small and large, private, public and non-profit-making organisations

THE EMPLOYMENT RELATIONSHIP

Employment relations deal with the individual and collective dimensions of labour and the buying and selling of labour power. However, the fundamental object of inquiry that defines the field of employment relations is not the institutions of trade unions, employers' associations or government agencies or the processes of collective bargaining, but rather the employment relationship. In Chapter 2, the different parties to the employment relationship are considered in some depth. Here, however, it is important to note what defines the employment relationship itself.

As Poole (1986) points out, employment relations are best described as a discipline concerned with the systematic study of all aspects of the employment relationship. This relationship is one in which the employee sells his or her capacity to work in exchange for a wage and other benefits, and the employer hires employees in order that they produce goods or services that can be sold at a profit or – in the case of the public sector and non-governmental organisations (NGOs) – in order that they are productive members of the workforce (see Collings and Wood 2009).

The employment relationship may be defined as 'the set of conditions determining the exchange, use and reproduction of the labour force' (Michon 1992: 224). It is therefore the product of economic, social, political, legal and technological developments as well as the ways in which the various actors interpret and respond to these developments. It is possible to discern, as Blyton and Turnbull (1998: 8) argue, a growing tendency

to locate the [employment] relationship within the broader nature of economic activity; to analyse the structural bases of conflict and

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accommodation between employer and employee; to consider the influence of the wider society; and to develop an interdisciplinary approach using concepts and ideas derived from sociology, economics, psychology, history and political science.

In other words, in seeking to understand the employment relationship it is not sufficient simply to consider the relationship between the employer and employee. It is also necessary to consider the potential for disagreement between them, and also to take account of the broader context.

The legal element of the contract of employment is the express promise to perform work in return for a promise to pay wages. However, most contracts of employment do not and cannot specify in detail the work that should be provided. This uncertainty is resolved by creating a standard contractual rule: the employer has the power to direct labour and the employee is under a corresponding obligation to comply with all lawful instructions of his or her employer. In its most basic form, therefore, every employment relationship is an economic exchange (an agreement to exchange wages for work) *and* a power relation (the employee 'agrees' to submit to the authority of the employer). The employment relationship is linked, on the one hand, to the position of employers and employees in the product and labour market, and on the other hand, to the division of labour within the workplace and to the control systems (such as a performance management system) which govern their behaviour (Bryson *et al* 2006). In some instances, the market-determined aspects of the employment relationship may dominate the relationship – for example, where an employee is hired on a temporary basis to perform a specified task. Here the employment relationship is essentially a cash nexus. In other instances, the organisation-determined side of the exchange may be predominant – for example, where the employee is appointed to a permanent, full-time job. Thus, there is more to the employment relationship than the simple sale of an amount of labour power: it involves issues such as power and managing expectations. Much of modern HRM and employment relations is really concerned with an attempt to resolve these issues.

THE EVOLUTION OF THE EMPLOYMENT RELATIONSHIP

The employment relationship, as we understand it today, is a comparatively novel phenomenon. In most industrialised and industrialising countries, as recently as the late nineteenth and early twentieth century, other ways of organising the sale of labour services predominated, the most common being some variant of the labour contract system. Historically, managers sought to evade responsibility for the control and direction of labour through using intermediaries such as labour brokers and subcontractors. Research by Littler (1982: 46) demonstrates that early capitalist industrialisation was 'based on the *avoidance* of direct employer/employee relationships and the reliance on existing patterns of subordination'. The employment relationship is one of the great innovations behind the rise of the modern business enterprise. It revolutionised the organisation of work, providing managers and workers with a very flexible method of coordination and a basis for investing in skills.

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THE ADAPTABILITY OF THE EMPLOYMENT RELATIONSHIP

The employment relationship is adaptable, enabling management to decide detailed work assignments *after* workers have been hired. Given the enormous difficulty in anticipating all of the problems that may arise in providing customers (or citizens) with the goods and services they desire, the flexibility of the employment relationship – which builds on workers' agreement to be available to undertake certain types of work as and when their employer directs – is a great advantage. However, few employees would agree to giving their employers unlimited powers over work assignments. The rise of the employment relationship owes much to 'the development of job rules that square the apparent circle of providing employers with flexible job allocations and employees with limited liability to follow their employer's instructions' (Marsden 1999: 3–4). For the employment relationship to provide a stable framework for collaboration in the workplace, it must protect against opportunism (whereby the employer may try to exploit the worker in the short term) and satisfy both the employer's need for flexibility and the employee's need for security. The employment relationship therefore reflects the struggle over the degree of employer control and the nature and extent of autonomy under which people work.

Defining the limits within which management may determine the tasks to be assigned is problematic. If we assume that employer and employee are pursuing their own (partly divergent) goals, that information is asymmetrically distributed, and that both employers and workers find it costly to find alternative labour and jobs respectively, then we must accept that the conditions for opportunism are ripe (Marsden 1999: 12). Managerial authority is therefore likely to be problematic both in its application by managers and in its subsequent acceptance by workers. Opportunism can be restrained by factors such as loyalty and commitment, but they are inherently unstable and never given once-and-for-all. In a context of high replacement (such as recruitment) costs, individual workers or firms may have to tolerate quite wide margins in co-operation before quitting or firing becomes a viable option, especially for workers with extensive experience and company-specific skills (Grimshaw *et al* 2001).

The problems of opportunism are intensified by a lack of clear definition of the range of tasks over which the employer's authority extends, and the tasks on which the employee will agree to work (Bryson *et al* 2006). Such problems can potentially undermine the advantages of the employment relationship. Faced with a restrictive attitude from employees, the employer might lose the inherent flexibility of the employment relationship; faced with demands for flexibility beyond the bounds of agreement, employees may prefer the additional bargaining power that they would acquire when they can quit easily (Marsden 1999: 13). The resulting conflict is likely to reduce the gains to either party from combining work tasks into a single transaction – namely, the employment relationship. The stability and durability of the employment relationship are therefore dependent on effective regulation.



REFLECTION ON PRACTICE

Managerial opportunism

The text refers to 'managerial opportunism'. Have you have worked within an organisation, or are you currently working within an organisation?

If you have or you are, to what extent would you say that managers are opportunistic? In other words, have you been aware of managers attempting to encourage employees to work beyond their contracted hours, or to engage in job roles that should be seen as outside their remit?

An example here might be of a waitress working in a small café in France. Her usual duties might include taking orders, serving customers and wiping tables. However, placed outside the café are small round tables and chairs. Litter has been dropped under the tables and has also blown along the street from the café. The manager asks the waitress to collect the litter from under the tables and to take a brush and sweep along the street. Is this part of her job role? Should she agree to sweep the streets?

THE CONTEXT FOR THE EMPLOYMENT RELATIONSHIP

Employment relations do not operate in a vacuum. The nature of work organisation, the character of product markets, the composition of the workforce, government policies and many other contextual aspects influence employment relations policies and practices. Orthodox approaches to industrial relations tend to treat employment as a largely self-contained sphere of social activity that leads to a clearly bounded set of 'labour problems' (Hyman 1994b: 121). In reality, however, the employment relationship is dependent on a set of social structures and practices (such as the law, government policy, collective bargaining, social security, behavioural norms, and education and training systems) to mitigate the contradictions inherent in capitalist accumulation, whereby the employer seeks to extract profits from the employee's labour power.

At the basis of the employment relationship, according to Peck (1996), are three sets of social processes. Firstly, the processes of production and the structuring of labour demand. In other words, what is made and how, including the use of technology, how much labour is needed, and the type of skills that are required. Secondly, the processes of social reproduction and the structuring of labour supply – the processes that ensure that job seekers are available in areas of demand, and the process through which job seekers gain relevant skills. The third social process is related to the forces of regulation – formal rules underpinned by legislation and informal rules regarding what is socially acceptable within a particular context. Here it is important to note the wide variation in country context, depending on factors such as whether the country is an advanced or emerging economy, and a democratic or perhaps socialist economy. The employment relationship within an advanced economy is most often formalised through an employment contract. In a developing or emerging economy, as much as 75% of the workforce might be employed outside the formal economy in either informal sector work (otherwise referred to as 'undeclared work' or 'the

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shadow economy’). In the feature below, insights are given into the employment relationship within Mozambique, an emerging economy within Africa (see Dibben 2010).



APPLYING THEORY TO PRACTICE

The employment relationship within an emerging economy

Mozambique is an emerging economy with a difficult past. Indeed, ‘Mozambique has moved from a colonial past through socialism, then liberalisation, rapid privatisation and industrial restructuring, to a lightly regulated capitalist economic system and a democratic government’ (Dibben 2010: 2). Moreover, only 8% of workers are in the formal sector, and many of these are in casual work. The remaining workforce are either officially unemployed (17%), working in the informal sector or engaged in agricultural work (AfDB/OECD 2008).

In countries such as Mozambique, a number of factors impact on the employment relationship that may differ from what is considered to be ‘normal’ within advanced economies. Firstly, jobs in the formal sector are insecure and very few. The small proportion of workers within the formal economy (the public and private sector) may have a formal contract. However, jobs are few and potential workers are many. Secondly, a large proportion of work is within the informal sector (undeclared work) with no obvious employer and difficult working conditions, particularly in areas such as health and safety. Those who work in the informal sector might either be self-employed or have a verbal contract with employers, but are unlikely to have a written contract and are not covered by employment regulation. Thirdly, much of the population lives in rural areas and is engaged in peasant subsistence-level agriculture, either working for a family member or simply producing enough to survive.

Thus, labour supply and demand have a significant impact on the employment relationship. Specific forms of organisational structure, specific sets of tasks and specific types of technology will theoretically require particular amounts of labour and skill sets. However, there may either be a surplus of workers wishing to obtain formal sector work (as is the case in countries such as Mozambique) or labour may not be immediately available, meaning that the firm has to adjust operations. These adjustments may include increases in wage levels, changes in the use of technology to reduce the need for skills, or investments in training. Conversely, if there is a surplus of labour (high levels of unemployment) with desirable skill sets, firms may wish to cut wages because labour is easily substitutable. The nature of the production process and the structures of the labour market are therefore primary determinants of the specific forms that employment relations assume at a particular time and place. Chapter 5 examines these factors in more detail.

It is also important to note that the way in which firms act is not simply a matter of raising or cutting pay. It is likely that existing employees will resist cuts, even if apparently similar labour can be secured externally. Moreover, any costing of labour based purely on a reading of external labour market conditions assumes that the accumulated knowledge of existing employees can be readily quantified. Few organisations automatically raise pay should the general wages in the sector

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rise; some will count on the loyalty and inertia of existing employees, whereas others may adopt a more strategic view and accord particularly high increases in those jobs where employee turnover is high.

DEFINING EMPLOYMENT RELATIONS

Central to social life is the making of things and the provision of services. Individuals may work independently. However, when there is an organisation – in other words, more than one person working together in order to attain a goal – there are likely to be power imbalances. As organisations grow, such imbalances are likely to become more pronounced, and lines of authority more formal. Within modern societies, the employment relationship is an exchange relationship: the employee exchanges her/his physical and/or intellectual labour power in exchange for a cash wage. The employment contract – the actual deal – may be written or verbal, but is likely to cover: the broad duration of labour time expected, the nature of work, and expected outcomes. It should also clarify lines of authority and the rights of both parties.

There are several ways in which employment relations has been defined. Essentially, employment relations represent both the study of the employment relationship within the individual firm and the regulation of employment in the wider social context. They are sometimes referred to as ‘employee relations’, given that the primary focus of study is the person who is employed, not the owner of the enterprise that employs her/him (Collings and Wood 2009). They are also sometimes referred to as ‘industrial relations’, which is not only a legacy of an industrial past but also a term describing a proud intellectual tradition (studying the employment relationship from the perspective of the employee and within the context of social inequality). In Chapter 3 the term ‘industrial relations’ is therefore used.

An analysis of the employment relationship and the ways in which it is controlled and reproduced has long been a central concern of social scientists. The study of employment relations can be traced back to the 1890s. The early pioneers – Sidney and Beatrice Webb (in Britain) and John Commons (in the United States) – were primarily concerned with the role of trade unions, and attempted to convince the government and employers of the positive functions of collective bargaining. The first studies in the subject area were in response to the growing concern of the British upper classes with what they saw as the ‘labour problem’. There were two aspects to this ‘problem’:

- the rapid spread of trade unionism and an upsurge in militant, industrial conflict in the 1880s – ie a problem of *social order*, and
- the depth of poverty and related deprivation suffered by a large section of the working class – ie a problem of *social welfare* (Hyman 1989).

The origins of institutionalised employment relations lie in a public policy commitment to achieve and maintain a balance between the problems of social welfare and social control in industry. The purpose of employment relations,

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as Edwards (1995) points out, is the control, adaptation and adjustment or 'regulation' of the employment relationship. 'Regulation' in this context means the provision of basic rules of conduct, binding both parties. By the 1930s, the problem of social order had become so great in much of Europe that it had led to civil war. In Britain, the USA, South Africa, Australia, New Zealand and Canada there had been challenges to the basis of the existing socio-political order. Post-World War II social settlements in Europe – and, indeed, labour law reforms in much of the English-speaking world in the 1930s – sought to limit the unbridled power of employers. Today, much of what is included within employment relations concerns rules, their interpretation and evolution.

Employment relations is therefore 'a set of phenomena, both within and outside the workplace, concerned with determining and regulating the employment relationship' (Salamon 1998: 3). There are three levels of regulation involved in negotiating order in the workplace (Hyman 1994a; cf Charlwood 2006). First, the individual contract of employment between employer and employee consists of an exchange involving work performance and pay. Second, collective bargaining between unions and employers results in the exchange of standardised improvements in the terms of employment. This leads to predictability and regularity in workplace employment relations. Third, political exchange involves the government making concessions to trade unions in return for union support for social order and legitimacy. The section below discusses in more detail the importance of the regulation of the employment contract.

REGULATION AND THE EMPLOYMENT CONTRACT

The employment contract is not simply an objective reality. It also implies a relationship between the employer and the employee. However, maintaining that relationship is complicated since employers and employees may have different expectations of what is required.



APPLYING THEORY TO PRACTICE

Employee and employer expectations

Do employees and employers have mutual interests?

List the interests that an employee has within the workplace.

Next, list the employer's main interests.

Are they the same?

BALANCING EMPLOYER AND EMPLOYEE EXPECTATIONS

The employment contract is a means of regulating the employment relationship, and is itself subject to external regulation. As noted earlier, the modern employment relationship is an uncertain exchange between a difficult-to-quantify

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amount of effort and immediately quantifiable wages. There is therefore an underlying tension. Firms will naturally seek to maximise the effort exerted by their employees and keep wages to the minimum; employees will have the opposite agenda. Consequently, it is necessary for the parties to exercise control over their relationship. This control is problematic and necessitates the development of regulatory processes. Mechanisms of labour regulation tend to endure insofar as they find a sustainable compromise between two conflicting demands: enhancing competitiveness (considerations of efficiency) and avoiding the excesses that stem from unconstrained competition (considerations of equity). As such, the preconditions for 'good' employment relations include:

- satisfying the needs and aspirations of both employers and employees
- operating without undue industrial conflict
- determining wages, working conditions and working practices that are consistent with national economic and social needs, and
- facilitating the organisational and technological change that is essential to a competitive economy, while at the same time ensuring that the costs and rewards of adjustment are shared equitably.

In summary, the regulation of employment can be defined as the means by which people are encouraged to behave in a 'regular' fashion, or according to rules of behaviour (Picciotto 2002: 1). As noted earlier, the regulation of work can be established through either (or both) formal or (and) informal rules and conventions. The feature below provides insights into the way in which both formal and informal understandings affect the employment relationship.



CASE STUDY

FORMAL AND INFORMAL RULES IN THE BRITISH POST OFFICE

Postal workers in the UK have traditionally worked on a basis whereby they have considerable discretion over their labour time. They have determined when precisely letters are delivered to individual houses, and how quickly they work. This has allowed them to have longer breaks in return for rapid working. In turn, postal workers are expected to cope with seasonal and unexpected fluctuations in the volume of letters to be delivered, again within broad parameters. This informal agreement – only partly defined in the employment contract – makes for speedy and reliable postal deliveries, but has always been the bane of consultants and managers seeking to 'modernise' the postal service. Modernisation, in these terms, would imply bringing work and employment relations closer to that encountered in jobs

with similar skill levels elsewhere in the economy. Understandably, postal workers have interpreted such interventions as challenging or undermining the existing employment contract and have resisted them, a good example being the 2010 Royal Mail dispute.

Questions

Postal workers appear traditionally to have had quite a lot of discretion in how they choose to deliver mail.

How do they feel about the loss of discretion?

What should HR managers do to address their concerns?

What role should trade unions take in this situation?

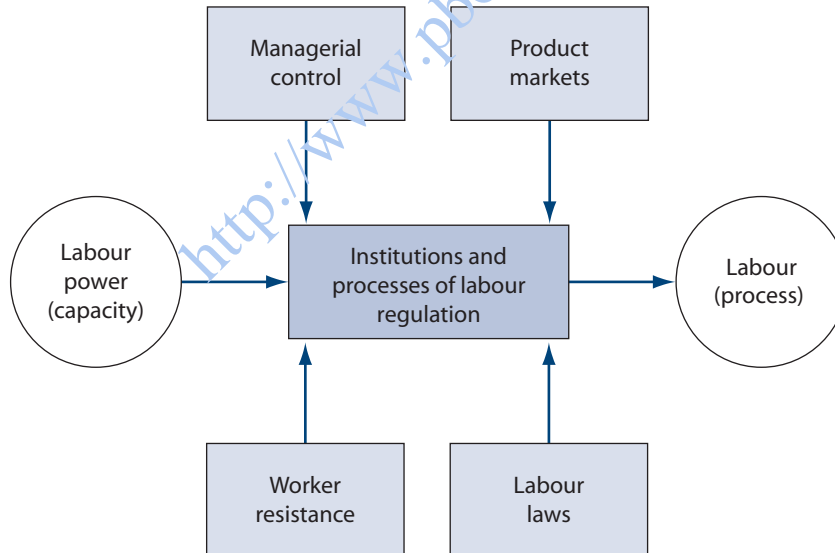
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REGULATION OF THE EMPLOYMENT RELATIONSHIP AND SOCIAL STABILITY

Regulation can be characterised as a way of ensuring social stability in broader social life, particularly the regulation of property rights, and also lends stability to the working relationship. In the area of property rights, regulation constrains the comparative ability of owners to control the actions of managers, who are, after all (other than in the case of owner-managers), employees (or agents of the owner) themselves. Do worker rights dilute the rights of owners? On the one hand, it could be argued that gains for one party will necessarily weaken the other. On the other hand, it could be argued that when both have significant rights, they are forced to work together, or co-operate better. The regulation of the employment relationship can thus also help to ensure stability. However, as noted above, the contract of employment does not (and cannot) specify precisely the amount of effort to be expended and the degree of initiative to be displayed by the employee (Hyman 1989). The employer's requirements are rarely predictable in detail and benefit from retaining a wide margin of discretion. This indeterminacy of the employment contract may be explained in terms of the distinction between 'labour' and 'labour power' (see Figure 1.1). The employer purchases labour power (the capacity to work) and not labour itself (the performance of work). Every workplace must therefore solve an implacable dilemma at the heart of the employment relationship – namely, the conversion of labour power (the time of individual employees and their capacity) into actual labour.

Figure 1.1 Labour versus labour power



The way in which each of the aspects within Figure 1.1. link together is subject to ongoing and usually tacit negotiation. This implies that the employment relationship is essentially a power relationship, qualitatively different from a 'pure'

exchange relationship. In fact, labour power is a fictitious commodity – it is a lot harder to quantify than most other resources and does not behave in the same way. Since it is not a true commodity, the self-regulating mechanisms associated with conventional commodity (product) markets cannot be expected to regulate labour. According to Polanyi (1957: 73):

the alleged commodity ‘labour power’ cannot be shoved about, used indiscriminately, or even left unused, without affecting also the human individual who happens to be the bearer of this peculiar commodity ... Robbed of the protective covering of cultural institutions, human beings would die as the victims of acute social dislocation through vice, perversion, crime, and starvation.

The question of whether workers should be treated as just another commodity is an important point, and central to much of the discussion of employment relations.

Due to the issues around the commodification of labour, the employment relationship cannot ‘work’ without regulation. There is a need for a complex network of regulatory processes that generate the social rules and conventions essential for the employment relationship’s durability. Any form of stability that does arise in employment relations is therefore socially constructed (due to interactions within the workplace), politically mediated (through government intervention) and institutionally embedded (reproduced according to commonly understood norms and rules of behaviour).

DOES LABOUR REGULATION ONLY PROTECT WORKERS?

Labour regulation should not be equated solely with protective and redistributive interventions: it is not just about protecting the rights of workers or rebalancing power in the favour of workers. It may assist one vulnerable group at the expense of others, but it may also sanction or reinforce forms of discrimination and disadvantage. For example, in British common law the employment relationship was traditionally seen as one between ‘masters’ and ‘servants’: the latter had few rights but many obligations. We should also not assume that regulation always has a redistributive effect, even if that is the stated aim. In many countries, social inequality has worsened since the late 1970s, despite an increase in the body of legislation governing the employment relationship.

More generally, labour regulation serves a number of functions that include:

- protection against oppression and discrimination
- attributing responsibility
- enhancing productive efficiency
- expanding social security and welfare
- consolidating a sustainable distribution of the costs and benefits flowing from capitalist economic development
- legitimating the production and distribution of economic and other resources

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- decreasing transaction costs through a reduction in employer and employee opportunism
- encouraging specific behavioural patterns (that is, encouraging employers and employees to engage in certain behaviours) through the imposition of costs and rewards.

Even if having to comply with the law imposes costs on firms, greater regulation imparts a greater predictability, which firms may benefit from themselves. When employers have overwhelming formal power, employees may seek to respond through withdrawing their discretionary co-operation, and, indeed, retaliate in a wide range of hidden (eg theft of company property) and overt (eg mass desertions, striking, mass protests) ways. In this sense it could be argued that much employment law 'saves employers from themselves', and this was certainly a major reason why governments enacted labour protection in the first place.

THE THREE FORMS OF EMPLOYMENT REGULATION

There are three forms of employment regulation. First, *statutory* regulation (or regulation under the law) is often regarded as the prime source of rules in the employment relationship. As Kahn-Freund observes, law is a technique for the regulation of social power – power being the capacity to direct the behaviour of others (cited in Bellace 1994: 35). Standing (1999: 41) lists a number of potential advantages associated with statutory regulation:

- It is in principle predictable, transparent and equitable. Transparency assists in the structuring of the wage–effort bargain since those entering an employment relationship have reasonable information on the terms of the bargain.
- It decreases the insecurity associated with participation in the labour market.
- It provides clear monitoring mechanisms that are justified as a corrective for market failure, especially due to a lack of information among employees.
- It may discourage short-term profit maximisation, but encourages longer-term efficiency. Such trade-offs often can be secured only by statutory means.
- It may prevent forms of discrimination, such as racism and sexism, which would not otherwise disappear.

However, Standing also identifies potential disadvantages of statutory regulation, including:

- There is an inherent tendency towards rigidity, in that no law or administrative regulation can cover every contingency; towards excessive legalism that may intensify the disadvantages of those incapable of operating in this sphere; and towards increasing complexity because of the numerous situations that have to be covered in any regulatory framework.
- The efficacy of legal regulation presupposes an administrative apparatus (government departments) with the capacity to manage and enforce it efficiently, but the resulting bureaucratic apparatus absorbs substantial resources and may develop its own vested interests. According to public choice

theory, managers of government departments can be inclined to seek to extend their responsibilities in order to gain prestige.

- It may encourage an instrumental compliance (only complying because it is required, rather than through desire).

Second, regulation can also include *social* regulation – the management of the employment relationship through a process of (explicit or implicit) bargaining between the representatives of business and labour. To be effective, collective regulation requires some balance in the bargaining power of the parties. Social regulation has several advantages that include:

- reducing the extent of unilateral managerial control
- facilitating dynamic efficiency
- achieving some measure of distributive justice by limiting the scope for competitiveness purely on a cost basis
- encouraging investment in skills development
- making it harder for management to ignore or sideline the grievances of employees
- introducing an element of reciprocity into the employment relationship, whereby there is a feeling of give-and-take between employees and employers
- generating a more legitimate and hence sustainable balance between efficiency and equity
- reducing both excesses of market regulation. (here referring to the labour market) and rigidities.

However, it also has disadvantages, including:

- It is time-consuming and prone to power plays between unions and employers.
- It has a tendency for coordination failure, such as an unequal distribution of information leading to a breakdown in negotiations.
- It intensifies labour market inequalities and insecurity when the institutions of collective regulation exclude, as they inevitably do, the interests of more vulnerable and disadvantaged groups.
- In the current climate of rising levels of global competition, collective regulation is increasingly hard pressed to balance representativeness with responsiveness.

Collective bargaining is a key feature of the collective employment relationship: more detail is provided on the nature of collective bargaining in Chapter 7.

Third, *market* regulation occurs where legislation and other regulatory mechanisms are geared towards maximum reliance on market forces (the ‘laws’ of supply and demand). The rights of employers to use and dispose of the labour power of employees increase with the developments of markets. Accordingly, market regulation allows for greater employment flexibility, involves less costly administration than statutory regulation, and lowers the transaction costs of most economic activities. However, it also:

- encourages short-term perspectives since there is no compulsion to be locked into a stable employment relationship
- promotes and rewards risk-taking
- allows decision-makers to absolve themselves from responsibility for environmental degradation, the oppression of women, rising unemployment, and so on
- decreases the obligations of employers towards their employees
- encourages opportunism as a result of the modest monitoring capacity
- increases social inequalities by rewarding those with resources and penalising those who lack resources.

As we have seen, labour is not just another resource or commodity. We cannot simply presume that the market for labour will 'work' in the same way that other markets work. Consequently, markets are dependent on extensive regulation by political, social and other institutions.

THE EVOLUTION OF THE EMPLOYMENT CONTRACT

Many of the advantages of the employment relationship contributed towards the gradual displacement of alternative forms of transaction as the modern firm evolved (Streeck 1992; Marsden 1999). At one extreme was 'inside contracting', whereby the entrepreneur provided tools, materials and money, and an autonomous supervisor-contractor dealt with labour and arranged to deliver the product or service at a specified time and cost. Here, the firm existed primarily as a business rather than an organisation. Today, this system is uncommon outside the building trade. At the other extreme was a collective contract by which groups of skilled workers contracted directly with the entrepreneur. In a diluted form of the labour contract system – the so-called 'drive system' – the foremen retained many of the powers of contractors, notably hiring, firing, pay-fixing and the organisation of specific areas of work, but their income was derived from a salary rather than being constituted by the surplus of the contract price over the money paid to their helpers (Marsden 1999: 24; Streeck 1992). In other words, they themselves were subject to a regular employment relationship.

Although the labour contract system gradually declined in significance relative to the employment relationship, it was efficient in its context. The advantages of subcontracting include the fact that the system was flexible in that it enabled rapid labour force adjustments to cope with fluctuating markets, and alleviated skill shortages. It was efficient in providing the contractor with incentives for effective supervision, thereby externalising the managerial problem of control. It was also a mechanism for distributing commercial risk between the entrepreneur (financial risk) and the subcontractor (production risks), and provided an element of certainty in costing (Marsden 1999: 25). However, developments in the size, scale and complexity of production eroded many of these advantages and created new disadvantages.

The reasons for the decline of the contract system reflect some of the advantages of an employment relationship over subcontracting. In particular, problems of predictability and quality of labour supply assumed increasing importance with the changing nature of industrialisation in the twentieth century. Marsden (1999: 25–7) identifies four major disadvantages or failings of the subcontracting system.

- It proved incapable of ensuring the availability of labour when employers needed it. Problems of labour turnover, absenteeism and general instability were common, especially during periods of strong labour demand.
- It lacked incentives to develop skills in response to the needs of individual employers. There were powerful incentives for the subcontractor to withhold information about production methods and the extent of improvements from the firm.
- It led to difficulties in controlling opportunism, notably among contractors who would typically spend little on maintenance and undermine quality standards in an effort to maximise short-term output. This became a greater obstacle as the level of capital intensity and demands for quality increased.
- It raised a problem of social order. Haphazard earnings differentials among workers, hard bargaining by contractors or foremen, unstable and short-term employment, and frequent interruptions in earnings meant that resentment and conflict were endemic.

It is advantageous for the employer to offer an employment contract if, at the time of agreement, it is not known precisely which tasks will be required. Here the employment relationship has an inherent flexibility: a single contract is substituted for a series of contracts related to each operation. In modern times, the use of contracts varies between different countries. Whereas in many advanced countries the permanent employment contract is the more common form of contract, in others, subcontracting is a predominant form. The *Legislation in practice* box below provides insights into the situation in South Africa, an emerging economy that has industrialised significantly in recent years, yet that in many aspects – such as the high degree of absolute poverty in rural areas – can still be regarded as within the developing world.



LEGISLATION IN PRACTICE

Contracts in South Africa

Labour law distinguishes ‘employees’ (who enter into a contract of employment and are protected by labour laws) from ‘independent contractors’ (who enter into a contract for service and are not covered by labour legislation). The development of new working arrangements has led to an increasing number of workers being excluded from the protection of labour legislation because the terms of their contract do not meet the traditional employment test. These include part-time employees, temporary employees, employees on fixed-term contracts, employees supplied by employment agencies, casual employees, home-workers and workers engaged under a range of subcontracting relationships. Many of these employees are particularly vulnerable to exploitation because they are unskilled and work in sectors with little or no trade

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union organisation or little or no coverage by collective bargaining. A high proportion of these employees are women. Frequently, they have less favourable terms of employment than other employees performing the same work, and have less security of employment. These employees therefore depend on statutory employment standards for basic working conditions.

In South Africa, the Basic Conditions of Employment Act of 1997 recognises that some employers have attempted to bypass statutory protections by persuading their employees to sign contracts which designate them as 'independent contractors', although their employment relationship has remained essentially unchanged. The Act empowers the Minister of Labour to deem any category of persons to be employees. To this end, the Act introduces a list of factors that indicate who should legally be regarded as an 'employee' and therefore eligible for protection. Where a particular factor is present in the relationship between a worker and the person for whom he or she works, the worker is presumed to be an employee unless the employer proves the opposite. A person who works for, or provides services for, another person is presumed to be an employee if:

- his or her manner or hours of work are subject to control or direction
- he or she forms part of the employer's organisation
- he or she has worked for the other person for at least 40 hours per month over the previous three months
- he or she is economically dependent on the other person
- he or she is provided with his or her tools or work equipment
- he or she only works for, or renders service to, one person.

The aim of these provisions is to prevent employers from developing work arrangements in a manner designed to deny certain persons the rights accorded to 'employees' in labour legislation.

In common with South Africa, in many countries there has been considerable debate as to how an employee is defined, as to the relative rights to be accorded to agency workers, and as to who, indeed, is an agency worker. In some countries, the outcome has been to strengthen the rights of agency workers. In others, governments have actively sought to cut back on the rights of individual employees and shift their position to one more akin with that commonly associated with agency workers. A good example of the latter would be the efforts of the 1996–2007 Howard government in Australia to promote 'Australian contracts', which, in turn, directly contributed to its electoral defeat.

A further dimension of employment relations is the informal understandings underpinned by what has been termed the 'psychological contract'. Although not formalised, these understandings can impact on the expectations of the employer and the employee, and the durability of trust and loyalty between the two parties. The next section investigates what is meant by the concept of the psychological contract and considers the causes and consequences of changes to that contract, beginning with its relationship to equity.

FAIRNESS AND THE PSYCHOLOGICAL CONTRACT

So far we have talked a great deal about the employment relationship, regulation and the employment contract. Yet also relevant are questions of equity. No organisation can sustain itself through constant recourse to the law. This means that employers will seek to ensure that at least part of what they do is accepted by employees as legitimate and fair, and, indeed, that there are some basic principles of equity between employees (for example, to treat those with similar skills in similar jobs in broadly the same way, naturally taking account of objective differences in performance). Employees themselves, based on their previous life experience and their expectations of work, will have their own expectations of what is fair and reasonable. The two sides are likely to seek consensus in this area because it makes their everyday dealings more predictable and less subject to constant renegotiation. This consensus might be achieved through a psychological contract that is understood by both the employer and employee.

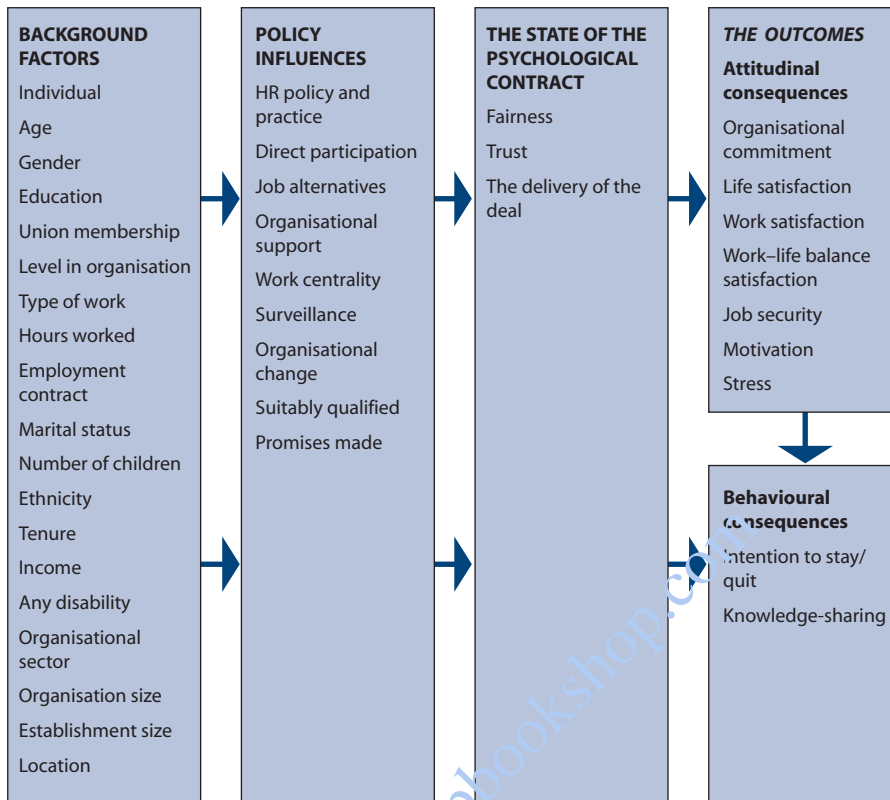
THE PSYCHOLOGICAL CONTRACT

The psychological contract relies on mutual expectations of employers and employees being fulfilled. It therefore consists of 'a set of reciprocal or two-way obligations and promises between the worker and the employer (or representatives of the employer such as the immediate boss and section manager)' (Guest and Conway 2002: 1). These psychological factors guide and characterise the relationship between employees and employers. For this reason it is the perceived obligations, rather than the actual terms of the employment contract, that must be studied in order to understand workplace attitudes and behaviour. The terms or obligations described by psychological contracts differ according to the extent to which they are *transactional* (impersonal obligations concerning economic exchange with little emphasis on extended relationships between the parties) or *relational* (personal obligations rooted in an ongoing relationship with fewer defined terms and characterised by attributes such as trust and commitment) in nature. These two aspects exist on a continuum: a psychological contract that is high on one type of obligation will be low on the other. The state of the psychological contract thus relies on whether the obligations and promises have been met, if they are considered to be fair, and whether both parties trust that they will be kept in the future (Guest and Conway 2002). Essentially, it contains three kinds of unwritten expectations (Daniels 2006):

- the need to be treated fairly
- a level of security and certainty in return for giving loyalty to the employer
- a need for fulfilment, satisfaction and progression – employees want to know that organisations place value on their contributions, successes and relationships.

Guest and Conway (2002: 2) present a model of the causes and consequences of the state of the psychological contract (Figure 1.2).

Figure 1.2 Causes and consequences of the psychological contract



Source: Guest and Conway (2002: 2)

The framework shown in Figure 1.2 implies causality, but the various elements should be regarded as associational. The framework is sufficiently general as to be relevant to many country contexts, and yet is specific enough to be useful for informing the development of questionnaires that might be used to 'test' the nature of the psychological contract within large and small organisations, and to compare the situation across countries.

Although not as comprehensive as the Figure 1.2 framework, the questions in the *Reflection on practice* box below might be used to develop a snapshot of perceptions, which can, in turn, be used to indicate the state of an individual's psychological contract.



REFLECTION ON PRACTICE

The psychological contract

How do you feel about the organisation where you are currently working, or an organisation where you have previously worked? Would you say that you have (or had) a positive psychological contract? If you have not worked for an organisation, you could perhaps apply these questions to your current experience of studying at your particular institution.

- 1 Do you feel that you trust those in positions of seniority within your organisation?
- 2 Do you feel that you are treated fairly compared to your colleagues?
- 3 Do you feel that you receive appropriate rewards for your efforts?

An important point to remember about the psychological contract is that it is unwritten. Assumptions are therefore made on both the employer's and the employee's side as to what is expected. This could be problematic if both sides have different interpretations of expectations. Where an employee feels that an employer has not kept to its side of the bargain, it may be referred to as a violation of the psychological contract (Guest and Conway 2002). An example of this might be where an employee anticipates job security but the employer starts to talk about the possibility of compulsory redundancies without prior consultation with employees or a trade union. Perceived violations of the psychological contract may negatively affect work attitudes and behaviour.

One area in which the psychological contract might be violated is with regard to expectations about pay for a given amount of effort, and another might be the area of health and safety. Earlier in this chapter we considered the potentially different expectations of employees and employers. Elsewhere in this book we consider circumstances when these expectations may not be met.



CRITICAL DEBATE

Do employees and employers have the same expectations?

Firstly, consider the issue of pay. It could be argued that both employers and employees would prefer that employees are rewarded fairly, and in a way that incentivises employees to maximise their work effort. At the same time, both parties would wish payment to be feasible, given the profits/resources available within the company/to the organisation. Employees within the private sector would not wish their company to go bankrupt; employees within the public sector would not wish to exceed budgetary constraints. However, this is not the end of the story. For example, within all organisations there are a range of stakeholders. Private sector owners may wish to please employees, customers and shareholders. The more money paid to employees, the less might be available to pay shareholder dividends, perhaps leading them to try to minimise pay for employees. On the other hand, employees will wish the company to be secure, but might also have demands on their income from family pressures and personal commitments. They may therefore wish to maximise pay. This means that whereas employers may wish to decrease

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pay, employees will wish to increase it. Both sides might have the same goals but might have different expectations regarding the concessions that the other side is likely to make.

Secondly, consider the area of health and safety. Is this an area in which both employers and employees will have the same attitudes?

List the reasons why employers and employees might agree on the importance of health and safety and then consider reasons why there might be differences of opinion. In doing this, you might wish to consider whether employers and employees will have the same attitudes towards factors such as costs and risk.

As explained above, the psychological contract implies certain expectations. In some respects these expectations will relate to positive HR practices such as training and pay. However, the psychological contract is also relevant to disciplinary action, since employee handbooks should set out employer expectations for employee behaviour. (More detail is provided on grievances and discipline within Chapter 11.)

The role of employment relations (ER) specialists and line managers is crucial in establishing and ensuring the continuance of a positive psychological contract. In addition, the nature of the interaction between these two parties is also vital to the employment relationship since the former are often required to inform/police/advise the latter, who may or may not be sufficiently receptive/competent/knowledgeable in HR policies and practices. The respective roles and responsibilities of HR and ER specialists and line managers are returned to in many later chapters.

MANAGING EMPLOYMENT RELATIONS IN DIVERSE ORGANISATIONS

The nature of employment relations varies according to the political, economic, social and regulatory context and the nature and role of institutions within a particular society (factors returned to in Chapter 5). In addition, it varies in different types of organisations. The sections below consider, in turn, some general points regarding employment relations in non-unionised organisations, public and non-profit-making organisations, and multinationals.

EMPLOYMENT RELATIONS IN UNIONISED AND NON-UNIONISED ORGANISATIONS

The global decline in union membership (see Chapter 2 for more detail on this) has meant that in many industries – even within advanced societies – employment relationships without unions are the norm rather than the exception. In other words, employees deal with employers directly as individuals or as members of informally constituted groups, rather than via a trade union. Where they are represented by a trade union, the union represents employee interests

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to management, rather than employees having to do it themselves. Typically, in the case of unionised organisations, a significant proportion of the workforce comprises members. The union then bargains with management on the behalf of workers ('collective bargaining') and intervenes in the case of disputes between employees and the employer. Of course, this does not necessarily prevent the organisation from also engaging with workers directly, and firms often choose to do so. Organisations may either supplement or build on what is agreed via collective bargaining or, indeed, constrain the scope of agreements. This behaviour may result in tensions between the process of collective bargaining and the union representatives who engage in it. In many national contexts, a union that is representative of the workforce (typically representing 50% or more of the workforce) has rights to collective bargaining under the law; these rights cannot be diluted through other forms of engagement.

What sets employment relations in non-union firms apart from those in firms that are unionised? In unionised firms, employees join the union so that it may represent their interests to management. Such contact between employees and management is 'indirect', in that the union seeks to voice the actual concerns and interests of employees to management. How accurately the union does this depends on how democratic it is, and the extent to which union officials and leaders may be prone to pressures from management or external players such as politicians. The union's 'third-party' role may seem to be less effective than managers and employees directly talking to each other; conservative managers may seek to dismiss the union as 'troublemakers' intervening in a freely negotiated contractual relationship between willing parties. However, from an employee perspective, the intervening role of the union allows employees to express important concerns that management may be unwilling to hear, and shields individual employees from victimisation. In addition, unions often enjoy formal rights under the law, and because they represent many members, they are harder for management to ignore than a single employee who voices concerns. Finally, unions are likely to have considerably more accumulated financial resources and expertise than a simple grouping of employees.

Should unions be absent, managers may seek to impart information, consult, and/or negotiate with employees in a plethora of different ways. Talks can range from one-on-one informal discussion to meetings, to specially constituted bodies convened to deal with a specific brief (eg health and safety) (Budd *et al* 2009). Of course, in a unionised firm, employers can and, indeed, often do, engage with workers through all of these methods (see Taras and Kaufman 2006; Gollan 2009). What sets unionised firms apart is that the role of the union means that management may be legally bound to take such procedures more seriously, and the union can back up its position in collective bargaining with the threat of collective action.

EMPLOYMENT RELATIONS IN SMALL, PRIVATE, PUBLIC AND NON-PROFIT-MAKING ORGANISATIONS

Employment relations are likely to differ according to the type of organisation. Let us first look at organisational size. Very small organisations are difficult for trade unions to organise in because unions have limited resources, and it is a lot more difficult to organise workers in many small establishments than within one large one. This means that smaller organisations are less likely to be unionised. Secondly, in smaller organisations the owner-manager model is more common, and consequently the issue of managers being 'agents' or employees themselves does not emerge. Thirdly, in smaller organisations there is less need for formal rules and bureaucratic procedures; this is likely to result in greater inconsistency in employment relations. Fourthly, larger organisations are likely to be higher-profile, and any breaches of labour law are more likely to be noticed by employers. In contrast, law enforcement in small organisations is likely to be more difficult.

At this point we need to consider what the organisation does. Non-profit organisations tend to be less concerned with short-term returns and more concerned with sustainability. This means that employees may enjoy longer-term job security and be less compelled to operate according to the demands of profitability. On the other hand, many charitable or voluntary organisations expect employees to have a high degree of personal commitment to the organisation's goals, and may assume that employees are prepared to put in more than what is formally stated in the contract and work for lower wages than would be the norm for similar jobs in conventional private and public sector organisations.

This raises the question of differences between employment relations in the public and private sectors. The state is, of course, a major – and in most national contexts, the largest and most important – employer in its own right. A consideration of countries within Europe helps to identify trends in public sector employment relations. In terms of the size of public sector employment, during the 2000s, some countries experienced a reduction both in central government and public sector employment (Austria, Hungary, Malta and the Netherlands). A larger group of countries saw a rise in overall employment (Belgium, Cyprus, Greece, Ireland, Lithuania, Luxembourg, Norway, Slovenia and the UK), while a third group of countries experienced a decline in central government employment but a rise in other areas of public sector employment (Denmark, Finland, France, Spain and Italy). A fourth group of countries, most of which were formerly communist, saw a reverse trend (Latvia, Estonia, Poland, the Czech Republic, Slovakia, Bulgaria, Romania), as did Germany (Eurofound 2007). The proportion of women in public sector employment tends to be higher than in the economy as a whole, and has been increasing in many countries in Europe since the mid-1990s. But the number of fixed-term workers has tended in the past, and still now tends, to be lower than in the private sector. Union density has generally been higher in the public than in the private sector, but with marked variations – from around 75% in Denmark and Norway to 30% in Portugal and 15% in France (Eurofound 2007).

However, there have been changes over time. In the past, civil servants and public sector employees had special status, but in recent decades there has been extended collective bargaining, decentralisation of bargaining, individualisation of pay, more flexible recruitment practices, the extension of fixed-term contracts, a reduction in pension privileges, weakened job protection and consolidated dismissal procedures. These changes have been made in order to achieve cost effectiveness and efficiency and to respond to local market conditions (Eurofound 2007).

Governments may seek to promote employee-friendly practices either as a way of setting an example/enticing private sector employers to follow suit, and/or because public sector workers are themselves voters to be placated (Dibben *et al* 2007). On the other hand, a commitment to neo-liberal ideologies may result in conflict between the state and public sector workers, with the aim of undermining a large component of the labour movement or in order to encourage practices seen as more generally desirable. In countries such as Britain, public sector reforms have been quite dramatic. In others, such as Canada, the changes were later, but still illustrate how employment relations have altered, resulting in a significant impact on the role of trade unions and working practices. Some of these changes are outlined in the case study below.



CASE STUDY

PUBLIC SECTOR EMPLOYMENT RELATIONS IN CANADA

Research undertaken in Canada by Lonti and Verma (2004) has drawn attention to changes in both individual and collective employment relationships, and the nature of work. Dramatic public sector reforms have been undertaken in a range of countries over recent years. Often, the stated aim has been to increase efficiency, and the justification has been couched in neo-liberal terms. In Canada, the reforms undertaken during the 1990s were primarily due to the need to reduce government deficits. This was achieved in a variety of ways, including cutting wages and introducing wage freezes, reducing the headcount by cutting jobs, and reorganising work, leading to work intensification. At the same time there was increased use of performance indicators and new technology. All of these changes

were designed to achieve savings. Yet they have also resulted in 'increased employee burnout, fatigues, and low morale' (Lonti and Verma 2004: 153).

The changes for individual workers were accompanied by legislation that altered collective relationships, removing rights from trade unions and favouring individualised relationships.

Questions

How would you define relations between management and unions in Canada?

How would you describe the state of the psychological contract?

What should HR managers do in this situation? Which policies and practices could they use to improve matters?

The Canadian budget cutbacks were intended to be a temporary measure, and, to a significant extent, this was the case. In contrast, the 2010 budget cutbacks in the United Kingdom were promoted as being long-term, raising the question whether the impact on public sector morale and capabilities would be greater than that experienced in the Canadian case.

As noted above, public sector organisations can employ a large proportion of the workforce within a given country, and consequently the consideration of employment relations within the public sector is important. However, it is also necessary to pay particular attention to employment relations within multinational corporations, particularly in the light of globalisation.

EMPLOYMENT RELATIONS IN MULTINATIONAL CORPORATIONS

Multinational corporations (MNCs) are companies whose headquarters are based in one country but other sites are located in one or more different countries. Employment relations may therefore differ according to country locale. This, however, depends on the strategy followed by the corporation in question. According to Perlmutter (1969), such strategies can be described as ethnocentric, polycentric or geocentric. Ethnocentric behaviour means that the firm is highly centralised – the majority of managers are recruited from the home country and employment relations policies will follow their lead. Those taking a polycentric approach may employ more decentralised practices. For example, local nationals will be employed in host countries and HR practice may vary according to the country of operations. A geocentric approach aims to transcend the limits of a focus on either the home or host country.

It is also important to consider that – as noted in Chapter 5 – multinationals can be very powerful, and indeed, in some cases more powerful than nation states. From 1980 to 2004 the number of MNCs increased by more than eight times. By 2004 there were over 61,000 MNCs that had ownership in over 900,000 foreign-affiliated operations around the world, and these MNCs accounted for around 10% of gross domestic product worldwide and employed more than 54 million employees (see Morley *et al* 2006). This means that they may be in a position to be able to relocate to where there are the best incentives, such as areas where there are fewer labour rights. The lack of employment rights may relate to the minimum wage, equal opportunities legislation or health and safety enforcement. Such behaviour can be described as ‘social dumping’. MNCs can lobby government and employer organisations to change employment policy and legislation. In order to counterbalance MNCs’ power over nation states, there is a need for trade unions to engage with them through international institutions (see Collings 2007).

SUMMARY

This chapter has explored the nature of the employment relationship in a range of sectors and highlighted variables impacting on the employment contract, both

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in a formal sense and in terms of the psychological contract. In doing so, some comparisons have been drawn between country settings and organisational types. Of particular note is the difference between advanced and emerging economies, and trends over time. In terms of historical developments, it is evident from the discussion above that the employment contract is not a static concept. Moreover, the nature of employment relations has changed within countries and within sectors. Although the public sector is often held up as a model employer, public sector reforms have fundamentally altered the nature of employment relationships.

The employment relationship lies at the heart of modern economic and social life. It embodies many dimensions: commercial exchange and promises, power and subordination, co-operation and confrontation, authority and assumptions of equity in treatment. This volume aims not only to provide the fundamentals of this essential area but also to provide the critical theoretical and applied understanding necessary for effective people management, for careers in trade unions and NGOs, and for further postgraduate study.



EXPLORE FURTHER

Reading

- Collings, D. and Wood, G. (eds) (2009) *Human Resource Management: A critical approach*. London: Routledge
- Marsden, D. (1999) *A Theory of Employment Systems: Micro-foundations of societal diversity*. Oxford: Oxford University Press

Websites

- UK Department for Business, Innovation and Skills www.bis.gov.uk
- The Communication Workers' Union www.cwu.org
- The South African Government www.gov.za
- The Health and Safety Executive www.hse.gov.uk
- European Foundation for the Improvement of Living and Working Conditions (Eurofound) www.eurofound.eu.int

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